

RCM – Goods and Services covered, URPs, ToS, Notifications, Invoicing Rules, Imports, Compliance

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Disclaimer –

- *Discussion made is based on my understanding of the law and not binding on any one*

Questions

1. Why RCM?
2. Who has to issue Invoice in case of a supply under RCM?
3. Can a Consolidated Invoice be raised at the end of a month?
4. Can it be paid by utilizing ITC from eCrL?
5. Advance paid to a Supplier for supply to be made under RCM? Is G applicable?

[Which are the Goods that is under RCM today?](#) Page No. 332 & 332

[What are the Services covered under RCM?](#) Pg. Np. 334 to 340

6. Is GST applicable on Ocean Freight? If yes, whether RCM or FCM?
7. Invoice is raised on RCM but you have already paid GST to Supplier
8. Why there is a Self-invoicing system for supply under RCM?
9. Can an ISD avail ITC on services received under RCM?



Definition

- Sec. 2(98) - "reverse charge" means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9 , or under sub-section (3) or sub- section (4) of section 5 of the Integrated Goods and Services Tax Act;

Chargeability – Sec. 9(3) and 9(4) of CGST Act, 2017 Sec. 5(3) and 5(4) of IGST Act, 2017

Sec. 9 (3) –

(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Sec. 9 (4) –

(4) The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

Applicability and Amendments – Genesis of Notifications of CT (Rates)

- 8/2017, 28.06.2017 – Sec. 9(4) applicable if AVofS is >Rs.5K
 - 38/2017, 13.10.2017 – Exemption extended upto 31.03.20218
 - 10/2018, 23.03.2018 - Exemption extended upto 30.06.2018
 - 12/2018, 29.06.2018 - Exemption extended upto 30.09.2018
 - 22/2018, 06.08.2018 - Exemption extended upto 30.09.2019
 - 1/2019, 29.01.2019 – Rescinded 8/2017 w.e.f 01.02.2019
- except as respects things done or omitted to be done before such rescission*

Compulsory Registration

- Sec. 24 (iii) –
- Notwithstanding anything contained in sub-section (1) of section 22 , the following categories of persons shall be required to be registered under this Act,-
 - persons who are required to pay tax under reverse charge;

Threshold limit for registration is not applicable

Invoicing Rules and Documents required to be maintained

- Sec. 31(3)(f) - a registered person who is liable to pay tax under sub-section (3) or subsection (4) of section 9 **shall issue an invoice** in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both;
- Rule 46 – Tax Invoice
- Rule 50 – Receipt Voucher
- Rule 51 – Refund Voucher
- *whether the tax is payable on reverse charge basis*
- **Rule 56. Maintenance of accounts by registered persons. -**
- (1) Every registered person shall keep and maintain, in addition to the particulars mentioned in sub-section (1) of section 35 , **a true and correct account of the goods or services imported or exported or of supplies attracting payment of tax on reverse charge** along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.
- **Rule 46, Second Proviso**
- **Provided** further that where an invoice is required to be issued under clause (f) of sub-section (3) of section 31 , **a registered person may issue a consolidated invoice at the end of a month for supplies covered under sub-section (4) of section 9** , the aggregate value of such supplies exceeds rupees five thousand in a day from any or all the suppliers:

Real Estate Sector & RCM

- [Notification No. 29/2019 – CT \(Rates\), 31.12.2019](#)
- **Purchase of inputs from registered persons:** At least 80% of the total value of inputs and input services should be purchased from registered suppliers.
- However, the value of the following services used in the construction of residential apartments are excluded from this calculation:
 - Grant of developmental rights
 - Long term lease of land
 - Floor space index
 - Value of electricity
 - Value of high-speed diesel
 - Motor spirit and natural gas
- The promoter should pay GST at 18% on a reverse charge basis on all such inward supplies to the extent short of 80% of inward supplies from registered suppliers except cement on which tax has to be paid at 28% (if purchased from unregistered persons).

Renting of Motor Vehicle & RCM

- [Notification No. 7/2019 – CT \(Rates\), 29.03.2019](#)
- Supplier is not a BC, Recipient is a BC and rate charged is 5%
- 5% without ITC (**with Cost of fuel**), and
- 12% with ITC (**Not under RCM**)
- What would be the rate without Cost of fuel?

ITC & RCM

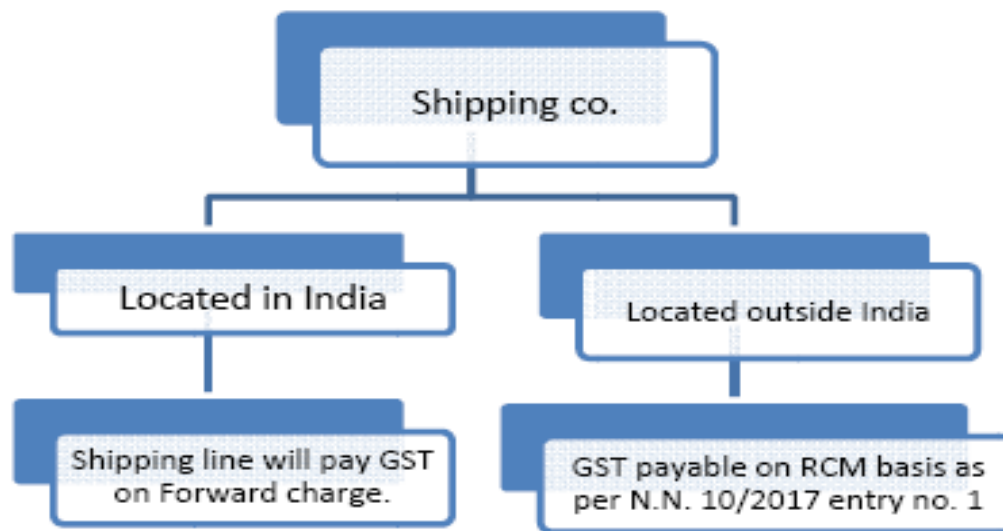
- Can a Supplier avail ITC on services/goods supplied under RCM?
- Renting of Motor Vehicle to carry Passengers – Blocked
- Renting out of Transportation vehicles - will it also be under RCM?

Ocean Freight

- [Notification No. 10/2017, dated 28.06.2017](#)
- Under FOB method there can be two cases, wherein:

Gujrat High Court - Mohit Minerals Private Limited, struck down the levy of reverse charge on the importer for ocean freight services

- **Case I:** Shipping Company hired is situated in India and registered under GST.
- **Case II:** Shipping Company hired is situated outside India.



ToS & RCM - Goods

- Sec. 12 (3) of CGST Act, 2017
 - In case of supplies 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 the receipt of goods; or
 - (b) 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
 - (c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:
- 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.

ToS & RCM - Services

- Sec. 13 (3) of CGST Act, 2017
- In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier 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 sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

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