



भारतीय राष्ट्रीय राजमार्ग प्राधिकरण  
(सड़क परिवहन और राजमार्ग मंत्रालय)  
**National Highways Authority of India**

(Ministry of Road Transport and Highways)  
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NHAI/F&A/GST-2017-18/SM

Dated: 04<sup>th</sup> October, 2017

CIRCULAR (3.3.16)

**Subject: Implementation of GST Act, 2017 in NHAI - Consequential Changes in Law, Procedure to be followed for various payments - reg.**

Background:

- a. Goods and Service Tax Act, 2017 has been implemented in India with effect from 01.07.2017. The Act has subsumed various Indirect Taxes of both the Central & State Governments, such as Central Excise Duty, Service Tax, Central Sales Tax (CST) / Works Contract Tax (WCT)/State Value Added Tax (VAT), Additional Custom Duty (CVD) and Special Additional Duty (SAD) apart from Entry Tax and Octroi Charges etc.
- b. Approval has been by accorded by the Board of the Authority during its meeting held on 21st Sept.'2017 regarding implementation of GST Act, 2017 in NHAI and noted the consequential actions to be adopted by NHAI.
- c. Accordingly, the following clarifications are issued as far as implementation of GST Act, 2017 is concerned.
  1. Change in Law
  2. Annuities Payments
  3. GST on Mobilization Advance
  4. Reverse Charge Mechanism (RCM)
  5. TDS on GST

1. Change in Law:

- a. NHAI is dealing with various contracts as under:
  - i) Hybrid Annuity Mode (HAM),
  - ii) Engineering, Procurement & Construction (EPC),
  - iii) Built Operate & Transfer- BOT (Toll),
  - iv) Built Operate & Transfer-BOT (Annuity) &
  - v) Operation & Maintenance Contract (O&M)
- b. The "Change in Law" clause is applicable in all types of Contracts mentioned above in respect of all the on-going Projects as at the closing hours of 30<sup>th</sup> June, 2017 on implementation of GST Act, 2017.

## 2. Annuity Payments:

- a. The board of NHAI has decided to make the payment of Annuities on ad-hoc basis, till the GST Authorities issue further clarifications.
- b. As such, if the Concessionaire claims GST on Annuities payment, GST shall be paid on ad-hoc basis only till further clarifications from GST Authorities.
- c. Accounting Treatment: As the payment is on ad-hoc basis, a separate General Ledger Code (GLC) - "3361 GST on Annuity" has been opened. Till the time further direction is issued in this regard, GST on Annuity payments is to be booked under this GL Code.

## 3. Mobilization advance:

Applicability of GST on mobilization advance shall be as follows -

- a. If the mobilization advance is refundable as per the Contract Agreement, no GST shall be payable on mobilization advance.
- b. If the mobilization advance is recoverable as per the Contract Agreement in future bills, then GST shall be applicable. It shall be paid by NHAI at the applicable rates and shall be suitably adjusted at the time of recovery of the Mobilization Advance.

## 4. Reverse Charge Mechanism (RCM):

- a. NHAI has obtained GST Registration number for its Headquarters and Regional Offices of all the States.
- b. As per existing provisions of the GST Act, 2017 NHAI is liable to deposit GST under Reverse Charge Mechanism in case of some specified services/ payments viz, legal services/ payments to advocates/ legal firms, payments to Arbitrators, payments for goods transport services, payments for speed post etc.
- c. The Notification no. 13/2017-Central Tax (Rate) dated 28.06.2017 in this regard is attached for ready reference (Annexure-I).
- d. Accounting Treatment -
  - i. GST under RCM is to be paid by NHAI. Gross amount of expenditure including GST is to be booked at the time of making payment and GST along with other statutory deductions are to be credited to the respective heads of accounts with net payment to the Agency.
  - ii. In the next month, at the time of making statutory payment, GST is to be paid to the Governmental authorities.
  - iii. A new GL Code for GST under RCM 1840 has been created for this purpose.

**5. Deductibility of TDS under Income Tax Act:**

- a. TDS shall to be deducted under the Income Tax Act, in addition to the TDS applicable under WCT/GST. Accordingly, wherever in terms of agreement or contract between the NHAI and the service providers, the component of "GST on services" comprised in the amount payable is indicated separately, Tax Deducted at Source (TDS) under the Income Tax Act shall be deducted on the amount paid or payable without including such "GST on Services" component. GST for this purpose shall include IGST, CGST, SGST and / UTGST. A copy of Circular issued by CBDT in this regard is attached herewith as **Annexure-II**.
- b. For Example, if the bill is proposed for Rs. 118 which includes Rs. 100/- as a value of service / work done and includes Rs. 18/- towards the GST, TDS under the Income Tax Act shall be deducted on Rs. 100/- and not on Rs. 118/-, as per the applicable rate prescribed under the Income Tax Act.

This is issued with the approval of Competent Authority.

  
(Sibanarayan Nayak)  
CGM (FA)

Copy to: -

- 1) All ROs/PIUs/NHAI-HQ
- 2) PS to Chairman
- 3) PS to all Members
- 4) Web Admin for hosting in GST portal
- 5) Library.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,  
SECTION 3, SUB-SECTION (i)]

Government of India  
Ministry of Finance  
(Department of Revenue)

**Notification No. 13/2017- Central Tax (Rate)**

New Delhi, the 28<sup>th</sup> June, 2017

GSR.....(E).- In exercise of the powers conferred by sub-section (3) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government on the recommendations of the Council hereby notifies that on categories of supply of services mentioned in column (2) of the Table below, supplied by a person as specified in column (3) of the said Table, the whole of central tax leviable under section 9 of the said Central Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of the such services as specified in column (4) of the said Table:-

**Table**

Sl. No.	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
1	Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to- (a) any factory registered under or governed by the Factories Act, 1948(63 of 1948);or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the

	Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person.		Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person; located in the taxable territory.
2	Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.
3	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4	Services provided by way of sponsorship to any body corporate or partnership firm.	Any person	Any body corporate or partnership firm located in the taxable territory.
5	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, - (1) renting of immovable property, and (2) services specified below- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.

	agency services provided to a person other than Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.		
6	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
7	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
9	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory.

Explanation.- For purpose of this notification,-

(a)The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.

(b) "Body Corporate" has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.

(c) the business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.

(d) the words and expressions used and not defined in this notification but defined in the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act, and the Union Territory Goods and Services Tax Act shall have the same meanings as assigned to them in those Acts.

2. This notification shall come into force on the 1<sup>st</sup> day of July, 2017.

[F. No. 334/1/2017- TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

**CIRCULAR No. 23 / 2017**

P. No. 275/59/2012-IT (B)  
Government of India/ भारत सरकार  
Ministry of Finance/ वित्त मंत्रालय  
Department of Revenue/(राजस्व विभाग)  
Central Board of Direct Taxes/(केन्द्रीय प्रत्यक्ष कर बोर्ड)

North Block, New Delhi  
19<sup>th</sup> July, 2017

**Subject: Modification of Circular No. 1 of 2014 in view of substitution of Service Tax by Goods and Services Tax (GST).**

The Central Board of Direct Taxes (the Board) had earlier issued Circular No. 1/2014 dated 13.01.2014 clarifying that wherever in terms of the agreement or contract between the payer and the payee, the Service Tax component comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Income-tax Act, 1961 (the Act) on the amount paid or payable without including such Service Tax component.

2. References have been received in the Board seeking clarification as to what treatment would be required to be given to the component of Goods and Services Tax (GST) on services, which has been introduced by the Government with effect from 1<sup>st</sup> of July, 2017 and into which the erstwhile Service Tax has been subsumed.

3. The matter has been examined. It is noted that the Government has brought in force a new Goods and Services Tax regime with effect from 01.07.2017 replacing, amongst others, the Service Tax which was being charged prior to this date as per the provisions of Finance Act, 1994. Therefore, there is a need to harmonize the contents of Circular No.1/ 2014 of the Board with the new system for taxation of services under the GST regime.

4. In the light of the fact that even under the new GST regime, the rationale of excluding the tax component from the purview of TDS remains valid, the Board hereby clarifies that wherever in terms of the agreement or contract between the payer and the payee, the component of 'GST on services' comprised in the amount payable to a resident is indicated separately, tax shall be deducted at source under Chapter XVII-B of the Act on the amount paid or payable without including such 'GST on services' component. GST for these purposes shall include Integrated Goods and Services Tax, Central Goods and Services Tax, State Goods and Services Tax and Union Territory Goods and Services Tax.



5. For the purposes of this Circular, any reference to 'service tax' in an existing agreement or contract which was entered prior to 01.07.2017 shall be treated as 'GST on services' with respect to the period from 01.07.2017 onward till the expiry of such agreement or contract.
6. Hindi version shall follow.



(Sandeep Singh)

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Copy to:

1. Chairman and all Members of CBDT.
2. All Principal Chief Commissioners and Principal Directors General of Income Tax.
3. Pr. DGIT (Systems) and Pr. DGIT (Admin.).
4. All Joint Secretaries and Commissioners in CBDT.
5. Additional Directors General (TPS-I) and (PR,PP&OL).
6. Commissioner (CPC-TDS).
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8. Office of Comptroller & Auditor General of India (30 copies).
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