

Reverse Charge Mechanism under GST

Section 9(3): U/S 2(98) of CGST Act Reverse charge is defined as "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 sub-section (4) of section 5 of the Integrated Goods and Services Tax Act".

The Government may, on the recommendations of the Council, specify categories of supply, 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.

Reverse Charge Mechanism (RCM) is an alternative method to collect the tax where the government think that **collection of tax through Direct Charge may be difficult** or the person may be the supplied the goods or services belong to unorganized sector **where the identification and collection will not be easy**. Since the RCM is applied on the receiver of the good or services or both supplied by the supplier of the good or services or both, **the 'Aggregate Turnover' or 'Turnover in a state' will not include the value of the supply received by supplier** on which RCM shall be applicable. Similarly, the output tax as defined under 2(82) will not include the tax which are paid under RCM.

Below is the list as specified for the **supply of goods**, in respect of which the central tax shall be paid **on reverse charge basis** by the recipient of the intra-state supply of such goods. The following table has been extracted from **N.N. 4/2017-CT(RATE), dt. 28-6-2017** [and as amended by N.N. 36/2017-CT(RATE) dt. 13-10-2017; NO.43/2017-CT (RATE), dt. 14-11-2017 AND NO.11/2018-CT (RATE), dt. 28-5-2018], provides an insight into the same.

S. No.	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
1.	0801	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	1404 90 10	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3.	2401	Tobacco leaves	Agriculturist	Any registered person
4.	5004 to 5006	Silk yarn	Any person who manufactures silk yam from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
4A.	5201	Raw cotton	Agriculturist	Any registered person
5.	-	Supply of lottery	State Government, Union Territory or any local authority	Lottery distributor or selling agent.
6.	Any Chapter	Used vehicles, seized and confiscated goods, old and used goods, waste and scrap	Central Government, State Government, Union territory or a local authority	Any registered person
7.	Any Chapter	Priority Sector Lending Certificate	Any registered person	Any registered person

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Below is the list as specified for the **supply of services**, in respect of which the central tax shall be paid on **reverse charge basis** by the recipient of the intra-state supply of such goods. The following table, as extracted from **N.N. 13/2017-C.T. (RATE), DT. 28-6-2017** (AMENDED BY N.N. 22/2017-C.T (RATE), DT. 22-8-2017, N.N. 33/2017-C.T (RATE), DT. 13-10-2017, N.N. 3/2018-C.T (RATE), DT. 25-1-2018, N.N. 15/2018-C.T (RATE), DT. 26-7-2018, N.N. 29/2018-C.T (RATE), DT. 31-12-2018, N.N. 5/2019-C.T (RATE), DT. 29-3-2019 AND N.N. 22/2019-C.T (RATE), DT. 30-9-2019, N.N. 29/2019- C.T (RATE), DT. 31-12-2019), provides an insight into the same.

Sr. No.	Category of Supply of Services	Supplier of service	Recipient of Service
1	<p>Supply of Services by a goods transport agency (GTA) [, who has not paid central tax at the rate of 6%,]in respect of transportation of goods by road to—</p> <p>(a) any factory registered under or governed by the Factories Act, 1948 or</p> <p>(b) any society registered under the Societies Registration Act, 1860</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the CGST/IGST/SGST/UGST; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person:</p> <p>[Provided that nothing contained in this entry shall apply to services provided by a goods transport agency, by way of transport of goods in a goods carriage by road, to,—</p> <p>(a) Department or Establishment of the Central or State Government or Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies,</p> <p>which has taken registration under the Central Goods and Services Tax Act, 2017 (12 of 2017) only for the purpose of deducting tax under section 51 and not for making a taxable supply of goods or services.</p>	Goods Transport Agency (GTA)	<p>(a) Any factory registered under or governed by the Factories Act, 1948;or</p> <p>(b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the CGST/IGST/SGST/UGST; or</p> <p>(e) Any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person located in the taxable territory.</p>

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	[Provided that nothing contained in this entry shall apply to services provided by a GTA, by way of transport of goods to Dept. or Establishment of Central /State Government or UTs or any Local Authority or Govt. Agencies]		
2	Services provided by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.
3	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
4	Services provided by way of sponsorship to any body corporate or partnership firm.	Any person	Any body corporate or partnership firm located in the taxable territory.
5	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding,— (1) renting of immovable property , (2) services specified below— (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel , inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers .	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.
5A	Services supplied by the Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under the CGST Act.	Central or State Government, Union territory or local authority	Any person registered under the Central Goods and Services Tax Act, 2017 .
5B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter .
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami,	Any person	Promoter .

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	cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.		
6	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate~	The company or a body corporate located in the taxable territory.
7	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business , located in the taxable territory.
8	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company , located in the taxable territory.
- 9	Supply of services by a music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.	Music composer, photographer, artist, or the like	Music company, producer or the like, located in the taxable territory.
- 9A	Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary works to a publisher.	Author	Publisher located in the taxable territory: Provided that nothing contained in this entry shall apply where,— (i) the author has taken registration under CGST Act; (ii) the author makes a declaration, as prescribed in Annexure II on the invoice issued by him in Form GST Inv-I to the publisher.
- 10.	Supply of services by the members of Overseeing Committee to Reserve Bank of India	Members of Over-seeing Committee	Reserve Bank of India.
- 11.	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership firm to bank or non-banking financial company (NBFCs).	Individual Direct Selling Agents other than body corporate, partnership or LLPs	A banking company or a non-banking financial company , located in the taxable territory.
- 12.	Services provided by business facilitator (BF) to a banking company	Business facilitator (BF)	A banking company , located in the taxable territory.
13.	Services provided by an agent of business correspondent (BC) to business	An agent of business	A business correspondent, located in the taxable territory.

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	correspondent (BC)	correspondent	
14.	Security services (services provided by way of supply of security personnel) provided to a registered person:	Any person other than a body corporate	A registered person , located in the taxable territory.
Provided that nothing contained in this entry shall apply to services provided to a) Dept. or Establishment of Central /State Government or UTs or any Local Authority or Govt. Agencies b) A registered person paying tax under section 10 of the said Act.			
15.	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.	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	Any body corporate located in the taxable territory.
16.	Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India ("SEBI"), as amended.	Lender	Borrower i.e. a person who borrows the securities under the Scheme through an approved intermediary of SEBI.

- **Section 9(4):** Section 9(4) of CGST/SGST (UTGST) Act, 2017/section 5(4) of IGST Act, 2017, provides that the 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 the tax in relation to the supply of such goods or services or both.

The following four conditions must be satisfied simultaneously to attract section 9(4):

- There must be supply of goods or services
- Supply must be of taxable goods or services
- The supplier of goods or services is an unregistered person
- The recipient of such goods or services must be a registered person

On **29th March, 2019** through **N.N. 07/2019 C.T (Rate)** the Government notified that Section 9(4) will be applicable for "Promoters" only for the supplies namely –

1. Supply of such goods and services or both [other than services by way of grant of development rights, long term lease of or FSI (including additional FSI)] which constitute the shortfall from the minimum

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value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year as prescribed in **N.N. 11/ 2017- C.T (Rate), dt. 28th June, 2017**, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, published in Gazette of India vide G.S.R. No. 690, dt. 28th June, 2017, as amended.

2. Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in **N.N. 11/ 2017- C.T (Rate), dt. 28th June, 2017**, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, published in Gazette of India vide G.S.R. No. 690, dt. 28th June, 2017, as amended.
3. Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) supplied to a promoter for construction of a project on which tax is payable or paid at the rate prescribed for items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, in **N.N. 11/ 2017- C.T (Rate), dt. 28th June, 2017**, published in Gazette of India vide G.S.R. No. 690, Dt.28th June, 2017, as amended.

Thus, In the present scenario Section 9(4) is only applicable for the “Promoters” who are engaged in receipt of Supply of the above mentioned services, without any exemption limit.

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Mrs. Pooja Goyal | CA Suraj Goyal

M/s Goyal Suraj & Co. | goyalsuraj92@gmail.com

www.gstbygoyals.blogspot.in | <https://www.linkedin.com/in/ca-suraj-goyal-97b72685/>