

Employer-employee under GST - HR

At

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By

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- GST stands for **Goods and Services Tax**
- France was first to introduce GST in 1954.
- Almost 160 countries implemented destination based tax on consumption of goods and services (either by name GST or VAT).
- At present, only Canada and Brazil has dual GST model (almost like our Indian Dual GST model)

- ❖ GST is destination-based Consumption Taxation
- ❖ Applies to all supplies of goods/services (against manufacture, sale or provision of service) for a consideration except-
 - ✓ Exempted goods/services
 - ✓ Goods/Services outside the purview of GST
 - ✓ Transactions below threshold limits

CENTRAL TAXES

- Central Excise Duty
- Additional Duties of Excise
- Excise Duty levied under Medicinal & Toiletries Preparation Act
- Additional duties of Customs (CVD & SAD)
- Service Tax
- Surcharge & Cesses

STATE TAXES

- State VAT/Sales Tax
- Entertainment Tax (not levied by local bodies)
- Central Sales Tax
- Taxes on lottery, betting & gambling
- Luxury Tax
- Entry Tax & Octroi
- Purchase Tax
- Surcharges & Cesses

Taxation under GST

❖ Dual GST -

- ✓ Central GST (CGST) levied & collected by Centre
- ✓ State GST (SGST) levied & collected by States
- ✓ CGST & SGST on intra-state supplies of goods/services
- ✓ IGST on inter-state supplies of good/services

❖ Supply Includes-

- ❖ All forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business
- ❖ services means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

HR Function is more concerned with Services

Services

- Services for furtherance of business may be obtained by any of the two category vendors
- From a GST registered vendor
- From a vendor not registered under GST.
- If services are obtained from a GST unregistered vendor principle of 'reverse charge' will be applicable.

Reverse Charge & Input Service

- 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.
- Input Service:
- Input service means any service used or intended to be used by a supplier in the course or furtherance of business;

Input Tax Credit (ITC)

1. Every registered person shall, subject to such conditions and restrictions as may be prescribed and in the manner specified in section 49, be entitled to take credit of input tax charged on any supply of goods or services or both to him which are used or intended to be used in the course or furtherance of his business and the said amount shall be credited to the electronic credit ledger of such person.

This systems will help to avoid multiple taxation on the end product

- ITC will not be available if the transactions are between the related parties and also certain other items such as food and beverages, outdoor catering, beauty treatment, health services, membership of a club, health and fitness centre; rent-a-cab, life insurance and health insurance etc.,

Input Tax Credit (ITC)

- Transaction between both GST registered parties will be seamless to avail I T C
- When goods or services are obtained from an unregistered vendor the service receiver has to raise self-invoice and credit the GST.
- When goods are purchased from a vendor under composite scheme ITC is not available.

Input Tax Credit (ITC) & HR Expenses

- GST paid on some of the expenses incurred / claimed by the company / employees in the course or furtherance of business are where I T C can be claimed are :
- Travel Expenses on official work
- Telephone and Internet Expenses
- Hotel Expenses for conferences / business meets / official work
- Company Car / Vehicle repair
- Printing and Stationary expenses
- And the like

When ITC can be claimed

- The Vendor should issue the invoice in the company name
- Company GSTIN number should be incorporated in the invoice.
- Employees should be advised to ensure incorporation of correct GSTIN number in the invoice.
- The Vendor should upload and make payment of the GST collected as per due dates
- I T C can also be claimed on purchase of Goods such as stationary and other items in the course or furtherance of business.
- However I T C is available only purchase of goods is made from registered vendor.
- ITC will not be available on purchases made from composite registered vendor and related party transactions.

Reverse Charge

- Any payment above Rs. 5000/- per day other than the below mentioned payments to an GST unregistered vendor will attract payment of GST under reverse charge mechanism.
- Salary and Wages
- Electricity
- Interest
- Car fuel
- Government Fees

Reverse Charge applicable on the following

- Rent(commercial), Commission payments, Printing and Stationery, Repairs and Maintenance, Office Maintenance, Vehicle Maintenance, Computer Maintenance, Legal Fees, Consultancy Fees, Professional Fees, Audit Fees, Labour Charges, Freight and transportation expenses, Gift expenses, Business Promotion expenses etc.,

Employee to Employer

- ❖ Services by an employee to the employer in the course of or in relation to his employment shall neither be treated as a supply of goods nor a supply of services [*clause(1) to the Schedule III of the CGST Act, 2017*].
- ❖ Hence, GST is not applicable on the services of an employee to employer, as it is not treated as supply.
- ❖ However the condition of ‘service in the course of or in relation to his employment’ is to be satisfied.

Employer – Employee Benefits

- Any supply from employer to employee which is part of the CTC (cost-to-company) will not be considered a supply and anything done by employer for employee in terms of employment contract will not be subject to GST.
- ❖ Gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both and GST is not payable.

For Instance,

1. An Individual employee received gifts of value Rs. 50,000. The company has planned to provide one more gift of value Rs. 15,000 in the same Financial Year then the gift of Rs. 15,000 is treated as supply and GST shall be levied on Rs. 15,000/-.
2. The Company has planned to provide a gift of value RS. 65,000 to an Individual employee then the gift of value Rs. 65,000 shall be treated as supply and GST shall be levied on Rs. 65,000/-

Company providing transport / cab to employee to commute between residence and place of work.

- If covered under employment contract GST not applicable.
- If required under any law GST not applicable.
(in the State of Telangana providing transport facility to women employees working in night shifts is legal requirement)
- Company providing exclusive car (own or hired car) to employee for company use and also personal use in accordance with the contract of employment GST is not applicable. I T C also will not be available.
- When not covered under employment contract GST is payable @ 5%.
- Input credit (ITC) will be available only to the extent of the cab facility provided to women employees working in night shifts. In all other eventualities ITC will not be available.

When transport facility is provided free of cost as per contract of employment – Conveyance Allowance can not be an item in the salary structure.

Company providing Free Food / Subsidised Food at work place.

- If covered under employment contract GST not applicable.
- When not covered under employment contract GST is payable @ 18% and I T C is available.

When free food / subsidised food is provided as per contract of employment – Food Coupons can not be an item in the salary structure.

- Company engages outdoor caterer for supply of food and the cost of the food recovered from the employees.
- In such situation GST paid to outdoor caterer would be available as I T C .

Medical Insurance to Employee, Family and Dependents

- If covered under the employment contract G S T no applicable.
- If not covered G S T is applicable & I T C is not available.

Free Housing to employees

- Free housing to the employees will be exempt from the GST if it is provided in terms of the contract of employment and treated as CTC.

Club Membership

- Free membership of clubs, health and fitness centres are outside the GST purview

Employer – Employee Benefits

- Any benefits / facilities provided to employees outside the CTC and Contract of employment will attract GST.
- Example:
 - Incentives like Travel outing with family or otherwise of achievers
 - Scholarship to employee children
 - Events organised by the company at its cost
 - Reward and Recognition Schemes

I T C is not available as employer and employee are treated as related parties.

Thank you!!!

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