L&S Update

an e-update to clients from
Lakshmikumaran & **Sridharan**

L&S GST Update No. 1 of 2020
2nd January, 2020

Recent Notifications amending:

- The CGST Rules;
- Transition Plan for J&K;
- Rate Notifications; and
- RCM Notification.

Amendment in the CGST Rules, 2017

Notification No. 2/2020-CT
(with effect from 01.01.2020)

Amendments in the CGST Rules, 2017

A. Extension of due dates of Tran-1 and Tran-2

- Rule 117(1A) has been amended to provide that in cases where the registered person could not submit Tran-1 or Tran-2 on the common portal on account of technical difficulties, they can submit **Tran-1 by 31.03.2020** and **Tran-2 by 30.04.2020.** The dates were 31.12.2019 and 31.01.2020 earlier.

B. Form REG-01 (application for registration) amended

- New field added pertaining to "**Period of Validity**" as per approval order in case of **SEZ Unit/Developer.**

C. Form GSTR-3A (Notice to return defaulters under Section 46) amended

- The amended form states that in case of failing to furnish return within 15 days of notice, tax liability "may" be assessed under Section 62 (best judgement assessment) instead of the phrase '"will" be assessed'.
- Also a disclaimer has been added that this is a system generated notice and does not require signature.

Amendment in CGST Rules, 2017 (contd.)

D. New Form INV-01 notified

- W.e.f. 1st April 2020, the notified class of persons are required to issue invoice containing particulars given in FORM GST INV-01 after obtaining IRN by uploading the said invoice on the common portal.
- The new form is similar to E-invoice schema earlier uploaded by GSTN on common portal. However, there are certain additional fields which have been added in the notified form. **The said additional details are like:**

Mandatory	Optional
Invoice Sub Type Code	E-way Bill details
Billing Trade Name	Freight, Insurance, Packing and Forwarding
Shipping to (Trade Name)	Signature Details (DSC)

Amendment in Transition Plan in respect of J&K reorganization

Notification No. 03/2020-CT
(with effect from 01.01.2020)

Amendment in Transition Plan in respect of J&K reorganization

- Notification No. 62/2019-CT, dated 26.11.2019 (Original Notification) provided for transition plan in respect of J&K reorganization. It stated that persons whose place of business lies in the erstwhile State of J&K till the 30.10.2019; and lies in the Union territory of J&K or in the Union territory of Ladakh from 31.10.2019 onwards, would be required to follow the special procedure till 31.12.2019 (transition date).

- The original notification provided for option to transfer the ITC from the registered GSTIN till 30.10.2019 in the State of Jammu and Kashmir, to the new GSTIN in the Union territory of J&K or in the Union territory of Ladakh from 31.10.2019 by following the specified procedure.

Now, **the said dates have been extended to 31.12.2019 and 01.01.2020, respectively.**

Amendment in Transition Plan in respect of J&K reorganization (contd.)

- Further, the original notification provided that the balance of State taxes in electronic credit ledger of the said class of persons, whose principal place of business lies in the Union territory of Ladakh from 31.10.2019, shall be transferred as balance of Union territory tax in the electronic credit ledger.

Now, **the said date has been extended to 01.01.2020.**

Amendment in Rate Notifications

Notification Nos. 27/2019-CTR , 28/2019-CTR and 29/2019-CTR

Amendment in Goods Rate Notification

(Notification No. 27/2019-CTR)

- S. Nos. 80AA and 171A for goods covered under 12% GST rate have been omitted.
- Following new entries have been inserted **under 18% GST rate.**

S. No.	HSN	Description
163B	3923 or 6305	Woven and non-woven bags and sacks of polyethylene or polypropylene strips or the like, whether or not laminated, of a kind used for packing of goods;
163C	6305 3200	Flexible intermediate bulk containers

L&S Comments:

- The said change is effective from 01.01.2020.
- This increase in rate sets at rest the dispute relating to classification of woven & non-woven bags made of polyethylene or polypropylene.
- However, the classification dispute with respect to non-woven bags made of other material will continue.

Amendment in exemption notification for services
(Notification No. 28/2019-CTR)

- S. No. 41 of the exemption Notification No. 12/2017-CT (R) provides exemption as follows:
  - Upfront amount payable in respect of service by way of long-term lease of 30 years or more
  - of industrial plots or plots for development of infrastructure for financial business,
  - provided by the State Government Industrial Development Corporations or Undertakings or by any other entity having 50% or more ownership of Central Government, State Government, Union territory to the industrial units or the developers in any industrial or financial business area.

- **The notification has been amended to reduce the percentage of ownership from 50% to 20%.**
- **Further, certain conditions have been added in the said exemption entry.**

Amendment in exemption notification for services (contd.)
(Notification No. 28/2019-CTR)

Provisos entered in the entry are as follows:

- The leased plots shall be used only for the purpose for which they are allotted (industrial or financial activity)
- The State Government shall monitor and enforce the above conditions as per the order issued by State Government in this regard.
- In case of any violation or subsequent change of land use
  - The original lessor/lessee as well as subsequent lessee/buyer/owner shall be **jointly and severally liable to pay** such amount of GST for which exemption has been availed.
- The lease agreement between original lessor/lessee or subsequent lessee or sub-lessee as well as any subsequent lease or sale agreements for any lease or sale of such plots, the parties shall incorporate in the agreement that GST was exempted subject to conditions and the parties shall comply with same.

Amendment in RCM Notification No. 13/2017-CT (R)
(Notification No. 29/2019-CTR)

- Entry related to renting of motor vehicle has been amended.
- Earlier, the entry was defining 'supplier' as:

  Any person other than a body corporate, paying GST at the rate of 5% on renting of motor vehicles with input tax credit only of input service in the same line of business

- Now, the entry has been amended to define 'supplier' as follows:

  Any person, other than a body corporate who supplies the service to a body corporate and does not issue an invoice charging GST at the rate of 12% to the service recipient

- Further, the nature of services has been amended to clarify that only those services where the cost of fuel is included in the consideration are under reverse charge.

Amendment in RCM notification
(Notification No. 29/2019-CTR)

- Circular (F. No. 354/189/2019-TRU) has also been issued to clarify RCM on renting of motor vehicle.
- The circular notes as follows:
  - RCM shall be applicable on the service 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 only if the supplier fulfils all the following conditions:–

    (a) is other than a body-corporate;

    (b) does not issue an invoice charging GST @12% from the service recipient; and

    (c) supplies the service to a body corporate.
  - The present amendment of the notification is merely clarificatory in nature and therefore for the period 01.10.2019 to 31.12.2019 also, clarification as mentioned above shall apply, as any other interpretation shall render the RCM notification for the said service unworkable for that period.

Amendment in RCM Notification

(Notification No. 29/2019-CTR)

L&S Comments:

- Services by way of renting of motor vehicle received from unregistered person will continue to be outside the scope of RCM. In other words, RCM will not be applicable in cases of services received from unregistered person.

NEW DELHI
5 Link Road, Jangpura Extension,
Opp. Jangpura Metro Station,
New Delhi 110014

B-6/10, Safdarjung Enclave
New Delhi - 110 029
Phone : +91-11-4129 9811
E-mail : lsdel@lakshmisri.com

MUMBAI
2nd floor, B&C Wing,
Cnergy IT Park,
Appa Saheb Marathe Marg, (Near Century Bazar)
Prabhadevi, Mumbai - 400025.
Phone : +91-22-24392500
E-mail : lsbom@lakshmisri.com

CHENNAI
2, Wallace Garden, 2nd Street
Chennai - 600 006
Phone : +91-44-2833 4700
E-mail : lsmds@lakshmisri.com

BENGALURU
4th floor, World Trade Center
Brigade Gateway Campus
26/1, Dr. Rajkumar Road,
Malleswaram West,
Bangalore-560 055.
Ph: +91(80) 49331800
Fax:+91(80) 49331899
E-mail : lsblr@lakshmisri.com

HYDERABAD
'Hastigiri', 5-9-163, Chapel Road
Opp. Methodist Church, Nampally
Hyderabad - 500 001
Phone : +91-40-2323 4924
E-mail : lshyd@lakshmisri.com

AHMEDABAD
B-334, SAKAR-VII,
Nehru Bridge Corner, Ashram Road,
Ahmedabad - 380 009
Phone : +91-79-4001 4500
E-mail : lsahd@lakshmisri.com

PUNE
607-609, Nucleus, 1 Church Road,
Camp, Pune – 411 001
Maharashtra
E-mail : lspune@lakshmisri.com

KOLKATA
2ND Floor, Kanak Building
41, Chowringhee Road
Kolkatta-700071
Phone : +91-33-40051 5570
E-mail : lskolkata@lakshmisri.com

CHANDIGARH
1st Floor, SCO No. 59,
Sector 26,
Chandigarh - 160026
Phone : +91-172-4921700
E-mail : lschd@lakshmisri.com

GURGAON
OS2 & OS3, 5th Floor, Corporate Office Tower, AMBIENCE Island,
Sector 25-A, Gurgaon - 122001
Phone : +91-124-477 1300
E-mail :lsgurgaon@lakshmisri.com

ALLAHABAD
3/1A/3, (opposite Auto Sales), Colvin Road, (Lohia Marg),
Allahabad -211001 (U.P.)
Phone no. : (0532) – 2421037, 2420359
Email: lsallahabad@lakshmisri.com

KOCHI
First floor, PDR Bhavan, Palliyil Lane, Foreshore Road, Ernakulam
Kochi-682016, India
Phone no : +91 (484) 4869018; 4867852
Email: lskochi@lakshmisri.com