F. No. 354/189/2019-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax research Unit
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North Block, New Delhi,
Dated the _____, 2019

To,

The Principal Chief Commissioners/ Chief Commissioners/
Principal Commissioners/ Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject– <u>Reverse Charge Mechanism (RCM) on renting of motor vehicles -reg.</u>

TaxTeCode

Suppliers of service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient have an option to pay GST either at 5% with limited ITC (of input services in the same line of business) or 12% with full ITC.

2. The GST Council in its 37th meeting dated 20.09.2019 examined the request to place the supply of renting of motor vehicles under RCM and recommended that the said supply when provided by suppliers paying GST @ 5% to corporate entities may be placed under RCM. RCM was not recommended for suppliers paying GST @12% with full ITC, so that they may have the option to continue to avail ITC. RCM otherwise would have blocked the ITC chain for them. Accordingly, the following entry was inserted in the RCM notification with effect from 1.10.19:

Sl. No.	**Category of Supply of Services**	**Supplier of service**	**Recipient of Service**
(1)	**(2)**	**(3)**	**(4)**
15	Services provided by way of renting of a motor vehicle provided to a body corporate.	Any person other than a body corporate, paying central tax at the rate of 2.5% on renting of motor vehicles with input tax credit only of input service in the same line of business	Any body corporate located in the taxable territory.

3. Post issuance of the notification, references have been received stating that when a service is covered by RCM, GST would be paid by the service recipient and not by the supplier.

Therefore, the wording of the notification that "any person other than a body corporate, paying central tax at the rate of 2.5%" is not free from doubt and needs amendment/ clarification from the perspective of drafting.

4. The matter has been examined. When any service is placed under RCM, the supplier shall not charge any tax from the service recipient as this is the settled procedure in law under RCM. There are only two rates applicable on the service of renting of vehicles, 5% with limited ITC and 12% with full ITC. The only interpretation of the notification entry in question which is not absurd would be that –

(i) where the supplier of the service charges GST @ 12% from the service recipient, the service recipient shall not be liable to pay GST under RCM; and,

(ii) where the supplier of the service doesn't charge GST @ 12% from the service recipient, the service recipient shall be liable to pay GST under RCM.

5. Though a supplier providing the service to a body corporate under RCM may still be paying GST @ 5% on the services supplied to other non body corporate clients, to bring in greater clarity, serial No. 15 of the notification No. 13/2017-CT (R) dated 28.6.17 has been amended vide notification No. 29/2019-CT (R) dated 31.12.19 to state that RCM shall be applicable on the service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient only if the supplier fulfils all the following conditions:–

(a) is other than a body-corporate;

(b) does not issue an invoice charging GST @12% from the service recipient; and

(c) supplies the service to a body corporate.

6. It may be noted that the present amendment of the notification is merely clarificatory in nature and therefore for the period 01.10.2019 to 31.12.2019 also, clarification given at para 5 above shall apply, as any other interpretation shall render the RCM notification for the said service unworkable for that period.

7. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board.

Yours Faithfully,

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