



Tax alert: Recommendations of GST Council at 55th meeting held on 21 December 2024

22 December 2024

The GST Council, at its 55th meeting held on 21 December 2024, has recommended changes in the GST rates of certain goods and services. Measures for trade facilitation which include issuance of circulars on key contentious issues, streamlining of compliances under GST and changes to GST law, were also recommended.

In a nutshell



Exemption from GST on specified goods used in defence sector to be extended.

Sale of old and used electric vehicles subject to GST at 18% (only on margin earned).

Sponsorship services provided by body corporates are proposed to be taxed under forward charge.



Circulars proposed to be issued on:

- Taxability of vouchers
- No requirement to reverse proportionate input tax credit (ITC) by e-commerce operators (ECOs) on supplies taxable under section 9(5) of the Central Goods and Services Tax Act, 2017



Amendments to the GST law proposed which include:

- retrospective amendments to section 17(5)(d) of the CGST Act, 2017 to replace the phrase 'plant or machinery' with 'plant and machinery'
- providing legal framework in respect of generation of Form GSTR-2B based on the action taken by the taxpayers on the Invoice Management System (IMS)



Track and trace mechanism proposed to empower the Government for specified evasion prone commodities.

Supplier of online services of money gaming, OIDAR services, etc. to unregistered recipients



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Recommendations of the GST Council at its 55th meeting held on 21 December 2024

The GST Council has made various recommendations which includes changes in tax rates of goods and services, amendments to the GST law, issuance of clarifications on various subjects such as taxability of vouchers, requirement to reverse input tax credit (ITC) by e-commerce operators (ECOs) on specified supplies, etc. Measures for trade facilitation and streamlining of GST compliance also proposed.

For ease of understanding and reference, the proposals have been grouped under the following heads:

[Proposals for change in GST rate of goods and services](#)

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Proposals for change in GST rate of goods and services

Proposals for change in GST rate of goods

Nature of goods	HSN	Existing rate	Proposed rate
Fortified Rice Kernel (FRK)	1904	As applicable	5%
Gene therapy	As applicable	As applicable	Exempt
Systems, sub-systems, equipment, parts, sub-parts, tools, test equipment, software meant assembly/manufacture of LRSAM system (Notification 19/2019-Customs)	As applicable	As applicable	Exempt
Compensation cess on supplies to merchant exporters	NA	As applicable	0.1% (par with GST rate on such supplies)
Imports of equipment and consumable samples by Inspection Team of the International Atomic Energy Agency (IAEA)	As applicable	As applicable	Exempt (subject to specified conditions)
Food inputs of food preparations that are intended for free distribution to economically weaker sections under a government program	19 or 21	As applicable	5%
Sale of all old and used vehicles, including EV's other than those specified at 18% (GST is applicable only on the Value that represents Margin i.e. the difference between the Purchase price and Selling price (depreciated value if depreciation is claimed) and not on the value of the vehicle. Also, it is not applicable in case of unregistered persons.	As applicable	12%	18%

Further, the GST Council has proposed to clarify the following changes in GST rates for goods:

- Autoclaved Aerated Concrete (ACC) blocks (*having more than 50% fly ash*) will fall under HS 6815 and attract 12% GST.
- Pepper, whether fresh green or dried pepper and raisins when supplied by an agriculturist, is not liable to GST.
- Amend the definition of '*pre-packaged and labelled*' to cover all commodities that are intended for retail sale and containing not more than 25 kg or 25 litre, which are 'pre-packed' as defined under the Legal Metrology law.
- Ready-to-eat popcorn which is mixed with salt and spices are classifiable under HS 210690 99 and attracts:
 - 5% GST if supplied as, other than pre-packaged and labelled, and
 - 12% GST if supplied as, pre-packaged and labelled.
- Popcorn mixed with sugar (e.g. caramel popcorn), would be classifiable under HS 1704 90 90 and attract 18% GST

Deloitte comments

The GST Council continues to rationalize GST rates in order to bring in relief to taxpayers, promote uniformity and prevent unnecessary disputes.

The proposed revision in the rate of compensation cess on supplies to merchant exporters to 0.1%, to bring it on par with the GST rate on such supplies, is a positive development and reduces disputes as the GST is already pegged at 0.1% on such supplies.

The increase in GST rates on used vehicles may impact the sale price to the end customer.

Proposals for change in GST rate of services

- Contributions made by general insurance companies from the third-party motor vehicle premiums collected by them to the Motor Vehicle Accident Fund, constituted under section 164B of the Motor Vehicles Act, 1988 proposed to be exempted from GST.
- Composite Dealers are proposed to be exempted under reverse charge on renting of immovable property (other than residential dwelling) from unregistered person and regularize for the past period from 10 October, 2024.
- Exemption from GST proposed on services provided by RBI regulated Payment Aggregators in relation to settlement of an amount up to INR 2,000 in a single transaction transacted through credit card, debit card, charge card or other payment card service. Further, it is proposed to clarify that the said exemption does not cover payment gateway (PG) and other fintech services which do not involve settlement of funds.
- Clarification proposed that no GST is payable on 'penal charges' levied and collected by banks and NBFCs from borrowers for non-compliance with loan terms.
- Sponsorship services provided by body corporates proposed to be taxed under forward charge mechanism, as against existing practice of payment of GST under reverse charge.

- Omitting the definition of declared tariff and amending the definition of specified premises by linking with the actual value of supply of hotel accommodation services, in excess Rs 7,500 in the previous year, making it taxable at 18% during the current financial year. Moreover, option would be provided to hoteliers wherein GST on restaurant services could either be paid at 18% with ITC or 5% without ITC by giving a declaration to that effect on or before beginning of the financial year. This is proposed to be changed from 1 April 2025.

Deloitte comments

The proposal to clarify the eligibility of exemption for services related to the settlement of amounts up to INR 2,000 in a single transaction by payment aggregators is a positive step for the fintech industry. By providing much-needed clarity, the proposal addresses the interpretational uncertainties that have arisen regarding whether payment aggregators qualify as “acquiring banks” for the purpose of such exemptions. However, payment gateways not involved in the money transfer i.e. payment chain, have been kept outside the ambit of this exemption.

The ambiguity regarding whether a transaction qualifies as a “sponsorship service” for the payment of GST under RCM or as an advertisement service under the forward charge mechanism has been clarified by bringing sponsorship services under the forward charge mechanism. This will eliminate the confusion surrounding the categorization of services as sponsorship vis-à-vis advertising services, and will simplify compliances.

As of now, Hotel accommodation services were being taxed based on value of supply at multiple rates, i.e., 18% if value of unit of accommodation is exceeding Rs 7,500 and 12% otherwise. It is now proposed to omit the definition of declared tariff and amend the definition of specified premises to link it with actual value of supply of an unit of accommodation services provided by the hotel.

Also, for the restaurant services rendered in such hotel, GST is to be charged @18% with ITC, if the ‘value of supply’ exceeded Rs. 7,500 for any unit of accommodation in the preceding financial year or 5% otherwise.

Also, an option to hoteliers is provided to either pay GST in restaurant services at 18% with ITC instead of enforcing payment of GST at 5% without ITC which would provide a much needed relief to hospitality sector.

Proposals which enable trade facilitation

A. Proposed amendment to Schedule III to the Central Goods and Services Tax Act, 2017

- Retrospective amendment proposed in paragraph 8 of Schedule III to the Central Goods and Services Tax Act, 2017 (CGST Act) to include a new clause, effective from 01 July 2017, to clarify that the supply of goods warehoused in Special Economic Zones or Free Trade Warehousing Zones, before clearance for export or the domestic tariff area, will neither be treated as a supply of goods nor services under GST.

Deloitte comments

This is a welcome move as this aligns treatment of storage of goods at SEZ/FTWZ with customs-bonded warehouse provisions, reducing tax disputes and ensuring consistent treatment under GST.

B. Proposals relating to taxability of vouchers

- Sections 12(4) and 13(4) of the CGST Act and Rule 32(6) of the Central Goods and Services Tax Rules, 2017 proposed to be omitted. The deletion of these provisions will resolve the ambiguity relating to the time of supply of vouchers.
- Clarification proposed on the following issues relating to taxability of vouchers:

Issue	Clarification
Taxability of vouchers	Transactions in vouchers neither treated as a supply of goods nor services under GST.
Distribution on principal-to-principal basis	No GST is applicable on the distribution of vouchers when done on a principal-to-principal basis.
Distribution on principal-to-agent basis	GST is applicable on the commission/fee or any other charge by the agent for distributing vouchers.
Additional services related to vouchers	Services like advertisement, co-branding, marketing, promotion, customization, technology support, customer support related to vouchers are subject to GST.
Unredeemed vouchers (breakage)	No GST is payable on the income booked from unredeemed vouchers (breakage). These are not considered a supply under GST.

Deloitte comments

The key takeaway is the clear distinction between vouchers as non-supplies and the taxability of only margins and services related to vouchers. The decision to exclude vouchers from being considered a supply under GST aligns with the principle that vouchers are a medium of exchange, not a final consumable product or service, thus eliminating the need for businesses to treat them as goods or services for tax purposes.

Further, this would put to rest litigation surrounding the taxation of breakage income in the hands of companies issuing vouchers.

This is a welcome move to resolve a long-standing industry concern and will bring much-needed simplicity to the taxation of vouchers under GST. This clarity will be beneficial for sectors like retail, e-commerce, and hospitality, where vouchers play a significant role in business operations.

C. Issuance of clarifications through the circulars to remove ambiguity and legal disputes

The GST Council has recommended issuance of circulars to address specific areas of ambiguity in the application of GST provisions, which proposed to clarify as below:

- No proportional reversal of ITC is required under sections 17(1)/ 17(2) of the CGST Act by ECOs for supplies taxable in their hands under section 9(5) of the CGST Act. In other words, this clarification applies to supplies where the ECO is required to pay tax on behalf of the supplier.
- In an Ex-Works contract, where goods are delivered by the supplier to the recipient or a transporter at the supplier's place of business, and the property in goods transfers to the recipient at that point, the goods are considered to be "received" by the recipient under section 16(2)(b) of CGST Act. Consequently, recipient can claim ITC on such goods, subject to the conditions in sections 16 and 17.
- Late fee under section 47(2) of the CGST Act is applicable for delayed filing of complete annual returns, which includes both Form GSTR-9 and 9C.

- Additionally, a waiver of late fee (in excess of the amount applicable for delay of filing Form GSTR-9) is allowed for delayed filing of Form GSTR-9C for the years 2017-18 to 2022-23, provided the return is filed by 31 March 2025.

Deloitte comments

The issues that are proposed to be addressed by the above clarifications are a testament of the pragmatic approach taken by the GST Council. E-commerce, manufacturing, and exports sectors will be positively impacted from the clarity on ITC provisions.

Proposals for streamlining GST compliances

A. Proposals for insertion of new provisions for Track and Trace Mechanism

- Section 148A will be inserted in the CGST Act, 2017 for creating a legal framework to enable the tracking and tracing of specified evasion prone commodities throughout the supply chain.
- The system will use a Unique Identification Marking affixed to goods or their packaging.

Deloitte comments

Unique Identification Markings are expected to allow authorities to track goods from origin to destination. The idea is to enhance transparency and accountability, thereby reducing instances of tax evasion.

It is expected that businesses dealing with such commodities will need to maintain detailed records, leading to better compliance and accurate tax filings.

Industry has to watch out for the list of commodities and details of the mechanism as it is likely to require changes in systems as well as processes.

B. Clarification regarding recording of correct details of name of the State of the un-registered recipient as well as correct declaration of place of supply in respect of supply of 'Online Services'

- In respect of supply of 'Online Services' such as supply of online money gaming, OIDAR services, etc. to unregistered recipients, the supplier is required to mandatorily record the name of the State of the unregistered recipient on the tax invoice and such name of State of recipient shall be deemed to be the address on record of the recipient for the purpose of section 12(2)(b) of Integrated Goods and Services Tax Act, 2017 read with proviso to rule 46(f) of CGST Rules.

Deloitte comments

Section 12(2)(b) of the IGST Act, 2017, determines the place of supply for services provided to unregistered recipients. For 'Online Services,' precise recording of the recipient's state ensures accurate tax allocation to the correct state.

Proposals regarding amendments in GST law

- Retrospective amendments proposed to section 17(5)(d) of the CGST Act to replace the phrase 'plant or machinery' with 'plant and machinery' so that the said phrase may be interpreted as per the explanation to Section 17 of the CGST Act.
- Amendment proposed in section 107(6) and 112(8) of the CGST Act to provide for payment of pre-deposit @ 10% for filing appeals before Appellate Authority and Appellate Tribunal, in cases

involving only demand of penalty without involving demand of tax.

- Amendment proposed in the definition of Local Authority to insert an Explanation to provide for definitions of the terms 'Local Fund' and 'Municipal Fund' used in the said clause.
- Amendment proposed in Input Service Distributor provisions to explicitly include inter-state transactions subject to reverse charge under the ISD mechanism. These amendments will be effective from 1 April 2025.
- New Rule 16A proposed to be inserted in CGST Rules to provide for a separate provision for generation of temporary identification number for persons, who are not liable to be registered but are required to make any payment.
- Amendment proposed to provide legal framework in respect of generation of Form GSTR-2B based on the action taken by the taxpayers on the Invoice Management System (IMS). The Council also recommends that Form GSTR-3B of a tax period shall be allowed to be filed only after generation of Form GSTR-2B of the said tax period.
- Amendment proposed in Section 34(2) of CGST Act to specifically provide for requirement of reversal of ITC as is attributable to a credit note, by the recipient, to enable the reduction of output tax liability of the supplier. The Council also recommends to insert a new rule 67B in CGST Rules to prescribe the manner in which the output tax liability of the supplier shall be adjusted against the credit note issued by him.

Deloitte comments

The retrospective amendment recommended by the GST Council in Section 17(5)(d) of the CGST Act is going to be a big blow to the Real Estate Industry.

Lower pre-deposits, in specified cases, will enable lower amount of working capital being blocked in litigations.

Other proposals

- The GST Council approved the recommendation of the committee of officers suggesting measures for various issues raised by the States in respect of issues pertaining to IGST settlement and asked the committee to conclude the desired changes by March 2025.
- The GST Council took note of the procedural rules proposed for the internal functioning of the GST Appellate Tribunal (GSTAT), which would be notified after examination by the Law Committee. This would help in operationalization of the GSTAT.
- The Council also decided to extend the time frame for the Group of Ministers (GoM) on the restructuring of the GST compensation till 30 June 2025.
- On the request of state of Andhra Pradesh, the Council recommended that a GoM be constituted to examine the legal and structural issues and recommend a uniform policy on imposition of levy in case of a natural disaster/calamity in the State.
- Charges collected by municipalities for granting Floor Space Index (FSI) including additional FSI, subjected to GST on reverse charge basis was brought up in the Council and the same was deferred for further examination, on the ground that this amount relates to Municipalities or local authority.

Deloitte comments

The recommendation aims at providing detailed responses to the issues in respect of distribution of GST to states, unsettled amounts in the IGST account and the government's approach towards ensuring timely settlement.

The procedural rules proposed for the internal functioning of the GSTAT, would help in operationalization of the GSTAT.

Further to the GoMs request seeking an extension on proposing a new course of action for restructuring of the GST compensation owing to constitutional, legal, and operational issues, the Council has acknowledged the same and decided to extend the time frame till 30 June 2025.

In order to aid the states in better management of financial challenges during natural crisis/disasters, the GST Council has recommended to establish a GOM to explore the possibility of states imposing a cess under the GST framework.

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