

REVERSE CHARGE

BASIC CONCEPT OF CHARGING TAX

- * The supplier is liable to tax.
- * Tax is levied on supplier; he is liable to pay tax and also comply with all of the other provisions of the CGST Act, 2017 or other law under which the supply is to be taxed.
- * Supplier issues tax invoice/bill of supply ; collects tax; makes payment of tax.
 - But in relation to certain goods or services or both notified by Government, instead of the supplier, the recipient is made liable to collect tax, make payment of tax.
- * This method levy and collection of tax is called **REVERSE CHARGE**.
 - The concept of reverse charge is an exception to general principle of levy of tax.
 - In reverse charge method the recipient is made liable to pay tax in place of the supplier.
 - Recipient is liable for all other provisions of the Act as if he is the person liable .

REVERSE CHARGE

DEFINITION OF REVERSE CHARGE

Section 2(98) of the CGST Act, 2017 defines reverse charge as under:

‘Reverse charge’ means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9 or sub-section (3) or sub-section (4) of section 5 of the Integrated Goods and Services Tax Act.

Applicability of definition of reverse charge

Reverse charge as per definition applies to following supplies made under the statutes referred to therein:

Sub-section(3) of section 9 the CGST Act, 2017; or

Sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017. Sub-section (4) of section 9 the CGST Act, 2017;

Sub-section (4) of section 5 of the Integrated Goods and Services Tax Act, 2017.



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SUB-SECTION (3) OF SECTION 9 OF CGST ACT AND SUB-SECTION (3) OF SECTION 5 OF IGST

9(3) of the CGST Act

The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

5(3) of IGST Act

The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

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Both of the provisions are identically worded and shall carry the same effect under the respective laws viz., CGST Act, 2017 and IGST Act, 2017.

Reverse charge applies on notified specified categories of goods or services or both

Not applicable on all goods or services or both.

Applies only to such goods or services or both which have been notified to be liable to tax by reverse charge by the Central government on recommendations of the GST Council.

Incidence of tax shifts to recipient

Incidence of tax shifts from supplier to recipient of goods or services or both. Recipient is liable to pay the applicable tax.

All provisions of the Act apply as if recipient is person liable to pay tax

Deeming provisions under the CGST Act, 2017 and IGST act, 2017

Substitute the supplier by recipient.

Assumption due to legal fiction that instead of supplier recipient of goods or service or both is the person liable to pay tax in relation to such goods or services.

The provisions of the respective applicable law viz., CGST Act, 2017 or IGST Act, 2017 as applicable shall apply on the recipient as these applied on supplier.

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Meaning of person used in reverse charge

- * Person used in reverse charge means as defined under Clause (84) of section 2. Person is wider than the 'taxable person' used in charging sub-section(1) of section 9.
- * Reverse charge is thus applicable to all recipients whether registered or not.
- * All recipients mean all persons regardless of their registration status.
- Person means all persons registered or not . A recipient person if not registered and becomes liable then as per section 24(iii) requires compulsory registration as a person liable to pay tax under reverse charge.

SUB-SECTION (4) OF SECTION 9 OF CGST ACT AND SUB-SECTION (4) OF SECTION 5 OF IGST

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9(4) of the CGST Act

The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services

5(4) of IGST Act

The integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

REVERSE CHARGE

Both of the provisions are identically worded and shall carry the same effect under the respective laws viz., CGST Act, 2017 and IGST Act, 2017.

Reverse charge applies on supply of taxable goods or services or both

A taxable supply shall be that supply which is not exempt from tax.

Supply by a supplier who is not registered to a registered person

Two conditions

- (i) the supplier of goods or services or both is a registered person;
- (ii) the recipient of goods or services or both is a registered person.

In such a situation whether the supply is intra state liable to sub-section (4) of section 9 of the CGST Act or the supply is inter-state liable to sub-section (4) of section 5 of the IGST Act, 2017, the recipient shall be liable to pay tax.

Incidence of tax shifts to recipient

All provisions of the Act apply as if recipient is person liable to pay tax

SITUATION IF RECIPIENT IS NOT REGISTERED PERSON

A person if liable to pay tax under reverse charge is liable for compulsory registration [sec 24(iii) ; taxable quantum does not apply to him.

PREPARE INVOICE FOR HIMSELF ON BEHALF OF SUPPLIER

PAY TAX

FILE RETURN



REVERSE CHARGE

RATE OF TAX IF RECIPIENT IS THE PERSON PAYING TAX UNDER COMPOSITION ?

COMPOSITION RATE BECAUSE SECTION 10 BEGINS WITH 'notwithstanding anything contrary contained in this Act' 'but subject to sub-sections (3) and (4) of section 9'

Meaning of notwithstanding

The non-obstante clause '*notwithstanding anything contrary contained in the Act*' means provisions of section 10 shall override any other provisions of this Act.

Subject to sub-sections (3) and (4) of section 9

composition levy under section 10(1) is not absolute and shall apply in accordance of the provisions of sub-sections (3) and (4) of section 9.

Thus if a recipient is paying tax by composition the person shall not pay tax at composition rate but shall pay tax required to be paid.



Thank You

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