



Tax alert: Recommendations of GST Council at 54th meeting held on 9 September

11 September 2024

The Goods and Services Tax (the "GST") Council vide the meeting held on 9 September 2024 recommended amendments to the GST law entailing rate rationalisation, clarifications on various issues, procedures, and mechanisms to claim amnesty benefits, thereby facilitating the trade.

Discussions held during the Council's meeting are reflective of the Government's proactive stance in deliberating various issues and resolving concerns highlighted by trade.

The Council's announcements are in line with the Government's efforts in promoting ease of doing business in India.

In a nutshell



Rate of GST on certain goods and services proposed to be changed.

Exemption from GST proposed on certain services viz., flying training, research and development services.

Exemption on import of services by a foreign airline from its related party/ establishment outside India.



Trade facilitation measures to:

Provide clarity and relaxation on export refunds

Enable procedures and conditions for waiver of interest or penalty or both

Provide a mechanism to implement newly inserted sub-section 16(5) and 16(6)



Key clarifications proposed to remove ambiguity and legal disputes on issues such as:

POS of advertising and data hosting services provided by Indian entity to foreign entities

Availability of ITC on demo vehicles, to dealers of vehicle manufacturers



Other technology related measures:

Pilot test the B2C E-invoicing to promote improved business efficiency

Introduce Invoice Management System and New Ledgers to bring more transparency in availing the ITC and to promote efficiency in compliances.



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Recommendations of the GST Council at its 54th meeting held on 9 September 2024

The GST Council has made various recommendations which includes changes in tax rates of goods and services, conditional waiver of interest and penalty on demands raised for specified periods, issuance of clarifications on various subjects such as place of supply of services with regard to advertisement and data hosting provided by Indian entity to its related foreign entity outside India, prospective omission of rules which currently deny the refund of taxes paid on exports and expanding the scope of e-invoicing to B2C transactions, for more efficiency.

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

[Proposals for rate rationalization on goods and services](#)

[Proposals which enable trade facilitation](#)

[Proposals pertaining to GST compliance](#)

Proposals for rate rationalization of goods and services

Proposals for rate rationalization of goods

Nature of goods	HSN	Existing rate	Proposed rate
Extruded or expanded products, Savoury or salted (other than unfried or un-cooked snack pellets, by whatever name called, manufactured through process of extrusion)	19059030	18%	12%
Cancer drugs namely, Trastuzumab Deruxtecan, Osimertinib and Durvalumab	As applicable	12%	5%
Roof Mounted Package Unit (RMPU) Air Conditioning Machines for Railways	8415	As applicable	28%
Car and Motor cycle seats	9401	18%	28%

Reverse charge mechanism (“RCM”) payment is proposed to be introduced on supply of metal scrap by unregistered person to registered person, wherein registered person is required to remit the taxes. However, supplier shall take registration in case turnover crosses threshold limit.

Further, tax deduction at source (TDS) of 2% will be applicable on supply of metal scrap by registered person to another registered person.

Deloitte comments

The GST Council continues to rationalise the rates to provide relief to taxpayers. At the same time, certain rates are being increased to bring the GST rate at par with related goods and to avoid unwarranted litigations. It would be interesting to note that TDS is being introduced for supply of metal scrap among registered persons. It would be worth noting to follow the developments on this front with respect to compliance for such TDS payments and related reporting.

Proposals for rate rationalization of services

A. The following transactions shall be **exempted**:

- supply of research and development (R&D) services by a Government Entity; or a research association, university, college, or other institution, notified under clauses (ii) or (iii) of sub-section (1) of section 35 of the Income Tax Act, 1961 using Government or private grants.
- import of services by an establishment of a foreign airlines company from a related person or any of its establishment outside India, when made without consideration.

- supply of services such as application fees for providing electricity connection, rental charges against electricity meter, testing fees for meters/transformers/capacitors, labour charges from customers for shifting of meters/service lines, charges for duplicate bills etc. which are incidental, ancillary, or integral to the supply of transmission and distribution of electricity by transmission and distribution utilities to their consumers, when provided as a composite supply.

On all the above transactions, it is proposed to regularise the past demands on **'as is where is'** basis.

Also, affiliation services provided by state/central educational boards, educational councils and other similarly placed bodies, to government schools are proposed to be exempted. The issue for past period between 1.07.2017 to 17.06.2021 is proposed to be regularised on **'as is where is'** basis.

Further, the exemption is also extended to approved flying training courses conducted by DGCA approved Flying Training Organisations (FTOs).

B. The following proposals have been made:

- To notify GST @ 5% on the transport of passengers by helicopters on seat share basis and to regularise for past period on **as is where is** basis. It is also recommended to clarify that the charter of helicopter will continue to attract 18% GST.
- To bring the renting of commercial property by unregistered person to a registered person under RCM to prevent revenue leakage.
- To clarify that Preferential Location Charges ("PLC") paid with consideration for construction services of residential/ commercial/ industrial complex before issuance of completion certificate forms part of composite supply and is naturally bundled to main service of construction services - eligible for same tax treatment as the main supply.
- To clarify that the affiliation services provided by universities to their constituent colleges are not covered within the ambit of exemptions provided to educational institutions in the Notification No. 12/2017- Central Tax (Rate) dated 28 June 2017 and GST at the rate of 18% is applicable on the affiliation services provided by the universities.
- To clarify that the ancillary / intermediary services (viz., loading/unloading, packing/unpacking, transshipment, temporary warehousing etc.,) provided by the Goods Transport Agency ("GTA") in the course of transportation of goods by road shall be treated as a composite supply. However, if these services are not provided in course of transportation of goods by road by the GTA and invoiced separately then, these services shall not be treated as composite supply.
- To regularize the GST liability for the past period prior to 01 October 2021 on **'as is where is'** basis, where the film distributor or sub-distributor acts on a principal basis to acquire and distribute films.

In furtherance, the council has recommended to make an addition of a few members to the already constituted Group of Ministers (GoM) working on rate rationalization to specifically discuss and address the issue of bringing the different nature of insurances under the scope of rate rationalization and accordingly submit a study report by October 2024.

Deloitte comments

The investigations initiated with the proposal to levy GST on the grants received by Universities was met with concerns from the educational fraternity. Pursuant to representations made, the Council has acted swiftly to address this issue. The proposed exemptions to research grants will promote more money flows into R&D activity.

The proposal to exempt import of services by Indian branch office of foreign airlines from its head office located outside India is a big relief for the airline sector. We need to monitor similar issues in case of Shipping Industry.

Proposals to regularise long standing industry practices on "as is where is basis" is a welcome step and will facilitate

closure of demands already raised on several issues.

The council has proposed to provide a long-awaited clarification on the taxation of PLC and on the ancillary services provided by a GTA, which is a big relief to taxpayers. It is to be clarified that these services would be treated as part of composite supply of their respective main services.

While the decision on the applicable rates for health and life insurance are expected by November 2024, it is expected that the decision would consider all forms of health/ medical insurance including family floaters, group policies, optional add-on coverages etc. so that insurance companies have clarity on the changes they need to incorporate.

Proposals which enable trade facilitation

A. Clarification on the IGST refunds on exports:

Refund with payment of taxes when IGST on imports is paid subsequently: It is hereby clarified that, the refund of taxes paid on exports shall not be considered to be in contravention of GST provisions -

- Where goods were initially imported without payment of IGST and compensation cess by availing benefits under the applicable customs notifications; and
- IGST and compensation cess were subsequently paid, along with applicable interest, and the Bill of Entry is reassessed through the jurisdictional Customs authorities.

Prospective omission of rule 96(10), 89(4A) and Rule 89(4B)

Restriction in respect of refund on exports, imposed vide rule 96(10), rule 89(4A) & rule 89(4B) of Central Goods and Services Tax Rules, 2017, in cases where benefit of the specified concessional/ exemption notifications is availed on the inputs to be prospectively omitted.

Deloitte comments

The GST Council has taken measures for benefit of the exporters who were being denied substantial benefit of refund even when the IGST and compensation cess was being paid subsequently. This recommendation will provide much needed clarity to the matter which has been challenged before various courts.

Further, denial of refunds of taxes paid on exports to advance authorization holders, EOUs etc., availing duty exemptions are proposed to be prospectively omitted, in line with other tax-payers. This provides a significant working capital relief since many exporters had started importing with payment of IGST to avoid dispute from authorities. Amongst other things, this move aids in liquidation of Input Tax Credit (ITC) on capex procurements which currently cannot be obtained as refunds.

Considering that these proposed amendments have prospective effect, the tax authorities' positions for past periods would need to be monitored.

B. Procedure and conditions for waiver of interest or penalty for FY 2017-18 to FY 2019-20:

- (a) a new rule shall be inserted prescribing the procedure, conditions, and the relevant forms as applicable for availing the benefit of waiver of interest or penalty or both with regard to the demands raised under section 73 of the Central Goods and Services Tax Act, 2017
- (b) the council also recommended to notify 31 March 2025 as the date on or before which the demand shall have to be paid to avail this benefit.
- (c) a recommendation is also made to notify this provision with effect from 01 November 2024 and also to issue a circular clarifying various issues relating to waiver of interest or penalty or both

Deloitte comments

The benefit granted in this regard, indeed requires clarity on the procedure, conditions, and the relevant forms to be filed, for availing the benefit of waiver of interest or penalty, or both, by the taxpayers for prior periods. This enables both taxpayers and the authorities, to comply with the procedures and conditions, to avoid any unwarranted disputes at a later stage.

Since the window available to taxpayers to avail this benefit is very short, it is hereby advised to take up this benefit immediately on notifying these provisions and issuance of circulars.

C. Relaxation with regard to the time limit for claiming input tax credit pertaining to FY 2017-18 to FY 2020-21 and the input tax credit in cases where cancellation of registration is revoked

Special procedure for rectification of orders proposed where demands were previously raised on account of:

- wrong availment of ITC beyond the prescribed period (considering the Union Budget amendments extended the time limit for FY 2017-18 to FY 2020-21 till November 2021)
- availment of ITC by a person whose registration was cancelled and subsequently revoked, subject to the condition that such availment was done within the prescribed time period
 - The above proposals are effective retrospectively and the council has recommended to notify the said provisions at the earliest.
 - To enable tax payers to claim the benefit of such relaxations, the council has recommended to facilitate tax payers with a special procedure for rectification of orders passed earlier restricting the said benefit such that tax payers can claim the benefit.
 - It was also recommended to issue a circular clarifying the procedures and to also address various issues which may arise in implementing these provisions.

Deloitte comments

This is a welcome move by the council as this emphasises the Governments objective to facilitate genuine taxpayers and promote ease of doing business in India. The circulars which are recommended to be issued in this regard, shall provide clarity in implementation of this proposal.

D. Clarifications proposed to be issued on the following:

(a) Place of supply for following services provided by Indian entities to foreign companies:

- (i) advertising services
- (ii) data hosting services provided to cloud computing service providers

(b) Availability of ITC, on demo vehicles, by dealers of the vehicle manufacturers

Deloitte comments

The above clarifications are expected to put to rest the ambiguities relating to place of supply in respect of services provided by Indian entities to foreign companies, in context of their export status. This is a big relief to the industry from unwarranted disputes as the clarification would result in export status for data hosting and advertisement services.

Proposals pertaining to GST Compliance

- To strengthen the compliance process, electronic invoicing (e-invoicing) is to be introduced for B2C transactions as well. The pilot project will be rolled out on voluntary basis for selected sectors and states.
- Introduction of RCM ledger, ITC reclaim ledger and Invoice management system (IMS). The taxpayers will be provided time till 31 October 2024 to declare their opening balance for RCM and ITC reclaim ledger, whereas

the IMS will be optional to allow the taxpayers to accept, reject or keep the invoices pending for the purpose of availment of ITC.

Deloitte comments

Further to the requirement of generation and printing of dynamic QR code for B2C invoices for certain entities, the government now proposes to introduce e-invoice for B2C transactions. This will assist the government in tackling tax evasion and plugging revenue leakages. On the other end, though it provides improved business efficiency to the retail industries, it will have additional burden by way of generation of e-invoice for all transactions, in comparison to earlier reporting of summary in its outward statement viz., Form GSTR-1.

The introduction of an IMS will facilitate taxpayer in matching their records/invoices vis-à-vis issued by their suppliers for availing the correct ITC and shall allow recipient taxpayers to either accept or reject an invoice or to keep it pending in the system, which can be availed later. This facility will aim in reducing errors in claiming ITC and ultimately reduce notices being issued on account of ITC mismatch. At this point, it was necessary to keep this as optional, as the industry needs to change the existing system to accommodate this facility, which may be difficult to implement in short span of time.

Additionally, in line with advisory, GST Council has decided to give an opportunity to taxpayers to report opening balance for these ledgers by 31 October 2024.

Notifications/ circulars giving effect to the above recommendations of the GST Council would be issued shortly.

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