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Section 9 of CGST Act, 2017

9. Levy and collection.

(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

(2) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

(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.

[(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.]

(5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also, he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Our Interpretation

Section 9(1)

Levy of tax on intra-state supplies

This Section basically creates a Levy of GST on all Intra State Supplies

Intra State Supplies gives rise to

- CGST Liability under Section 9 of CGST Act
- SGST Liability as per relevant State Act
- UTGST Liability under Section 7 of the UTGST Act

Inter State supply gives rise to

- IGST Liability under Section 5 of the IGST Act

This Section applies on all types of supplies except on supply of alcoholic liquor for human consumption because as per **Clause 12A of Article 366 of the Constitution of India**, taxes on Alcoholic liquor for human consumption, is outside the preview of GST Law. This means it shall continue to be taxed under VAT Law.

Once levy is to be charged, tax has to be collected at some time (Time of supply-Section 12 & 13), at some place (Place of Supply), on some value (Section-15) from some person (Forward charge / Reverse Charge) on certain rate of Tax.

Tax Rate shall be notified by the Government from time to time, not exceeding 20% for CGST. Thus, Government has notified numerous notifications on rate of tax ranging from 0.125% to 14% on different kinds of Goods or Services.

The following Schedules are prescribed for this purpose:

Schedule-I	2.5%
Schedule-II	6%
Schedule-III	9%
Schedule-IV	14%
Schedule-V	1.5%
Schedule-VI	0.125%

Section 9(2)

GST Levy on certain products from the future notified date

Currently GST law has excluded the 5 products from the levy but GST can be levied later on from the notified date by the Government on the recommendations of the Council. These products are (i) Petroleum Crude, (ii) high-speed diesel, (iii) Petrol, (iv) Natural Gas, (v) Aviation Turbine Fuel.

Section 9(3)

RCM on specified Goods or Services

This section empowers the government to issue notifications in respect of Goods or services or both on which tax needs to be paid on RCM basis by the Recipient instead of supplier whether registered or unregistered and all the provisions of this act shall apply as if he is the person liable for paying tax in relation to such supply. **Goods Transportation Service by Road and Services provided by Advocates are the classic services** covered under this Section apart from numerous other services enlisted in following notifications which has been issued and amended from time to time in respect of RCM on Services:

- Notification No. 13/2017-CT (Rate) dated 28.06.2017
- Notification No. 22/2017-CT (Rate) dated 22.08.2017
- Notification No. 33/2017-CT (Rate) dated 13.10.2017
- Notification No. 03/2018-CT (Rate) dated 25.01.2018
- Notification No. 15/2018-CT (Rate) dated 26.07.2018
- Notification No. 29/2018-CT (Rate) dated 31.12.2018
- Notification No. 05/2019-CT (Rate) dated 29.03.2019
- Notification No. 22/2019-CT (Rate) dated 30.09.2019

Following notifications has been issued and amended from time to time in respect of RCM on Goods:

- Notification No. 04/2017-CT (Rate) dated 28.06.2017

	<ul style="list-style-type: none"> ➤ Notification No. 36/2017-CT (Rate) dated 13.10.2017 ➤ Notification No. 43/2017-CT (Rate) dated 14.11.2017 ➤ Notification No. 11/2018-CT (Rate) dated 28.05.2018
Section 9(4)	<p><u>RCM provisions when notified supply of specified categories of goods or services or both are received by notified Registered person from an unregistered supplier</u></p> <p>Section 9(4) was amended via CGST(Amendment) Act, 2018 dated 30.08.2018 but effected from 01.02.2019 and this section gives power to Government to notify categories of goods or services which shall be liable for RCM for notified class of Registered Person if such person received such goods or services or both from an unregistered supplier.</p> <p>In Section 9(3) only Goods or services requires to be notified and it is immaterial whether supplier is registered or not BUT in case of section 9(4) not only the Goods or Services needs to be notified but also class of Registered Recipient must be mandatorily notified AND supplier must be unregistered so that section 9(4) can be applied if all the three conditions are satisfied.</p> <p>Notification No. 07/2019-Central tax (Rate) dated 29.03.2019 issued by the Government wherein Promoter are liable to RCM on purchase of Cement, Certain Capital Goods and certain services as notified in the notification from unregistered suppliers. Also, Notification No.24/2019 Central Tax (Rate) dated 30.09.2019 issued related to RCM under Section 9(4).</p>
Section 9(5)	<p><u>RCM liability on E-commerce operator</u></p> <p><u>E-commerce operator</u> is merely a person who own, operates or manages the e-platform for e-commerce purpose between the suppliers and customers. Neither he is a supplier nor he is recipient of services from the supplier but is liable to RCM under GST due to this specific provision.</p> <p>This section enables the Government to notify services (Not Goods) to be taxable in the hands of the e-commerce operator irrespective of the fact that billing is directly done from supplier to customer or otherwise. RCM provisions shall attract and e-commerce operator is liable to pay tax under RCM on the transaction. Section 9(5) deals with taxability of supply of services –output tax of which shall be paid by e-commerce operator even though e-commerce operator is not the actual supplier.</p> <p>It is mandatory for the e-commerce operator to hold a physical presence in the taxable territory either by himself or through any of his representative. In case he does not have a representative then he has to appoint a person for the purpose of paying tax and comply the provisions of the Act.</p> <p>Government has already notified certain Services (Goods not covered under this provision) vide Notification No. 17/2017-Central Tax (Rate) Dated 28.06.2017 and these services are:</p> <ol style="list-style-type: none"> 1. Passenger Transport Service- Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle. With effect from 01.01.2022, the scope of Passenger Transport Service expanded to include service provided through Omnibus and any other motor vehicle. (N/N 17/2021 dated 18.11.2021). For example – Ola, Uber. 2. Accommodation Services- Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes. For example – Oyo and MakeMyTrip. 3. Housekeeping Services- Services by way of house-keeping, such as plumbing, carpentering etc. For example, Urban Company provides the services of plumbers, electricians, teachers, beauticians etc. In this case, Urban Company is liable to pay GST and collect it from the customers instead of the registered service providers. This was inserted vide Notification No. 23/2017-Central Tax (Rate) Dated 22.08.2017. 4. Restaurant Services (Cloud Kitchen)- W.e.f. 01.01.2022, the e-commerce operators (Zomato and Swiggy) are liable to pay tax under RCM. It has to be paid via the electronic cash ledger at a rate of 5% whether or not the restaurant (actual supplier) is registered under GST or not. Moreover, there can be no claim for Input Tax Credit in this case. <p>The invoice for any of the services notified under Sec 9 (5) will be issued by the e-commerce operator themselves.</p>

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