

**GOVERNMENT OF ASSAM**  
**OFFICE OF THE COMMISSIONER OF TAXES, ASSAM :: KAR BHAWAN**  
**DISPUR, GUWAHATI-6**

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**CIRCULAR NO. 84/2020-GST**

Dated Dispur the 21st April, 2020.

**Subject: Reverse Charge Mechanism (RCM) on renting of motor vehicles -reg.**

**No. CT/GST-15/2017/317.**— Suppliers of 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 have an option to pay GST either at 5% with limited ITC (of input services in the same line of business) or 12% with full ITC.

2. The GST Council in its 37<sup>th</sup> meeting dated 20.09.2019 examined the request to place the supply of renting of motor vehicles under RCM and recommended that the said supply when provided by suppliers paying GST @ 5% to corporate entities may be placed under RCM. RCM was not recommended for suppliers paying GST @12% with full ITC, so that they may have the option to continue to avail ITC. RCM otherwise would have blocked the ITC chain for them. Accordingly, the following entry was inserted in the RCM notification with effect from 1.10.2019:

| Sl. No. | Category of Supply of Services   | Supplier of service  | Recipient of Service                                 |
|---------|--|--|--|
| (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 State 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. |

3. Post issuance of the notification, references have been received stating that when a service is covered by RCM, GST would be paid by the service recipient and not by the supplier. Therefore, the wording of the notification that “any person other than a body corporate, paying State tax at the rate of 2.5%” is not free from doubt and needs amendment/ clarification from the perspective of drafting.
4. The matter has been examined. When any service is placed under RCM, the supplier shall not charge any tax from the service recipient as this is the settled procedure in law under RCM. There are only two rates applicable on the service of renting of vehicles, 5% with limited ITC and 12% with full ITC. The only interpretation of the notification entry in question which is not absurd would be that –
- (i) where the supplier of the service charges GST @ 12% from the service recipient, the service recipient shall not be liable to pay GST under RCM; and,

- (ii) where the supplier of the service doesn't charge GST @ 12% from the service recipient, the service recipient shall be liable to pay GST under RCM.
5. Though a supplier providing the service to a body corporate under RCM may still be paying GST @ 5% on the services supplied to other non body corporate clients, to bring in greater clarity, serial No. 15 of the notification No. 13/2017- (Rate) is being amended *vide* notification No. 29/2019- (Rate) to state that 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:-
- is other than a body-corporate;
  - does not issue an invoice charging GST @12% (6% CGST + 6% Assam GST) from the service recipient; and
  - supplies the service to a body corporate.
6. It may be noted that the present amendment of the notification is merely clarificatory in nature and therefore for the period 01.10.2019 to 30.12.2019 also, clarification given at para 5 above shall apply, as any other interpretation shall render the RCM notification for the said service unworkable for that period which is not permissible in law.
7. This Circular is clarificatory in nature and not meant for any interpretation of provisions of the Act and rules.
8. Difficulties, if any, in implementation of the above instructions may be brought to the notice of the Commissioner at an early date.
9. This Circular shall be deemed to have been issued on 31st December, 2019.


Sd/= Anurag Goel,  
Commissioner of State tax, Assam,  
Dispur, Guwahati

Memo No. CT/GST-15/2017/317-A

Dated Dispur the 21st April, 2020.

Copy to :

- The Commissioner & Secretary to the Government of Assam, Finance (Taxation) Department, Dispur, Guwahati-6 for favour of kind information.
- The Commissioner of Central GST, Guwahati / Dibrugarh for information.
- The Additional Commissioner of State tax (All) / Joint Commissioner of State tax (All)/ Deputy Commissioner of State tax (All) / Assistant Commissioner of State tax (All) / Superintendent of State tax (All) / Inspector of State tax (All) for information and necessary action.
- The Information Technology Officer, Office of the Commissioner of State tax, Assam for uploading it on the website of the Commissionerate for information of all concerned.

  
Commissioner of State tax, Assam,  
Dispur, Guwahati