



Week of 18th September 2017

Extension of time period of furnishing GSTR-3B

A notification has been issued by CBEC to notify the following due dates for filing return in form GSTR-3B which will continue to be filed for the months of August to December, 2017:

S. No	Month for which the return is to be filed	Last date on which such return is to be filed
1	August, 2017	20th September, 2017
2	September, 2017	20th October, 2017
3	October, 2017	20th November, 2017
4	November, 2017	20th December, 2017
5	December, 2017	20th January, 2018

Extension of time period of furnishing GST TRAN-1

Two orders have been issued by CBEC to extend the following time periods for furnishing GST TRAN-1.

- The due date for submitting the declaration in form GST TRAN-1 has been extended till 31st October, 2017; and
- The due date for one-time revision in form GST TRAN-1 has also been extended to 31st October, 2017.

TDS provisions

A notification has been issued by CBEC to notify that certain provisions relating to tax deducted at source (TDS) under GST^[1] will be effective from 18th September, 2017. However, the liability to deduct TDS will arise from a date to be notified subsequently. The government has also clarified on twitter that currently only the registration of persons for TDS purpose has commenced and the actual deduction will have to be made from a date to be notified later. This notification has also notified the following persons to whom the TDS provisions will apply:

- An authority, board or other body set up by the Parliament or a state legislature or any government, with 51% or more participation by way of equity or control;
- A society established by the central government or the state government or a local authority under the Societies Registration Act, 1860; and

- A public sector undertaking.

Registered brand name under GST

The rate of GST on supply of unbranded food items is nil whereas the rate is 5% for supply of cereals, pulses and flours etc. put up in unit container and bearing a registered brand name. In this regard, a press release has issued to clarify that:

- A brand registered as on 15th May, 2017 under the Trademarks Act, 1999 irrespective of whether or not such brand is subsequently deregistered.
- A brand registered as on 15th May, 2017 under the Copyright Act, 1957.
- A brand registered as on 15th May, 2017 under any law for the time being in force in any other country.
- A mark or name in respect of which actionable claim or enforceable right in court of law is available. However, the higher rate of 5% will not apply in case of such actionable claims or enforceable rights voluntarily foregone by the concerned person, subject to the conditions that he: (a) files an affidavit to this effect with the jurisdictional GST Commissioner, and (b) prints on each unit container in English and local language in indelible ink that in respect of brand name printed on the unit containers he has voluntarily foregone his actionable claim or enforceable right.

The press release also states that the relevant notification notifying the above changes will be released by 22nd September, 2017 which is still awaited.

Exemption from GST registration

A notification has been issued by CBEC to exempt casual taxable persons making taxable supplies of handicraft goods from obtaining registration under GST, provided that the aggregate value of such supplies made by them, on all India basis, does not exceed Rs. 2,000,000 in a financial year^[2]. However, such persons will be necessarily required to obtain a PAN and generate an e-way bill to transport their goods. For the purpose of this exemption, handicraft goods are defined to mean specified goods made by the craftsmen predominantly by hand even though some machinery is used in the process such as leather articles, carved wood products, pottery and clay products, etc.

Amendment in the CGST Rules, 2017

The CGST Rules, 2017 have been amended for the seventh time to give effect to, *inter-alia*, the following provisions:

- The time limit for opting for the composition scheme by registered persons (a migrated taxpayer or a new registrant^[3]) has been extended to 30th September, 2017. Once opted for, tax liability can be discharged under the composition scheme with effect from 1st October, 2017. At the time of opting of composition scheme, form GST ITC-03 has to be necessarily furnished by such persons and not form GST TRAN-1.
- New rule has been inserted to allow revision of the declaration submitted electronically in form GST TRAN-1 on the government common portal within the prescribed time period(s) which may be further extended by the GST Commissioner.
- Where goods are sent by a registered person (principal) located in one state to a job-worker located in any other state, the e-way bill has to be mandatorily generated by the principal, irrespective of the value of the consignment.
- Where handicraft goods are transported from one state to another by a person who has been exempted from the requirement of obtaining registration, the e-way bill has to be generated by such person irrespective of the value of the consignment.

SLP to be filed by department against stay orders issued by high courts

In a departmental circular issued by CBEC, the GST officials have been mandated to file a special leave petition (SLP) in the Supreme Court of India against any order issued by any high court in the country staying the recovery and collection of GST owing to the ambiguity regarding levy of GST. In this circular, it has been advised that in all cases where levy or collection of GST is stayed, irrespective of whether the order is final or interim, the matter needs to be challenged by the department in the apex court in order to defend the interest of the government.

GST on legal services

The writ petition before the Delhi High Court challenging GST on legal services which was scheduled for hearing on 18th September, 2017 has now been posted for consideration on 26th September, 2017. In the meantime, the government has represented that it is in the process of issuing corrigendum to the relevant reverse charge notifications to clarify its stand as it was stated in the press release issued earlier.

New exemptions

The government has notified two new exemptions under GST as follows:

- Supply of heavy water and nuclear fuels by the Department of Atomic Energy to the Nuclear Power Corporation of India Limited; and
- Services by way of right to admission to the events organised under FIFA U-17 World Cup 2017.

Revision in GST rates

The rate of GST has been reduced from 18% to 12% on services provided to the government, local authority or a governmental authority by way of construction, erection, commissioning, etc. of:

- a civil structure meant predominantly for use other than for commerce, industry, or any other business or profession;
- a structure meant predominantly for use as an educational, clinical, art or cultural establishment; and
- a residential complex predominantly meant for self-use or the use of their employees or other specified persons.

[1] These provisions prescribe that where taxable goods or services are supplied by a supplier to certain specified persons, such specified persons will be liable to deduct tax at the rate of 1% from payment made to the supplier in cases where the total value of supply under a contract is more than Rs. 250,000 subject to prescribed conditions. Such specified persons liable to deduct tax include department or establishment of the central government or state government, local authority and governmental agencies and other classes of registered persons as may be notified.

[2] A casual taxable person is compulsorily required to be registered under GST irrespective of threshold limit of aggregate turnover. A casual taxable person means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a state or a union territory where he has no fixed place of business.

[3] New registrants excludes a non-resident taxable person, a person required to deduct tax at source, an e-commerce operator required to collect tax at source and an OIDAR service provider providing services from a place outside India to a non-taxable online recipient.

Glossary

CBEC- Central Board of Excise and Customs	CGST-Central goods and service tax
OIDAR-Online information & database access retrieval	PAN- permanent account number

DISCLAIMER

This update has been written for the general interest of our clients and professional colleagues by the **GSTUpdateTeam@ALMT** and is subject to change. This update is not to be construed as any form of solicitation. It is not intended to be exhaustive or a substitute for legal advice. We cannot assume legal liability for any errors or omissions. Specific advice must be sought before taking any action pursuant to this update. For further clarification and details on the above, you may write to the GSTUpdateTeam@almtlegal.com If you would like to unsubscribe from this weekly update please send an e-mail to us at the above address with the subject unsubscribe.