

Key legislative changes effective from October 1, 2023

The Central Government vide Notification No. 27/2023 and 28/2023-Central Tax dated July 1, 2023, has notified October 1, 2023, as the date from which certain amendments introduced in the Finance Act 2021 and Finance Act 2023 shall come into force. Further vide various Notifications dated September 29, 2023, the Central Government has notified October 1, 2023, as the date from which CGST (Amendment) Act 2023, IGST (Amendment) Act 2023 and CGST (Amendment) Rules 2023 shall come in force. These key legislative changes are encapsulated below:

Amendments to the Central Goods and Services Tax Act, 2017 ('CGST Act')

Relevant provision	Particulars
Section 16(2)	Second proviso of Section 16(2) of CGST Act is harmonized with Rule 37 of the Central Goods and Services Tax Rules, 2017 ('CGST Rules') to provide for: <ul style="list-style-type: none"> Reversal of Input Tax Credit ('ITC'), where a supplier has not paid taxable value and tax thereon within 180 days from the date of issue of invoice. Receiver to avail the ITC that was reversed earlier on payment of the consideration along with GST to the supplier.
Section 17	ITC on the following transactions will be restricted: <ul style="list-style-type: none"> In-bond sales (i.e., supply of warehoused goods before clearance for home consumption). CSR expenses incurred under Section 135 of the Companies Act, 2013.
Sections 37, 39, 44 and 52	Restriction on filing of Form GSTR-1, Form GSTR-3B, Form GSTR-8 and Form GSTR-9 will not be allowed after 3 (three) years from the respective due date. Such date can be extended further by the Government, on recommendation of the GST Council.
Section 56	Time taken for taxpayers' response to Refund Rejection Notice, beyond the prescribed time limit of 15 days, shall be excluded from interest calculation on delayed refunds.
Section 122	E-commerce operators ('ECO') shall be liable for penalty of Rs. 20,000/- or the tax involved, whichever is higher, in case of any of the following contraventions: <ul style="list-style-type: none"> Allowing supplies by unregistered person who is liable for registration. Allowing inter-state supplies by a person who is not eligible to make such inter-state supplies (i.e., composition dealers). Failing to report correct details in the TCS statement of any outward supplies effected by a person exempted from obtaining registration.



Sections 132, 138	<p>Following offences are decriminalized, i.e., prosecution cannot be launched in respect of these offences:</p> <ul style="list-style-type: none"> • Obstructing/preventing the concerned officer in the discharge of his duties • Tampering with or destroying any material evidence or documents • Failing to supply information or providing false information. <p>Monetary threshold for launching prosecution for offences is increased from INR 10 million to INR 20 million, except for offences involving issue of invoices without supply of goods or services.</p> <p>Compounding amount reduced from the range of 50% to 150% of the tax amount, to 25% to 100% of the tax amount.</p>
Schedule III	Transactions of merchanting trade, in-bond sales, and high-seas sales will retrospectively be treated as 'no-supply', from July 1, 2017. No refund will be granted on tax paid, if any, for the past period.

Amendments to the Integrated Goods and Services Tax Act, 2017 ('IGST Act')

Relevant provision	Particulars
Section 2	<p>Definition of 'OIDAR services' widened:</p> <ul style="list-style-type: none"> • To include services involving any level of human intervention and/or automation • Definition of 'non-taxable online recipient' ('NTOR') widened to include all unregistered persons located in the taxable territory and receiving OIDAR services, whether or not for the purposes of commerce, industry or any other business or profession.
Section 5	No liability to pay GST on Ocean Freight under the Reverse Charge Mechanism - Entry no. 10 of the Notification No. 10/2017-Integrated Tax (Rate) dated June 28, 2017, deleted, in alignment with decision of the Supreme Court in case of Union Of India & Anr. v. Mohit Minerals Ltd 2022 (5) TMI 96
Section 10(1)	<p>Place of supply ('POS') in case of supplies (of goods other than exports/imports) made to unregistered person:</p> <ul style="list-style-type: none"> • If no address is mentioned, then the location of supplier shall be the POS • In all other cases, location as mentioned on the invoice shall be the POS. Further, if complete address of recipient is not mentioned, then the POS shall be determined based on the name of the State.
Section 12(8) and 13(9)	<p>Specific provisions for determining the POS based on the destination of goods omitted. POS shall be determined, as per the general principles in the following situations:</p> <ul style="list-style-type: none"> • Services of goods transportation to a place outside India, where both supplier and recipient are located within India. • Services of goods transportation, other than by way of mail or courier, where either supplier or recipient are located outside India.
Section 16	<p>Supply under Letter of Undertaking (without payment of IGST) made the default mechanism for undertaking export supplies.</p> <p>Exports on payment of IGST allowed only for the notified class of 'persons', as well as notified class of goods or services.</p> <p>'Zero rating' status available in case of supplies to SEZs (developer or units), only if the supply is made for authorised operations of such SEZ developer/unit.</p>

Amendments related to online gaming and casinos in the CGST Act 2017

Relevant provision	Particulars
Section 2	<ul style="list-style-type: none"> • Online gaming, online money gaming, specified actionable claims, virtual digital asset have been defined. • Definition of 'supplier' widened to include a person who organises or arranges, directly or indirectly, supply of specified actionable claims.



Section 9(1)	Tax at the rate of 28% specified for taxing specified actionable claims. (<i>Vide</i> insertion of entry no. 227A in Schedule IV, in Notification no. 01/2017-IT Rate dated June 28, 2017)
Section 12(2)(b)	Supplier of specified actionable claims to pay tax on advances received in case of supply of goods. (The amendment excludes these categories of suppliers from the exemption prescribed for payment of tax on advances in respect of goods)
Section 24	Compulsory registration is required by persons supplying online money gaming/online gaming services from a place outside India to a person in India.

Amendments related to Online Gaming and Casino in IGST Act 2017

Relevant provision	Particulars
Section 2	Definition of 'ODIAR services' amended to exclude the online gaming including online money gaming
Section 5	Proviso to Section 5(1) amended to empower the Government to notify the imported goods on which IGST shall be levied as per IGST Act and not as per the provisions of the Customs Tariff Act, 1975. Supply of online money gaming has been notified (<i>vide Notification 03/2023-Integrated Tax dated September 29, 2023</i>).
Section 14A	Supplier of online money gaming, not located in the taxable territory, required to pay IGST on forward charge. <ul style="list-style-type: none"> - To facilitate such payments mandatorily required to register. - Upon failure to comply with the registration requirement, such supplier shall be blocked for public access.

Amendments to the Central Goods and Services Tax Rules, 2017 ('CGST Rules')

Relevant provision	Particulars
Rule 8 & Rule 14	Registration procedure as specified in Rule 8 and Rule 14 of CGST Rules, 2017 extended to include a person supplying online money gaming from a place outside India to a person in India.
Rule 31B & 31C	Value of supply of online gaming including online money gaming and (actionable claims) in case of casino prescribed.
Rule 64	Return in Form GSTR-5A required to be filed by registered person providing online money gaming from a place outside India to a person in India.

Amendments to the Customs Tariff Act, 1975 ('CTA')

Relevant provision	Particulars
First Schedule	Actionable claims included in Chapter 98 of the First Schedule to the CTA and rate of duty prescribed as NIL.



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