

Reverse Charge Mechanism On Rent A Cab Services



DR SANJIV AGARWAL
Chartered Accountant
M/s Agarwal Sanjiv & Company

The GST Council in its meeting held on 20.09.2019 at Goa recommended that in the case of registered persons other than body corporate (e.g. proprietorship, HUF or partnership firm) engaged in renting of vehicles and paying 5% GST (without availing ITC), GST should be paid by the recipient of service if it is a body corporate entity. In other words, the services of renting of motor vehicles from non-body corporate entity to body corporate entity was brought under reverse charge mechanism (RCM), as was the practice during pre-GST regime.

Accordingly, the Government issued Notification No. 22/2019-CT (R) dated 30.09.2019 to amend the RCM notification No. 13/2017-CT (Rate) dated 28.06.2017 issued under section 9(3) of CGST Act, 2017. Under the said Notification, specified services such as services of GTA, advocates, sponsorship services, services provided by the Govt. / local authority, security services supplied by non-body corporate person, services provided by a person located in a non-taxable territory to any person located in the taxable territory etc. are already subjected to RCM provisions under GST law. The Government hence, widened the scope of this list to cover rent-a-cab services provided by individuals, partnership firms etc. to body corporate.



MS NEHA SOMANI
Chartered Accountant
M/s Agarwal Sanjiv & Company

The amendment had come into force from 01.10.2019.

Accordingly, the following entry was inserted in the RCM notification with effect from 01.10.19:

Sl. No	Category of Supply of Services	Supplier of service	Recipient of Service
(1)	(2)	(3)	(4)
13	Services provided by way of renting of a motor vehicle provided to a body corporate.	Any person other than a body corporate, paying GST, has at the time of a supply of motor vehicle to a body corporate, equal service in the same line of business.	Any body corporate, business in the taxable territory.

Tax under Reverse Charge

The RCM provisions requiring the body corporate (recipient of service) to discharge GST will apply in the following conditions:-

- (a) The service provider / cab operator is a non-body corporate person i.e. a proprietorship concern, HUF or partnership firm.
- (b) The cab operator is unregistered or at the best charging 5% GST in the bill without availing ITC.
- (c) The service recipient is a body corporate i.e. a company including private limited company or corporation set under separate statute.

If all the aforesaid three conditions are fulfilled, GST will be paid / payable by the service recipient (body corporate) on their own under RCM in case of rent-a-cab services.

Input Tax Credit

Input Tax Credit on passenger vehicles (rent-a-cab) taken on

hire from other service provider (not owned vehicle but outsourced) to provide similar service to guest and charging GST thereon will be eligible for claiming input tax

credit. This view is supported by the following:

- (1) Restrictions on claiming input tax credit are provided in section 17(5) of CGST Act, 2017 which states that input tax credit shall not be available in respect of motor vehicles except when used for further supply of such vehicles and rent a cab except where it is used for making outward supply of same category. In case it is used for similar category of further supply, this restriction does not apply.
- (2) Notification No. 11/2017-CT (Rate) dated 28.06.2017 amended provides rate of 12% subject to condition that input tax as credit shall not be taken, i.e., "credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting pass-

engers in a motor vehicle or renting of a motor vehicle), has not been taken. [Please refer to Explanation no. (iv)]

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Further, it is clarified that wherever a rate has been prescribed in the notification subject to the condition that credit of input tax charged on goods or services used in supplying the service has not been taken, it shall mean that:

- (a) Credit of input tax charged on goods or services used exclusively in supplying such service has not been taken; and

- (b) Credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions of sub section 17(2) of the Central Goods and Services Tax Act, 2017 and the rules made thereunder.

Recent amendment w.e.f. 01.01.2020

CBIC has notified vide Notification No. 29/2019 – Central Tax (Rate) dated 31.12.2019

that reverse charge on service of renting of any motor vehicle provided to a body corporate where the motor vehicle is designed to carry passengers and cost of fuel is included in consideration charged from service recipient. The liability to discharge GST shall be on body corporate located in the taxable territory provided that the service provider do not issue invoice charging GST at the rate of 12%.

CBIC has further clarified vide Circular No. 130/49/2019-GST dated 31.12.2019 that though a supplier providing the service to a body corporate under reverse charge mechanism RCM may still be paying GST @ 5% on the services supplied to other non body corporate clients, to

bring in greater clarity, S.No. 15 of the notification No. 13/2017-CT (R) dated 28.06.2017 has been amended vide notification No. 29/2019-CT (R) dated 31.12.19 to state that RCM shall be applicable on the service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient only if the supplier fulfill all the following conditions -

- (a) is other than a body-corporate;
- (b) does not issue an invoice charging GST @12% (6% CGST + 6% SGST) from the service recipient; and
- (c) supplies the service to a body corporate.