
RENTING OF IMMOVABLE PROPERTIES UNDER GST

INTRODUCTION

According to the GST Act, renting or leasing out an immovable property would be treated as a supply of services as per section 7 of the CGST Act, 2017.

- From October 1, 2024 onwards if an unregistered landlord renting out commercial property to a registered tenant, the Reverse Charge Mechanism (RCM) applies, where the tenant must pay the GST.
- For residential properties, prior to July 18, 2022, renting for residential purposes was GST-exempt. Now, if a registered person rents a residential property for personal use, GST is applicable under RCM, making the tenant responsible for paying the tax. GST is not levied if the property is rented to an unregistered person for residential purposes or if a registered person uses it for their own residence.



**GST on
Rental
Immovable
Property**



EXEMPTION OF GST LEVIED ON RENTING OF IMMOVABLE PROPERTY

As per Entry No. 12 of **Notification No. 12/2017-Central Tax(Rate)** dated 28-06-2017, Services by way of renting of residential dwelling for use as residence 87[except where the residential dwelling is rented to a registered person].

For the purpose of exemption under this entry, this entry shall cover services by way of renting of residential dwelling to a registered person where, –

- The registered person is proprietor of a proprietorship concern and rents the residential dwelling in his personal capacity for use as his own residence and Such renting is on his own account and not that of the proprietorship concern.]
- Renting of property by charitable or religious institutions for certain purposes.



LEGAL PROVISIONS FOR RENTING OF IMMOVABLE PROPERTY

CGST Act, 2017:

- Scope of supply as per Section 7
- Liability discharged under RCM as per Section 9(3)
- Person liable for registration as per Section 22

Notification No. 11/2017-Central Tax (Rate): Specifies GST rates applicable to renting services.

Notification No. 12/2017-Central Tax (Rate): Lists of exemptions, including residential properties used for residential purposes and certain charitable uses.

Notification No. 13/2017-Central Tax (Rate): Specifies GST payable under RCM.

Circular No. 177/09/2022-GST: Clarified the taxation of residential properties rented for business purposes.

APPLICABILITY OF GST UNDER FCM OR RCM

Nature of Transaction	Supplier	Recipient	Whether RCM or FCM applicable	Remarks
Residential property rented for residential purposes	Any Person	Registered person	N/A	No GST, if used solely for residential purposes.
Residential property rented for business purposes (registered tenant)	Any Person	Registered person	RCM	Service Receiver (if registered) is liable to pay GST under RCM.
Residential property rented for business purposes (unregistered tenant)	Registered person	UN- Registered person	FCM	Service Provider liable to pay GST.
Renting by government/ local authorities to registered persons for commercial purposes	Central Government, State Government, Union territory or local authority	Registered person	RCM	Service Receiver (if registered) is liable to pay GST under RCM.
Commercial property rented by registered landlord to either registered/ unregistered tenant (e.g., offices, shops, factories)	UN- Registered person	Registered person	RCM	Service Receiver (if registered) is liable to pay GST under RCM.
Commercial property rented by registered landlord to either registered/ unregistered tenant (e.g., offices, shops, factories)	Registered person	Any Person	FCM	Service Provider liable to pay GST.

PLACE OF SUPPLY FOR RENTING OF IMMOVABLE PROPERTY

If intra state supply of services then CGST and SGST will be levied and for inter state supply IGST will be charged.

Place of immovable property decides the place of supply. If location of landlord i.e supplier of service and place of supply of immovable property is within same state then CGST and SGST will be charged and if location of landlord and place of supply of immovable property is in different state then IGST will be charged. Here, location of tenant is not important.

Let understand this more clearly with the help of example –

Location of Supplier of service	Location of property	Location of Service Receiver	CGST/SGST or IGST
Delhi	Delhi	Delhi/Gurgaon	CGST/SGST
Delhi	Gurgaon	Delhi/Gurgaon	IGST

AVAILABILITY OF INPUT TAX CREDIT (ITC) ON RENTING OF IMMOVABLE PROPERTY

Both Supplier and Receiver of Services may be eligible for Input Tax Credit (ITC) on GST paid for renting immovable property, subject to specific conditions:

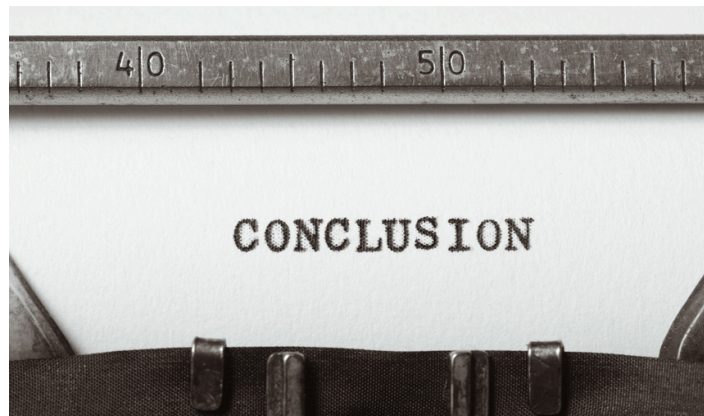
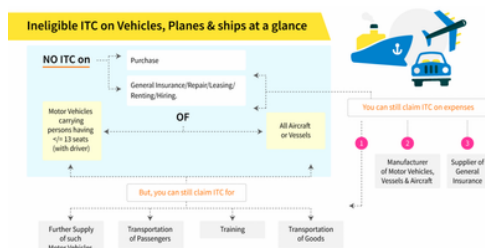
- **Supplier:**

a) Supplier renting out commercial property are eligible to claim ITC on GST paid on inputs and input services (e.g., maintenance, repairs, etc.), provided the property is used for business purposes.

b) No ITC can be claimed on properties used for exempt supplies (e.g., residential properties rented for residential purposes).

- **Receiver:**

a) Service Receiver registered under GST and renting commercial property for business use can avail ITC on the GST paid on rent, as long as the property is used for furtherance of business.



Conclusion

The introduction of GST under the RCM for non-residential rentals from October 10, 2024, represents a significant shift in compliance responsibilities. Businesses should stay informed and adapt accordingly, as this change is intended to create a more uniform and comprehensive tax regime within the rental market.



DISCLAIMER

This publication serves as a general guide for informational purposes only. The references and content provided are for educational purposes and should not be considered as legal advice.



CA Lokesh Aggarwal

Contact: 91-7206659099
Email: calokeshaggarwal52@gmail.com