

Exemptions under GST

A 2 Z of GST Act - Hyderabad Branch of SIRC of ICAI

“Exemptions”

- Commonly understood as a **privilege**
- GST Law has not defined the word “Exemption”
- Black’s Law dictionary’s 9th Edition defines Exemptions as
“Freedom from a duty, liability, or other requirement; an exception;
- According to P Ramanatha Aiyar’s Law Lexicon, the word “exempt” means putting **a person beyond the application of law**. It further says that when the word exempt or exemption is used in taxation parlance it means –
 - (i) precluding from being chargeable and*
 - (ii) immune from a liability, obligation or penalty.*

Overview- GST Exemptions

- Statutory Provisions
- Exempt/Nil rated/Zero rated/Non-GST Supply
- Critical Points
- Notification
- Types of Exemptions
- Major Exemptions

Statutory Provisions-GST Exemption

- Section 11 of CGST Act 2017- Power to Grant Exemption from Tax
- Section 6 of IGST Act 2017 - Power to Grant Exemption from Tax
- Section 2(47) - 'Exempt Supply'
- Section 2(78) - 'Non-Taxable Supply'
- Schedule III – Activities or Transactions which shall be treated neither as a supply of goods nor a supply of services
- Notifications –
 - For Goods: 02/2017-CT (R) & 02/2017-IGST (R) dated 28.06.2017
 - For Services: 12/2017-CT (R) & 09/2017-IGST (R) dated 28.06.2017
- Circulars

Statutory Provisions

Section 11 - Power to Grant Exemption from Tax

(1) Where the Government is satisfied that it is necessary **in the public interest** so to do, it may, on the recommendations of the Council, **by notification**, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

(2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by **special order** in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.

(3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.

Explanation.—For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

Statutory Provisions

Section 11 - Power to Grant Exemption from Tax

Analysis of Section 11:

- Exemption should be in **public interest**;
 - Common Good and not benefitting a particular individual or group
- By way of issue of **Notification**;
 - Effective Date of Notification??
- On the **recommendation** from the Council;
- **Absolute/ conditional exemption** may be for any goods and/ or services of any specified description.
- Exemption by way of **special order** (and not notification) may be granted by citing the circumstances which are of exceptional nature.
- The GST law specifies that a registered person supplying the goods and/ or services is **not entitled to collect a tax higher than the effective rate**, where the supply enjoys an absolute exemption.

Statutory Provisions

Section 2(47)- ‘Exempt Supply’

“exempt supply” means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply;

Analysis of Section 2(47):

Evidently, the lawmakers have given a very wide definition for the term exempt supply. The definition is both exhaustive and inclusive. The main ingredients of exempt supply are:-

- There has to be a **Supply**;
- Supply should be of goods or services or both;
- Supply attracts **NIL Rate** of tax i.e. NIL Rated Supply; or
- Supply is **wholly exempt** from tax u/s 11 of CGST Act or u/s 6 of IGST Act;
- It includes **Non-Taxable Supply**.

EXEMPT SUPPLY OF GOODS = SUPPLY OF (NIL RATED GOODS + EXEMPTED GOODS + NON-TAXABLE GOODS)

Exempt Supply

- All goods which are covered under Notification No. 02/2017-Central Tax (Rate) dated 28-06-2017 as amended are exempted goods and its supply is exempt supply.

It is pertinent to note that all the goods exempted from tax under above notification, except de-oiled cake, are given exemption under Rule 138(14)(e) of the Rules from the requirement of generating **E-Way Bill**. *However, there is no such exemption for NIL Rated goods, means movement of nil rated goods shall be accompanied by E-Way Bill.*

The exemption may be

- Absolute or
 - Subject to certain conditions (*but in case of unconditional exemption, claiming exemption is not optional but mandatory*)
 - the Government has power u/s 11 and u/s 6 to partially exempt any goods/services from payment of tax and such partially exempted supply isn't considered as exempt supply.
- Similarly, all services which are covered under Notification No. 12/2017-Central Tax (Rate) dated 28-06-2017 as amended are exempted services and its supply is exempt supply.

Exempt Supply

➤ *Sch-III activities are not Exempt Supply, except*

- *Sale of land and sale of completed building*
- *Warehoused goods (in bond sales)*

(The definition of exempt supply for the purpose of reversal of input tax credit is different)

➤ *Pure agent transactions are not Exempt Supply*

➤ *Subsidy Received from Govt is not exempt supply as it is merely a valuation adjustment*

➤ *1/3rd Abatement towards value of land is a Nil Rated Supply*

➤ *Zero-rated supplies such as exports would not be treated as supplies taxable at 'NIL' rate of tax;*

➤ *Input tax credit attributable to exempt supplies will not be available for utilisation/setoff. But input tax credit attributable to schedule III transactions will not be barred as those transactions are not supply at all except those specified in paragraph 5 or paragraph 8(a) of the said schedule.*

➤ *'sale of business as going concern', treated as a supply of services, is an exempt supply under Entry No. 2 of Notification. With the credit being permitted to be transferred by section 18(3), it appears that this is one example of a supply, although expressly exempt, would 'not' require reversal of credit under section 17(2).*

Nil Rated Supply

- Nowhere defined in the CGST Act or IGST Act or in the Rules made thereof.
- Attracts nil rate of tax - the supply of such goods/services which are leviable to GST at NIL rates as per **the tariff schedule** is called 'nil rated supply'.
 - That is, it is not available in Exempt Notification but Tariff Notification
- Purpose of Nil Rated Tariff??
- *In case of goods, not a single good specified in the tariff schedule of GST at NIL rated.*

The rates for goods are notified u/s 9(1) vide Notification No. 01/2017-Central Tax (Rate) dated 28-06-2017 which contains Schedules I to VI (six schedules) specifying central tax rates at 2.5%, 6%, 9%, 14%, 1.5% and 0.125% respectively. There is no schedule levying tax at 0% i.e. NIL Rated.
- *In case of services, there are only two services which are notified as NIL Rated in tariff schedule for services. The rates for services are notified u/s 9(1) vide Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017 wherein at Entry No. 16 (i) & (ii) and Entry 24 against, the service is notified at NIL Rate.*

Nil Rated Supply- Notification No. 11/2017

| S. No. | Chapter, Section or Heading | Description of Service | Rate (per cent) | Condition |
|--------|-----------------------------|--|-----------------|-----------|
| 16 | Heading 9972 | (i) Services by the Central Government, State Government, Union territory or local authority to governmental authority or government entity, by way of lease of land. | Nil | - |
| | | (ii) Supply of land or undivided share of land by way of lease or sub-lease where such supply is a part of composite supply of construction of flats, etc. specified in the entry in column (3), against serial number 3, at items (i), [(ia), (ib), (ic), (id), (ie) and (if)] : Provided that nothing contained in this entry shall apply to an amount charged for such lease and sub-lease in excess of one third of the total amount charged for the said composite supply. Total amount shall have the same meaning for the purpose of this proviso as given in paragraph 2 of this notification. | Nil | - |
| | | (iii) Real estate services other than (i) and (ii) above. | 9 | - |

Nil Rated Supply- Notification No. 11/2017

| S. No. | Chapter, Section or Heading | Description of Service | Rate (per cent) | Condition |
|--------|---|---|-----------------|-----------|
| 24 | Heading 9986 [(Support services to agriculture, hunting, forestry, fishing, mining and utilities)] | <p>(i) Support services to agriculture, forestry, fishing, animal husbandry.</p> <p>Explanation.—"Support services to agriculture, forestry, fishing, animal husbandry" mean (i) Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of—</p> <p>(ii).....</p> <p>(iii)</p> | Nil | - |

Zero Rated Supply

- Zero Rated Supply is Not Nil Rated (often used interchangeably)
- Not covered under the definition of 'Exempt Supply'
- defined u/s 16(1) of IGST Act, 2017 to mean supply of goods or services for **export or supply to SEZ Developer/Unit.**
- The supplier of Zero Rated supply is eligible to take 'input tax credit' and thereafter claim refund.
- *A registered supplier effecting exempt supply isn't allowed to claim input tax credit (ITC) for such supply whereas when the same exempted goods/services are supplied (say exported) as Zero Rated supply, then ITC is available!!*

Non-Taxable Supply

➤ Defined under Section 2(78) of the Act

"Non-taxable supply means a supply of goods or services or both which is not leviable to tax under this Act or under the Integrated Goods and Services Tax Act;"

➤ Analysis:

- i. There has to **be a Supply**;
- ii. Supply should be of goods or services or both;
- iii. Supply is not leviable to tax under CGST/IGST Act; or

Non-Taxable Supply

- Stock transfers to unit within the State for which no separate registration is obtained, which does not qualify as a 'supply' as defined under section 7 of the CGST Act, cannot be said to be a non-taxable supply.
- Receipts that satisfy exclusion from valuation as 'pure agent' (Rule 33) would also be no supply and not to be treated as non-taxable supply.
- Supplies that enjoy the benefit of being wholly exempted from taxes, nil-rated supplies and zero-rated supplies are also not covered under the umbrella of 'non-taxable supplies' given that the goods or services are in fact liable to tax, and such tax is exempted by virtue of an exemption notification, or the tax rate is nil
- Only those supplies that are excluded from the **scope of taxation** under GST are covered by this definition – i.e., alcoholic liquor for human consumption, articles listed in section 9(2).

Non GST Supply

- Nowhere defined in the CGST/IGST Act
- The term is used in Return forms to report separately Non-GST supply other than Non-Taxable supply and exempt supply.
- the term used is Non-GST supply – Should it include only those activities which first qualify as 'supply' u/s 7 of the Act?
 - the word supply in Non-GST supply is used in the general sense to denote any activity or transaction and not strictly in sense of statutory meaning of supply.
- The activities and transactions specified in **Schedule III of the Act or notified u/s 7(2)(b) of the Act** may be reported as Non-GST supply because they shall be treated neither as a supply of goods nor a supply of services.

Critical Points

- Aggregate Turnover for the purpose of computing threshold limit for obtaining registration u/s 22, shall include turnover of Exempt Supply – Sec 2(6) of CGST
- ITC of goods and services exclusively used for making exempt supplies shall not be available.
- ITC of goods and services used for making zero rated supplies shall be available, notwithstanding that such supply may be exempt supply – Sec 16(2) of IGST
- In an exemption Notification the benefit of ambiguity must be strictly interpreted in favour of the Revenue/State. Whereas the ambiguity in relation to Taxing Statute the benefit should go to the assessee. - *Commissioner of Customs (Import), Mumbai v. M/s. Dilip Kumar & Company & Ors., (2018) SCC Online 747.*
- The burden of proof in applicability of exemption would be on the Assessee.
- Recipient of Supply cannot be questioned about the applicability of exemption as it is a settled principle that classification cannot be challenged in the hands of recipient. However, in case of RCM, onus is on the recipient of services to prove the entitlement of exemption.
- Consequences of wrong availment of Exemption??

Procedure to Avail Exemption

- No specific procedure
- Certain items require clarity while availing an exemption and can be material in determining an exemption, some of which are as follows:
 - *Notification and its definitions*
 - *Principles of Interpretation*
 - *Advance Rulings on the Subject*
 - *Court rulings etc. to be taken care of*
- Issue related to Principal Contractor and Sub-contractor Service

Procedural Aspects

➤ Registration:

- No Registration is required if the Supplier is dealing only in exempted goods – Sec 23
- RCM - persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under section 9(3) of the CGST Act, 2017 in the category of persons exempt from obtaining registration – NN. 05/2017-CT dated 19.06.2017

➤ Documentation:

| Cases | Document to be issued |
|--|---|
| Supply of taxable goods or services | Tax Invoice |
| Supply of exempted goods or services | Bill of supply |
| Supply of taxable as well as exempted goods or services to unregistered person | Invoice-cum-bill of supply |
| Supply of taxable as well as exempted goods or services to registered person | Tax Invoice, in respect of taxable supplies Bill of supply in respect of exempted supplies |

Procedural Aspects – Bill of Supply

A bill of supply shall contain the following particulars-

- (a) name, address and GSTIN of the supplier;
- (b) a consecutive serial number not exceeding 16 characters;
- (c) date of issue;
- (d) name, address and GSTIN of registered recipient;
- (e) HSN Code for goods or SAC for services;
- (f) description of goods or services or both;
- (g) value of supply of goods or services or both taking into account discount or abatement, if any; and
- (h) signature or digital signature of the supplier or his authorised representative.

E-way Bill

- *in case of pure supply of exempted goods, other than de-oiled cake as specified in rule 138(14) of CGST Act, 2017, no e-way bill is required.*
 - However, rule 55A of CGST Rules, 2017 requires the person-in-charge of the conveyance to carry a copy of the tax invoice or the bill of supply issued in accordance with the provisions of rules 46, 46A or 49 in a case where such person is not required to carry an e-way bill.
- Example:
 - If a registered person transporting goods of consignment value of Rs. 70,000/- which includes exempt supply of Rs. 30,000/-, then, the e-way bill is not required to be generated because the consignment value is calculated as Rs. 40,000/- which is below the limit of Rs. 50,000/-.
 - A registered person transporting exempt goods of consignment value of Rs. 70,000/- is not required to generate e-way bill but the person-in-charge of the conveyance must carry the bill of supply

Notification

Relevant Notifications:

- For Goods:
 - 02/2017 - Central Tax (Rate) dated 28.06.2017
 - 02/2017 - Integrated Tax (Rate) dated 28.06.2017
- For Services:
 - 12/2017 – Central Tax (Rate) dated 28.06.2017
 - 09/2017 - Integrated Tax (Rate) dated 28.06.2017
- Effective Date of Notification:
 - Date which is so mentioned in the notification or special order or
 - If the date is not mentioned, then the date of its issue for publication in the official gazette; or the Date on which it is made available on the official website of the Government Department.

Types of Exemptions

Supplier-Based Exemption

- Services offered by charitable organizations are exempt from GST, irrespective of the type of service they provide.

Supply-Based Exemption

- Healthcare, educational services, and public utility services such as water supply are exempt from GST.

Absolute Exemption

- The transmission or distribution of electricity by utility companies is fully exempt from GST.

Conditional or Partial Exemption

- Hospital room charges are exempt from GST if they do not exceed ₹5,000 per day (excluding ICUs).

Types of Exemptions – Exempted Services

NN 12/2017-CT(R) dated 28.06.2017

In exercise of the powers conferred by ¹[sub-section (3) and sub-section (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148] of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts the intra-State supply of services of description as specified in column (3) of the Table below from so much of the central tax leviable thereon under sub-section (1) of section 9 of the said Act, as is in excess of the said tax calculated at the rate as specified in the corresponding entry in column (4) of the said Table, unless specified otherwise, subject to the relevant conditions as specified in the corresponding entry in column (5) of the said Table, namely:—

TABLE

| Sl. No. | Chapter, Section, Heading, Group or Service Code (Tariff) | Description of Services | Rate (per cent) | Condition |
|----------------|--|--------------------------------|--------------------------------|------------------|
| | | | | |

Types of Exemptions – Exempted Goods

NN 02/2017-CT(R) dated 28.06.2017

In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby exempts intra-State supplies of goods, the description of which is specified in column (3) of the Schedule appended to this notification, falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Schedule, from the whole of the central tax leviable thereon under section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017).

SCHEDULE

| S. No. | Chapter/Heading/Sub-heading/Tariff item | Description of Goods |
|--------|---|----------------------|
| (1) | (2) | (3) |

Major Exemptions – Charitable Activities

| Entry | Description |
|-------|--|
| 01 | Services by an entity registered under section 12AA [or 12AB] of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities . |

(r) "charitable activities" means activities relating to—

(i) public health by way of,—

(A) care or counselling of

(I) terminally ill persons or persons with severe physical or mental disability;

(II) persons afflicted with HIV or AIDS;

(III) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol; or

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) advancement of religion, spirituality or yoga;

(iii) advancement of educational programmes or skill development relating to,—

(A) abandoned, orphaned or homeless children; (B) physically or mentally abused and traumatized persons; (C) prisoners; or (D) persons over the age of 65 years residing in a rural area;

(iv) preservation of environment including watershed, forests and wildlife;

Major Exemptions – Charitable Activities

- Service must be provided by an entity registered under section 12AA or 12AB of Income Tax Act, 1961
- Entities registered under section 12AA or 12AB of the Income-tax Act are eligible to claim exemption under the provisions of Income Tax Act, 1961 subject to certain conditions. Under GST, the only condition is that such entity must be registered under section 12AA of the Income-tax Act.
- If, for any reason, entity is not eligible to avail exemption under Income Tax Act for any assessment year but, it continues to be registered, exemption under GST will continue to be available. Also, exemption will be available on or after the date of registration under section 12AA or 12AB of the Income-tax Act, 1961.
- all the activities carried out by an entity, availing exemption under Income Tax Act, are not compulsorily exempt under GST.

Major Exemptions – Charitable Activities

| Income Tax Act | Goods and Services Tax Act |
|---|--|
| Relief of poor | No such inclusion |
| Preservation of monuments or places or objects of artistic or historic interest | No such inclusion |
| Education | Advancement of educational programs or skill development relating to certain specified class of persons |
| Medical relief | Activities relating to public health by way of - (A) care or counselling of persons with certain specified ailment (B) public awareness of preventive health, family planning or prevention of HIV infection |
| Advancement of any other object of general public utility subject to certain conditions and monetary limits | No such residual entry. Specific inclusion of advancement of religion, spirituality or yoga. |

Major Exemptions – Services by Government

| Entry | Description |
|-------|---|
| 06 | <p>Services by the Central Government, State Government, Union territory or local authority excluding the following services—</p> <ul style="list-style-type: none">(a) services by the Department of Posts [and the Ministry of Railways (Indian Railways)](b) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;(c) transport of goods or passengers; or(d) any service, other than services covered under entries (a) to (c) above, provided to business entities. |

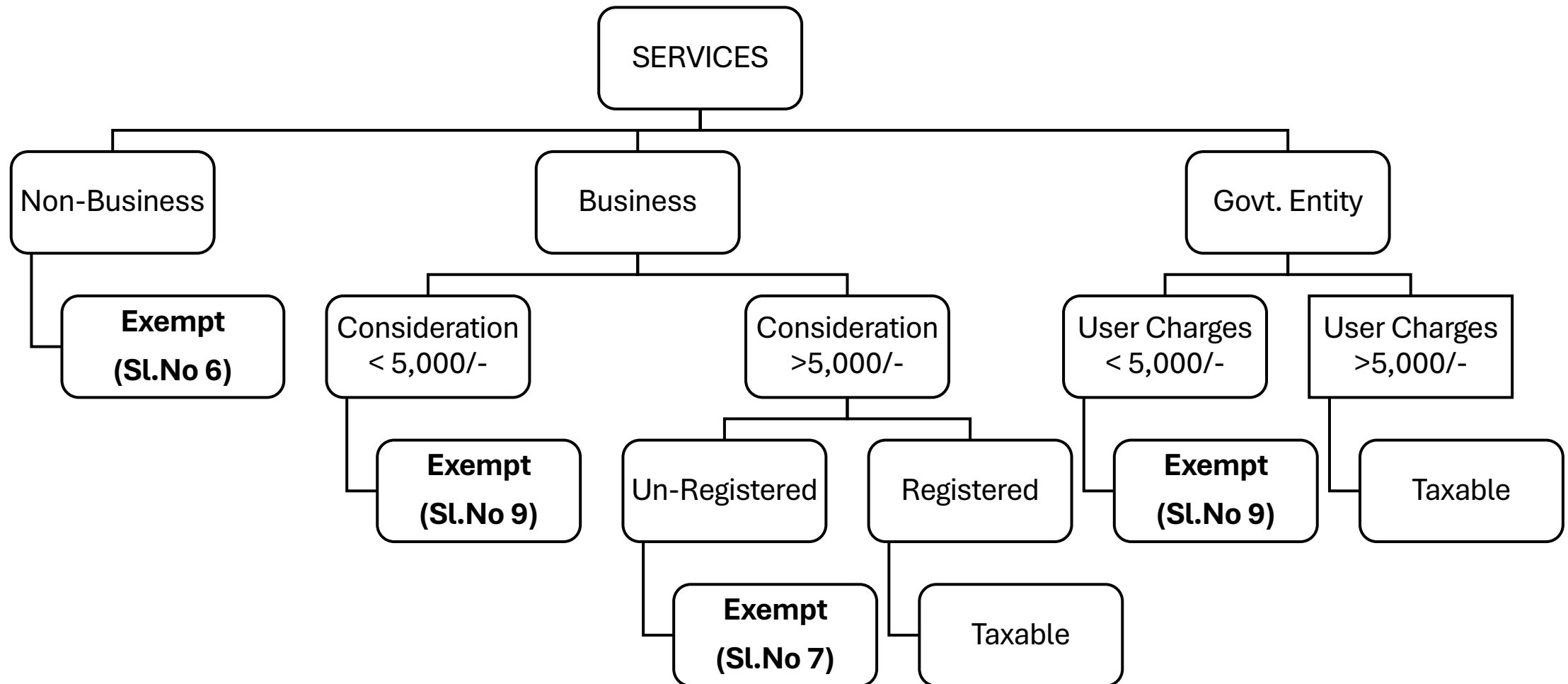
Major Exemptions – Services by Government

| Entry | Description |
|-------|--|
| 07 | <p>Services provided by the Central Government, State Government, Union territory or local authority to a business entity with an aggregate turnover of up to [such amount in the preceding financial year as makes it eligible for exemption from registration under the Central Goods and Services Tax Act, 2017 (12 of 2017)].</p> <p>Explanation.—For the purposes of this entry, it is hereby clarified that the provisions of this entry shall not be applicable to—</p> <ul style="list-style-type: none">(a) services,—<ul style="list-style-type: none">(i) by the Department of Posts [and the Ministry of Railways (Indian Railways)](ii) in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;(iii) of transport of goods or passengers; and(b) services by way of renting of immovable property. |

Major Exemptions – Services by Government

| Entry | Description |
|-------|---|
| 09 | <p>Services provided by Central Government, State Government, Union territory or a local authority where the consideration for such services does not exceed five thousand rupees:</p> <p>Provided that nothing contained in this entry shall apply to—</p> <ul style="list-style-type: none">(i) services by the Department of Posts [and the Ministry of Railways (Indian Railways)](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: <p>Provided further that in case where continuous supply of service, as defined in sub-section (33) of section 2 of the Central Goods and Services Tax Act, 2017, is provided by the Central Government, State Government, Union territory or a local authority, the exemption shall apply only where the consideration charged for such service does not exceed five thousand rupees in a financial year.</p> |

Major Exemptions – Government Services



Major Exemptions – Legal Services

Entry No: 45

| Service Provider | Service Recipient | GST Applicability | Reverse Charge / Forward Charge | Liability |
|---|---------------------------------|-------------------------------------|---------------------------------|-----------------|
| Individual Advocate / Senior Advocate/ Law Firm | Registered (Business Entity) | Yes | Reverse Charge | Business Entity |
| Individual Advocate / Senior Advocate/ Law Firm | Un-Registered (Business Entity) | Exempt | NA | NA |
| | Government | | | |
| | Non-Business Entity | | | |
| Individual Advocate / Law Firm | Advocate / Law Firm | Exempt | NA | NA |
| Senior Advocate | Advocate / Law Firm | Yes (If turnover exceeds Rs.20L) | Forward Charge | Senior Advocate |

Major Exemptions – Educational Institutes

Services Provided By Educational Institutes

| Entry | Nature of Service |
|---------|--|
| 66 (a) | Service by Educational Institution to its students, faculty, and staff |
| 66 (aa) | Service by Educational Institution by way of conduct of entrance examination against consideration in the form of entrance fee |

Educational Institution means an institute providing services by way of:

1. Pre-school education and education up to higher secondary school or equivalent
2. education as a part of a curriculum for obtaining a qualification recognized by any law for the time being in force
3. education as a part of an approved vocational education course

Vocational Course means a course run by an industrial training institute or an industrial training centre affiliated to the *National Council for Vocational Education and Training* or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961 (52 of 1961); or
a Modular Employable Skill Course, approved by the *National Council for Vocational Education and Training*, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship

Major Exemptions – Educational Institutes

Services Provided to Educational Institutes

| Entry | Nature of Service | Conditions |
|--------|---|--|
| 66 (b) | For transportation of students, faculty and staff | Pre-school education and education up to higher secondary school or equivalent |
| 66 (b) | catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory | |
| 66 (b) | security or cleaning or house- keeping services performed in such educational institution | |
| 66 (b) | services relating to admission to, or conduct of examination by, such institution | NA |
| 66 (b) | supply of online educational journals or periodicals | Not applicable to Pre-school education and education up to higher secondary school or equivalent or education as part of vocational course |

Major Exemptions –Renting of Residential Property

| Lessor (Owner) | Lessee (Tenant) | Nature of Property | Purpose of Lease | GST Applicability | Reverse Charge / Forward Charge | Liability |
|----------------|-----------------|--------------------|--------------------|----------------------|---------------------------------|-----------|
| Registered | Unregistered | Residential | Residence | Exempt (Entry No 12) | NA | NA |
| Unregistered | Unregistered | Residential | Residence | | | |
| Unregistered | Registered | Residential | Personal Capacity* | Exempt (Entry No 12) | NA | NA |
| Unregistered | Registered | Residential | Commercial | Yes | Reverse Charge | Lessee |
| Registered | Registered | Residential | Commercial | | | |

**the registered person is 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*

Major Exemptions –Rental or Accommodation

| Entry | Service | Monetary Limit | Time Limit | GST Applicability |
|-------|--|-------------------------------|-------------------------------|-------------------|
| 12A | Accommodation Services | ≤ 20,000 per person per month | < 90 days (continuous period) | Exempt |
| 13 | Renting of premises, community halls or open area by religious trust | < 10,000 per day | NA | Exempt |
| 13 | Renting of rooms by religious trust | < 1,000 per day | NA | Exempt |
| 13 | Renting of shops or other spaces by religious trust | < 10,000 per month | NA | Exempt |

Major Exemptions – Transfer of Development Rights

| Entry | Description |
|-------|---|
| 41A | <p>Service by way of transfer of development rights (herein refer TDR) or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019 for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under:</p> <p><i>[GST payable on TDR or FSI (including additional FSI) or both for construction of the project] × (carpet area of the residential apartments in the project ÷ Total carpet area of the residential and commercial apartments in the project)</i></p> |

Major Exemptions – Goods Transport Agency

| Entry No. | GTA Service Description |
|-----------|---|
| 21 | GTA services to Agricultural produce |
| 21 | GTA services to Milk, salt, and grains (flour, pulses, rice) |
| 21 | GTA services to Organic manure |
| 21 | GTA services to Newspapers/magazines |
| 21 | GTA services to Relief materials for disaster victims |
| 21 | GTA services to Defense/military equipment |
| 21A | GTA services to unregistered persons, including an unregistered casual taxable person |
| 21B | GTA services to Central/State Government departments/establishments |
| 21B | GTA services to Union Territory departments/establishments |
| 21B | GTA services to Local authorities or Governmental agencies (registered only for TDS under CGST Act) |

Major Exemptions – Transportation Services

| Entry | Description |
|-------|---|
| 22 | <p>Services by way of giving on hire—</p> <p>(a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers;</p> <p>[(aa) to a local authority, an Electrically operated vehicle meant to carry more than twelve passengers;</p> <p>Explanation.—For the purposes of this entry, "Electrically operated vehicle" means vehicle falling under Chapter 87 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) which is run solely on electrical energy derived from an external source or from one or more electrical batteries fitted to such road vehicle.]</p> <p>(b) to a goods transport agency, a means of transportation of goods; or</p> <p>[(c) motor vehicle for transport of students, faculty and staff, to a person providing services of transportation of students, faculty and staff to an educational institution providing services by way of pre-school education and education upto higher secondary school or equivalentent.]</p> |

Major Exemptions – RWA

| Entry | Description |
|-------|--|
| 77 | <p>Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution -</p> <p>(a) as a trade union;</p> <p>(b) for the provision of carrying out any activity which is exempt from the levy of Goods and Service Tax; or</p> <p>(c) up to an amount of [seven thousand five hundred] rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex.</p> |

| Annual Turnover of RWA | Monthly Maintenance Charges | Applicability of GST on Maintenance Charges |
|------------------------|-----------------------------|---|
| Over of ₹20 lakh | Over ₹7,500 | Yes |
| | ₹7,500 or less | No |
| ₹20 lakh or less | Over ₹7,500 | No |
| | ₹7,500 or less | No |

Major Exemptions – Health Care Services

| Entry | Description |
|-------|---|
| 74 | <p>Services by way of—</p> <p>(a) health care services by a clinical establishment, an authorized medical practitioner or para-medics: [Provided that nothing in this entry shall apply to the services provided by a clinical establishment by way of providing room [other than Intensive Care Unit (ICU)/Critical Care Unit (CCU)/Intensive Cardiac Care Unit (ICCU)/Neo natal Intensive Care Unit (NICU)] having <u>room charges exceeding Rs. 5000 per day to a person receiving health care services.</u>]</p> <p>(b) services provided by way of transportation of a patient in an <u>ambulance</u>, other than those specified in (a) above.</p> |

Major Exemptions – Health Care Services

(s) "clinical establishment" means a hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring **diagnosis** or **treatment** or **care for illness**, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases;

(zg) "health care services" means any service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment, **but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma;**

(k) "authorised medical practitioner" means a medical practitioner **registered with any of the councils of the recognised system of medicines established or recognised by law in India** and includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force;

Major Exemptions – Health Care Services

Clarifications:

Circular No. 32/06/2018 dated 12.02.2018

| | Issues | Clarification |
|---|---|---------------|
| 1 | Consultancy charges paid by the Hospitals to Doctors | Exempted |
| 2 | Amount retained by the Hospitals from the fee collected from patients | Exempted |
| 3 | Food supplied to in-patients | Exempted |

GST exemption from Registration

Under GST, certain individuals and entities are exempt from registering themselves under GST on the basis of their turnover and nature of activities. Here are the conditions under which a taxpayer can be exempt from the GST registration -

- Individuals whose annual '**Aggregate**' turnover is less than Rs.40 lakhs for goods (20L in Telangana), Rs.20 lakhs for services, an Rs.10 lakhs for specific categories in special category states.
- A person who is making NIL-rated and exempt supply of goods and services, such as fresh milk, honey, cheese, agricultural services, etc.
- The person indulged in activities that are not covered under the supply of goods and services such as funeral services, petroleum products, etc.
- A person making supplies of those goods that are covered under reverse charge, such as tobacco leaves, cashew nuts (not shelled and peeled), etc.

FAQ

- From what date is GST exemption available?
- Is a tax invoice necessary when supplying GST exempt goods?
- Are exempted supplies recorded separately in GSTR-1 return?
- Who can offer GST exemptions?
- Is GST registration required if the business is supplying GST exempt goods?
- Is salary exempt from GST?
- Is the GST registration limit 20 lakhs or 40 lakhs?
- What is the exemption from GST registration?
- Should I report exempt supplies separately in the GSTR-3B Return? If yes, in which tile/section?

Thank You

CA. Vignesh Srivastava

Vignesh Srivastava & Co
Chartered Accountants