

EY Tax Alert

GST Council recommends various trade facilitation measures and defers implementation of new return filing and e-invoicing system

Tax Alerts cover significant tax news, developments and changes in legislation that affect Indian businesses. They act as technical summaries to keep you on top of the latest tax issues. For more information, please contact your EY advisor.

Executive summary

The Goods and Services Tax (GST) Council held its 39th meeting in New Delhi on 14 March 2020. The key decisions of the council are summarized below:

- ▶ The due date for filing annual return in Form GSTR-9 and reconciliation statement in Form GSTR-9C for FY 2018-19 extended till 30 June 2020. Filing of Form GSTR-9C for FY 2018-19 relaxed for entities having aggregate turnover below INR 5 crore.
- ▶ Interest for delayed payment of tax, leviable on net tax liability, to be given retrospective effect from 1 July 2017.
- ▶ Implementation of a new return system has been deferred. The existing system of filing Form GSTR-1 and Form GSTR-3B to be continued till September 2020.
- ▶ Implementation of e-invoicing and QR code is postponed to 1 October 2020. Certain class of registered persons to be exempted from issuing e-invoice or capturing dynamic QR code.
- ▶ GST rate on mobile phones and parts increased from 12% to 18% effective 1 April 2020.
- ▶ E-wallet scheme to be deferred till 31 March 2021. Consequently, the present exemption from Integrated tax and Compensation cess on imports made under specified schemes will continue up to 31 March 2021.

Source: Press Information Bureau



Background

- ▶ The GST Council held its 39th meeting in New Delhi on 14 March 2020.
- ▶ Basis various representations made by trade and industry, decisions were taken by the Council on various measures for trade facilitation, deferment of the schemes for new returns, e-invoicing and e-wallet, and GST rate rationalisation.
- ▶ Council also recommended amendments in Central Goods and Services Tax Rules, 2017 (CGST Rules) and issuance of circulars to clarify certain key issues.

Key Decisions

Measures for Trade facilitation

Interest on delayed payment of tax

- ▶ Proviso to section 50(1) of Central Goods and Services Tax Act, 2017 (CGST Act), inserted vide Finance Act, 2019 and providing for levy of interest on net tax liability (discharged through electronic cash ledger), to be given retrospective effect from 1 July 2017.

Returns

- ▶ The due date for filing annual return in Form GSTR-9 and reconciliation statement in Form GSTR-9C for FY 2018-19 has been extended by 3 months, from 31 March 2020 to 30 June 2020.
- ▶ Further, late fees for delayed filing of annual return and reconciliation statement has been waived for FY 2017-18 and 2018-19 in case of taxpayers having aggregate turnover of less than INR 2 crores.
- ▶ Micro, Small and Medium Enterprises (MSMEs) having aggregate turnover below INR 5 crores will not be required to file Form GSTR-9C for FY 2018-19.
- ▶ New return filing system which was earlier proposed to be implemented from 1 April 2020 has been postponed.

Existing system of furnishing details in Form GSTR-1 and Form GSTR-3B to be continued till September 2020.

- ▶ Due date of filing Form GSTR-3B for the months July 2019 to January 2020 has been extended till 24 March 2020 for registered persons having principal place of business in the Union territory of Ladakh.

Similar extension will be provided for filing Form GSTR-1 and Form GSTR-7 by such registered persons.

- ▶ The requirement of furnishing Form GSTR-1 for FY 2019-20 to be waived for taxpayers who could not avail the option of special composition scheme under Notification No. 2/2019-Central Tax (Rate) dated 7 March 2019 by filing Form CMP-02.

Other measures

- ▶ Special procedure to be prescribed for registered persons who are corporate debtors under the Insolvency and Bankruptcy Code, 2016 and are undergoing corporate insolvency resolution process (CIRP). This will enable them to comply with the provisions of GST law during the CIRP period. Further, a circular will also be issued in this regard.
- ▶ As one-time measure to facilitate those who want to conduct business, an application for revocation of cancellation of registration can be filled up to 30 June 2020 where the registrations have been cancelled till 14 March 2020.
- ▶ A new facility called 'Know Your Supplier' to be introduced so as to enable every registered person to have some basic information about the suppliers with whom they conduct or propose to conduct business.

- ▶ To facilitate exporters claiming refund, bunching of refund claims to be allowed across financial years.

Deferment of e-invoice and QR Code

- ▶ The date of implementation of e-invoicing and QR Code to be deferred to 1 October 2020. The same was earlier proposed to be introduced from 1 April 2020.
- ▶ Certain class of registered persons to be exempted from issuing e-invoices or capturing dynamic QR code. It includes,
 - ▶ insurance company;
 - ▶ banking company;
 - ▶ financial institution;
 - ▶ non-banking financial institution;
 - ▶ goods transport agency; and
 - ▶ passenger transportation service provider.

Deferment of e-wallet scheme

- ▶ Time limit to finalize e-wallet scheme (for exporters) has been extended till 31 March 2021.
- ▶ Consequently, the present exemption from Integrated tax and Compensation cess on imports made under Advance Authorization, Export Promotion Capital Goods and Export Oriented Unit schemes will continue up to 31 March 2021.

Issuance of circulars

- ▶ Council has suggested to issue clarification in respect of the following matters:
 - ▶ apportionment of input tax credit (ITC) in cases of business reorganization like sale, merger, demerger etc. under section 18(3) of CGST Act read with rule 41(1) of CGST Rules;
 - ▶ appeals during non-constitution of the Appellate Tribunal; and
 - ▶ certain refund related issues.

Amendment to CGST Rules

- ▶ Council has recommended to amend the CGST Rules in respect of the following:
 - ▶ procedure for reversal of ITC in respect of capital goods partly used for effecting taxable supplies and partly for exempt supplies;
 - ▶ ceiling to be fixed for value of export supply for the purpose of calculation of refund on zero rated supplies;
 - ▶ to allow for refund to be sanctioned in both cash and credit in case of excess payment of tax;
 - ▶ to provide for recovery of refund on export of goods where export proceeds are not realized within time prescribed under FEMA; and
 - ▶ to operationalize Aadhaar authentication for new taxpayers.

GST rate related changes

- ▶ In order to correct inverted duty structure on mobile phones, tax rate on mobile phones and specified parts has been increased from 12% to 18%.

Further, to remove inversion for items like footwear, textiles, and others, the issue of calibrating rate will be deliberated in future meetings with further consultation and examination of issue.
- ▶ GST rate on all types of matches has been rationalised to 12%. Currently, handmade matches attract 5% GST and other matches attract 18% GST.
- ▶ GST rate on Maintenance, Repair and Overhaul (MRO) services in respect of aircraft has been reduced from 18% to 5% with full ITC.
- ▶ Further, the place of supply for B2B MRO services to be changed to location of recipient.
- ▶ The above changes will be effective from 1 April 2020.

New Returns

- ▶ Shri Nandan Nilekani, on behalf of Infosys, made a presentation addressing the issues that are being faced by the taxpayers in the GST system.
- ▶ In order to augment the capacity of IT system to concurrently handle 3 lakh taxpayers from the present level of 1.5 lakh taxpayers, hardware procurement process has been initiated.
- ▶ It was suggested that:
 - ▶ In order to smoothen the rollout and to ensure a better uptake of new return system, the transition may be made in an incremental manner.
 - ▶ Process may be initiated by addressing the compliance related issues first so that the problem of tax evasion and gaming of the system due to non-linking of Form GSTR-1 and Form GSTR-3B is addressed immediately.

To start with linking of details in Form GSTR-1 to liability in Form GSTR-3B, followed by linking of ITC in Form GSTR-3B to details in Form GSTR-2A.

- ▶ Implementation of Aadhaar authentication and spike rules to be initiated.

Other decisions

- ▶ Information return under section 150 of CGST Act will be sought from banks.
- ▶ In order to curb fake invoicing and fraudulent claim of ITC, restrictions to be imposed on passing of ITC in case of new GST registrations before physical verification of premises and financial KYC of the registered person.
- ▶ Certain amendments to be carried out in GST law.

Comments

Extension of due date for filing GST annual return and audit report are in line with the expectations of the businesses. Relaxation to MSMEs may significantly ease compliance burden for the sector.

The council's decision to defer implementation of new returns and e-invoicing might facilitate industry and tax administration to adequately prepare for the smooth transition to the new system and eliminate the compliance related challenges.

Retrospective effect to the proviso related to interest on delayed tax payment is a welcome move benefitting the taxpayer. It may settle the disputed position arising out of contrary high court rulings on this matter. Taxpayers who have paid interest on gross tax liability, may explore the possibility of claiming refund of excess interest paid.

On the recommendation to amend CGST rules for recovery of refund on export of goods where proceeds are not received, government may contemplate appropriate changes in the export provisions under IGST Act which currently mandates receiving money in convertible foreign exchange within prescribed time only in case of export of services.

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