



## REVERSE CHARGE MECHANISM

Simran Vira

Email : simranvira.cbc@gmail.com

### Introduction :

The concept of Reverse Charge Mechanism was introduced in erstwhile service tax laws. Earlier, Service tax, Excise, VAT etc. were levied on the sale of goods and services at each stage of the supply chain, However, tax fraud and evasion this led to substantial revenue losses. Since there were inherent vulnerabilities in the earlier system, the Reverse Charge Mechanism was introduced.

Generally, indirect tax is payable by the supplier of the goods or service, but under Reverse charge mechanism the liability to pay tax has shifted to the recipient. The objective of shifting the burden of GST payments to the recipient is to widen the scope of levy of tax on various unorganized sectors, to tax the import of services and exempt specific class of supplier of goods or services from payment of such taxes. The concept of Reverse charge mechanism is incorporated under GST, but in GST regime, the Act not only covers supply of certain service but it also covers supply of certain goods under RCM.

### When is Reverse Charge Applicable?

Section 9(3), 9(4) and 9(5) of Central GST and State GST Acts govern the reverse charge scenarios for intrastate transactions. Also, sections 5(3), 5(4) and 5(5) of the Integrated GST Act govern the reverse charge scenarios for inter-state transactions. Let's have a detailed discussion regarding these scenarios:

- A. Supply of certain goods and services notified by the CBIC.**
- B. Supply from unregistered dealer to registered dealer.**
- C. Supply of services through an e-commerce operator.**
- D. Import of Goods or services from outside India into India.**

### Who should pay GST Under RCM?

The liability to pay under RCM is on the recipient of the goods or services. As per the provisions of GST law, if the person supplying the goods / services is registered, then he must mention in the tax invoice whether tax is payable under RCM or not. Nevertheless, the liability would still remain on the recipient even if the supplier is unregistered / does not issue an invoice.

The following points should be kept in mind while making GST payments under RCM:

- The recipient of goods or services can avail of the ITC on the tax amount paid under RCM only if such goods or services are used for business or furtherance of business.
- A composition dealer should pay tax at the normal rates and not the composition rates while discharging liability under RCM. Also, they are ineligible to claim any input tax credit of tax paid.
- GST compensation cess can apply to the tax payable or paid under the RCM.

**Supplies of goods on which GST is to be paid under RCM**

<b>Sr. No.</b>	<b>Description of supply of goods</b>	<b>Supplier of Goods</b>	<b>Recipient of goods</b>
1	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3	Tobacco leaves	Agriculturist	Any registered person
4	Raw cotton	Agriculturist	Any registered person
5	Used vehicles, old and used goods, waste and scrap	Central Govt., State Govt., Union Territory, Local authority	Any registered person
6	Cement	Any unregistered supplier	Promoter/builder

**Supplies of Services on which GST is to be paid under RCM**

<b>Sr. No.</b>	<b>Description of services</b>	<b>Supplier of services</b>	<b>Recipient of Services</b>
1	Legal services provided by advocates or firm of advocates	Any individual advocate including senior advocate or firm of advocates.	Any business entity located In taxable territory
2	Service provided by way of sponsorship service to any body corporate or partnership firm	Any person	Any body corporate or partnership firm
3	Service provided by insurance agent	An insurance agent	Any person carrying on insurance business, located in the taxable territory
4	Security service (service provided by way of supply of security personnel) provided by other than body corporate	Any person other than body corporate	Any registered person located in taxable territory
5	Supply of services by the member of overseeing committee to reserve bank of India	Member of overseeing committee constituted by RBI	RBI
6	Any service supplied by any person who is located in non-taxable territory to any person other than a non-taxable online recipient	Any person located in a non-taxable territory	Any person located in taxable territory other than non-taxable online recipient
7	Import of services	Any person located in non-taxable territory	Any person located in taxable territory other than non-taxable online recipient

Sr. No.	Description of services	Supplier of services	Recipient of Services
8	<b>Supply of services other than</b> services by way of transfer of development rights (TDR), long term lease of land (30 years or more) against upfront payment (in the form of premium, salami, development charges etc.) or FSI (including additional FSI) by an unregistered person to a promoter for construction of project	Any person	Any promoter
9	Goods transport agency (who has not paid GST @12% inserted vide notification No. 22/2017 integrated tax rate dated 22.08.2017) in respect of transportation of goods by road	Goods transport agency	Any registered factory , any registered society, any co-operative society established by law, any person registered under CGST / SGST / IGST / UTGST act , any body corporate, any partnership firm whether registered or not under any law, casual taxable person
10	Transfer or permitting the use or enjoyment of a copyright relating to music, an author, composer, photographer and artistic work	Author or music composer, photographer etc.	Publisher, music company , producer
11	Radio taxi or passenger transport services provided through an electronic commerce operator	Taxi driver or rent a cab operator	Electronic commerce operator
12	Service supplied by a director of a company /body corporate to the said company /body corporate	Any director of a company/ body corporate	Company or body corporate located in a taxable territory

### 13. Renting of Motor Vehicle ([Notification No.29/2019 dated 31.12.2019](#))

	Description of service	Supplier of service	Recipient of service
<b>REVISED Provision</b>	Services provided by way of renting of <b>any motor vehicle designed to carry passengers</b> where the <b>cost of fuel is included</b> in the consideration charged from the service recipient provided to a body corporate	Any person other than body corporate <b>who supplies the service to a body corporate</b> and does not issue an invoice charging CGST @6% to service recipient	Any body corporate located in the taxable territory

---