



## NOTIFICATION NO. 43-2018 - CT DATED 10.09.2018 TO NOTIFICATION NO. 52-2018 - CT DATED 20.09.2018

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Recently a handful number of notifications have been issued, vide which date of furnishing details of outward supplies in 'FORM GSTR-1', from July, 2017 to September, 2018 has been **extended to 31<sup>st</sup> October, 2018**, for taxpayers **other than** taxpayers who obtained **GSTIN** in terms of **notification no. 31/2018 – CT, dated 06.08.2018**.

Taxpayers who obtained **GSTIN** in terms of notification no. 31/2018 – CT, dated 06.08.2018 were given an **extended** time period up to 31<sup>st</sup> December, 2018, for furnishing details of outward supplies in 'FORM GSTR-1', pertaining to the tax periods July, 2017 to November, 2018. Such tax payers have also been given an **extended** time period up to 31<sup>st</sup> December, 2018 to file **return** for the tax periods **July, 2017 to November, 2018**.

'FORM GSTR-9C' has been **notified**, to be read with **rule 80(3)** of the CGST Rules, 2017, applicable for registered persons whose **aggregate turnover** during a financial year **exceeds two crore rupees**.

Notification for **tax deduction at source (TDS)** and **tax collection at source (TCS)** have been made since promulgation of GST law.

A brief analysis, of all the notifications discussed above, is made below. However, detailed analysis of 'FORM GSTR-9C' has not been attempted here.

### Notification No. 43/2018 – Central Tax dated 10<sup>th</sup> September, 2018:

The Central Government, exercising the powers conferred by section 148 of the CGST Act, 2017 and in supersession of earlier notifications, on the recommendations of the Council, notified **revised date** of furnishing **details of outward supply** of goods or services or both, vide **FORM GSTR-1** of **CGST Rules, 2017**, for **registered persons** having **aggregate turnover of up to 1.5 crore rupees** in the preceding financial years or the current financial year, who may furnish details of outward supply of goods or services or both, as per details given below:

Sl. No	Quarter for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1	Condition
(1)	(2)	(3)	(4)
1	July, 2017 – September, 2017	31 <sup>st</sup> October, 2018	-
2	October, 2017 – December, 2017	31 <sup>st</sup> October, 2018	-
3	January, 2018 – March, 2018	31 <sup>st</sup> October, 2018	-
4	April, 2018 – June, 2018	31 <sup>st</sup> October, 2018	-
5	July, 2018 – September, 2018	31 <sup>st</sup> October, 2018	<b>except</b> for conditions, stipulated in point 5a, below.
5a	July, 2018 – September, 2018	15 <sup>th</sup> November, 2018	Applicable <b>only</b> for registered persons as stated below: <ul style="list-style-type: none"> <li>i. in the State of Kerala;</li> <li>ii. principal place of business is in Kodagu district in the State of Karnataka; and</li> <li>iii. principal place of business is in Mahe in the Union Territory of Puducherry.</li> </ul>
6	October – December, 2018	31 <sup>st</sup> January, 2019	-
7	January – March, 2019	30 <sup>th</sup> April, 2019	-
8	July, 2017 – September, 2018	31 <sup>st</sup> December, 2018	Taxpayers who have obtained GSTIN in terms of notfn. No 31/2018 – CT, dated 06.08.2018, i.e, taxpayers who received provisional ids but couldn't complete migration process.

It may please be noted that time limit for furnishing the **details of inward supplies** as stipulated in sub-section (2) of section 38, i.e, **FORM GSTR-2** or time limit for filing **return** as stipulated in sub-section (1) of section 39, i.e, **FORM GSTR-3**, shall be **subsequently** notified in the Official Gazette.

**Notification No. 44/2018 – Central Tax dated 10<sup>th</sup> September, 2018:**

The Commissioner, exercising the powers conferred by the second proviso to sub -section (1) of section 37 read with section 168 of the CGST Act, 2017 and in supercession of earlier notifications, on the recommendations of the Council, notified **revised date of furnishing details of outward supply** of goods or services or both, vide **FORM GSTR-1 of CGST Rules, 2017**, for **registered persons having aggregate turnover of more than 1.5 crore rupees** in the preceding financial years or the current financial year, who may furnish details of outward supply of goods or services or both, as per details given below:

Sl. No	Tax period for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1	Condition
(1)	(2)	(3)	(4)
1	July, 2017 – September, 2018	31 <sup>st</sup> October, 2018	-
1a	July, 2017 – November, 2018	31 <sup>st</sup> December, 2018	Taxpayers who have obtained GSTIN in terms of notfn. No 31/2018 – CT, dated 06.08.2018, i.e, taxpayers who received provisional ids but couldn't complete migration process.
2	October, 2018	11 <sup>th</sup> November, 2018	-
3	November, 2018	11 <sup>th</sup> December, 2018	-
4	December, 2018	11 <sup>th</sup> January, 2019	-
5	January, 2019	11 <sup>th</sup> February, 2019	-
6	February, 2019	11 <sup>th</sup> March, 2019	-
7	March, 2019	11 <sup>th</sup> April, 2019	-

It may please be noted that time limit for furnishing the **details of inward supplies** as stipulated in sub-section (2) of section 38, i.e, **FORM GSTR-2** or time limit for filing **return** as stipulated in sub-section (1) of section 39, i.e, **FORM GSTR-3**, shall be **subsequently** notified in the Official Gazette.

**Notification No. 45/2018 – Central Tax dated 10<sup>th</sup> September, 2018:**

The Commissioner, exercising the powers conferred by section 168 of the CGST Act, 2017 read with sub-rule (5) of rule 61 of the CGST Rules, 2017, on the recommendations of the Council, has made **amendments** to the notification Number 21/2017 – CT dated 08.08.2017 and notification Number 56/2017 – CT dated 15.11.2017 to facilitate taxpayers who couldn't complete migration process but obtained provisional ids, detailed below:-

Sl. No	Tax period for which return in FORM GSTR-3B be filed	Time period for filing return in FORM GSTR-3B	Condition
(1)	(2)	(3)	(4)
1	July, 2017 to November, 2018	On or before 31 <sup>st</sup> December, 2018	Taxpayers who have obtained GSTIN in terms of notfn. No 31/2018 – CT, dated 06.08.2018, i.e, taxpayers who received provisional ids but couldn't complete migration process.

**Notification No. 46/2018 – Central Tax dated 10<sup>th</sup> September, 2018 & Notification No. 47/2018 – Central Tax dated 10<sup>th</sup> September, 2018:**

The Commissioner, exercising the powers conferred by section 168 of the CGST Act, 2017 read with sub-rule (5) of rule 61 of the CGST Rules, 2017, on the recommendations of the Council, has made **amendments** to the notification Number 35/2017 – CT dated 15.09.2017, notification Number 16/2018 – CT dated 23.03.2018 and notification Number 34/2018 – CT dated 10.08.2018, to state:-

Sl. No	Tax period for which return in FORM GSTR-3B be filed	Time period for filing return in FORM GSTR-3B	Condition
(1)	(2)	(3)	(4)
1	July, 2017 to November, 2018	On or before 31 <sup>st</sup> December, 2018	Taxpayers who have obtained GSTIN in terms of notfn. No 31/2018 – CT, dated 06.08.2018, i.e, taxpayers who received provisional ids but couldn't complete migration process.

**Notification No. 48/2018 – Central Tax dated 10<sup>th</sup> September, 2018 – extract and an analysis**

The Central Government, exercising the powers conferred by section 164 of the CGST Act, 2017 made **amendment to CGST Rules, 2017** which may be called as **CGST (Ninth Amendment) Rules, 2018**.

**Notwithstanding** anything contained in **sub-rule (1)** of rule 117, **sub-rule (1A)** of rule 117 of the CGST Rules, 2017 shall be **inserted** to state that the Commissioner may, on the recommendations of the Council, in respect of **registered persons** who **couldn't submit** the said **declaration** within **due date**, due to **technical difficulties** on the **common portal**, **extend the date** for submitting the said **declaration electronically** in **FORM GST TRAN-1**, **not beyond 31<sup>st</sup> March, 2019**.

A **proviso** shall be **inserted** in sub-rule (4), in clause (b), in sub-clause (iii) to state that **registered persons** filing **declaration** in **FORM GST TRAN-1** in accordance with **sub-rule (1A)**, may **submit** the statement in **FORM GST TRAN-2** by **30<sup>th</sup> April, 2019**.

In **rule 142**, in sub-rule (5), after the words and figures “of section 76”, the words and figures “or section 125” shall be inserted.

**Analysis**

- i. Sub-rule (1A) of rule 117 of CGST Rules, 2017 inserted to facilitate registered taxpayers, who couldn't file **FORM GST TRAN-1**, to claim transitional credit due to technical difficulties on the common portal. Such registered taxpayers have been granted **extended period** of not later than **31<sup>st</sup> March, 2019** to file.
- ii. Registered taxpayers, who would file FORM GST TRAN-1 under sub-rule (1A) supra, may submit statement in **FORM GST TRAN-2** by **30<sup>th</sup> April, 2019**.
- iii.

Form type	Who can file	Who cannot file
TRAN 1	Registered person in GST regime, but may be registered or unregistered under previous tax regime.	Registered person in GST, who have opted to pay tax as composition dealer.
TRAN 2	Registered person in GST regime, who didn't have 'duty' paying documents in earlier tax regime, i.e, a dealer or a trader.	In pre-GST tax regime, a) a manufacturer registered under Central Excise, and b) A service provider registered under Service Tax.

- iv. **Rule 142** of the CGST Rules, 2017 stipulates **notice and order for demand of amounts payable under the Act**, while **sub-rule (5)** of rule 142 inter alia includes **summary of orders** to be issued under different sections, **section 125** shall be **inserted** after section 76. **Section 125** stipulates about **general penalty** in case of contraventions of any provisions of the Act or any rules made there under for which no penalty has been separated provided in the Act.

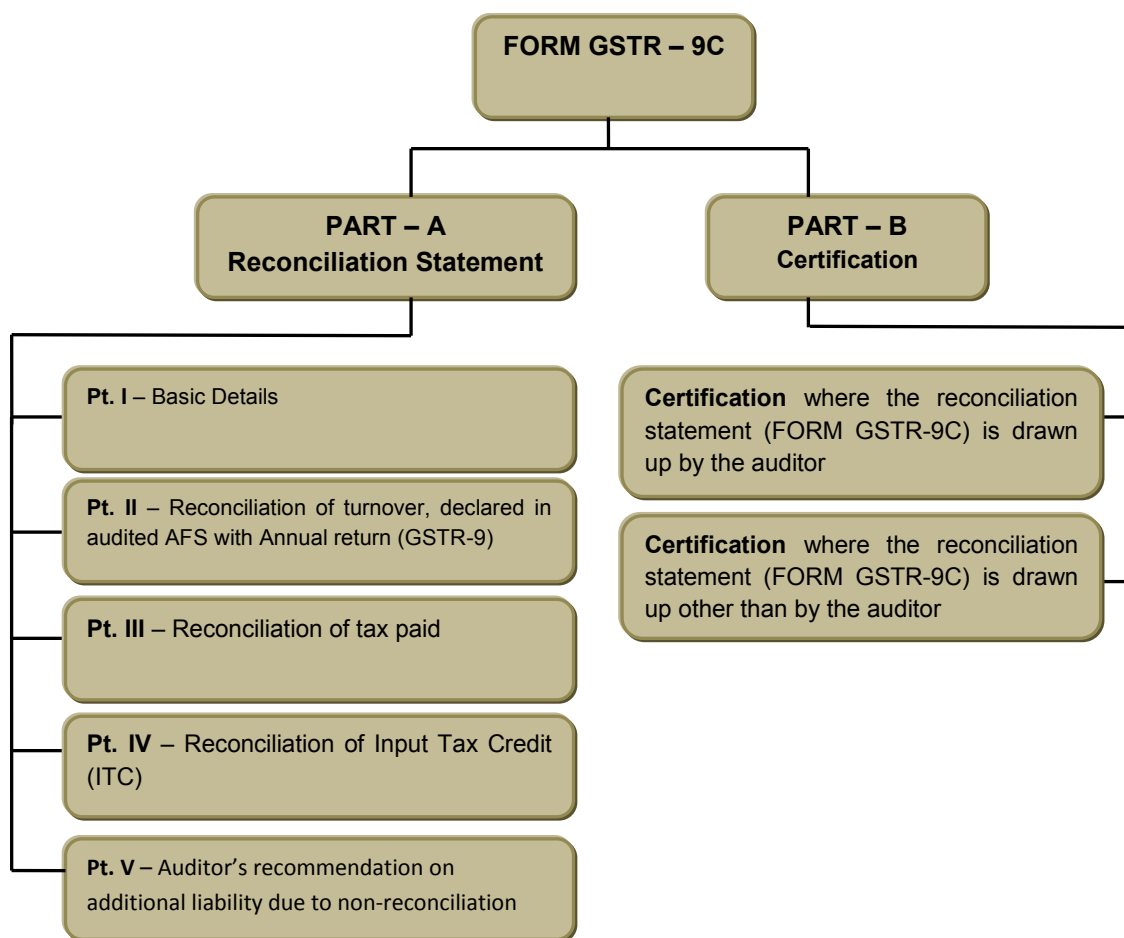
**Notification No. 49/2018 – Central Tax dated 13<sup>th</sup> September, 2018:**

The Central Government, exercising the powers conferred by section 164 of the CGST Act, 2017 made **amendment to CGST Rules, 2017** which may be called as **CGST (Tenth Amendment) Rules, 2018**.

**'FORM GSTR-9C'** shall be **inserted** after **'FORM GSTR-9A'**.

Reference may be drawn to **rule 80(3)** of CGST Rules, 2017 which stipulates that every **registered person** whose **aggregate turnover** during a financial year **exceeds two crore rupees** shall get his **accounts audited** as specified under sub-section (5) of section 35 and shall furnish a copy of **audited annual accounts** and a **reconciliation statement, duly certified**, in **FORM GSTR-9C**, electronically through the common portal.

**Brief contents of 'FORM GSTR-9C':**



**Notification No. 50/2018 – Central Tax dated 13<sup>th</sup> September, 2018:**

The Central Government, exercising the powers conferred by **sub-section (3) of section 1** of the CGST Act, 2017 and in **supercession** of the notification no. 33/2017 – Central Tax, dated 15<sup>th</sup> September, 2017, hereby appoints **1<sup>st</sup> October, 2018** be the date on which **provisions of section 51 (Tax deduction at source)** of the CGST Act, 2017 shall come in to force with respect to the **persons** specified below:

- a. an **authority** or a **board** or any **other body**, -
  - i. set up by an Act of Parliament or a State Legislature; or
  - ii. established by any Government, with fifty-one per cent. or more participation by way of equity or control, to carry out any function;
- b. **society** established by the **Central Government** or the **State Government** or a **Local Authority** under the Societies Registration Act, 1860;
- c. **public sector undertakings**.

**Analysis**

- i. In case of **intra-State** supply, '**TDS deductor**' as discussed above, is obligated to deduct tax at source at a rate **1% CGST plus 1% SGST**, where the **total value of such supply of taxable goods or services or both, under a contract, exceeds two lakh and fifty thousand rupees**.
- ii. It appears that a **clarification is required** with regard to **point of deduction**, i.e, whether tax is required to be deducted from **value of all supplies** under a contract, **irrespective of value of each supply**, when value of a contract exceeds the threshold limit or when the **cumulative value of supplies exceeds rupees two lakh and fifty thousand rupees** under a contract, value of which exceeds the threshold limit for the purpose of this section.
- iii. Such deduction shall be made "from the payment made or credited to the supplier". It is noteworthy to observe that it is **not stated as** 'from the payment made or credited to the supplier, **whichever is earlier**' which might have a **practical difficulty in deciding point of deduction of tax by deductors**. It might lead to a state of great confusion during **transitional period**, unless separately clarified subsequently.

- iv. Value of supply, on which tax shall be deducted, shall be taken as excluding central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.
- v. Tax to be deducted on the value of **taxable supplies**. **Sub-section (108) of section 2** of the CGST Act, 2017 stipulates **taxable supply to mean a supply of goods or services or both which is leviable to tax under the Act**. Thus the supplies of goods or services or both, which have been **made exempted** by virtue of **notifications** from time to time, **would be considered** as ‘**taxable supplies**’ for the purpose of section 51 of CGST Act, 2017.
- vi. First **proviso** to sub-section (1) of section 51 specifically mandates **not to deduct tax** where ‘location of the supplier (deductee) and the place of supply’ are not in the same State or Union Territory where the recipient (deductor) is registered i.e, **registration of the supplier (deductee) and registration of the recipient (deductor) are in two different States or Union Territory**.

It appears to be a **paradoxical proviso** as the **law specifically doesn’t state that tax is not required to be deducted under this act for inter-State supplies of goods or services or both**. If the same is clarified subsequently and made applicable, deductor will be obligated to deduct tax at source at a rate 2% IGST for inter-State supplies.

- vii. Registered persons (deductors), as specified supra, are required to take registration **compulsorily** under **Section 24 (vi) of the CGST / SGST Act, 2017**.
- viii. Tax (GST) deducted at source, shall be paid to the Central Government within **10 (ten) days** after the end of the month in which tax was deducted at source, failing which the deductor shall pay interest in accordance with provision of section 50(1), i.e, at a rate of **interest not exceeding 18%**.
- ix. Registered persons, as discussed supra (deductors), are required to furnish a return in **FORM GSTR-7** by 10<sup>th</sup> of the next month.

#### **Notification No. 51/2018 – Central Tax dated 13<sup>th</sup> September, 2018:**

The Central Government, exercising the powers conferred by **sub-section (3) of section 1** of the CGST Act, 2017, hereby appoints **1<sup>st</sup> October, 2018** be the date on which **provisions of section 52 (Collection of tax at source)** of the CGST Act, 2017 shall come in to force.

#### **Analysis:**

- i. Section 52 is applicable for every electronic commerce operator, **not being an agent**.
- ii. Tax to be collected at source **at a rate, to be separately notified**, in terms of sub-section (1) of section 52 of the Act on **net value** of supply.
- iii. Tax (GST) collected at source, shall be paid to the Central Government within **10 (ten) days** after the end of the month in which tax was collected at source.

#### **Notification No. 52/2018 – Central Tax dated 20<sup>th</sup> September, 2018**

The Central Government, exercising the powers conferred by **sub-section (1) of section 52** of the CGST Act, 2017, hereby **notifies the rate of tax** at which an **electronic commerce operator, not being an agent**, shall **collect** an amount calculated at a **rate of half per cent.** of the **net value** of **intra-State supplies** made through it by other suppliers where the consideration with respect to such supplies is to be collected by the said operator.

#### **Analysis:**

- i. In case of intra-State supply, rate of tax shall be at 0.5% CGST plus 0.5% SGST, and
- ii. In terms of section 21 of the IGST Act, 2017, provisions of the CGST Act, 2017, relating to, “collection of tax at source” shall, **mutatis mutandis**, apply to IGST Act, 2017.  
**The point of consideration is whether it requires a separate notification under IGST Act, 2017.**
- iii. In case of inter-State supply, rate of tax shall be at 1% IGST.