

**RCM on Rent a cab**  
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S.No. 10 of Notification 11/2017 Central Tax (Rate) Dt. 28.06.2017, as amended from time to time prescribe the rate of GST for "renting of motor vehicles".

As it stands today, the following are the applicable rates.

S.No.	Description	Rate of GST (CGST+SGST)	Conditions
(i)	Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	5%	Provided that credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business has not been taken.
		12 %	-
(ii)	Time charter of vessels for transport of goods.	5%	Provided that credit of input tax charged on goods (other than on ships, vessels including bulk carriers and tankers) has not been taken.
(iii)	Rental services of transport vehicles with operators, other than (i) and (ii) above.	18 %	

It may be noted that a person who is giving motor vehicles on hire has the following options.

- (i) If he is using his own vehicles, he can charge 5 % GST without availing any ITC.
- (ii) If he is obtaining vehicles from others, who charge GST, he can claim ITC only for such ITC and pay 5 % on his customers. No other ITC can be availed.
- (iii) All ITCs can be availed and 12 % GST can be charged on his customers.

Now, Reverse Charge Mechanism has been introduced for this service, by amending Notification 13/2017 Central Tax (Rate) Dt. 28.06.2017, vide Notification 22/2019 Central Tax (Rate) Dt. 30.09.2019, w.e.f. 01.10.2019.

<b>Sl. No.</b>	<b>Category of Supply of Services</b>	<b>Supplier of service</b>	<b>Recipient of Service</b>
(1)	(2)	(3)	(4)
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.

The wording of the category of suppliers, who are excluded from the applicability of reverse charge mechanism is bit confusing. It may be noted when the supplier of Service is a body corporate and such body corporate has opted to pay 5 % GST by availing ITC of only the GST paid on same line of business, then reverse charge would not apply and in all other cases reverse charge would apply.

To tabulate,

Status of supplier (Person giving the cab on rent)	Status of recipient (Customer)	Whether RCM applicable?	Rate of GST	Remarks
Body Corporate - Not availing any ITC	Body Corporate	Yes	5 %	
Body Corporate - Not availing any ITC	Non Body Corporate	No	5 %	The person renting the motor vehicle has to pay under forward charge.
Body Corporate - Availing ITC of only same service	Not Relevant	NO	5 %	
Other than body corporate	Body Corporate	Yes	5 %	

It may be observed that 12 % GST rate with full ITC has also been prescribed in Notification 11/2017, where all ITC can be availed, including the GST paid on purchase of vehicles, repair and maintenance of vehicles, etc. This rate has now been rendered redundant in view of reverse charge mechanism. The service providers no more have an option to avail all ITC and pay 12%.

What will happen to all those, who have availed all ITC and paying 12 % GST so far, where reverse charge has become applicable now? As per Section 18 (5) of the CGST Act, 2017 the balance of any such credit shall lapse.

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Further, the above provisions also lead to an anomaly where services provided by small players (other than body corporates) would become costlier as explained below.

Let us assume M/s A, a partnership firm is obtaining vehicles from various individuals on hire and those individuals are charging 5 % GST and in turn gives such vehicles on hire to body corporates. Now, as per the RCM provisions, M/s A is no more liable to pay GST as his services are notified for RCM. Hence, the GST borne by him in respect of the vehicles hired by him would become a cost in his hands.

Whereas, let us assume M/s ABC Pvt. Ltd. is also obtaining vehicles from various individuals on hire and those individuals are charging 5 % GST. M/s ABC Pvt. Ltd. can avail ITC of such GST charged on them. Now, as per the RCM provisions, the activities M/s ABC Pvt. Ltd. is not covered under RCM as M/s ABC Pvt. Ltd. is a body corporate, paying 5 % GST by availing ITC only for same line of business. As the GST borne by M/s ABC Pvt. Ltd. is not a cost, they can offer lesser rates to their customers, than the rates offered by M/s A, and thereby drive small players out of business.

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