

# 54th GST Council Meeting: Key recommendations and decisions

10 September 2024

## Summary

The Goods and Services Tax (GST) Council held its 54th meeting on 9 September 2024, wherein the Council *inter alia* recommended clarification on key issues like exemption on import of services by foreign airlines from a related party outside India without any consideration, taxability of ancillary services provided by the Goods Transport Agencies (GTA), and taxability of preferential location charges. The Council also recommended changes in the GST rates on certain goods and services apart from expanding the scope of reverse charge transactions by including renting of commercial property and the supply of metal scrap by unregistered persons within its purview.

The recommendations of the GST Council shall be given effect through notifications and/or circulars and/or amendments in the law.

## Key recommendations/decisions made by the GST Council:

### A. Proposed procedural/legislative changes:

Procedural changes	
<b>Procedure prescribed for availing the benefit of the amnesty scheme</b>	<ul style="list-style-type: none"> <li>• Insertion of Rule 164 in the CGST Rules, along with relevant forms for availing the benefit of waiver of interest/penalty for tax demands under Section 73 of CGST Act for FY 2017-18, 2018-19, and 2019-20.</li> <li>• The amnesty scheme will be notified with effect from 1 November 2024, and the deadline for making tax payments to avail of the benefit will be 31 March 2025.</li> <li>• Circulars will also be issued to clarify various other issues related to the availment of waiver of interest or penalty.</li> </ul>
<b>Mechanism prescribed for implementation of ITC-related amendments</b>	<ul style="list-style-type: none"> <li>• Retrospective ITC amendments related to the ITC availment of past periods, i.e., Section 16(5) and entitlement in case of cancellation of registration under Section 16(6), should be notified as soon as possible.</li> <li>• A special procedure for rectification of orders will be notified under Section 148 of the CGST Act, applicable to cases where a demand has been confirmed for wrong availment of the input tax credit (ITC) due to a violation of Section 16(4). However, ITC is now available under Sections 16(5) or 16(6), and no appeal against the same has been filed.</li> <li>• The Council also recommended issuing a circular to clarify the procedure and address various issues related to its implementation.</li> </ul>
Legislative changes	
<b>RCM changes</b>	<ul style="list-style-type: none"> <li>• The renting of a commercial property by an unregistered person to a registered person will be liable to GST under the reverse charge mechanism (RCM).</li> </ul>

	<ul style="list-style-type: none"> <li>The supply of metal scrap by an unregistered person to a registered person will be included in the RCM coverage. The supplier shall be liable to obtain registration when the threshold limit is exceeded, while the recipient shall be registered mandatorily.</li> <li>In addition, the registered persons shall be liable to pay 2% TDS on B2B supplies.</li> </ul>
<b>Refund of IGST on exports where the benefit of concessional/exemption notifications has been availed</b>	<ul style="list-style-type: none"> <li>To simplify the refund process in such cases, Rules 89(4A) &amp; (4B) and 96(10) of the CGST Rules will be omitted prospectively.</li> <li>Clarification is to be issued that where inputs were initially imported without paying the IGST and compensation cess by availing the benefit of concessional/exemption notifications under Rule 96(10), and subsequently, IGST and compensation cess were paid, along with interest, and Customs authorities reassess the BOE, the IGST refunded on exports will not be considered a violation of Rule 96(10) of the CGST Rules.</li> </ul>

## B. Proposed exemptions under GST:

Issue	Recommendation
<b>Import of services by foreign airlines from its branch offices</b>	<ul style="list-style-type: none"> <li>The import of services by a branch office of foreign airline companies from related persons or establishments outside India is to be exempted, provided the import is without consideration.</li> <li>The GST for the past period is to be regularised on an 'as is where is' basis.</li> </ul>
<b>Supply of research and development Services</b>	<ul style="list-style-type: none"> <li>Exemption on the supply of research and development services by government entities, universities, colleges, or institutions notified under Section 35 of the Income Tax Act, using government or private grants.</li> <li>The GST for the past period is to be regularised on an 'as is where is' basis.</li> </ul>
<b>Services related to electricity</b>	<ul style="list-style-type: none"> <li>Exemption on services incidental to the supply of electricity (e.g., application fees, meter rental charges, testing fees for meters/transformers/capacitors, charges for duplicate bills, labour charges from customers for the shifting of meters/service lines, etc.) as part of the composite supply.</li> <li>The GST for the past period is to be regularised on an 'as is where is' basis.</li> </ul>

## C. Proposed clarificatory changes:

Issue	Recommendation
<b>Preferential location charges (PLC)</b>	<ul style="list-style-type: none"> <li>The PLC charges paid, along with consideration towards the construction services of residential/commercial/industrial complex before the issuance of the completion certificate, form a part of the 'composite supply' and are liable to be taxed at the same rate as the principal supply of construction services.</li> </ul>
<b>Ancillary/intermediate services provided by GTA</b>	<ul style="list-style-type: none"> <li>Ancillary/intermediate services, such as loading/unloading, packing/unpacking, transshipment, temporary warehousing, etc., provided by the Goods Transport Agency (GTA) as part of goods transport (covered by consignment notes), would constitute a composite supply.</li> </ul>
<b>Flying training courses</b>	<ul style="list-style-type: none"> <li>Approved flying training courses conducted by DGCA-approved flying training organisations (FTOs) are exempt from the GST levy.</li> </ul>
<b>Affiliation services</b>	<ul style="list-style-type: none"> <li>Affiliation services provided by education boards (like CBSE) and universities to their constituent colleges would be liable to GST at 18%.</li> </ul>

	<ul style="list-style-type: none"> <li>Affiliation services provided by the state/central educational boards, educational councils and similar bodies to government schools would be exempted prospectively.</li> <li>Issues for the period from 1 July 2017 to 17 June 2021 have been regularised on an ‘as is where is basis.’</li> </ul>
<b>Film distributor or sub-distributor</b>	<ul style="list-style-type: none"> <li>The GST liability for the period before 1 October 2021 is to be regularised on ‘as is where is basis’ in cases where the film distributor/sub-distributor acts on a principal basis to acquire and distribute films.</li> </ul>
<b>Other clarifications to remove ambiguity and legal disputes</b>	<ul style="list-style-type: none"> <li>The ITC on demo vehicles is to be available to the dealers of vehicle manufacturers.</li> <li>The place of supply (POS) of advertising services provided by Indian advertising companies to foreign entities is to be the place of location of foreign entities.</li> <li>The POS of data hosting services provided by service providers located in India to cloud computing service providers located outside India is to be the place of location of service providers located outside India.</li> </ul>

#### D. Proposed rate changes:

<b>Goods</b>	
<b>Cancer drugs</b>	Reduction on cancer drugs (Trastuzumab Deruxtecan, Osimertinib, Durvalumab) from 12% to 5%.
<b>RMPU air conditioning machines for railways</b>	Roof-mounted package unit (RMPU) air conditioning machines for railways to attract 28% GST.
<b>Car and motorcycle seats</b>	<ul style="list-style-type: none"> <li>Car seats of motor cars would fall under HSN 9401</li> <li>The increased rate on the car seats of motor cars from 18% to 28% is to be made effective prospectively, to align with the rate on motorcycle seats.</li> </ul>
<b>Namkeen and extruded/expanded savoury food products</b>	The prospective reduction of GST rate on extruded/expanded products, savoury or salted (other than un-fried or un-cooked snack pellets, by whatever name called, manufactured through a process of extrusion), classifiable under HSN 1905 90 30, is to be reduced from the existing 18% to 12%.
<b>Services</b>	
<b>Transport of passengers by helicopters</b>	<ul style="list-style-type: none"> <li>The service of transporting passengers by helicopters will attract 5% GST.</li> <li>Charter services are to continue at 18%.</li> </ul>

#### E. GST functionalities:

<b>B2C E-Invoicing pilot</b>	<ul style="list-style-type: none"> <li>A pilot project for B2C e-invoicing is recommended in select sectors and states.</li> <li>A voluntary rollout is expected to improve the efficiency and invoice verification for retail customers.</li> </ul>
<b>Invoice Management System (IMS) and new ledgers</b>	<ul style="list-style-type: none"> <li>With the enhancements to the GST return system, which include the introduction of an RCM ledger, an ITC reclaim ledger, and the IMS, taxpayers can declare their opening balances for these ledgers by 31 October 2024.</li> <li>The IMS will allow taxpayers to accept, reject, or keep invoices pending for ITC claims, reducing errors and improving reconciliation. This system is expected to minimise the issuance of notices related to the ITC mismatches in returns.</li> </ul>

## Our comments

The decisions made by the GST Council reflect a clear intent to simplify processes, reduce disputes, and improve tax compliance, especially for sectors such as transport, aviation, education, and manufacturing. These initiatives are expected to positively impact various sectors by fostering a more efficient tax system. The pilot introduction of e-invoicing for B2C transactions is a promising step toward improving efficiency and reporting within the GST framework. The industry also awaits clarity on the applicability of the amnesty scheme to settle past tax liabilities.

Key discussions regarding the GST relief on life and health insurance, taxation of oil and gas exploration contracts, and rate rationalisation were deferred for the upcoming council meeting. On the online gaming front, while the Council maintained the current stance, it is noteworthy that the sector has seen a staggering revenue increase of over 400% in just six months after implementing new valuation provisions.

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