

GST ALERT – GSTR-3B – TRANSITION CREDIT

Background

GST has been implemented in India and the due dates for filing GSTR-1; GSTR-2; and GSTR-3 were extended. An additional return for July 2017 and August 2017 (GSTR-3B) was also notified. The due date for filing this form was specified as 20th August 2017 and 20th September 2017 respectively.

Given the fact that many companies have significant unutilized cenvat credit and VAT credits flowing from the pre-GST regime and the fact that the transitional benefits for certain new assesseees were also linked with filing a particular form known as TRANS-01, concerns were expressed with reference to tax payment in August and impact on cash flow if the unutilized credits are not available.

Notification No.23/2017-Central Tax dated 17.08.2017

The Central Government has issued this Notification in connection with furnishing of Form-GSTR-3B and the broad features are set out in the following table:-

<i>Sl. No.</i>	<i>Class of registered persons</i>	<i>Last date for furnishing of return in Form GSTR-3B</i>	<i>Conditions</i>
(1)	(2)	(3)	(4)
1.	Registered persons entitled to avail input tax credit in terms of section 140 of the said Act read with rule 117 of the said Rules but opting not to file FORM GST TRAN-1 on or before the 28 th August, 2017	20 th August 2017	...
2.	Registered persons entitled to avail input tax credit in terms of section 140 of the said Act read with rule 117 of the said Rules and opting to file FORM GST TRAN-1 on or before the 28 th August, 2017	28 th August, 2017	(i) compute the “tax payable under the said Act” for the month of July, 2017 and deposit the same in cash as per the provisions of rule 87 of the said Rules on or before the 20 th August, 2017 (ii) file FORM GST TRAN-1 under sub-rule (1) of rule 117 of the said Rules before the filing of FORM GSTR-3B;

			(iii) where the amount of tax payable under the said Act for the month of July, 2017, as detailed in the return furnished in FORM GSTR-3B, exceeds the amount of tax deposited in cash as per item (i), the registered person shall pay such excess amount in cash in accordance with the provisions of rule 87 of the said Rules on or before 28 th August, 2017 along with the applicable interest calculated from the 21 st day of August, 2017 till the date of such deposit.
3.	Any other registered person	20 th August, 2017	...

The Explanation provides that ‘*tax payable under the said Act*’ means the difference between the tax payable for the month of July 2017 as detailed in the return furnished in Form-GSTR-3B and the amount of *input tax credit entitled to for the month of July 2017 under Chapter-V and Section 140 of the said Act read with Rules made thereunder.*

Registered person means the person required to file return under Section 39.

Impact

1. *A registered person liable to pay GST for the month of July 2017 has the choice of not bothering about transitional benefit at this point of time and can simply file GSTR-3B by 20th August 2017. He would be entitled to input tax credit subject to eligibility only in respect of procurements of goods or services or both in July 2017.*
2. *In case, a registered person has significant transitional benefits in accordance with Section 140 of the CGST Act, 2017 and wants the benefit of the same for tax payment, then the said registered person should*
 - *pay tax after all calculations on or before 20th August 2017;*
 - *file GSTR-TRAN-01 on or before 28th August 2017; and*
 - *file GSTR-3B on or before 28th August 2017.*

Notification No.22/2017

This Notification has introduced CGST (Fifth Amendment) Rule 2017. Amendments have been made to Rule 3, Rule 17, Rule 40, Rule 61, Rule 87. Rule 101 has been substituted and Rule 44A has been inserted.

The amendment to Rule 40 is to provide that a registered person who becomes eligible to avail ITC under Section 18(1) is required to file the declaration in Form-GST-ITC-01 within 30 days or such period as may be extended by the Commissioner. It also provides that if extension of time limit is notified by Commissioner of State Tax or UT it shall be deemed to be notified by the Commissioner.

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