

## **RCM on Renting of Motor Vehicles – Explained further**

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Reference is invited to the author’s earlier article on the above issue, titled “RCM on rent a cab”. Many readers have given their feedback that the issue requires further elaboration and hence the issue is further explained in this article.

Notification 13/2017 Central Tax (Rate) Dt. 28.06.2017, prescribes various reverse charge mechanism (RCM) where the GST is payable by the service recipient.

The said notification reads as under.

In exercise of the powers conferred by sub-section (3) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government on the recommendations of the Council hereby notifies that on categories of supply of services mentioned in column (2) of the Table below, supplied by a person as specified in column (3) of the said Table, the whole of central tax leviable under section 9 of the said Central Goods and Services Tax Act, shall be paid on reverse charge basis by the recipient of the such services as specified in column (4) of the said Table:-

TABLE

<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)

So RCM would apply for the category of services mentioned at (2), when the supplier of service are those mentioned in (3) and if the recipient of service are those mentioned in (4).

S.No. 15 has been introduced to the above notification, which reads as below.

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(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 following may be noted from the above.

RCM applies for "renting of motor vehicles" which covers all types of vehicles, such as cars, vans and buses.

Column (2) mentions "Body Corporate". So if the customer (Service recipient) is not a body corporate, no RCM, whatsoever.

Column (3) above deals with the category of Suppliers where RCM would apply and where it would not apply.

The same is reproduced below.

*"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"*

So if the service provider is a body corporate and paying 5 % GST after availing GST of only same line of business {S.No. 10 (i) of Notification 11/2017 according to which 2.5

% CGST (plus 2.5 % SGST vide SGST Notification) can be paid by availing ITC of same line of business}, they are outside RCM and they would continue to pay GST under forward charge. In all other cases, RCM would apply.

To recall, 5 % GST rate is applicable for renting of motor vehicles if no ITC is availed. But when vehicles are obtained by way of rent by the supplier for further renting out, in order not to break the ITC chain, ITC of GST paid on such same line of business alone can be taken and still 5 % GST can be paid. {A gives his vehicle on hire to B and B in turn gives them on hire to C. The GST paid by A, can be availed as ITC by B and B can still charge 5 % on C}

The idea of excluding such body corporate service providers (availing ITC of same line of business and paying 5 % GST) from the ambit of RCM seems to be that as body corporates, when they take the vehicles on rent / hire from other service providers, they would be liable to pay GST under RCM, which can be availed as ITC by them and they can in turn charge 5 % under forward charge.

## **FAQ.**

**Q 1.** As a Public Limited Company / Private Limited Company, obtaining motor vehicles on hire from various persons, what are the precautions to be taken.

**A 1.**

- If the person giving the motor vehicles to you is an individual, proprietary firm, Partnership firm, etc. (other than body corporate), then you have pay GST @ 5 % under RCM.
- If the person giving the motor vehicles to you is a body corporate (Private Limited Company, Public Limited Company, etc. having distinct entity status) then you have to see whether he is taking ITC of same line of business and paying 5 % GST under forward charge. If so, RCM would not apply.

- If the person giving the motor vehicles to you is a body corporate (Private Limited Company, Public Limited Company, etc. having distinct entity status) and the said body corporate is not taking ITC of same line of business and not charging any GST, RCM would apply.

**Q 2.** We are a partnership firm. We hire motor vehicles from various parties, who are individuals, partnership and private limited companies. What is our liability?

**A 2.** Since you are not a Body Corporate, no RCM would apply.

**Q 3.** ABC Pvt Ltd is engaged in renting of motor vehicles to Body Corporates. They have availed all ITC and paying 12 % GST till 30.09.2019. What they have to do after 01.10.2019?

**A 3.** ABC Pvt. Ltd is a Body Corporate. Except when they want to avail ITC of only GST paid on same business line, in all other cases RCM would apply. Now they have to decide whether they wish to avail ITC of only same line of business and pay 5 % GST (in which case no RCM would apply) or stop paying GST (in which case RCM would apply).

Once they choose, not to avail ITC of same line of business, then RCM would apply. When a service is notified for RCM, the same shall be “exempted supply” in the hands of the supplier as per Section 17 (3) of the CGST Act<sup>1</sup>. Hence, from 01.10.2019, the supply becomes an exempt supply in the hands of ABC Pvt. Limited and hence Section 18 (5) would apply<sup>1</sup>. The entire credit balance shall lapse.

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<sup>1</sup> Sec. 18 (4) Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by

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<sup>1</sup> Sec. 17 (3) The value of exempt supply under sub-section (2) shall be such as may be prescribed, and shall include supplies on which the recipient is liable to pay tax on reverse charge basis, transactions in securities, sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

**Q 4.** M/s XYZ, a partnership firm is engaged in renting of buses to companies. So far, they were taking ITC for same line of business only and paying 5 %. What they have to do after 01.10.2019?

**A 4.** M/s XYZ is not a Body Corporate. Their activity is now covered under RCM. Section 18 (5) would apply and the credit balance, if any, shall lapse. They cannot continue to pay 5 % GST under forward charge, by availing ITC of only same line of business.

**Q 5.** M/s P is an individual and he is renting cars and vans to partnership firms and companies. So far he was paying 5 % GST without availing any ITC. What he has to do after 01.10.2019?

**A 5.** For renting of cars and vans rented to Partnership firms, he should continue to pay GST under forward charge. In this connection he has the following options.

- (i) Do not avail any ITC and charge 5 %.
- (ii) Avail ITC of only same line of business and pay 5 %.
- (iii) Avail all ITC and pay 12 % GST.

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such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption :

**Provided** that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

(To this extent the view in the earlier article that 12 % rate has become redundant now is withdrawn)

For cars and vans rented to Companies, RCM would apply.

**Q 6.** M/s BCD Pvt. Ltd. was availing ITC of only same line of business and renting vehicles to companies and were paying 5 % GST so far. What they have to do after 01.10.2019?

**A 6.** M/s BCD Pvt. Ltd. is a body corporate. They can continue to avail ITC of only same line of business and pay 5 % GST under forward charge.

**Q 7.** Mr. Q is an individual and providing cars and buses on renting to Partnership firms. He has availed all ITC and paying 12 % GST so far until 30.09.2019. What he has to do after 01.10.2019.

**A 7.** As he is not supplying the vehicles to Body corporates, RCM would not apply and he can continue to avail all ITC and pay 12 %.

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