



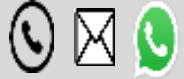
# Lawgics

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**BUDGET SPECIAL**

**Dt.: 01-02-2023 At 4:00 PM**



## 14 Major changes in CGST Act, 2017 and IGST Act, 2017 as proposed in Budget 2023-24.

Clauses 128-142 of the Finance Bill, 2023 chalks out the proposed changes in the CGST Act, 2017 & Clauses 143-144 of the Finance Bill, 2023 chalks out the proposed changes in the IGST Act, 2017.

The same has been summarized below as:

### Changes in CGST Act, 2017:

#### Return filing under GST

1. Section 37(GSTR-1), 39(GSTR-3B), 44(Annual Return- GSTR-9) and 52(TCS Statement- GSTR-8) of CGST Act, 2017 are being amended to restrict filing of returns/ statements to a **maximum period of 3 years** from the due date of filing of the relevant return / statement.
2. Amendment in provisos to section 16(2) is proposed to align the said sub-section with the return filing system provided in the Act.

#### Input Tax Credit

3. Section 17(5) of CGST Act is being amended to provide that **ITC shall not be available** in respect of goods or services or both received by a taxable person, which are used or intended to be **used for activities relating to his obligations under corporate social responsibility** referred to in section 135 of the Companies Act, 2013.
4. Amendment in section 54 is proposed to remove reference to the provisionally accepted input tax credit so as to align the same with the present scheme of availment of self-assessed input tax credit as per sub-section (1) of section 41 of the Act.

#### Decriminalisation

5. Section 132 and section 138 of CGST Act are being amended, inter alia, to -
  - raise the minimum threshold of tax amount for launching prosecution under GST **from ` one crore to ` two crore, except for the offence of issuance of invoices without supply of goods or services or both;**
  - **reduce the compounding amount** from the present range of 50% to 150% of tax amount to the range of 25% to 100%;
  - decriminalize certain offences specified under clause (g), (j) and (k) of sub-section (1) of section 132 of CGST Act, 2017, viz.-
    - obstruction or preventing any officer in discharge of his duties;

- deliberate tempering of material evidence;
- failure to supply the information.

**Sharing of information from GST Portal to other systems**

6. A new section 158A in CGST Act is being inserted to enable sharing of the information furnished by the registered person in his return or application of registration or statement of outward supplies, or the details uploaded by him for generation of electronic invoice or E-way bill or any other details on the common portal, with other systems in a manner to be prescribed.

**Retrospective Amendment to Schedule III of CGST Act, 2017**

7. Paras 7, 8 (a) and 8 (b) were inserted in Schedule III of CGST Act, 2017 **with effect from 01.02.2019** to keep certain transactions/ activities, such as supplies of goods from a place outside the taxable territory to another place outside the taxable territory, high sea sales and supply of warehoused goods before their home clearance, outside the purview of GST. In order to remove the doubts and ambiguities regarding **taxability of such transactions/ activities during the period 01.07.2017 to 31.01.2019**, provisions are being incorporated to make the said paras **effective from 01.07.2017**. However, **no refund of tax paid** shall be available in cases where any tax has already been paid in respect of such transactions/ activities during the **period 01.07.2017 to 31.01.2019**.

**For E-commerce Operators:**

8. Amendment in section 10 is proposed to remove the restriction imposed on registered persons engaged in supplying goods through E-commerce operators from opting to pay tax under the composition levy.
9. Amendment in section 122 so as to provide for penal provisions applicable to E-commerce operators in case of contravention of provisions relating to supplies of goods or services made through them by unregistered persons or composition taxpayers.

**Registration:**

10. Substitution of Section 23 relating to persons not liable for registration, with effect from the 1<sup>st</sup> July, 2017, so as to provide overriding effect to the said section over sub-section (1) of section 22(Registration based on threshold of turnover) and section 24 (Compulsory Registration) of the said Act.

**Delayed refunds:**

11. Amendment in section 56 so as to provide by rules the manner of computation of period of delay for calculation of interest on delayed refunds.

This broadly covers all the amendments in CGST Act, 2017 as proposed in Budget 2023-24 shown in tabular format:

S. No.	Clause of Finance Bill, 2023	Proposed Amendment in CGST Act, 2017
1	128	Amendment in Section 10
2	129	Amendment in Section 16
3	130	Amendment in Section 17
4	131	Substitution of Section 23
5	132	Amendment in Section 37
6	133	Amendment in Section 39
7	134	Amendment in Section 44
8	135	Amendment in Section 52

9	136	Amendment in Section 54
10	137	Amendment in Section 56
11	138	Amendment in Section 122
12	139	Amendment in Section 132
13	140	Amendment in Section 138
14	141	Insertion of new Section 158A
15	142	Retrospective amendment in Schedule III of CGST Act

**Changes in IGST Act, 2017:**

**12. Section 2(16) of IGST Act, 2017 amended:**

Clause (16) of section 2 of IGST Act is amended to revise the definition of “non-taxable online recipient” by removing the condition of receipt of online information and database access or retrieval services for purposes other than commerce, industry or any other business or profession so as to provide for taxability of OIDAR service provided by any person located in non-taxable territory to an unregistered person receiving the said services and located in the taxable territory.

**13. Section 2(17) of IGST Act,2017 amended:**

Clause (17) of section 2 of IGST Act is being amended to revise the definition of “online information and database access or retrieval services” by removing certain words therein so as to remove the condition of “essentially automated” and “involving minimal human intervention” from the said definition.

**14. Proviso to Section 12(8) of IGST Act,2017 omitted:**

Proviso to sub-section (8) of section 12 of the IGST Act is being omitted so as to specify the place of supply, irrespective of destination of the goods, in cases where the supplier of services and recipient of services are located in India.

This broadly covers all the amendments in IGST Act, 2017 as proposed in Budget 2023-24 shown in tabular format:

S. No.	Clause of Finance Bill, 2023	Proposed Amendment in IGST Act, 2017
1	143	Amendment in Section 2
2	144	Amendment in Section 12

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