

# Advocates and GST -Revised Version

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## 1. Rate of tax on legal services

By virtue of Notification no. 11/ 2017 dated 28-06-2017 rate of tax on legal services is as under

<i>Particulars</i>	<i>CGST</i>	<i>SGST</i>	<i>Total</i>	<i>IGST</i>
Legal Services	9	9	18	18

## 2. Legal services- Meaning of

Legal service is defined by clause (zm) of Note to **Notification No. 12/2017- Central Tax (Rate) Dated 28th June, 2017** . Accordingly, “legal service” means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority. This definition is very wide and may even cover filing of returns under various laws as legal service because it uses the words assistance in any branch of law.

## 3. Exemption to advocate services

Under GST services provided by advocates are exempt to the extent notified. As per **notification no. 12/2017 (Central Tax- Rate) dated 28-6-2017** services provided by

(a) a **partnership firm of advocates or an individual as an advocate** other than a senior advocate, by way of legal services to-

(i) an advocate or partnership firm of advocates providing legal services;

(ii) any person other than a business entity; or

(iii) a business entity with an aggregate turnover up to twenty lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year;

(b) a **senior advocate** by way of legal services to-

(i) any person other than a business entity; or

(ii) a business entity with an aggregate turnover up to twenty lakh rupees (ten lakh rupees in the case of special category states) in the preceding financial year.

Is exempt.

By virtue of **Notification No. 9/2017-Integrated Tax (Rate) New Delhi, the 28th June, 2017** similar exemption has been extended to IGST leviable on inter-state supply of legal services.

Therefore, legal services provided to a business entity having turnover exceeding Rs 20 lakhs in non-specified states (In specified states this limit is 10 lakhs) is not exempt.

#### **4. Legal services under RCM Chargeable where provided to business entity**

Under GST advocates providing legal service to any business entity having turnover exceeding 20 lakhs are not liable to pay GST but GST will be payable by business entity under RCM.

It means legal services provided by Advocates to any business entity having turnover exceeding 20 lakhs is a taxable supply.

**Notification no. 13/2017 (Central Tax-Rate) dated 28-6-2017**

provides that on categories of supply of services mentioned in column (1) of the Table below, supplied by a person as specified in column (2) of the said Table, the whole of central tax leviable under section 9 of the Central Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of the such services as specified in column (3) of the said Table. This notification is issued under section 9(3) of CGST Act, 2017.

Section 9(3) provides that the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

<i>Particulars</i>	<i>Supplier of Service</i>	<i>Person liable to pay tax</i>
Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.

<p>authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.</p>		
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The business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.

By virtue of **Notification No. 10/2017- Integrated Tax (Rate) New Delhi, the 28th June, 2017** similar provisions are incorporated for IGST leviable on above services in an inter-state supply.

### **5. Advocate also providing ITR filing services**

Suppose a non-senior advocate also provides ITR filing services. The question is whether such service is legal service. By definition of legal service it appears to be. Definition says assistance in any branch of law.

It may be argued that ITR filing services are assistance in any branch of law and hence a legal service.

In that case GST would be leviable only if services provided to business entity having turnover exceeding Rs. 20 lakhs that too on RCM basis and will be paid by the business entity.

## **6. Are advocates totally out of GST**

Yes, advocates are totally out of GST provided they provide only legal services. If they indulge in any other activity then there will be other implications which are discussed below.

## **7. Exemption from registration**

Notification No. 5/2017 – Central Tax New Delhi, the 19th June, 2017 specified that the persons who are only engaged in making supplies of taxable goods or services or both, the total tax on which is liable to be paid on reverse charge basis by the recipient of such goods or services or both under sub-section (3) of section 9 of the Central Goods And Services Act as the category of persons exempted from obtaining registration under the aforesaid Act. Therefore, advocates providing intra-state legal services are not required to take registration even if their value of supply exceeds the threshold limit.

## **8. Case of advocates making inter-state services and registration**

**In case of advocates providing inter-state services though tax is payable on RCM basis by receiver of services but there is no exemption from registration except a general exemption available to all service provider by virtue of notification number Notification No. 10/2017 – Integrated Tax New Delhi, the 13th October, 2017 This**

notification specified the persons making inter-State supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of twenty lakh rupees in a financial year as the category of persons exempted from obtaining registration under the said Act: Provided that the aggregate value of such supplies, to be computed on all India basis, should not exceed an amount of ten lakh rupees in case of “special category States” as specified in sub-clause (g) of clause (4) of article 279A of the Constitution, other than the State of Jammu and Kashmir.

**Therefore, an advocate providing inter-state services having turnover exceeding the limit specified (20 lakhs/10 lakhs) on all India basis will have to take registration compulsorily and once that happens advocate will have to pay tax under section 9(4) of the Act.**

**Since they become registered person by virtue of section 9(4) they will be required to pay tax under RCM on goods or services procured from unregistered persons and since advocate is not engaged in providing only services liable to tax under RCM hence benefit of notification no 05/2017 dated 19-6-2017 will not be available to him. In such a situation advocate will be required to be registered under GST Act and will be liable to pay tax under RCM on goods and services procured from unregistered suppliers.**

**This tax is currently deferred till 30.06.2018**

### **9. Case of non- senior advocate only providing legal services**

Now we consider case of non-senior advocate. He has receipts from legal services as under

(a) . From individual advocates/ advocate firms Rs 1000000 [Exempt supply]

(b) From business entities having turnover below 20 Lakhs Rs 500000  
[Exempt supply]

(c) From business entities having turnover above 20 Lakhs Rs. 1000000  
[ Taxable supply but tax payable under RCM by business entity]

By virtue of Notification number 05/2017 dated 19-6-2017 such advocate is only providing services covered by RCM and exempt supplies so he is not liable to be registered under GST Act and hence will not be required to pay any tax under RCM since he is not registered under the GST.

#### **10. Case of non- senior advocate providing legal services as well as ITR filing services and renting services**

Now we consider case of non-senior advocate. He has receipts from legal services and ITR filing services and renting services as under

(a) . From individual advocates/ advocate firms Rs 1000000 [Exempt supply]

(b) From business entities having turnover below 20 Lakhs Rs 500000  
[Exempt supply]

(c) From business entities having turnover above 20 Lakhs Rs. 1000000  
[ Taxable supply but tax payable under RCM by business entity]

(d) From ITR filing services Rs 500000 only [Exempt supply]

(e) Renting of immovable property Rs. 300000 [ Taxable supply]

**By definition** “aggregate turnover” means the aggregate value of all taxable supplies

(excluding the value of inward supplies on which tax is payable

by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.

So in this case aggregate turnover of advocate will be 3300000 which is above the threshold of Rs. 2000000 provided in section 22.

Now as per section 22 every supplier shall be liable to be registered under the Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees.

Since in the given case advocate is having aggregate turnover of Rs 3300000 and he makes taxable supply which is chargeable under RCM and direct charge both hence advocate will be required to take registration under the Act.

**Since they become registered person by virtue of section 9(4) they will be required to pay tax under RCM on goods or services procured from unregistered persons and since advocate is not engaged in providing only services liable to tax under RCM hence benefit of notification no 05/2017 dated 19-6-2017 will not be available to him. In such a situation advocate will be required to be registered under GST Act and will be liable to pay tax under RCM on goods and services procured from unregistered suppliers.**

**This tax is currently deferred till 30.06.2018**



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