



# GST implications on Co-operative Societies & Banks

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# Part A –Housing Society



# Taxability & exemptions

# Section 7 of CGST Act – Scope of Supply

## Supply

### Includes:

**a) All forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal**

- **made or agreed to be made**
  - **for a consideration**
  - **by a person**
  - **in the course or furtherance of business**
- b) Import of services for a consideration whether or not in the course or furtherance of business
- C) The activities specified in Schedule I, made or agreed to be made without a consideration
- d) The activities to be treated as supply of goods or supply of services as referred to in Schedule II.

### Excludes:

- a) The activities specified in Schedule III
- b) Notified goods and services

## Section 2(17) of CGST Act - Definition of term 'Person'

Person Includes:

(a) *an individual;*

(b) *a Hindu Undivided Family;*

(c) *a company;*

(d) *a firm;*

(e) *a Limited Liability Partnership;*

(f) ***an association of persons or a body of individuals, whether incorporated or not, in India or outside India;***

(g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013

(h) any body corporate incorporated by or under the laws of a country outside India

**(i) *a co-operative society registered under any law relating to co-operative societies;***

(j) .....

(k).....

**(l) *society as defined under the Societies Registration Act, 1860;***

(m) ***trust***

(n) .....

## Section 2(17) of CGST Act - Definition of term 'Business'

Business includes:

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) .....
- (c) .....
- (d) .....
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- (f) admission, for a consideration, of persons to any premises;
- (g).....
- (h).....
- (i).....

# Whether any exemption is allowed to housing society?

Supply of service by Residential Welfare Association (unincorporated body or a non-profit entity registered under any law) **to its own members** by way of reimbursement of charges or share of contribution up to an amount of Rs. 7500 per month per member for providing services and goods **for the common use of its members** in a housing society or a residential complex are exempt from GST

- As per clause (c) of Sl. No. 77 to the notification No. 12/2018-Central Tax (Rate), dated 28-6-2019

Prior to 25th January, 2018, the exemption was available if the charges or share of contribution did not exceed Rs. 5000/- per month per member.



## What if Member has more than one Flat...

Where a **person owns two or more flats** in the housing society or residential complex, **whether the ceiling of Rs. 7500/- per month per member** on the maintenance for the exemption to be available shall be applied **per residential apartment or per person?**

As per general business sense, a person who owns two or more residential apartments in a housing society or a residential complex shall normally be a member of the RWA for each residential apartment owned by him separately. **The ceiling of Rs. 7500/- per month per member shall be applied separately for each residential apartment owned by him.**

For example, if a person owns two residential apartments in a residential complex and pays Rs. 15000/- per month as maintenance charges towards maintenance of each apartment to the RWA (Rs. 7500/- per month in respect of each residential apartment), the exemption from GST shall be available to each apartment.

**Circular 109/28/2019- GST dt 22-09-2019**



# Entire consideration taxable or only in excess of 7500...

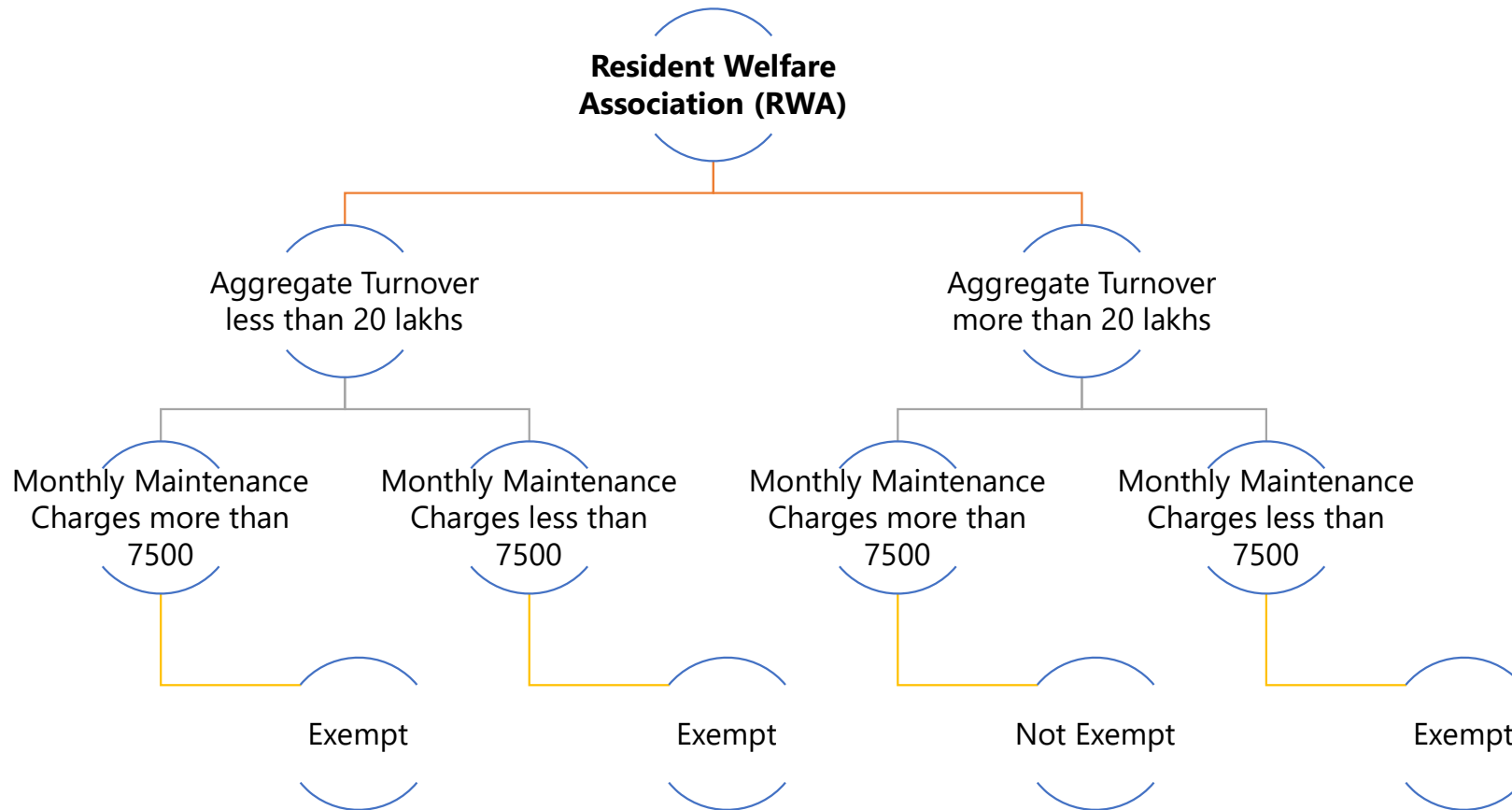
How should the RWA calculate GST payable where the **maintenance charges exceed Rs. 7500/per month per member? Is the GST payable only on the amount exceeding Rs. 7500/- or on the entire amount of maintenance charges?**

The **exemption from GST** on maintenance charges charged by a RWA from residents is available only **if such charges do not exceed Rs. 7500/- per month per member**. In case the charges exceed Rs. 7500/- per month per member, the **entire amount is taxable**.

For example, if the maintenance charges are Rs. 9000/- per month per member, GST @ 18% shall be payable on the entire amount of Rs. 9000/- and not on [Rs. 9000 Rs. 7500] = Rs. 1500/-

Circular 109/28/2019- GST dt 22-09-2019

# Exemption From Registration



# Taxability of Housing Society


Taxability of Housing Society									
CASE	Contribution from Member				Other Receipt		Total Receipt during the FY	Whether Liable to Register	Tax Payable On
	Up-to Rs.7,500		7500 above		Exempted Receipt	Taxable Receipt			
	Contribution	Total Receipt	Contribution	Total Receipt	(eg. Interest Income)	(Eg. Renting of Tower)			
CASE I	5,000	21,00,000	0	0	0	0	21,00,000	No	0
CASE II	5,000	15,00,000	0	0	6,00,000	0	21,00,000	No	0
CASE III	5,000	15,00,000	0	0	0	6,00,000	21,00,000	Yes	6,00,000
CASE IV	3,000	15,00,000	7,800	2,50,000	0	0	17,50,000	No	0
CASE V	3,000	15,00,000	7,800	10,00,000	0	0	25,00,000	Yes	10,00,000
CASE VI	0	0	7,800	17,50,000	0	0	17,50,000	No	0
CASE VII	0	0	7,800	17,50,000	4,00,000	0	21,50,000	Yes	17,50,000
CASE VIII	0	0	7,800	17,50,000	0	4,00,000	21,50,000	Yes	21,50,000
CASE IX	0	0	0	0	25,00,000	0	25,00,000	No	0
CASE X	0	0	0	0	0	25,00,000	25,00,000	Yes	25,00,000
CASE XI	3,000	9,00,000	7,800	5,00,000	4,00,000	4,00,000	22,00,000	Yes	9,00,000




# Treatment of various supplies by co-operative society

# Property Tax & Electricity Charges of respective Flats

Property Tax Collected by Society and paid to Government on behalf of Members



A society is a mere collecting agent and pays the same to the authority.



As Society act merely as Pure Agent, no service portion is involved. Therefore not Liable to tax. However it is advisable to have separate invoice for this.

# Property Tax & Electricity Charges of Common Facilities

**Property Tax paid to Government by Society in respect of common facilities?**

Property tax on common area  
- This is taxable subject to limit of exemption of 7500

**Property tax on parking which is sold to member?**  
- As it is separately identifiable for each member, this is pure agent service.

This view is upheld in case of PRESTIGE SOUTH RIDGE APARTMENT OWNERS' ASSOCIATION 2019 (30) G.S.T.L. 107 (A.A.R. - GST) by Advance Ruling Authority

# Sinking/Corpus/ Building Fund

## What is Sinking Fund/building fund?

- Fund collected for major repairs like Painting, Lift or structural repairs of building in future

## Whether it is Taxable?

- It is used by society in future for its member for development. Therefore it will be treated as service and will be taxable on receipt basis.

## Whether it is covered for calculating exemption limit?

- Yes, as it is contribution from member for common purpose it will be counted for 7500 limit.

C.B.E. & C. Flyer No. 41, dated 1-1-2018



# Decision on Sinking Fund by Advance Ruling Authority

Deposit given in respect of a future supply shall not be considered as payment made for such supply until the supplier applies such deposit as consideration. In the instant case the Corpus/Sinking fund so collected is the amount collected towards the future supply of service and accordingly gets applied as consideration towards supply of services only at the time of actual supply of services.

Therefore the amounts collected towards Corpus/Sinking Fund do not form part of consideration towards supply of services at the time of collection and hence is not liable to GST, at the time of collection.

However the amounts so utilized for provision of service are liable to tax at the time of actual supply of service and the time of supply has to be determined in terms of Section 13 of the CGST Act, 2017

2020 (32) G.S.T.L. 462 (A.A.R. - GST - Kar.) - VAISHNAVI SPLENDOUR HOME OWNERS WELFARE ASSOCIATION  
2019 (30) G.S.T.L. 107 (A.A.R. - GST) - PRESTIGE SOUTH RIDGE APARTMENT OWNERS' ASSOCIATION

# Maintenance and Repair Charges

## What is Maintenance and Repair charges?

- 'Maintenance' as the name suggest is the amount collectively reimbursed to the society to upkeep and maintain the building and premises on regular basis.

## What type of Charges are included in this?

- Electricity charges for common areas, watchman or security charges and other miscellaneous expenses incurred by the society including accounting, audit etc. is part of maintenance charges.

## Whether it is Taxable?

- Yes, subject to limit of exemption of 7500.

# Share Transfer Fees

## What is Share Transfer Fees?

- Share transfer fees are the amount charged by the society for transfer of shares by member

## Whether it is Taxable?

- Yes, it is taxable.

## Whether it is covered for calculating exemption limit?

- No, it is not covered in exemption as it is not contribution for sourcing of service from third person

# Non-occupancy charges

## What is Non occupancy Charges?

- Non occupancy charges are charges levied by a housing society only when a flat or unit is let out by its members

## Whether it is Taxable?

- Yes, it is taxable.

## Whether it is covered for calculating exemption limit?

- No, it is not covered in exemption as it is not contribution for sourcing of service from third person

# Parking charges

## What are Parking Charges?

- Charges to regulate the parking place between the members and providing of space by use of vacant land belonging to the society for a consideration.

## Whether it is Taxable?

- Yes, it is taxable.

## Whether it is covered for calculating exemption limit?

- No, it is not covered in exemption as it is not contribution for sourcing of service from third person

# Water charges

## What is Water Charges?

- The society is not selling the water to its members. It is just providing the pipeline to deliver water in the members' premises

## What is role of Society in This?

- Billing by Municipal corporation in the name of society and then on some basis society collect charges from member.

## Whether it is Taxable?

- Yes, as it is again contribution from member for common use of its member. This is taxable subject to limit of exemption of 7500.

## What about common Water used like Swimming Pool?

- It is also taxable subject to limit of exemption of 7500.

## What if different meter is provided for each member?

- It will fall under pure agent service, so not taxable.

# Other charges

What about other charges that are levied to members / visitors?

For E.g.

- a) Rental for Mobile tower
- b) Hording charges
- c) Use of terrace for function of non member or member
- d) Interest on default charges

Yes, GST will be applicable on above mentioned charges.



# Taxability Example

Particulars	Whether count for 7500 Limit	Case I	Case II	Case III	Case IV	Case V
Maintenance and repair charges	Yes	6500	4500	6000	4000	4000
Property tax (Considering Pure agent/2 <sup>nd</sup> Clause)	No	0	1000	0	0	1000
Sinking Fund	Yes	0	0	2000	0	4000
Share transfer fees	No	0	0	0	0	200
Non-occupancy charges	No	0	0	0	200	300
Parking Charges	No	0	0	500	300	500
Water charges	Yes	0	0	500	0	500
Club house, swimming charges	No	0	0	0	0	0
<b>Total Receipt</b>		6500	5500	9000	4500	10500
<b>Receipt eligible for exemption</b>		6500	4500	8500	4000	8500
<b>Exemption Allowed?</b>		Yes	Yes	No	Yes	No
<b>Exempted portion</b>		6500	4500	0	4000	0
<b>Non Taxable portion</b>		0	1000	0	0	1000
<b>Taxable portion</b>		<b>0</b>	<b>0</b>	<b>9000</b>	<b>500</b>	<b>9500</b>



## Part B – Banks



# Taxability & exemptions

# Whether interest is supply??

## Services

- Services means anything other than **goods, money and securities** , But includes **activities relating to the use of money** or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

## Goods

- “goods” means every kind of **movable property other than money and securities** but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply

## Exemption

- Services by way of:
- (a) extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services);
- (b) inter se sale or purchase of foreign currency amongst banks or authorised dealers of foreign exchange or amongst banks & such dealers.

# Other exemptions

Services by an **acquiring bank**, to any person in relation to settlement of an amount up-to two thousand rupees in a single transaction transacted through credit card, debit card, charge card or other payment card service.

Explanation.— For the purposes of this entry, “**acquiring bank**” means any banking company, financial institution including non-banking financial company or any other person, who makes the payment to any person who accepts such card.

Services by the following persons in respective capacities –

- (a) **business facilitator** or a **business correspondent** to a **banking company** with respect to accounts in its rural area branch;
- (b) any person as an **intermediary** to a **business facilitator** or a **business correspondent** with respect to services mentioned in entry (a); or
- (c) **business facilitator** or a **business correspondent** to an **insurance company** in a **rural area**.

“business facilitator or business correspondent” means an intermediary appointed under the business facilitator model or the business correspondent model by a banking company or an insurance company under the guidelines issued by the Reserve Bank of India

“banking company” has the same meaning as assigned to it in clause (a) of section 45A of the Reserve Bank of India Act, 1934 (2 of 1934);

## Other exemptions

Sr No.	SAC Code	Nature of Services	Rate	Conditions
26	Heading 9971	Services by the Reserve Bank of India.	Nil	Nil
27A	Heading 9971	Services provided by a banking company to Basic Saving Bank Deposit (BSBD) account holders under Pradhan Mantri Jan Dhan Yojana (PMJDY).	Nil	Nil
37	9971/9991	Services by way of collection of contribution under the Atal Pension Yojana	Nil	Nil
38	9971/9991	Services by way of collection of contribution under any pension scheme of the State Governments	Nil	Nil

*Notification No. 12/2017-Central Tax (Rate), dated 28-6-2017 and [Notification No. 28/2018-C.T. (Rate), dated 31-12-2018]*

# Other exemptions

**[Notification No. 2/2017-Central Tax (Rate), dated 28-6-2017]**

Sr. No	Chapter/ Heading/ Sub- heading	Description of Goods
117.	48/4907	Rupee notes when sold to the Reserve Bank of India or Government of India
118.	4907	Cheques, lose or in book form



## Exempt services...

Interest

Profit on sale of  
investments

Dividend

Penal interest

Services to Basic Saving  
Bank Deposit (BSBD)  
account holders under  
Pradhan Mantri Jan Dhan  
Yojana (PMJDY).

Services in relation to  
settlement of an amount  
up-to Rs 2000 in a single  
transaction

# Taxable services supplied by bank...

DD and other  
commission

Loan  
processing  
fees

ATM charges

Credit card  
interest

Prepayment  
charges

Locker rent

Foreign  
exchange  
charges

Letter of credit  
charges

Guarantee  
commission

Entry fees /  
Membership  
fees



# Invoicing provisions

# Rule 47 of CGST Rules - Time limit for issue of invoice

Particulars	Situation	Time limit
<b>In case of supply of services</b>	Banking company or Financial/Non-financial institutions	Before or within 45 days from date of supply of service
	Other cases	Before or within 30 days from date of supply of service
	Supply between distinct persons in case of insurance or banking company or financial institution including NBFC or telecom operator or class of supplier as notified by government	When such supplier records the same in his books of account or before the expiry of the quarter during which the supply was made.

# Section 12 of IGST Act - Place of supply of service (Where supplier and recipient are in India)

## Service

- Banking and other financial services including Stock Broking

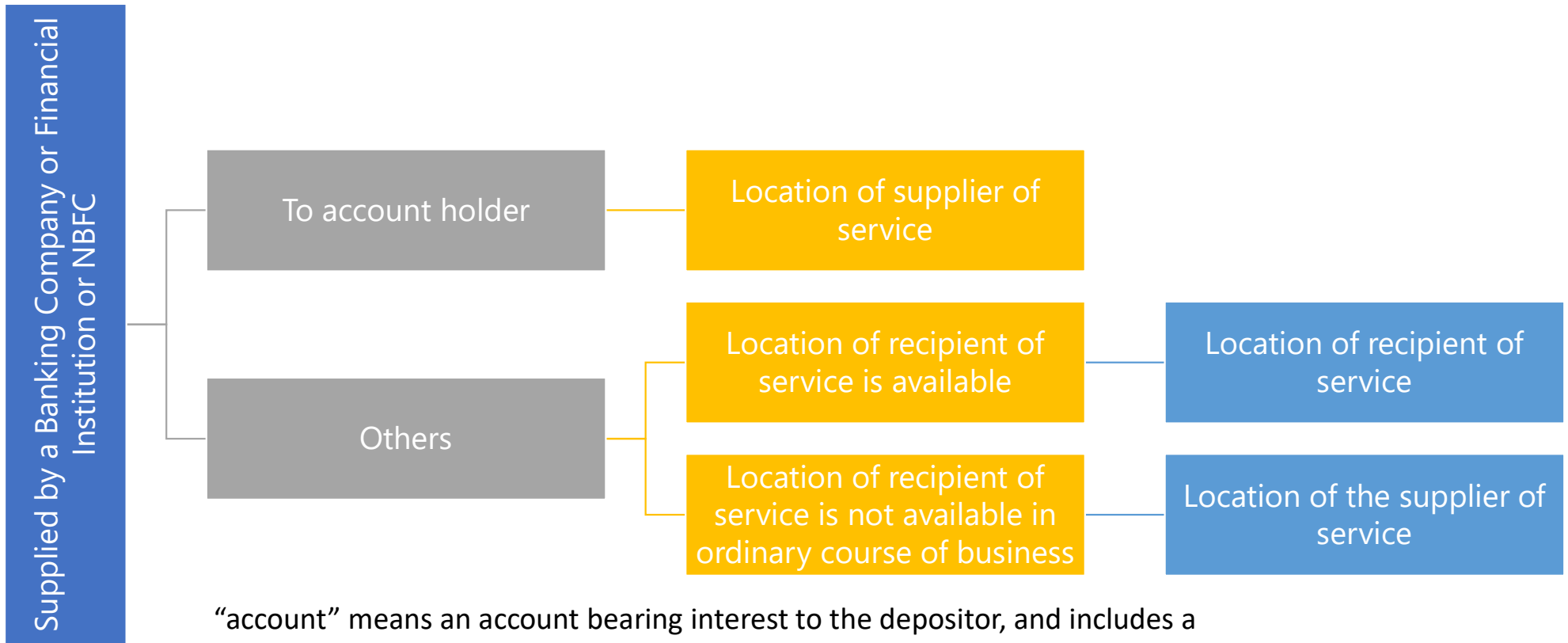
## Default Rule

- Location of the recipient of services on the records of the supplier of service

## If not available

- Location of the supplier of the service

# Section 13 of IGST Act - Place of supply of service (Where supplier or recipient are outside India)



“account” means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;

# SAC classification

<b>174</b>	<b>Section 7</b>		<b>Financial and related services; real estate services; and rental and leasing services</b>
<b>175</b>	<b>Heading 9971</b>		<b>Financial and related services</b>
<b>176</b>	<b>Group 99711</b>		<b>Financial services (except investment banking, insurance services and pension services)</b>
<b>177</b>		997111	Central banking services
<b>178</b>		997112	Deposit services
<b>179</b>		997113	Credit-granting services including stand-by commitment, guarantees and securities
<b>180</b>		997114	Financial leasing services
<b>181</b>		997119	Other financial services (except investment banking, insurance services and pension services)
<b>182</b>	<b>Group 99712</b>		<b>Investment banking services</b>
<b>183</b>		997120	Investment

# Consolidated Invoices

**Bank charges of Rs 25 are levied at time of each NEFT by bank and there are 250 such transactions by business house in a month.**

**- Can bank issue one invoice for a month or separate invoices for each transaction ?**

## **Rule 54 (2) of Central Goods and Services Act, 2017**

Where the supplier of taxable service is an insurer or a banking company or a financial institution, including a non-banking financial company, the said [supplier may issue] a [consolidated tax invoice] or any other document in lieu thereof, by whatever name called [for the supply of services made during a month at the end of the month], whether issued or made available, physically or electronically whether or not serially numbered, and whether or not containing the address of the recipient of taxable service but containing other information as mentioned under rule 46 :

**[Provided** that the signature or digital signature of the supplier or his authorised representative shall not be required in the case of issuance of a consolidated tax invoice or any other document in lieu thereof in accordance with the provisions of the Information Technology Act, 2000 (21 of 2000).]





# Input Tax Credit

# Options for banks / Financial institutions for availing ITC on capital goods

A banking company or a financial institution including a non-banking financial company, engaged in supply of engaged in supplying services by way of accepting deposits, extending loans or advances, shall have the option to avail of, every month, an amount equal to 50% of the **eligible input tax credit** on inputs, capital goods and input services in that month.

The option once exercised shall not be withdrawn during the remaining part of the financial year.

The restriction of 50% will not apply to the tax paid on supplies made by one registered person to another registered person having the same PAN.

The registered person shall not avail the credit of tax paid on inputs and input services that are used for non-business purposes and blocked credits.

The details shall be furnished of remaining 50% of input tax credit admissible to the company in **FORM GSTR-2. (Not Started Yet)**

# Other ITC

Particulars	Deemed 50%	Normal Mechanism
<b>Blocked credits</b> ( Foods and Beverages, Rent a Cab etc)	Nil	Nil
<b>Non-business use</b>	Nil	Nil
<b>Supplies in distinct persons</b>	100%	100%
<b>Inward supplies directly relating to taxable outward supplies</b> ( e.g. - ATM operation charges, ATM audit fees, Credit Card services charges)	50%	100%
<b>Inward supplies used commonly</b> (e.g. – Rent, Professional Fees )	50%	Retention = Aggregate value of exempt supply / (Divided by) Aggregate value of taxable supply + exempt supply



# Registration requirements

# Aggregate Turnover

## “Aggregate Turnover”

### Include

- All Taxable supplies
- Exempt supplies
- Export of goods and services
- Interstate supply of goods between person having same PAN
- Supplies made on account of all principals



### Exclude

- Inward supplies on which tax paid on reverse charge basis
- CGST / SGST / IGST / UGST
- Supply of goods, after completion of job-work, by a registered job worker shall be treated as the supply of goods by the principal

# Separate registration for multiple business verticals within a state

Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as establishments of distinct persons for the purposes of this Act.

One State – One GST Registration Multiple business verticals – Option to avail separate GST Registration

Multiple Place of Business – Multiple Registration Possible

“Business Vertical” means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.



# Other issues

# Whether members will be related party ?

Related parties include

Officers or directors of one another's businesses.

Legally recognised partners in business.

Employer and employee.

Directly or Indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them.

One of them directly or indirectly controls the other.

Both of them are directly or indirectly controlled by a third person.

Together they directly or indirectly control a third person.

Members of same family.

Persons who are associated in the business of one another in that one is the sole agent or sole distributor or sole concessionaire.

**Note: Person includes legal person.**



# Other Issues

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## Related Party Transactions

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Concession in processing fees

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Less bank charges

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Lower rate of interest = Though exempt – Will impact if 50% scheme not opted for

## Reverse Charge Mechanism

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Services supplied by a recovery agent to a banking company or a financial institution or a NBFC

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Services Supplied by Individual Direct Selling Agent to Banking company/financial institution/NBFC

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Services provided by business facilitator (BF) to a banking company

# AAR - RAJKOT NAGARIK SAHAKARI BANK LTD

<b>Question 1</b>	<b>In the facts and circumstances of the case whether Refundable Interest Free Deposit received could be treated as Supply under the provisions of Goods and Services Tax Act, 2017? And chargeable to tax in the hands of the applicant?</b>
Answer 1	The monetary value of the act of providing refundable interest free deposit is the consideration for the services provided by the RNSB and therefore the services provided by RNSB can be treated as supply and chargeable to tax in the hands of the applicant
<b>Question 2</b>	<b>In the facts and circumstances of the case whether the amount of Rs. 2500 being Refundable interest free deposit, which allows depositor same benefits, would attract GST?</b>
Answer 2	he amount of Rs. 2500/- will not attract the GST but the monetary value of the act of providing this deposit will attract GST
<b>Question 3</b>	<b>In the facts and circumstances of the case, whether first 10 free transactions subject to maximum of rupees 5 Lakh allowed to the Demat account holders depositing Refundable interest free deposit would attract GST?</b>
Answer 3	The first 10 free transactions allowed to the demat account holder are in the nature of discount and will not attract GST subject to the fulfillment of the conditions prescribed under Section 15(3) of the CGST & GGST Act, 2017.



**Hope this Presentation has  
enriched your knowledge on  
GST..  
Thank you!!**

For clarification of any issues connect - [jugal.doshi@doshirc.in](mailto:jugal.doshi@doshirc.in)