

# TaxBook<sup>+</sup> Statutory Update - GST

## For CA Inter May 2024

### SUPPLY OF FOOD OR BEVERAGES IN CINEMA HALL [PARA 25 – CONTENT ADDED]

Eating joint is a wide term which includes refreshment or eating stalls/ kiosks/ counters or restaurant at a cinema.

- Supply of food or beverages in a cinema hall is taxable as 'restaurant service' as long as (a) the food or beverages are supplied by way of or as part of a service, and (b) supplied **independent** of the cinema exhibition service.
- However, where the sale of cinema ticket and supply of food and beverages are **clubbed** together, and such bundled supply satisfies the test of **composite** supply, the entire supply will attract GST at the rate applicable to service of exhibition of cinema, the principal supply.

### SERVICES PROVIDED BY MINISTRY OF RAILWAYS (INDIAN RAILWAYS)

Supply of all goods and services by Indian Railways shall be taxed under Forward Charge Mechanism to enable them to avail ITC. This will reduce the cost for Indian Railways. Following changes have been made:

### REVERSE CHARGE (PARA 31.3 - AMENDED)

#### 31.3 GOVERNMENT SERVICES

Entry No.	Category of supply of services	Supplier of service	of	Recipient of service
5 – Government services	Services supplied by CG/SG/UT/LA.	CG/SG/UT/LA		Any <b>business entity</b> located in the taxable territory.
Following services are <b>excluded</b> :				
1. Renting of <b>immovable</b> property. <i>It is covered under Entry 5A given below.</i>				
2. Services by <b>Department of Posts</b> .				
3. <b>Services by the Ministry of Railways (Indian Railways)</b> .				
4. Services in relation to an <b>aircraft</b> or a <b>vessel</b> , inside or outside the precincts of a port or an airport.				
5. <b>Transport</b> of goods or passengers.				
5A – Renting	Renting of <b>immovable</b> property.	CG*/SG/UT/LA		Any person <b>registered</b> under CGST Act
<b>*Excluding the Ministry of Railways (Indian Railways)</b>				

### EXEMPTIONS – SERVICES PROVIDED BY GOVERNMENT – GENERAL CASES [PARA 46 - AMENDED]

#	Services provided by CG/SG/UT/LA ↓	Recipient			
		A: Business entity (ATO ≤ registration threshold)*	B: Business entity (not being 'A')	C: CG, SG, UT, LA	D: Others
2	Services by the Ministry of Railways (Indian Railways)	X	X	X	X

## PASSENGER TRANSPORTATION BY OMNIBUS PROVIDED BY A COMPANY

**PARA 33 – AMENDED** - Following change has been made to the services notified u/s 9(5):

1. Services by way of transportation of **passengers** by a radio-taxi, motorcab, maxicab, motor cycle or any other motor vehicle **except omnibus** (refer #2 below in respect of omnibus);
2. **Services by way of transportation of passengers by an omnibus (except where the person supplying such service through ECO is a company);**

*Omnibus* – It is a motor vehicle constructed or adapted to carry > 6 persons **excluding** the driver.

Liability to pay GST on bus transportation services supplied through ECO was placed on the ECO u/s 9(5) since most of the bus operators supplying service through ECO owned one or two buses and were not in a position to take registration and meet GST compliances. To arrive at a balance between the need of small operators for ease of doing business and the need of large organized players to take ITC, bus operators organised as companies are now excluded from the purview of section 9(5). This would enable them to pay GST on their supplies using their ITC.

## SERVICES PROVIDED TO GOVERNMENTAL AUTHORITY [PARA 48 – NEW ENTRY]

<b>3B – Govt. Authority</b>	Services provided to a <b>Governmental Authority</b> by way of (a) water supply; (b) public health; (c) sanitation conservancy; (d) solid waste management; and (e) slum improvement and upgradation.
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*Governmental Authority* – It means an authority or a board or any other body, set up by an Act of Parliament or a State Legislature; or established by any Government, with 90% or more participation by way of equity or control, to carry out any function entrusted to a Municipality or Panchayat under the Constitution.

## POS IN CASE OF SUPPLY OF SERVICES IN RESPECT OF ADVERTISING SECTOR [PARA 58C.2 – CONTENT ADDED]

Advertising companies are often involved in procuring space on hoardings / bill boards erected and mounted on buildings/land, in different States, from various suppliers ("vendors") for providing advertisement services to its corporate clients. Following clarifications have been issued in respect of determination of place of supply:

Situation	Clarification
There is supply (sale) of space or supply (sale) of rights to use the space on the hoarding / structure (immovable property) belonging to vendor to the client / advertising company for display of their advertisement on the said hoarding / structure.	Hoarding/structure erected on the land should be considered as <b>immovable structure or fixture</b> as it has been embedded in earth. Further, place of supply of any service provided by way of supply (sale) of space on an immovable property or grant of rights to use an immovable property shall be governed u/s 12(3). Therefore, place of supply of service provided by way of supply of sale of space on hoarding / structure for advertising or for grant of rights to use the hoarding / structure for advertising in this case would be the location where such <b>hoarding / structure is located</b> .
The advertising company wants to display its advertisement on hoardings / bill boards at a specific location availing the services of a vendor. The responsibility of arranging the hoardings / bill boards lies with the vendor who may himself own such structure or may be taking it on rent or rights to use basis from another person. The vendor is responsible for display of the advertisement of the advertising company at the said location. During this entire time of display of the advertisement, the vendor is in possession of the hoarding/structure at the said location on which advertisement is displayed and the advertising company is not occupying the space or the structure.	As the service is being provided by the vendor to the advertising company and there is no supply (sale) of space / supply (sale) of rights to use the space on hoarding/structure (immovable property) by the vendor to the advertising company for display of their advertisement on the said display board/structure, the said service does not amount to sale of advertising space or supply by way of grant of rights to use immovable property. Thus, the situation is <b>not covered u/s 12(3)</b> . Vendor is in fact providing advertisement services by providing visibility to an advertising company's advertisement for a specific period of time on his structure possessed/taken on rent by him at the specified location. Therefore, such services provided by the Vendor to advertising company are purely in the nature of advertisement services in respect of which Place of Supply shall be determined in terms of Section 12(2) [para 58C.1]

