[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)
[Central Board of Excise and Customs]

Notification No. 12/2017 – Integrated Tax

New Delhi, the 15th November, 2017
24 Kartika,1939 Saka

G.S.R. (E). - In exercise of the powers conferred by sub section (14) of section 12 read with section 22 of the Integrated Goods and Services Tax Act , 2017 (13 of 2017), the Central Government hereby makes the following rules to amend the Integrated Goods and Services Tax Rules, 2017, namely:-

1. Short title and commencement.-(1) These rules may be called the Integrated Goods and Services Tax Amendment Rules, 2017.

(2) They shall be deemed to have come into force on the 1st day of July, 2017.

2. In the said rules, after rule 2, the following rule shall be inserted, namely:-

"3. The proportion of value attributable to different States or Union territories, in the case of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority, under sub section (14) of section 12 of the Integrated Goods and Services Tax Act, 2017, in the absence of any contract between the supplier of service and recipient of services, shall be determined in the following manner namely:-

(a) In the case of newspapers and publications, the amount payable for publishing an advertisement in all the editions of a newspaper or publication, which are published in a State or Union territory, as the case may be, is the value of advertisement service attributable to the dissemination in such State or Union territory.

Illustration: ABC is a government agency which deals with the all the advertisement and publicity of the Government. It has various wings dealing with various types of publicity. In furtherance thereof, it issues release orders to various agencies and entities. These agencies and entities thereafter provide the service and then issue invoices to ABC indicating the amount to be paid by them. ABC issues a release order to a newspaper for an advertisement on 'Beti bachao beti padhao', to be published in the newspaper DEF (whose head office is in Delhi)for the editions of Delhi, Pune, Mumbai, Lucknow and Jaipur. The release order will have details of the newspaper like the periodicity, language , size of the advertisement and the amount to be paid to such a newspaper. The place of supply of this service shall be in the Union territory of Delhi, and

the States of Maharashtra, Uttar Pradesh and Rajasthan. The amounts payable to the Pune and Mumbai editions would constitute the proportion of value for the state of Maharashtra which is attributable to the dissemination in Maharashtra. Likewise the amount payable to the Delhi, Lucknow and Jaipur editions would constitute the proportion of value attributable to the dissemination in the Union territory of Delhi and States of Uttar Pradesh and Rajasthan respectively. DEF should issue separate State wise and Union territory wise invoices based on the editions.

(b) in the case of printed material like pamphlets, leaflets, diaries, calendars, T shirts etc, the amount payable for the distribution of a specific number of such material in a particular State or Union territory is the value of advertisement service attributable to the dissemination in such State or Union territory, as the case may be.

Illustration: As a part of the campaign 'Swachh Bharat', ABC has engaged a company GH for printing of one lakh pamphlets(at a total cost of one lakh rupees) to be distributed in the states of Haryana, Uttar Pradesh and Rajasthan. In such a case, ABC should ascertain the breakup of the pamphlets to be distributed in each of the three States i.e. Haryana, Uttar Pradesh and Rajasthan, from the Ministry or department concerned at the time of giving the print order . Let us assume that this breakup is twenty thousand, fifty thousand and thirty thousand respectively. This breakup should be indicated in the print order. The place of supply of this service is in Haryana , Uttar Pradesh and Rajasthan. The ratio of this breakup i.e 2:5:3 will form the basis of value attributable to the dissemination in each of the three States. Separate invoices will have to be issued State wise by GH to ABC indicating the value pertaining to that State i.e twenty thousand rupees- Haryana, fifty thousand rupees- Uttar Pradesh and thirty thousand rupees- Rajasthan.

(c) (i) in the case of hoardings other than those on trains , the amount payable for the hoardings located in each State or Union territory, as the case may be, is the value of advertisement service attributable to the dissemination in each such State or Union territory, as the case may be.

Illustration: ABC as part of the campaign 'Saakshar Bharat' has engaged a firm IJ for putting up hoardings near the Airports in the four metros i.e. Delhi, Mumbai, Chennai and Kolkata . The release order issued by ABC to IJ will have the city wise, location wise breakup of the amount payable for such hoardings. The place of supply of this service is in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal. In such a case, the amount actually paid to IJ for the hoardings in each of the four metros will constitute the value attributable to the dissemination in the Union territory of Delhi and the States of Maharashtra, Tamil Nadu and West Bengal respectively. Separate invoices will have to be issued State wise and Union territory wise by IJ to ABC indicating the value pertaining to that State or Union territory .

(ii) in the case of advertisements placed on trains, the breakup, calculated on the basis of the ratio of the length of the railway track in each State for that train, of the amount payable for such advertisements is the value of advertisement service attributable to the dissemination in such State or Union territory, as the case may be.

Illustration: ABC places an order on KL for advertisements to be placed on a train with regard to the "Janani Suraksha Yojana". The length of a track in a state will vary from train to train. Thus for advertisements to be placed on the Hazrat Nizamuddin Vasco Da Gama Goa Express which runs through Delhi, Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra, Karnataka and Goa, KL may ascertain the total length of the track from Hazrat Nizamuddin to Vasco Da Gama as well as the length of the track in each of these States and Union territory from the website www.indianrail.gov.in. The place of supply of this service is in the Union territory of Delhi and States of Haryana, Uttar Pradesh, Madhya Pradesh, Maharashtra Karnataka and Goa. The value of the supply in each of these States and Union territory attributable to the dissemination in these States will be in the ratio of the length of the track in each of these States and Union territory. If this ratio works out to say 0.5:0.5: 2:2 :3:3:1 , and the amount to be paid to KL is one lakh twenty thousand rupees, then KL will have to calculate the State wise and Union territory wise breakup of the value of the service, which will be in the ratio of the length of the track in each State and Union territory. In the given example the State wise and Union territory wise breakup works out to Delhi (five thousand rupees), Haryana(five thousand rupees), Uttar Pradesh (twenty thousand rupees), Madhya Pradesh (twenty thousand rupees), Maharashtra (thirty thousand rupees), Karnataka (thirty thousand rupees) and Goa (ten thousand rupees). Separate invoices will have to be issued State wise and Union territory wise by KL to ABC indicating the value pertaining to that State or Union territory.

(d) (i) in the case of advertisements on the back of utility bills of oil and gas companies etc, the amount payable for the advertisements on bills pertaining to consumers having billing addresses in such States or Union territory as the case may be, is the value of advertisement service attributable to dissemination in such State or Union territory.

(ii) in the case of advertisements on railway tickets, the breakup, calculated on the basis of the ratio of the number of Railway Stations in each State or Union territory, when applied to the amount payable for such advertisements, shall constitute the value of advertisement service attributable to the dissemination in such State or Union territory, as the case may be.

Illustration: ABC has issued a release order to MN for display of advertisements relating to the "Ujjwala" scheme on the railway tickets that are sold from all the Stations in the States of Madhya Pradesh and Chattisgarh. The place of supply of this service is in Madhya Pradesh and Chattisgarh. The value of advertisement service attributable to these two States will be in the ratio of the number of railway stations in each State as ascertained from the Railways or from the website www.indianrail.gov.in. . Let us assume that this ratio is 713 : 251 and the total bill is rupees nine thousand six hundred and forty. The breakup of the amount between Madhya Pradesh and Chattisgarh in this ratio of 713:251 works out to seven thousand one hundred and thirty rupees and two thousand five hundred and ten rupees respectively. Separate invoices will have to be issued State wise by MN to ABC indicating the value pertaining to that State .

e) in the case of advertisements over radio stations the amount payable to such radio station, which by virtue of its name is part of a State or Union territory, as the case may be, is the value of advertisement service attributable to dissemination in such State or Union terrritory, as the case may be.

Illustration: For an advertisement on 'Pradhan Mantri Ujjwala Yojana', to be broadcast on a FM radio station OP, for the radio stations of OP Kolkata, OP Bhubaneswar, OP Patna, OP Ranchi and OP Delhi, the release order issued by ABC will show the breakup of the amount which is to be paid to each of these radio stations. The place of supply of this service is in West Bengal, Odisha, Bihar Jharkhand and Delhi. The place of supply of OP Delhi is in Delhi even though the studio may be physically located in another state. Separate invoices will have to be issued State wise and Union territory wise by MN to ABC based on the value pertaining to each State or Union territory.

(f) in the case of advertisement on television channels, the amount attributable to the value of advertisement service disseminated in a State shall be calculated on the basis of the viewership of such channel in such State, which in turn, shall be calculated in the following manner, namely: -

(i) the channel viewership figures for that channel for a State or Union territory shall be taken from the figures published in this regard by the Broadcast Audience Research Council;

(ii) the figures published for the last week of a given quarter shall be used for calculating viewership for the succeeding quarter and at the beginning, the figures for the quarter 1st July, 2017 to 30th September, 2017 shall be used for the succeeding quarter 1st October, 2017 to 31st December, 2017;

(iii) where such channel viewership figures relate to a region comprising of more than one State or Union territory, the viewership figures for a State or Union territory of that region, shall be calculated by applying the ratio of the populations of that State or Union territory, as determined in the latest Census, to such viewership figures;

(iv) the ratio of the viewership figures for each State or Union territory as so calculated, when applied to the amount payable for that service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.

Illustration: ABC issues a release order with QR channel for telecasting an advertisement relating to the Pradhan "Mantri Kaushal Vikas Yojana" in the month of November, 2017. In the first phase, this will be telecast in the Union territory of Delhi, States of Uttar Pradesh, Uttarakhand, Bihar and Jharkhand. The place of supply of this service is in Delhi, Uttar Pradesh, Uttarakhand, Bihar and Jharkhand. In order to calculate the value of supply attributable to Delhi , Uttar Pradesh, Uttarakhand, Bihar and Jharkhand, QR has to proceed as under—

I. QR will ascertain the viewership figures for their channel in the last week of September 2017 from the Broadcast Audience Research Council. Let us assume it is one lakh for Delhi and two lakhs for the region comprising of Uttar Pradesh and Uttarakhand and one lakh for the region comprising of Bihar and Jharkhand;

II. since the Broadcast Audience Research Council clubs Uttar Pradesh and Uttarakhand into one region and Bihar and Jharkhand into another region, QR will ascertain the population figures for Uttar Pradesh , Uttarakhand , Bihar and Jharkhand from the latest census;

III. by applying the ratio of the populations of Uttar Pradesh and Uttarkhand, as so ascertained, to the Broadcast Audience Research Council viewership figures for their channel for this region, the viewership figures for Uttar Pradesh and Uttarakhand and consequently the ratio of these viewership figures can be calculated. Let us assume that the ratio of the populations of Uttar Pradesh and Uttarakhand works out to 9: 1. When this ratio is applied to the viewership figures of two lakhs for this region, the viewership figures for Uttar Pradesh and Uttarakhand work out to one lakh eighty thousand and twenty thousand respectively;

IV. in a similar manner the breakup of the viewership figures for Bihar and Jharkhand can be calculated. Let us assume that the ratio of populations is 4:1 and when this is applied to the viewership figure of one lakh for this region, the viewership figure for Bihar and Jharkhand works out to eighty thousand and twenty thousand respectively;

V. the viewership figure for each State works out to Delhi (one lakh), Uttar Pradesh (one lakh eighty thousand), Uttarakhand (twenty thousand), Bihar (eighty thousand) and Jharkhand (twenty thousand). The ratio is thus 10:18:2:8:2 or 5:9:1:4:1 (simplification).

VI .this ratio has to be applied when indicating the breakup of the amount pertaining to each State . Thus if the total amount payable to QR by ABC is twenty lakh rupees, the State wise breakup is five lakh rupees(Delhi), nine lakh rupees(Uttar Pradesh) one lakh rupees (Uttarakhand), four lakh rupees (Bihar) and one lakh rupees (Jharkhand). Separate invoices will have to be issued State wise and Union territory wise by QR to ABC indicating the value pertaining to that State or Union territory.

(g) in the case of advertisements at cinema halls the amount payable to a cinema hall or screens in a multiplex, in a State or Union territory, as the case may be, is the value of advertisement service attributable to dissemination in such State or Union territory, as the case may be.

Illustration: ABC commissions ST for an advertisement on 'Pradhan Mantri Awas Yojana' to be displayed in the cinema halls in Chennai and Hyderabad. The place of supply of this service is in the states of Tamil Nadu and Telengana . The amount actually paid to the cinema hall or screens in a multiplex, in Tamil Nadu and Telangana as the case may be, is the value of advertisement service in Tamil Nadu and Telangana respectively. Separate invoices will have to be issued State wise and Union territory wise by ST to ABC indicating the value pertaining to that State.

(h) in the case of advertisements over internet, the amount attributable to the value of advertisement service disseminated in a State or Union territory shall be calculated on the basis of the internet subscribers in such State or Union territory, which in turn, shall be calculated in the following manner, namely:-

(i) the internet subscriber figures for a State shall be taken from the figures published in this regard by the Telecom Regulatory Authority of India ;

(ii) the figures published for the last quarter of a given financial year shall be used for calculating the number of internet subscribers for the succeeding financial year and at the beginning, the figures for the last quarter of financial year 2016- 2017 shall be used for the succeeding financial year 2017-2018;

(iii) where such internet subscriber figures relate to a region comprising of more than one State or Union territory, the subscriber figures for a State or Union territory of that region, shall be calculated by applying the ratio of the populations of that State or Union territory , as determined in the latest census, to such subscriber figures;

(iv) the ratio of the subscriber figures for each State or Union territory as so calculated, when applied to the amount payable for this service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.

Illustration: ABC issues a release order to WX for a campaign over internet regarding linking Aadhaar with one's bank account and mobile number. WX runs this campaign over certain websites. In order to ascertain the statewise breakup of the value of this service which is to be reflected in the invoice issued by WX to ABC, WX has to first refer to the Telecom Regulatory Authority of India figures for quarter ending March, 2017, as indicated on their website www.trai.gov.in. These figures show the service area wise internet subscribers . There are twenty two service areas. Some relate to individual States some to two or more States and some to part of one State and another complete State. Some of these areas are metropolitan areas. In order to calculate the State wise breakup, first the State wise breakup of the number of internet subscribers is arrived at. (In case figures of internet subscribers of one or more States are clubbed, the subscribers in each State is to be arrived at by applying the ratio of the respective populations of these States as per the latest census.). Once the actual number of subscribers for each State has been determined, the second step for WX involves calculating the State wise ratio of internet subscribers. Let us assume that this works out to 8: 1 : 2... and so on . for Andhra Pradesh, Arunachal Pradesh, Assam..... and so on. The third step for WX will be to apply these ratios to the total amount payable to WX so as to arrive at the value attributable to each State. Separate invoices will have to be issued State wise and Union territory wise by WX to ABC indicating the value pertaining to that State or Union territory.

(i) in the case of advertisements through short messaging service the amount attributable to the value of advertisement service disseminated in a State or Union territory shall be calculated on the basis of the telecommunication(herein after referred to as telecom) subscribers in such State or Union territory , which in turn, shall be calculated in the following manner, namely:-

(a) the number of telecom subscribers in a telecom circle shall be ascertained from the figures published by the Telecom Regulatory Authority of India on its website www. trai.gov.in ;

(b) the figures published for a given quarter, shall be used for calculating subscribers for the succeeding quarter and at the beginning , the figures for the quarter 1st July, 2017 to 30th September, 2017 shall be used for the succeeding quarter 1st October, 2017 to 31st December, 2017;

(c) where such figures relate to a telecom circle comprising of more than one State, or Union territory, the subscriber figures for that State or Union territory shall be calculated

by applying the ratio of the populations of that State or Union territory, as determined in the latest census, to such subscriber figures.

Illustration-1: In the case of the telecom circle of Assam, the amount attributed to the telecom circle of Assam is the value of advertisement service in Assam.

Illustration-2: The telecom circle of North East covers the States of Arunachal Pradesh, Meghalaya, Mizoram, Nagaland, Manipur and Tripura. The ratio of populations of each of these States in the latest census will have to be determined and this ratio applied to the total number of subscribers for this telecom circle so as to arrive at the State wise figures of telecom subscribers. Separate invoices will have to be issued State wise by the service provider to ABC indicating the value pertaining to that State.

Illustration-3: ABC commissions UV to send short messaging service to voters asking them to exercise their franchise in elections to be held in Maharashtra and Goa. The place of supply of this service is in Maharashtra and Goa. The telecom circle of Maharashtra consists of the area of the State of Maharashtra (excluding the areas covered by Mumbai which forms another circle) and the State of Goa. When calculating the number of subscribers pertaining to Maharashtra and Goa, UV has to -

I obtain the subscriber figures for Maharashtra circle and Mumbai circle and add them to obtain a combined figure of subscribers;

II obtain the figures of the population of Maharashtra and Goa from the latest census and derive the ratio of these two populations;

III this ratio will then have to be applied to the combined figure of subscribers so as to arrive at the separate figures of subscribers pertaining to Maharashtra and Goa;

IV the ratio of these subscribers when applied to the amount payable for the short messaging service in Maharashtra circle and Mumbai circle, will give breakup of the amount pertaining to Maharashtra and Goa. Separate invoices will have to be issued State wise by UV to ABC indicating the value pertaining to that State .

Illustration-4: The telecom circle of Andhra Pradesh consists of the areas of the States of Andhra Pradesh , Telangana and Yanam, an area of the Union territory of Puducherry. The subscribers attributable to Telangana and Yanam will have to be excluded when calculating the subscribers pertaining to Andhra Pradesh.

(d) the ratio of the subscriber figures for each State or Union territory as so calculated, when applied to the amount payable for that service, shall represent the portion of the value attributable to the dissemination in that State or Union territory.

[F. No. 137/20/2017- Service Tax]

15.11.2017

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Note: The principal rules were published in the Gazette of India Extraordinary vide number G.S.R- 699(E) dated 28th June, 2017.