

Reverse Charge (RCM) U/s 9(4) of CGST Act, 2017

The Charging section is a must in any tax law for levy and collection of tax. Before imposing any tax, it must be ensure that the transaction falls within the ambit of the taxable event and that the person on whom the tax is so imposed, also covered within the scope and ambit of the charging Section. Section 9 is the charging section of the CGST Act, 2017& Sec 5 is the charging section of IGST Act, 2017.

Generally, the person effecting taxable supplies is liable to pay taxes. However, in case of imports & supply of certain goods or services as may be notified by the Government on the recommendations of the GST Council, the tax shall be paid by the recipient, which is called payment under reverse charge.

Definitions

The terms 'reverse charge' means liability to pay tax by the recipient instead of the supplier of goods or services or both. Reverse charge applies to both goods & services.

As per Sec 2(98) of the CGST Act, 2017 '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 under sub-section (3) or sub-section (4) of section 5 of the IGST Act, 2017.

Supplies liable to Tax under Reverse Charge

There are two types of reverse charge scenario provided in GST Law :-

1) Reverse charge U/s 9(3) of CGST Act,2017 and U/s 5(3) of IGST Act, 2017

Certain goods & services has been notified by the Central Government through notification on the recommendation of GST council, on which tax is payable by the specified category of recipient of such goods or services under RCM.

2) Reverse charge U/s 9(4) of CGST Act,2017 and U/s 5(4) of IGST Act, 2017

Supply of taxable goods and/or services or both by an un-registered supplier to a registered person is taxable under reverse charge u/s 9(4) of CGST Act, 2017 and u/s 5(4)

of IGST Act, 2017, in the hands of recipient registered person.

This article is confined to discussion on Reverse charge U/s 9(4) of the CGST Act, 2017.

In respect of Supply of taxable goods and/or services or both by an un-registered Supplier **from 1 July 2017 to 12 October 2017**, to a registered person, it was taxable in

the hands of Registered person U/s 9(4) of CGST Act, 2017. The RCM provision U/s9(4)

of CGST Act/ U/s 5(4) of IGST Act was kept in abeyance from 13 October 2017 till CGST Amendment Act, 2018 came into operation (i.e till 1 Feb 2019), vide Notification

No.38/2017- Central Tax (Rate) Dated 13 October, 2017 & Notification No. 22/2018-

Central Tax (Rate) Dated 6 August 2018.

CGST amendment Act, 2018, which came into operation w.e.f 1 Feb 2019 has amended

the RCM provision U/s 9(4)of CGST Act / U/s 5(4)of IGST Act. Now only specified classes of registered person shall be liable to pay tax under RCM in respect of supply of specified categories of goods or services or both received from un-registered person.

With effect from 1 Feb 2019 the charging provision U/s 9(4) has been amended and

Government has been empowered to notify specific classes of registered person who shall

be liable to pay tax under Reverse charge on supply received from specified class of

goods & services from un-registered person.

List of goods or services covered under RCM U/s 9(4) of CGST Act, 2017

In exercise of the powers conferred by section 9(4) of the Central Goods and Services Tax Act, 2017 , the Central Government, on the recommendations of the Council, has notified that the registered person specified in column (3) of the table below, shall in respect of supply of goods or services or both specified in column (2) of the Table below, received from an unregistered supplier shall pay tax on reverse charge basis as recipient of such goods or services or both.

Notification No.07/2019-Central Tax (Rate) Dated 29-03-2019 (W.e.f 1 April 2019)

SI No.	Category of supply of goods and services	Recipient of goods and services
1	<p>Supply of such goods and services or both [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of Premium, salami, development charges etc.) or FSI (including additional FSI)] which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 11/ 2017- Central Tax (Rate), dated 28th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, published in Gazette of India vide G.S.R. No. 690, dated 28th June, 2017, as Amended.</p>	Promoter
2	<p>Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a</p>	Promoter

	<p>promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 11/ 2017-Central Tax (Rate), dated 28th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, published in Gazette of India vide G.S.R. No. 690, dated 28th June, 2017, as amended.</p>	
3	<p>Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) supplied to a promoter for construction of a project on which tax is payable or paid at the rate prescribed for items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, in notification No. 11/ 2017-Central Tax (Rate), dated 28th June, 2017, published in Gazette of India vide G.S.R. No. 690, dated 28th June, 2017, as amended.</p>	Promoter

Source courtesy: CAclubindia