

GST UPDATE ON REVERSE CHARGE MECHANISM FOR RENTING OF MOTOR VEHICLE:

GST has been made applicable on services provided by way of renting of motor vehicle provided to a body corporate with effect from 01.12.2019 vide notification no. 22/2019-Central Tax (Rate). The said entry has been recently amended and the present update seeks to analyse the effect of amendment done in this entry.

The entry as it appeared before amendment read as follows:-

S.No.	Description of Services	Supplier	Recipient
15	Services provided by way of renting of a motor vehicle provided to a body corporate	Any person other than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business	Any body corporate located in the taxable territory.

Accordingly, reverse charge mechanism on services provided by way of renting of motor vehicle provided to a body corporate was applicable only if the service provider was paying central tax at the rate of 2.5%. But due to the language of the notification, there was confusion that when service provider is already paying service tax at the rate of 2.5% then what is the need of paying

service tax on the same transaction under reverse charge mechanism. However, one thing was clear that there is no reverse charge on service provided by unregistered person. The trade and industry expected a suitable clarification in this regard from the government but the amendment done by the government has created more confusion. As per the amendment made vide notification no. 29/2019-Central Tax (Rate) dated 31.12.2019, the new entry reads as follows:-

S.No.	Description of Services	Supplier	Recipient
15	<i>Services provided 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, provided to a body corporate.</i>	<i>Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging central tax at the rate of 6 per cent. to the service recipient</i>	<i>Any body corporate located in the taxable territory.</i>

With the amendment made in the entry as stated above, now reverse charge mechanism is applicable on the services provided by any person who supplies service to a body corporate and does not issue invoice charging central tax at the rate of 6% to the service recipient. The negative language used in the entry indicates that any person who does not issue invoice at the rate of 6% will be included in the entry thereby meaning that unregistered supplier would also be under the ambit of reverse charge notification.

It is also pertinent to mention that government has also issued clarification vide Circular no. 130/49/2019-GST which states that the present amendment is clarificatory in nature but nothing has been clarified as regards applicability of the notification on un-registered suppliers. Now, two views are possible with

respect to applicability of the reverse charge mechanism on the services of renting of motor vehicles provided by un-registered persons. One view is that since the amendment is clarificatory in nature, un-registered persons were covered by the reverse charge notification since its inception, i.e., from 01.10.2019. Another view can be that since the amendment is prospective in nature, reverse charge mechanism is applicable on services provided by un-registered suppliers from 31.12.2019.

Nonetheless, the confusion as regards liability to pay GST under reverse charge mechanism with respect to services of renting of motor vehicles provided by un-registered person will be disputed until further clarification from the government. Moreover, since the input tax credit of GST paid under reverse charge mechanism on renting of motor vehicles is not admissible to all assesseees, it will enhance the both cost and compliance for the assesseees.

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