

REVERSE CHARGE MECHANISM

REVERSE CHARGE
MECHANISM

What is reverse charge?

Defination of RCM is given u/s 2(98):

Reverse charge means "liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or subsection(4) of section 5 of the Integrated Goods and Services Tax Act ".

In simple words, Reverse charge means, where the recipient/ buyer is liable to pay tax instead of supplier /seller.

Why reverse charge?

The intention behind this rule is to bring unorganised sector into the tax umbrella. It also aims to shift the burden of tax compliance from individuals with limited resources to large companies with enough resources.

E.g. ola service receiver and drivers.

Is a person liable to pay under RCM required to get registered under GST?

Yes. All persons who are required to pay tax under reverse charge have to register for GST **irrespective** of the threshold limit.

Section [24](#) casts a compulsion on the person liable to pay the tax under RCM to get registered.

Types of reverse charge and sections dealing with RCM:

Types of reverse charge:-

- A) on goods
- B) on services

Sections dealing with RCM.

Section 9(3) & 9(4) are the two-important provision/sections of GST which discusses about the payment of tax under reverse charge basis

section 9(3) & section 9 (4)

As per section 9(3)-

The reverse charges are applicable only on those transaction which the government has, after the recommendation of council, has notified.

So, this section operates only when the government notifies certain goods, services to be covered under RCM.

and it operate independent of section 9(4).

The Section 9(4) of the CGST Act is reproduce as below:

"The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying tax in relation to the supply of such goods or services or both".

Section 9(4)- continue

Supplier/seller	Recipient/ buyer	RCM
Registered person	Registered person	No
Registered person	Unregistered person	No
Unregistered person	Unregistered person	No
Unregistered person	Registered person	Yes.

GST on Reverse Charge basis is not applicable on all transaction between

Registered and Unregistered person:

1. There must be some supply of goods or services
2. Supply must be of taxable goods or services
3. The supplier of goods or services is an unregistered person
4. The recipient of goods or services must be a registered person

Thus, to trigger the liability of recipient of goods or service to pay tax on reverse charge basis, all the four conditions specified above must be satisfied cumulatively.

Reverse charge on goods: (notification no. 17)

Tariff item, sub-heading, heading or chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
801/0802	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
404 90 10	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
401	Tobacco leaves	Agriculturist	Any registered person
004 to 5006	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
	Supply of lottery	State Government, Union Territory or any local authority	Lottery distributor or sell agent.

Reverse charge on Services notification no 13/2017 dated 28/06/20

Provider	Service Receiver	GST to be paid by
Transport Agency	Casual Taxable person, body corporate, partnership firm, any society, factory, any person registered under CGST, SGST, UTGST Act.	Service recipient.
Insurance Agent	Banking Company, NBFC or any financial institution.	Service recipient.
Director of a company or a body corporate	A company or a body corporate	Service recipient.
Individual advocate or firm of advocates, An arbitral tribunal	Any business entity.	Service recipient.
Driver or Rent a cab driver (if service provided by e-commerce operator)	Any person	E-commerce Operator
Insurance agent	Any person carrying on insurance business	Service recipient.

Reverse charge on Services notification 1no3/2017 dated 06/2017 –continue

Provider	Service Receiver	GST to be paid
Person providing partnership services	Anybody corporate or partnership firm.	Service recipient
Person located in non-taxable territory to a person located in taxable territory	Importer	Service recipient
Author or music composer, photographer, artist, etc	Publisher, Music company, Producer	Service recipient
Person who is located in a taxable territory	Any person located in the taxable territory other than non-assessee online recipient (Business Recipient)	Service recipient

Exception to RCM Goods Transport Agency under GST

No RCM will apply if receipt transport the following goods through a GTA:

1. agricultural produce
2. milk, salt and food grain including flour, pulses and rice
3. organic manure
4. newspaper or magazines registered with the Registrar of Newspaper
5. relief materials meant for victims of natural or man-made disasters
6. defence or military equipment
7. goods, where consideration charged for the transportation of goods on a consignment transported in a single carriage is less than Rs. 1,500
8. goods, where consideration charged for transportation of all such goods for a single consignee does not exceed Rs. 750.

E-commerce operator

In case of services provided by e-commerce operators, liability to pay tax lies on recipient of services.

If the assessee has no physical presence in the taxable area, then the representative of such e-commerce operator will be liable to pay tax. If there is no representative, then the assessee has to appoint one who will be liable to pay GST

Time of supply for goods 12(3)

, the time of supply shall be the **earliest** of the following dates—

- (a) the date of receipt of goods OR
- (b) the date of payment OR
- (c) the date immediately after **THIRTY** days from the date of issue of invoice by the supplier (60 days for services)

If it is not possible to determine the time of supply under (a), (b) or (c), the time of supply shall be the **date of entry** in the books of account of the **recipient**.

For clause (b)- the date of payment shall be **earlier** of-

1. The date on which the recipient entered the payment in his books
OR
2. The date on which the payment is debited from his bank account

Time of supply for services- 13(3)

Services

In the case of reverse charge, the time of supply shall be the **earliest** of the following dates—

(a) the date of payment

OR

(b) the date immediately after **SIXTY** days from the date of issue of invoice by the supplier (30 days for goods)

If it is not possible to determine the time of supply under (a) or (b), the time of supply shall be the **date of entry** in the books of account of the recipient of the **service**.

Where clause (a)- the date of payment shall be **earlier** of-

(i) the date on which the recipient entered the payment in his books

OR

(ii) the date on which the payment is debited from his bank account

Time of supply for services- 13(3)- continue

When supplier is located outside India

In case of '**associated enterprises**', where the supplier of service is located outside India, the time of supply shall be-

- the date of entry in the books of account of the receiver OR
- the date of payment

-whichever is earlier

Input Tax Credit:

The service recipient can avail Input Tax credit on the Tax amount that is paid under reverse charge on goods and services. The only condition is that the goods and services are used or will be used for business or furtherance of business. Unfortunately, ITC cannot be used to pay output tax, which means that payment mode is only through cash under reverse charge.

Invoice in case of reverse charge

As per section 31(3)(f), person discharging GST liability under reverse charge under section 9(3) or 9(4) shall issue an invoice in respect of goods or services or both received by him from the supplier. Further as per 31(3) (g) shall issue a payment voucher at the time of making payment to the supplier.

Collateral Points for Attention:

If a composite dealer falls under reverse charge mechanism then the dealer is not eligible to claim any credit of tax paid. Along with the dealer is liable to pay tax at normal rates applicable to such supply and not the rate applicable for composition scheme.

Advance payments are subject to Reverse charge mechanism.

Like Service Tax, there is no concept of partial reverse charge. The recipient has to pay 100% tax on the supply.

Under the proposed Bill, GST compensation cess will be levied and collected at a rate which will be notified by the government at a later date.

THANK YOU

CA JULIE R. SHAH

MOB: 7738002129