

GST Implication On Co-operative Societies and NPO's



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Co-operatives Societies

A **Co-operative society in India** can be described as the association of persons coming together voluntarily for a specific purpose of the same territory. It is an autonomous body and self-help organization controlled by their members who actively participate in setting their principles and making decisions solely for the interest of the members of the society. Some of the type of Cooperatives are:- **Producer Cooperative, Consumer Cooperative, Credit Unions, Marketing Cooperative Society, Housing Cooperative Society**

Charitable Trusts

A **charitable trust** is an irrevocable **trust** established for **charitable** purposes. Some important terminology in charitable trusts is the term 'corpus' which refers to the assets with which the trust is funded and the term 'donor' which is the person donating assets to a charity.

Non-Profit Organizations

Non-Profit Organizations are associations, charities, cooperatives, and other voluntary organizations formed to further cultural, educational, religious, professional, or public service objectives whose startup funding is provided by their members, trustees, or others who do not expect repayment, and who do not share in the organization's profits or losses which are retained or absorbed.

Preliminary Requirement



Whether Co-operative Society, Charitable Trusts and Non Profit Organization are liable to charge GST on Supplies?

Whether NPO's are covered in the definition of person under GST Law ?

Whether activities are covered in definition of Supply under GST Law?

Whether Activities are covered in definition of Business?

Key Definitions



Supply

As per Section 7 of CGST Act

For the purposes of this Act, the expression “**supply**” includes

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a **person** in the course or furtherance of **business**;

(b) import of services for a consideration whether or not in the course or furtherance of business;

(c) the activities specified in Schedule I, made or agreed to be made without a consideration; and

(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

(2) Notwithstanding anything contained in sub-section (1),—

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

(3) Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.

Key Definitions



Person

As per Section 2(84) of CGST Act Person Includes-

- (a) an individual;
- (b) a Hindu Undivided Family;
- (c) a company;
- (d) a firm;
- (e) a Limited Liability Partnership;
- (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
- (g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013 (18 of 2013)¹;
- (h) any body corporate incorporated by or under the laws of a country outside India;
- (i) a co-operative society registered under any law relating to co-operative societies;**
- (j) a local authority;
- (k) Central Government or a State Government;
- (l) society as defined under the Societies Registration Act, 1860 (21 of 1860);**
- (m) trust; and**
- (n) every artificial juridical person, not falling within any of the above;**

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Key Definitions



Business

As per Section 2(17) of CGST Act, Business includes-

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, **whether or not it is for a pecuniary benefit;**
- (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
- (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;**
- (f) admission, for a consideration, of persons to any premises;
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) services provided by a race club by way of totalisator or a licence to book maker in such club; and
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

Exemption under GST Law



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Exemption under GST Law



- Schedule III of CGST Act stipulates “ Activities or transaction which shall be treated neither as supply of goods nor as supply of Services.”
- Nil Rated Supplies are listed in Notification No. 12/2017 dated June 28, 2017.
- Notification No. 21/2017-CT(Rate) dated August 22, 2017 Notification 12/2017 amended by insertion of new entries, wordings and substituting certain existing clauses.
- Notification No. 25/2017-CT(Rate) dated September 21, 2017 Notification 12/2017 amended by insertion of new entries, wordings and substituting certain existing clauses.
- Notification No. 32/2017-CT(Rate) dated October 13, 2017 Notification 12/2017 amended by insertion of new entries, wordings and substituting certain existing clauses.
- Notification No. 2/2018-CT(Rate) dated January 25, 2018 , Notification 12/2017 amended by insertion of new entries, wordings and substituting certain existing clauses.

Exemption under GST Law



- Notification No. 14/2018-CT(Rate) dated July 26, 2018 , Notification 12/2017 amended by insertion of new entries, wordings and substituting certain existing clauses.
- Notification No. 23/2018-CT(Rate) dated September 20, 2018 Notification 12/2017 amended by insertion of new entries, wordings and substituting certain existing clauses.
- Notification No. 28/2018-CT(Rate) dated December 31, 2018 Notification 12/2017 amended by insertion of new entries, wordings and substituting certain existing clauses.
- Notification No. 4/2019- CT(Rate) dated March 29, 2019 2018 Notification 12/2017 amended by insertion of new entries, wordings and substituting certain existing clauses.
- Notification No. 13/ 2017 CT(Rate) dated 28 June 2017, stipulates categories of services on which tax to be paid by recipient on RCM basis.

Exemption under GST Law



➤ Exemptions Related to Co-operative societies, charitable trust and NPO's

Notification No.	Description of Services	Nature of Organisation
Notification No. 12/2017 CT(Rate)	<p>Entry No. 27 Services by way of— (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services); (b) inter se sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers. Heading 9971</p>	Co-operative Banks and Credit Societies
Notification No. 12/2017 CT(Rate)	<p>Entry No. 34 Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service. Explanation.— For the purposes of this entry, “acquiring bank” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card. Heading 9971</p>	Co-operative Banks and Credit Societies

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Exemption under GST Law



➤ Exemptions Related to Co-operative societies, charitable trust and NPO's

Notification No.	Description of Services	Nature of Organisation
Notification No. 12/2017 CT(Rate)	<p>Entry No. 39 Services by the following persons in respective capacities – (a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch; (b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a); Or (c) business facilitator or a business correspondent to an insurance company in a rural area. Heading 9971 or 9985</p>	Co-operative Banks and Credit Societies
Notification No. 12/2017 CT(Rate)	<p>Entry No. 77 Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution – (a) as a trade union; (b) for the provision of carrying out any activity which is exempt from the levy of Goods and service Tax; or (c) up to an amount of five thousand rupees per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex. Heading 9995</p>	Co-operative Housing Society

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Exemption under GST Law



➤ Exemptions Related to Co-operative societies, charitable trust and NPO's

Notification No.	Description of Services	Nature of Organisation
Notification No. 12/2017 CT(Rate)	Entry No. 1 Services by an entity registered under section 12AA of the Income-tax Act, 1961 (43 of 1961) by way of charitable activities. Chapter Heading 99	Charitable Organizations Registered Under 12AA
Notification No. 12/2017 CT(Rate)	Entry No. 14 Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent. Heading 9963	If Charitable Trust Provides these services.
Notification No. 12/2017 CT(Rate)	Entry No. 80 Services by way of training or coaching in recreational activities relating to- (a) arts or culture, or (b) sports by charitable entities registered under section 12AA of the Income-tax Act. Heading 9996	Charitable Organisations Registered Under 12AA

Exemption under GST Law



➤ Exemptions Related to Co-operative societies, charitable trust and NPO's

Notification No.	Description of Services	Nature of Organisation
Notification No. 12/2017 CT(Rate)	Entry No. 74 Services by way of- (a) health care services by a clinical establishment, an authorised medical practitioner or para-medics; (b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above. Heading 9993	Healthcare Charitable Trust
Notification No. 12/2017 CT(Rate)	Entry No. 75 Services provided by operators of the common bio-medical waste treatment facility to a clinical establishment by way of treatment or disposal of bio-medical waste or the processes incidental thereto. Heading 9994	Healthcare Charitable Trust
Notification No. 12/2017 CT(Rate)	Entry No. 76 Services by way of public conveniences such as provision of facilities of bathroom, washrooms, lavatories, urinal or toilets. Heading 9994	Healthcare Charitable Trust
Notification No. 12/2017 CT(Rate)	Entry No. 73 Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation. Heading 9993	Healthcare Charitable Trust

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Exemption under GST Law



➤ Exemptions Related to Co-operative societies, charitable trust and NPO's

Notification No.	Description of Services	Nature of Organisation
Notification No. 12/2017 CT(Rate)	<p>Entry No. 50 Services of public libraries by way of lending of books, publications or any other knowledge-enhancing content or material. Heading 9984</p>	Educational Charitable Trust
Notification No. 12/2017 CT(Rate)	<p>Entry No. 66 Services provided - (a) by an educational institution to its students, faculty and staff; (b) to an educational institution, by way of,- (i) transportation of students, faculty and staff; (ii) catering, including any mid-day meals scheme sponsored by the Central Government, State Government or Union territory; (iii) security or cleaning or house-keeping services performed in such educational institution; (iv) services relating to admission to, or conduct of examination by, such institution; upto higher secondary; Provided that nothing contained in entry (b) shall apply to an educational institution other than an institution providing services by way of pre-school education and education up to higher secondary school or equivalent. Heading 9992</p>	Educational Charitable Trust

Exemption under GST Law



➤ Exemptions Related to Co-operative societies, charitable trust and NPO's

Notification No.	Description of Services	Nature of Organisation
Notification No. 12/2017 CT(Rate)	<p>Entry No. 13 Services by a person by way of- (a) conduct of any religious ceremony; (b) renting of precincts of a religious place meant for general public, owned or managed by an entity registered as a charitable or religious trust under section 12AA of the Income-tax Act, 1961 or a trust or an institution registered under sub clause (v) of clause (23C) of section 10 of the Income-tax Act or a body or an authority covered under clause (23BBA) of section 10 of the said Income-tax Act: Provided that nothing contained in entry (b) of this exemption shall apply to,- (i) renting of rooms where charges are one thousand rupees or more per day; (ii) renting of premises, community halls, kalyanmandapam or open area, and the like where charges are ten thousand rupees or more per day; (iii) renting of shops or other spaces for business or commerce where charges are ten thousand rupees or more per month. Heading 9963 or Heading 9972 or Heading 9995 or any other Heading of Section 9</p>	Religious Charitable Trust
Notification No. 12/2017 CT(Rate)	<p>Entry No. 60 Services by a specified organisation in respect of a religious pilgrimage facilitated by the Ministry of External Affairs, the Government of India, under bilateral arrangement. Heading 9991</p>	Religious Charitable Trust

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Exemption under GST Law



➤ Exemptions Related to Co-operative societies, charitable trust and NPO's

Notification No.	Description of Services	Nature of Organisation
Notification No. 12/2017 CT(Rate)	Entry No. 79 Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo. Heading 9996	NPO engaged in these activities.
Notification No. 12/2017 CT(Rate)	Entry No. 80 Services by way of training or coaching in recreational activities relating to- (a) arts or culture, or (b) sports by charitable entities registered under section 12AA of the Income-tax Act.	Specified training or coaching by charitable entities.



GST Implications on Co-operative Societies

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Co-operative Banks and Credit Societies



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Co-Operative Banks & Credit Societies



1) Co-operative bank means a Co-operative society which is doing the business of banking as defined in clause (b) of sub-sections (1) of section 5 of the Banking Companies Act, 1949 and includes any society which is functioning or is to function as an Agricultural and Rural Development Bank under Chapter XI;

2) Banking services fall under heading 9971.

3) Services by way of—

(a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);

(b) inter se sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers.

Are Nil Rated- Notification No. 12/2017- Central Tax (Rate)- Entry No. 27

4) Services by an acquiring bank, to any person in relation to settlement of an amount upto two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.

Explanation.— For the purposes of this entry, “acquiring bank” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.

Are Nil Rated- Notification No. 12/2017- Central Tax (Rate)- Entry No. 34

5) Services by the following persons in respective capacities –

(a) business facilitator or a business correspondent to a banking company with respect to accounts in its rural area branch;

(b) any person as an intermediary to a business facilitator or a business correspondent with respect to services mentioned in entry (a);

Or (c) business facilitator or a business correspondent to an insurance company in a rural area.

Are Nil Rated- Notification No. 12/2017- Central Tax (Rate)- Entry No. 39

6) Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).

Are Nil Rated- Notification No. 28/2018- Central Tax (Rate)- Entry No. 27A

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Co-Operative Banks & Credit Societies



Particulars	Taxable
DD and Other Commission	Yes
Loan Processing Charges	Yes
ATM Charges	Yes
Credit Card Interest	Yes
Prepayment Charges	Yes
Locker Rent	Yes
Foreign Exchange Charges	Yes
Letter of Credit Charges	Yes
Guarantee Commission	Yes
Entry Fees/ Membership Fees	Yes
Interest	No
Dividend	No
Penal Interest	No
Profit on Sale of Investment	No

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Co-Operative Banks & Credit Societies



Bank, FI, NBFC liable to pay GST under reverse charge in respect of services received from recovery agent

In case of services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company, the recipient of service i.e. banking company or a financial institution or a non-banking financial company, located in the taxable territory is liable to pay GST under reverse charge - No. 13/2017-CT (Rates) and 10/2017-IT (Rates) both dated 28-6-2017, effective from 1-7-2017.

Co-Operative Banks & Credit Societies



➤ Relaxation to Banking Company for issue of tax invoices

- Rule 47 of Central Tax provides “**Tax Invoice with period of 45 days**” from date of supply of services instead of “30 days”.
- Rule 54(2) of Central Tax, Banking Company has an **option to issue consolidated tax invoice** or any other document in lieu of Tax Invoice **at the end of the month for the supply of services made during a month.**
- Rule no 55 of Central Tax, banks can issue any document as ISD invoice and same may not be serially numbered.

Notification no 45/2017 & 55/2017 Central Tax, dated 13th Oct 2017 and 15th Nov 2017 respectively, has further amended Rule (1A) of 55 to provide that transfer of ITC to ISD by branch in same state can be through monthly consolidated invoice issued at the end of the month.

Co-Operative Banks & Credit Societies



- **ITC: Special provisions in respect of Banks, FI and NBFC**
- ✓ Section 17(2) of CGST Act, 2017 stipulates if registered person has both taxable and exempt supplies, then the amount of Input Tax Credit shall be restricted to so much of the Input Tax as is attributable to the said taxable supplies including Zero Rated Supplies.
- ✓ Section 17(4) of CGST Act, 2017 stipulates a Banking Company or a financial institution including NBFC engaged in supply of services in way of accepting deposit, extending loans and advances shall have the option to either comply with the provision of sub section (2) or avail of, every month, an amount equal to fifty per cent of the eligible input tax credit on inputs, capital goods and input services in that month and the rest shall be lapsed.
- ✓ The 50% restriction shall not apply to the tax paid on supplies made by one registered person to another registered person having same PAN number - second proviso to section 17(4) of CGST Act.
- ✓ The option once exercised shall not be withdrawn during the remaining part of the financial year - first proviso to section 17(4) of CGST Act.
- ✓ In most of the cases, Bank, FI or NBFC may find it easy and profitable to avail 50% of input tax credit instead of availing input tax credit on proportionate basis as per section 17(2) of CGST Act.

Co-Operative Banks & Credit Societies



➤ Normal Mechanism

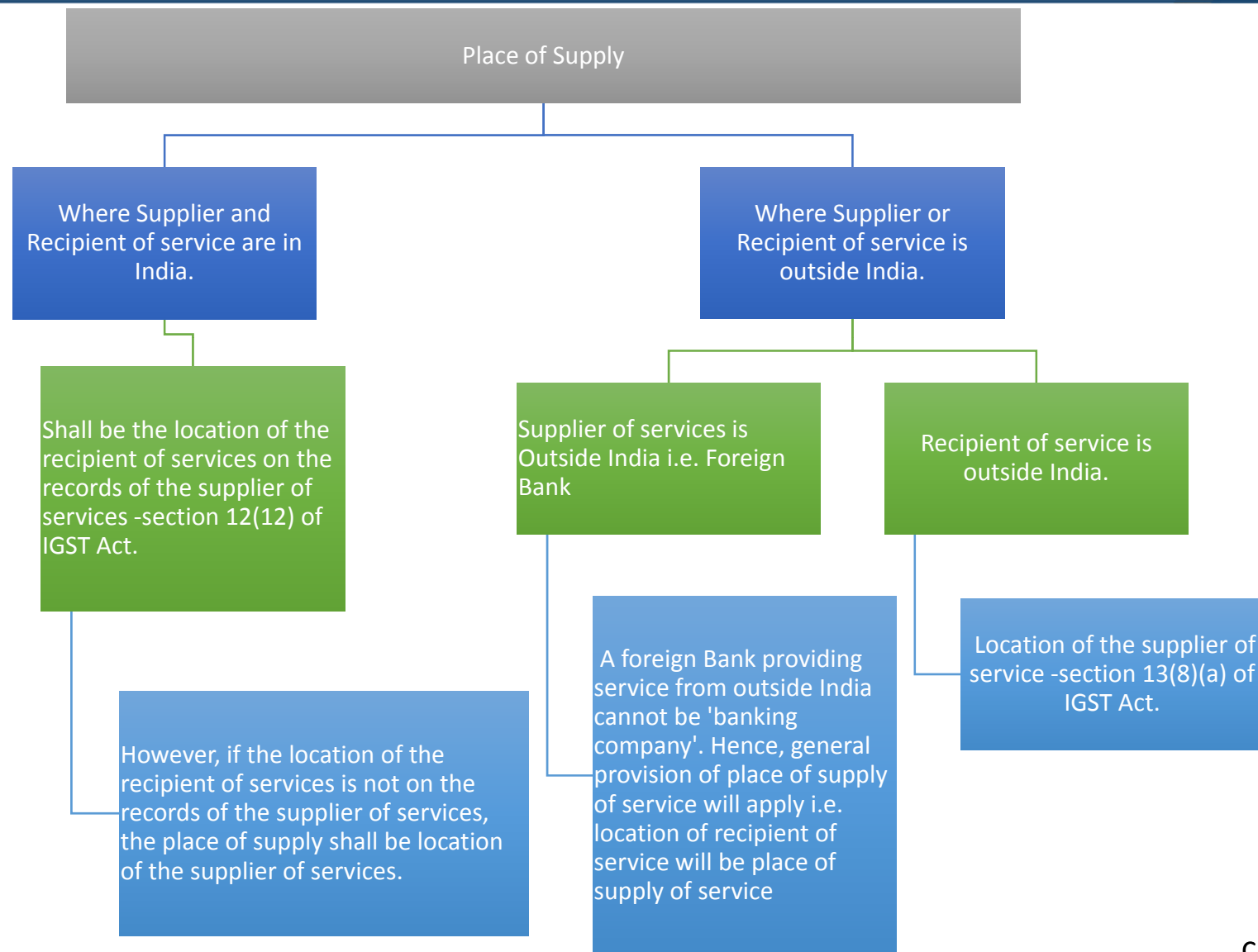
Particulars	Amount of ITC
Blocked Credit	Nil
Non- Business Use	Nil
Supplies in distinct persons	100 %
Inward Supplies directly relating to taxable outward supplies	100 %
Inward Supplies directly relating to exempt outward supplies	Nil
Inward Supplies Used commonly	Credit not Available= <u>Aggregate value of exempt supply</u> (Value of taxable + Value of exempt)

➤ Deemed 50%

Particulars	Amount of ITC
Blocked Credit	Nil
Non- Business Use	Nil
Supplies in distinct persons	100 %
Inward Supplies directly relating to taxable outward supplies	50%
Inward Supplies directly relating to exempt outward supplies	50%
Inward Supplies Used commonly	50%

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Co-Operative Banks & Credit Societies



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Co-operative Housing Societies



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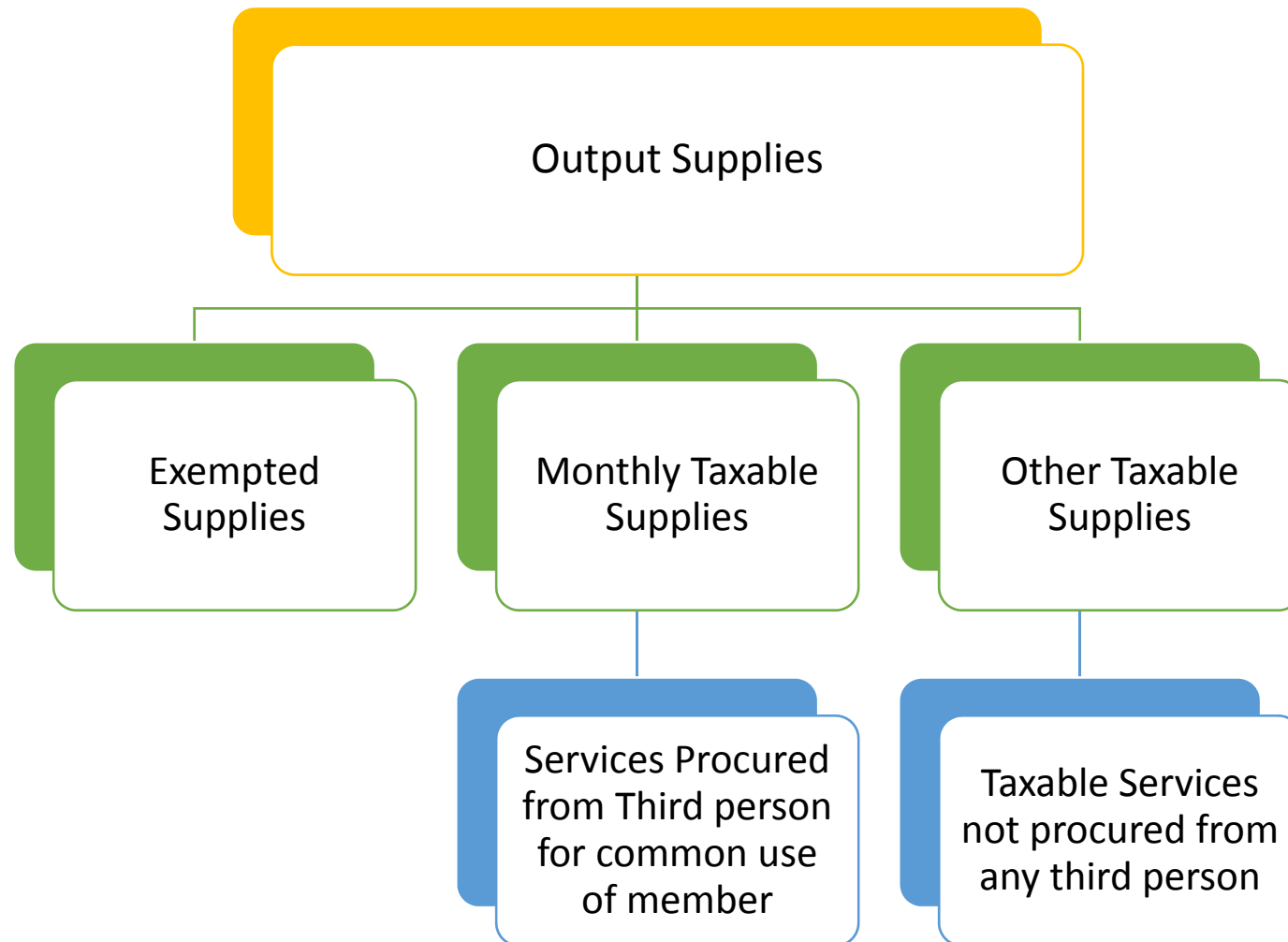
Co-operative Housing Societies



Co-operative Housing Societies are entities registered under the co-operative laws of the respective States. According to **Section 2(16)** of the Maharashtra Co-operative Society Act, 1960, “housing society” means a society, the object of which is to provide its members with open plots for housing, dwelling houses or flats; or if open plots, the dwelling houses or flats are already acquired, to provide its members common amenities and services. Simply put these are a collective body of persons, who stay in a residential society. As a collective body, they would be supplying certain services to its members, be it collecting statutory dues from its members and remitting to statutory authorities, maintenance of the building, security etc.



Co-operative Housing Societies



Co-operative Housing Society



EXEMPTED SUPPLIES

✓ Supplies by Co-operative housing societies exempted from GST.

Particulars	Taxability
Property Tax	Society is merely an agent to collect and deposit with Govt. Authorities
Property Tax on Private Space/Parking Area	Society is merely an agent to collect and deposit with Govt. Authorities
Water Charges	If Separate meter is installed for individual members
Non Agriculture Tax	Exempted from GST
Electricity Charges	Exempted from GST

Co-operative Housing Society



COMMON TAXABLE SERVICES

- ✓ Services Procured from Third person for common use of member

Particulars	Taxability
Property Tax on Common Area	Common Area Tax distributed to all members
Sinking Fund	Charged To all members on regular Basis
Repair Fund	Charged to all members on regular basis
Maintenance Charges	Charged To all members on regular Basis
Water Charges	Charged To all members on regular Basis
Common Services like Club House, Swimming Pool	Charged To all members on regular Basis
Festival Charges	Charged To all members on regular Basis
Other Common Charges (Decided by general body of society)	Charged To all members on regular Basis

Co-operative Housing Society



OTHER TAXABLE SERVICES

✓ Supplies by Society when No Procurement from Third Person

Particulars	Taxability
Non Occupancy Charges	Charged to specific member- No procurement from Third Person
Parking Charges	Charged to specific member- No procurement from Third Person
Use of Common Space for Member or Outsider	One Time Charges from Member or Outsider
Share Transfer Fees	One Time Charges
Interest on Default	Charged only to defaulters
Income on Renting Mobile Tower etc.	Charged to outside parties
Use of terrace for function of non member or member	One Time Charges from Member or Outsider
Hoarding charges	Charged to outside parties

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Co-operative Housing Society



Whether Cooperative Society is liable for registration under GST?

- If Aggregate turnover of taxable and other supplies exceeds threshold limit (i.e. Rs 20 Lakhs) then person defined in Sec 2(84) of CGST Act is required to take GST Registration. [Section 22(1) of CGST Act, 2017].
- If the aggregate Turnover of taxable and exempted supplies during previous Financial Year exceeds Rs 20 Lakhs or the total turnover of taxable and exempted supplies during the financial year exceeds Rs 20 Lakhs then GST Registration is required.
- If there is no taxable supplies and the aggregate turnover exceeds Rs 20 Lakhs, No GST Registration is required.
- Co-operative society generally have both taxable and exempted supplies. GST Registration is required only when there is taxable supplies and aggregate turnover exceed Rs 20 Lakhs.
- A Housing Society / Residential Welfare Association shall be required to pay GST on monthly subscription / contribution charged from its members if such subscription is more than **Rs. Seven Thousand Five Hundred per member** and the annual turnover of Residential Welfare Association by way of supply of services and goods is also Rs 20 lakh or more. [Substituted for "five thousand" by Notification No. 2/2018-Central Tax (Rate), dated 25-1-2018, w.e.f **25-1-2018**.]

Co-operative Housing Society



When GST Registration is required?

Sr. No.	Value of Exempted Supplies	Value of Common Taxable Supplies		Value of other taxable supplies	Aggregate Value of Total Supplies during the year	Whether Registration is required
		Monthly Charges per Member	Aggregate Charges during the year			
1	10,00,000	4,500	7,00,000	2,00,000	19,00,000	No
2	10,00,000	7,501	7,00,000	4,00,000	21,00,000	Yes
3	15,00,000	7,501	3,00,000	Nil	18,00,000	No
4	5,00,000	4,500	7,00,000	10,00,000	22,00,000	Yes
5	6,00,000	7,501	15,00,000	Nil	21,00,000	Yes

Co-operative Housing Society



ITC available to Housing Society

- ITC Available to all registered person if there is taxable outward supplies.
- No ITC Available for Blocked Credits under section 17(5).
- Proportionate ITC available under section 17(2) if there is both taxable and exempt supplies.
- Housing Society is entitled to avail ITC as per GST Provisions in respect of taxes paid on **inputs** (taps, pipes, other sanitary/hardware fillings etc.), **input services** such as repair and maintenance services – Lift AMC, Housekeeping, Security, Fire AMC, Repairs & Maintenance, Contract staff, Accounting & Auditing Services and other such services and **capital goods** (generators, water pumps, lawn furniture etc.).



GST Implication on Charitable Trust

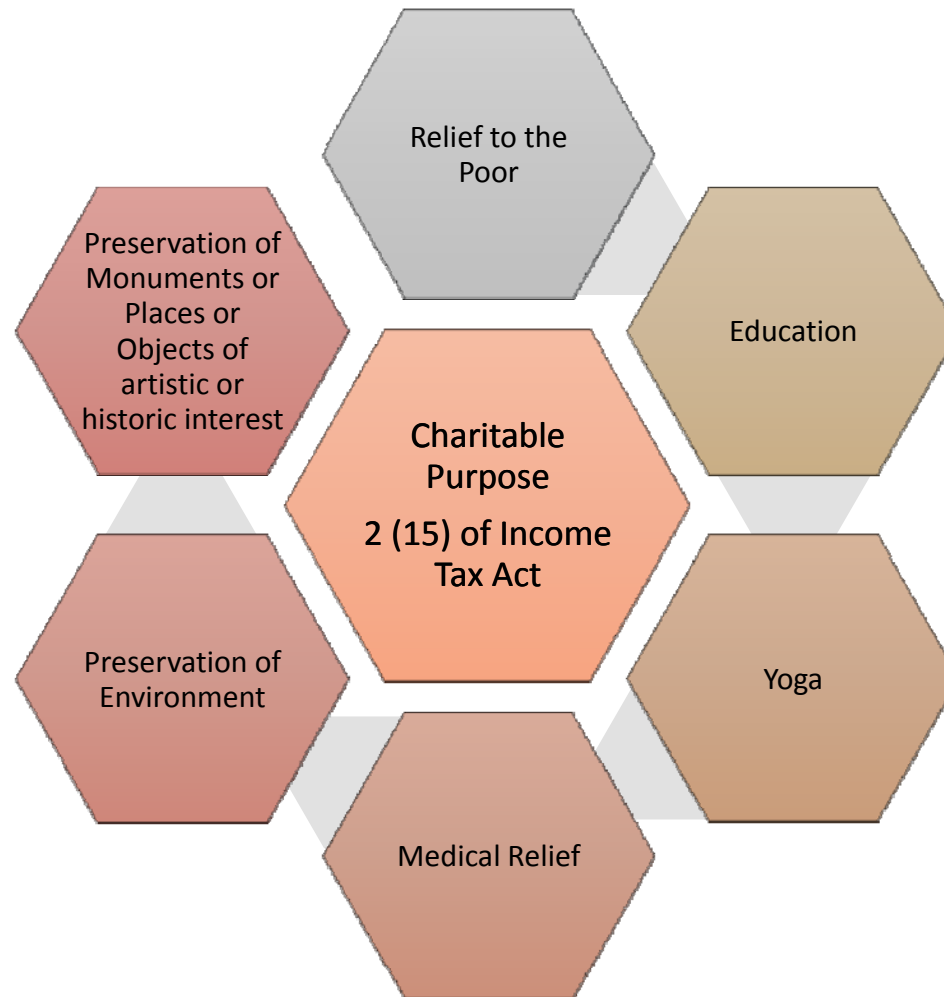
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Charitable Trust



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Charitable Trust



Charitable Activities



➤ Charitable Activities as per Notification 12/2017 CGST Rate.

“charitable activities” means activities relating to -

(i) public health by way of ,-

(A) care or counseling of

(a) terminally ill persons or persons with severe physical or mental disability;

(b) persons afflicted with HIV or AIDS;

(c) persons addicted to a dependence-forming substance such as narcotics drugs or alcohol;

(B) public awareness of preventive health, family planning or prevention of HIV infection;

(ii) advancement of religion , spirituality or yoga;

(iii) advancement of educational programmes or skill development relating to,-

(A) abandoned, orphaned or homeless children;

(B) physically or mentally abused and traumatized persons;

(C) prisoners; or

(D) persons over the age of 65 years residing in a rural area;

(iv) preservation of environment including watershed, forests and wildlife;



Healthcare Charitable Trust

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Healthcare Charitable Trust



Exemptions are provided vide Notification No. 12/2017-CT (Rates) and 9/2017- IT (Rates) both dated 28-6-2017, effective from 1-7-2017.

Exemption to health care services -

Services by way of-

(a) health care services by a clinical establishment, an authorised medical practitioner or para-medics

(b) services provided by way of transportation of a patient in an ambulance, other than those specified in (a) above are exempt from GST

Waste treatment facility to medical establishment -

Services provided by **operators of the common bio-medical waste treatment facility to a clinical establishment** by way of treatment or disposal of bio-medical waste or the processes incidental thereto are exempt.

Services of cord blood bank -

Services provided by the cord blood banks by way of preservation of stem cells or any other service in relation to such preservation are exempt.

Healthcare Charitable Trust



Exempted HealthCare Supplies

Supply of medicines, consumables and in-plants during providing health care services –

Supply of medicines, consumables and in-plants during providing health care services **supplied to in-patients for diagnosis or treatment by hospital are naturally bundled and are exempt under 'health care service'** - *KIMS Health Care Management Ltd. In re (2018) 70 GST 735 (AAR-Kerala).*

Supply of medicines and food with healthcare services -

Supply of medicines and food along with and part of healthcare services is a composite supply. **It is exempt. However, if food or medicines are supplied separately on optional basis, it is not a composite supply** - *Columbia Asia Hospitals (P.) Ltd., In re [2018] (AAR - KARNATAKA).*

No tax on room rent in hospital -

Room rent in hospital is exempt from tax - CBE&C circular No. 27/1/2018, dated 4-1-2018. [This is correct as really it is a **composite service where principal supply is of health care**].

Amounts paid to senior doctors by hospitals or retention money kept by hospital from payments to consultants /technicians

Healthcare Charitable Trust



Exempted HealthCare Supplies

Services by an old age home run by Government or trust -

Consideration upto Rs. 25,000 per month (inclusive of charges for boarding, lodging and maintenance) are exempt from GST. Notification No. 12/2017-CT as inserted w.e.f. 27-7-2018.

Services provided by rehabilitation professionals

Notification No. 12/2017-CT (Rate) inserted **w.e.f. 1-1-2019.**

No Tax on Food supplied by hospital

There is no tax on food supplied by hospital itself to patients made in own canteen as it is part of composite supply of healthcare. However, tax is payable if food is supplied to attendants or visitors or out patients on chargeable basis. Further, tax is payable by supplier of foods if supply of food is outsourced - CBI&C Circular No. 32/06/2018-GST dated 12-2-2018.

Diagnosis and pre and post counselling service is health care service.

In Sayre Therapeutics (P.) Ltd., In re* [2018] 93 (AAR-Karnataka), applicant was involved in providing services of diagnosis, pre and post counselling, therapy and prevention of diseases by providing tests that are sophisticated and relevant. Medical team of applicant was facilitating diagnosis process. It was held that applicant qualifies to be a clinical establishment and services provided by it qualify to be healthcare services which attract nil rate of central tax.

Healthcare Charitable Trust



Exempted HealthCare Supplies

Ambulance services provided to Govt. under National Health Mission

GST or service tax is not applicable on ambulance services provided to Government under National Health Mission - MF(DR) (TRU) circular No. 51/25/2018-GST dated 31-7-2018 in respect of GST and CBI&C circular No. 210/2/2018-ST dated 30-7-2018 for service tax

Healthcare Charitable Trust



Taxable HealthCare Supplies

Supply of food is outsourced

When supply of food is outsourced to outsider third person and served to patients then it is a taxable supply. Circular No. 32/06/2018-GST

Rent Income

If the hospital gives any part of premises on rent then rent income is taxable service. [*Tathagat Health Care Centre LLP, In re* [2018] (AAR Karnataka)]

Income from hoarding/ mobile tower

If the hospital allows hoarding for advertisement to any third party in its premises or mobile tower is allowed in hospital premises then it is a taxable output supply.

Healthcare Charitable Trust



Relevant Definition Under Notification 12/2017

Health Care Services -

"Health care services" means any **service by way of diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognized system of medicines in India and includes services by way of transportation of the patient to and from a clinical establishment**, but does not include hair transplant or cosmetic or plastic surgery, except when undertaken to restore or to reconstruct anatomy or functions of body affected due to congenital defects, developmental abnormalities, injury or trauma.

Clinical Establishment -

"Clinical establishment" means a **hospital, nursing home, clinic, sanatorium or any other institution by, whatever name called, that offers services or facilities requiring diagnosis or treatment or care for illness, injury, deformity, abnormality or pregnancy in any recognised system of medicines in India, or a place established as an independent entity or a part of an establishment to carry out diagnostic or investigative services of diseases.**

Authorised Medical Practitioner -

"Authorised medical practitioner" means a **medical practitioner registered with any of the councils of the recognised system of medicines established or recognised by law in India and includes a medical professional having the requisite qualification to practice in any recognised system of medicines in India as per any law for the time being in force.**



Religious Charitable Trust

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Religious Charitable Trust



Particulars	Rate	Source
Free food supplied in religious places	Nil	CBI&C press release No. 75/2017 dated 11-7-2017.
Sale of spiritual goods, providing accommodation and food by charitable organization	Taxable	<i>Shrimad Rajchandra Adhyatmik Satsang Sadhana Kendra In re</i> (2018) 69 GST 627 = 97 taxmann.com 20 (AAR).
Booking of religious services online on his own website from customers and intimates names of Pundits/Brahmins who would perform puja to customers also online	Taxable As he is facilitator between pundits and customers and he is not covered under Notification No. 12/2017-Central Tax (Rate)	MAHARASHTRA vs Sadashiv Anajee Shete, <i>In re</i> B.V. BORHADE AND PANKAJ KUMAR, MEMBER NO. GST-ARA-32/2018-19/B-131 OCTOBER 23, 2018
Arranging Yatras to different places by charitable trust	Nil Services by a specified organisation in respect of a religious pilgrimage facilitated by the Ministry of External Affairs, the Government of India, under bilateral arrangement. Specified Organisation include Kumaon Mandal Vikas Nigam Limited Haj Committee of India and State Haj Committees constituted under Haj Committee Act, 2002.	Notification 12/2017

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Yoga Activities

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Yoga Activities



- The services provided by entity registered under Section 12AA of the Income Tax Act, 1961 by way of advancement of yoga are exempt.
- Fee or consideration charged in any other form from the participants for participating in a Yoga or meditation programme or camp meant for advancement of yoga shall be exempt.
- Residential programmes or camps where the fee charged includes cost of lodging and boarding shall also be exempt as long as the primary and predominant activity, objective and purpose of such residential programmes or camps is advancement of yoga.
- However, if charitable or religious trusts merely or primarily provide accommodation or serve food and drinks against consideration in any form including donation, such activities will be taxable.
- Similarly, activities such as holding of fitness camps or classes such as those in aerobics, dance, music etc. will be taxable.



Educational Charitable Trust

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Educational Charitable Trust



➤ Key Definition Under Notification No. 12/2017

“educational institution” means an institution providing services by way of,-

- (i) pre-school education and education up to higher secondary school or equivalent;
- (ii) education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;
- (iii) education as a part of an approved vocational education course;

“approved vocational education course” means, -

- (i) a course run by an industrial training institute or an industrial training centre affiliated to the National Council for Vocational Training or State Council for Vocational Training offering courses in designated trades notified under the Apprentices Act, 1961 (52 of 1961); or
- (ii) a Modular Employable Skill Course, approved by the National Council of Vocational Training, run by a person registered with the Directorate General of Training, Ministry of Skill Development and Entrepreneurship;

Educational Charitable Trust



GST on management of educational institutions by charitable trusts

If trusts are running schools, colleges or any other educational institutions **specifically for abandoned, orphans, homeless children, physically or mentally abused persons, prisoners or persons over age of 65 years or above residing in a rural area, such activities will be considered as charitable activities and income from such supplies will be wholly exempt from GST.**

Meaning of the word **rural area** defined in said notification no. 12/2017 as rural area means the area comprised in a village as defined in land revenue records excluding the area under any municipal committee, municipal corporation, town area committee, cantonment board or notified area committee or any area that may be notified as an urban area by the Central Government or a State Government.

Educational Charitable Trust



Particulars	Rate	Source
Hostel accommodation provided by Trusts to students	Accommodation service in hostels including by Trusts having declared tariff below one thousand rupees per day is exempt. [Sl. No. 14 of notification No. 12/2017] Hostel accommodation services do not fall within the ambit of charitable activities. However, services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation below one thousand rupees per day or equivalent are exempt.	Circular No. 32/06/2018-GST Notification No. 12/2017
Training provided to members of co operative educational institute on receiving annual fees/contribution	Taxable	<i>Maharashtra Rajya Sahakri Sang Maryadit, In re</i> [2018] 100 taxmann.com 239 (AAR - MAHARASHTRA).
Online coaching or teaching	Taxable	<i>Dewsoft Overseas v. CST</i> (2008) 16 STT 376 (CESTAT)

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Educational Charitable Trust



Particulars	Rate	Source
Postal coaching	Taxable	Circular No. 59/8/2003 dated 20-6-2003.
Placement services	Taxable	CBE&C's 'Taxation of Services : An Education Guide' published on 20-6-2012
Private tuition	Taxable	CBE&C's 'Taxation of Services : An Education Guide' published on 20-6-2012
Pre-school education and education upto HSC	Nil	There is no condition that such education should be recognised by any law.
Foreign courses	Taxable	CBE&C's 'Taxation of Services : An Education Guide' published on 20-6-2012. as they are not recognised by law in India
Examination Support Service to Foreign Institute	Taxable	<i>BC Examinations & English Services India (P.) Ltd., In re [2018] 95 taxmann.com 215 (AAR - Haryana)</i>
Running of Public Libraries	Nil	Notification No. 12/2017- Central Tax Rate

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GST Implication on Other NPO's

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Services of Membership Organisations (Clubs and Associations)



GST Taxability on membership organisation

Services of Trade Union -

Service by an unincorporated body or a non-profit entity registered under any law for the time being in force, **to its own members by way of reimbursement of charges or share of contribution as a trade union are exempt.**

Contribution received by Banking Codes & Services Board of India from its members towards Annual Membership fees and registration fees for spending on its object is **eligible to GST.**

Services of Membership Organisations (Clubs and Associations)



Service by Clubs (e.g. Lions club, rotary club etc) -

Generally , clubs have twin purposes viz Fellowship and Charitable activities. It is held in *Lions Club of Poona Kothrud, In re* [2018] (AAR - MAHARASHTRA) that, Lions Club a nonprofit organisation, pursues its charitable objective in multifarious ways by building/running hospitals, clinics, schools, playgrounds, etc., other health care, charitable activities. The amount collected by Lions clubs is for convenience of Lion members and pooled together only for paying Meeting expenses & communication expenses. The club is not formed to provide any supply of goods or services to its members qua the fees received from them. **There is no furtherance of business in this activity and neither any services are rendered nor any goods are being traded. Hence, Lions club does not render any 'Supply' for the purposes of the GST Act.**

(Club should be held liable to pay GST if its annual subscription exceeds Rs 20/10 lakhs.)

Services of Membership Organisations (Clubs and Associations)



Services of associations for welfare of labour, farmer or promotion of trade, commerce, sports, welfare etc. exempt if annual fee upto Rs. 1,000 Services provided by an unincorporated body or a non-profit entity registered under any law for the time being in force, engaged in,-

(i) activities relating to the welfare of industrial or agricultural labour or farmer;

or

(ii) promotion of trade, commerce, industry, agriculture, art, science, literature, culture, sports, education, social welfare, charitable activities and protection of environment, to its own members against consideration in the form of membership fee upto an amount of one thousand rupees (Rs. 1,000) per member per year - Notification No. 12/2017-CT (Rate) and No. 9/2017-IT (Rate) both dated 28-6-2017 as inserted w.e.f. 27-7-2018.



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Disclaimer:

GST Presentation is based on our understanding of the GST law and regulations prevailing as of the date of this Presentation and is prepared based on information available in public domain. The GST Law is under discussion / evolution and may be subject to changes. Accordingly, *it is important to* consult a qualified professional consultant before taking any decision / advice or relying on the presentation. The conclusions reached and views expressed in this presentation are matters of opinion. However, there can be no assurance that the GST Authorities may have a position contrary to our views.

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