L&S UPDATE

An e-update to clients from Lakshmikumaran & Sridharan

22 NOVEMBER 2021

INDIRECT TAX

GST Update recent notifications

UPDATE NO. 37 OF 2021

Lakshmikumaran & Sridharan attorneys

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A. AMENDMENT IN NOTIFICATION NO. 12/2017-CENTRAL TAX (RATE)

[Notification No. 16/2021-Central Tax (Rate), effective from 1 January 2022]

1. **Withdrawal of exemption when pure services are provided to Governmental authority or a Government Entity. (Sl. No. 3)**
   Exemption in respect of pure services (excluding works contract service or other composite supplies involving supply of any goods) by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or in relation to any function entrusted to a Municipality under article 243W of the Constitution would be available ***only when provided to the Central Government, State Government or Union territory or local authority.***

   Earlier such exemption was also available when such services were provided to a Governmental authority or a Government Entity.

L&S Comments:

- Impact on on-going contracts needs to be examined.

2. **Withdrawal of exemption when composite supply of goods and services are provided to Governmental authority or a Government Entity. (Sl. No. 3A))**
   Exemption in respect of composite supply of goods and services in which the value of supply of goods constitutes not more than 25 per cent. of the value of the said composite supply by way of any activity in relation to any function entrusted to a Panchayat under Article 243G of the Constitution or in relation to any function entrusted to a Municipality under Article 243W of the Constitution would be available ***only when provided to the Central Government, State Government or Union territory or local authority.***

   Earlier such exemption was also available when such services were provided to a Governmental authority or a Government Entity.

L&S Comments:

- Impact on on-going contracts needs to be examined.

3. **Withdrawal of exemption when service of transport of passenger is provided through e-commerce in certain specified cases (Serial No. 15 and 17)**

   Exemption in respect of service of transport of passengers will not be applicable when supplied through an electronic commerce operator, and on which tax is paid by the electronic commerce operator as notified under Section 9(5) of the CGST Act, 2017. Service of transport of passengers, with or without accompanied belongings, by:

   (a) non-airconditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire; or

   (b) stage carriage other than air-conditioned stage carriage

   (c) metered cabs or auto rickshaws (including e-rickshaws).

The above notification is effective from 1 January 2022.

B. AMENDMENT IN NOTIFICATION NO. 17/2017- CENTRAL TAX (RATE)

[Notification No. 17/2021-Central Tax (Rate), effective from 1 January 2022]

- **E Commerce Operators are being made liable to pay tax on following services provided through them:**
  1. Supply of services of transportation of passengers by a radio taxi, motorcab, maxicab, motorcycle, omni bus or any other motor vehicle. (Earlier transportation of passenger only by a radio taxi, motorcab, maxicab and motorcycle were covered).
  2. Supply of restaurant service other than the services supplied by restaurant, eating joints etc. located at specified premises

- **Insertion / substitution of following explanations:**
  1. "Maxicab", "motorcab", "motor cycle", "motor vehicle" and "omni bus" shall have the same meanings as assigned to them respectively in clauses (22), (25), (27), (28) and (29) of Section 2 of the Motor Vehicle Act, 1988 (59 of 1988).
  2. Specified premises means premises providing hotel accommodation service having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.

The above notification is effective from 1 January 2022.

LOCATIONS

NEW DELHI

5 Link Road, Jangpura Extension,
New Delhi 110 014
PHONE: 011-4129 9800

B-6/10, Safdarjung Enclave,
New Delhi 110 029
PHONE: 011-4129 9900
E-MAIL: Lsdel@lakshmisri.com

MUMBAI

2nd Floor, CNERGY IT Park,
Old Standard Mill,
Appa Saheb Marathe Marg,
Prabhadevi,
Mumbai 400 025
PHONE: 022-2439 2500
E-MAIL: Lsbom@lakshmisri.com

CHENNAI

2, Wallace Garden, 2nd Street,
Chennai 600 006
PHONE: 044-2833 4700
E-MAIL: Lsmds@lakshmisri.com

BENGALURU

World Trade Center,
No. 404-406, 4th Floor, South Wing,
Brigade Gateway Campus,
No. 26/1 Dr. Rajkumar Road,
Malleswaram West,
Bengaluru 560 055
PHONE: 080-4933 1800
E-MAIL: Lsblr@lakshmisri.com

HYDERABAD

'Hastigiri', 5-9-163, Chapel Road,
Opp. Methodist Church, Nampally,
Hyderabad 500 001
PHONE: 040-2323 4924
E-MAIL: Lshyd@lakshmisri.com

AHMEDABAD

B-334, SAKAR-VII,
Nehru Bridge Corner, Ashram Road,
Ahmedabad 380 009
PHONE: 079-4001 4500
E-MAIL: Lsahd@lakshmisri.com

PUNE

607-609, Nucleus,
1 Church Road, Camp
Pune 411 001
PHONE: 020-6680 1900
E-MAIL: Lspune@lakshmisri.com

KOLKATA

2nd Floor, Kanak Building,
41, Chowringhee Road,
Kolkata 700 071
PHONE: 033-4005 5570
E-MAIL: Lskolkata@lakshmisri.com

CHANDIGARH

SCO No. 59, 1st Floor,
Sector 26, Madhya Marg,
Chandigarh 160 026.
PHONE: 0172-492 1700
E-MAIL: Lschd@lakshmisri.com

GURUGRAM

OS2 & OS3, 5th Floor,
Corporate Office Tower,
AMBIENCE Island, Sector 25-A,
Gurugram 122 001
PHONE: 0124-477 1300
E-MAIL: Lsgurgaon@lakshmisri.com

PRAYAGRAJ (ALLAHABAD)

3/1A/3, (Opp. Auto Sales)
Colvin Road, Lohia Marg,
Prayagraj 211 001
PHONE: 0532-242 1037/242 0359
E-MAIL: Lsallahabad@lakshmisri.com

KOCHI

1st Floor, PDR Bhavan,
Palliyil Lane, Foreshore Road,
Ernakulam, Kochi 682016
PHONE: 0484-486 9018/486 7852
E-MAIL: Lskochi@lakshmisri.com

JAIPUR

2nd Floor (Front side),
Unique Destination, Tonk Road,
Near Laxmi Mandir Cinema Crossing,
Jaipur, Rajasthan 302 015
PHONE: 0141-456 1200
E-MAIL: Lsjaipur@lakshmisri.com

NAGPUR

1st Floor, HRM Design Space,
90-A, Next to Ram Mandir,
Ramnagar, Nagpur 440033
PHONE: +91-712-2959038/2959048
E-MAIL: Lsnagpur@lakshmisri.com

www.lakshmisri.com

Lakshmikumaran & Sridharan
attorneys

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