

Treading the GST Path - XXXVI

GST on travels business.

(G. Natarajan, Advocate, Swamy Associates)

The following basic facts have to be kept in mind.

- The business is carried out by the service provider, who may not own the vehicle, but would rent / hire the vehicles from vehicle owners.
- Two types of services are recognised under GST law (also under the erstwhile Service Tax law) viz., (i) Renting the vehicle to companies for staff transportation, renting to individuals / groups for tour, picnic, etc.; and (ii) Passenger transportation services where the fare is collected directly from the passengers.

I. Rental Services :

A. Renting of "motor cab" by a Travel Agency from Vehicle owners.

"Motor cab" means vehicles upto 6 passenger capacity as per the definition under the Motor Vehicles Act.

If the vehicle owners are registered, they have to pay GST and if they are not registered, GST has to be paid by the Travel Agency (registered) who are taking the vehicles from such unregistered owners. This reverse charge is not applicable for all payments made on or after 13.10.2017 to 31.03.2018 (Notification 38/2017 CT (Rate) Dt. 13.10.2017).

Rate of GST 5 % as per S.No. 10 of Notification 11/2017 CT (Rate) Dt. 28.06.2017. The consideration should include the cost of fuel also. If GST is paid by the vehicle owner, he cannot avail any ITC for his inputs, input services and capital goods.

B. Renting of other vehicles by Travel Agency from vehicle owners.

If the vehicle owners are registered, they have to pay GST and if they are not registered, GST has to be paid by the Travel Agency (registered) who are taking the vehicles from such unregistered owners. This reverse charge is not applicable for all payments made on or after 13.10.2017 to 31.03.2018 (Notification 38/2017 CT (Rate) Dt. 13.10.2017).

Rate of GST 18 % as per S.No. 10 of Notification 11/2017 CT (Rate) Dt. 28.06.2017 upto 12.10.2017.

With effect from 13.10.2017.

5 % GST – if the cost of the fuel is also included in the consideration. If the vehicle owners are not registered, there is no need to pay under RCM as RCM has been suspended till 31.03.2018.

If the cost of fuel is not included in consideration, then the GST rate would be 12 %.

The above changes are made vide Notification 31/2017 CT (Rate) Dt. 13.10.2017.

C. Renting of "motor cab" by Travel Agency to customers.

Motor cab means vehicles upto 6 passenger capacity.

Rate of GST 5 % as per S.No. 10 of Notification 11/2017 CT (Rate) Dt. 28.06.2017. The consideration should include the cost of fuel also. No ITC can be claimed. Even the GST paid on renting of vehicles from vehicle owners also cannot be claimed.

If any ITC is availed, the rate of tax is 18 %.

The above position is from 01.07.2017 to 21.08.2017.

With effect from 22.08.2017,

Rate of GST 5 % as per S.No. 10 of Notification 11/2017 CT (Rate) Dt. 28.06.2017. The consideration should include the cost of fuel also. NO ITC can be claimed.

If ITC is availed, the rate of tax is reduced to 12 %. (Vide Notification 20/2017 CT (Rate) Dt. 22.08.2017)

The above position continued upto 12.10.2017.

With effect from 13.10.2017, the distinction between motor cab and other vehicles has been removed. Renting of all motor vehicles would attract the following rates, subject to following conditions.

5 % GST – if the cost of the fuel is also included in the consideration and no ITC other than ITC in respect of vehicles rented from vehicle owners are availed. In other words, ITC in respect of the GST paid by vehicle owners (if they are registered) to Travel Agencies, can be availed by the Travel Agency. If the vehicle owners are not registered, there is no need to pay under RCM as RCM has been suspended till 31.03.2018.

If the above conditions are not satisfied (i.e. if all other ITC is availed, or if cost fuel is separately borne), then the GST rate would be 12 %.

The above changes are made vide Notification 31/2017 CT (Rate) Dt. 13.10.2017.

D. Rental services of other vehicles other than Motor cab by Travel Agency to customers.

Rate of GST is 18 % from 01.07.2017 to 12.10.2017.

With effect from 13.10.2017 - 5 % GST – if the cost of the fuel is also included in the consideration and no ITC other than ITC in respect of vehicles rented from vehicle owners are availed. In other words, ITC in respect of the GST paid by vehicle owners (if they are registered) to Travel Agencies, can be availed by the Travel Agency. If the vehicle owners are not registered, there is no need to pay under RCM as RCM has been suspended till 31.03.2018.

If the above conditions are not satisfied (i.e. if all other ITC is availed, or if cost fuel is separately borne), then the GST rate would be 12 %.

The above changes are made vide Notification 31/2017 CT (Rate) Dt. 13.10.2017.

To tabulate,

S.No.	Situation	01.07.2017 to 21.08.2017	22.08.2017 to 12.10.2017	From 13.10.2017
1	Hiring "motor cab" from owners by travel agency, where the owner is registered	5% No ITC. Value to include fuel cost also. If ITC availed 18 %	5% No ITC. Value to include fuel cost also. If ITC availed 12 %.	5% No ITC (ITC can be availed if he is also hiring the vehicle from another person who pays GST). Value to include fuel cost also.
2	Hiring "motor cab" from owners by travel agency, where the owner is not registered	5 % to be paid by the travel agency under RCM	5 % to be paid by the travel agency under RCM	No RCM liability
3	Hiring of other vehicles from owners by travel agency, where the owner is registered	18%	18%	12%
4	Hiring of other vehicles from owners by travel agency, where the owner is not registered	18% to be paid under RCM	18% To be paid under RCM	No RCM
5	Hiring of motor cab to customers	5 % if no ITC availed and cost of fuel is also included in value	5 % if no ITC availed and cost of fuel is also included in value	5 %. ITC of GST paid on hiring of vehicles for subsequent

				hiring alone can be availed
		18 % otherwise	12 % otherwise	12 % otherwise
6	Hiring of all other vehicles to customers	18 %	18 %	12 %

II. Services provided directly to passengers, viz., Transport of Passengers.

Transport of passengers by air conditioned contract carriage (other than motor cab), air conditioned stage carriage and radio taxi – 5 % GST as per S.No.8 (ii) of Notification 11/2017 CT (Rate) Dt. 28.06.2017. No ITC can be taken.

Transport of passengers by motor cab – 5 % GST as per S.No. 8 (vi) of Notification 11/2017 CT (Rate) Dt. 28.06.2017. Cost of fuel also to be included in consideration. NO ITC can be taken.

If the above conditions are not satisfied, rate of GST is 18 % as per S.No. 8 (vii) of Notification 11/2017 CT (Rate) Dt. 28.06.2017.

With effect from 22.08.2017, the following amendment has been made vide Notification 20/2017 CT (Rate) Dt. 22.08.2017.

Transport of passengers by motor cab – 5 % GST as per S.No. 8 (vi) of Notification 11/2017 CT (Rate) Dt. 28.06.2017. Cost of fuel also to be included in consideration. NO ITC can be taken.

If the above conditions are not satisfied, rate of GST is reduced to 12 % as per S.No. 8 (vi) of Notification 11/2017 CT (Rate) Dt. 28.06.2017.

Amendments from 13.10.2017.

Transport of passengers by any motor vehicle, the rate of GST is 5 % if no ITC other than ITC of renting of the vehicles from outside for this purpose is availed. If any other ITC is availed the rate of GST is 12 %.

The above amendments are made vide Notification 31/2017 CT (Rate) Dt. 13.10.2017.

(Published in www.taxindiaonline.com on 23.10.2017)