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ARTICLES 2021



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OMNIBUS AMENDMENTS

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As per Section 9 (5) of the CGST Act, 2017, the Government can notify the services in respect of which the tax payable on intra-state supply of such services shall be payable, by the Electronic Commerce Operator if such services are provided through Electronic Commerce Operators. In other words, the person providing such service need not pay GST for the transaction, which will be collected and paid by the Electronic Commerce Operators themselves. Similar provision is available under Section 5 (5) of the IGST Act also for inter-state supplies.

It may be noted that the term “Electronic Commerce Operator” is defined in Section 2 (45) of the CGST Act as, “electronic commerce operator means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce”. If the person providing the notified services, is providing such services through his own website, the provisions of Section 9 (5) are not applicable.

The following services are so far notified under this Section.

- (i) Services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;
- (ii) Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under subsection (1) of section 22 of the said Central Goods and Services Tax Act.
- (iii) Services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said Central Goods and Services Tax Act.

Vide Notification 17/2021 Central Tax (Rate) Dt. 18.11.2021, which will come into effect from 01.01.2022, under clause (i) above, "omnibus or any other motor vehicle" has also been added.

As a result, whenever passenger tickets are booked for travel in omnibuses and stage carriage buses, through Electronic Commerce Operators like redbus, travelyari, makemytrip, etc. then the applicable GST for the service of transportation of passengers shall be collected from the passengers by these Electronic Commerce Operators and paid to the Government by them. So far, these Electronic Commerce Operators were passing on the tax component to the Omnibus operators, who would, in turn pay it to the Government.

Further, the following exemptions are available under S.No. 15 (b) and (c) and 17 (e) of Notification 12/2017 Central Tax (Rate) Dt. 28.06.2017, in respect of passenger transportation services.

15 (b) Transportation of passengers, with or without accompanied belongings, by non-air conditioned contract carriage other than radio taxi, for transportation of passengers, excluding tourism, conducted tour, charter or hire;

15 (c) Transportation of passengers, with or without accompanied belongings, by stage carriage, other than air-conditioned stage carriage.

17 (e) Transportation of passengers, with or without accompanied belongings, by metered cabs or autorickshaws.

Now, these exemption entries are also being amended from 01.01.2022 by adding a proviso to the effect that nothing contained in this exemption would be available, if the services are provided through Electronic Commerce Operators.

The effect of these amendments on the activity of transportation of passengers with effect from 01.01.2022 can be tabulated as under.

S.No.	Type of vehicle and how booked	Taxability	Who is liable to pay?
1	Non-airconditioned stage carriage - booked through Electronic Commerce Operators (travel apps)	Taxable	Electronic Commerce Operator
2	Non-airconditioned stage carriage - booked directly by the Bus operator (Physical booking, own website booking, etc.)	Exempted	
3	Non-airconditioned contract carriage - booked through Electronic Commerce Operators (travel apps)	Taxable	Electronic Commerce Operator
4	Non-airconditioned contract carriage - booked directly by the Bus operator (Physical booking, own website booking, etc.)	Exempted	
5	Metered cabs and autorickshaws booked through Electronic Commerce Operators (travel apps)	Taxable	Electronic Commerce Operator
6	Metered cabs and autorickshaws booked directly	Exempted	
7	Air-conditioned stage carriages or airconditioned contract carriages, booked directly by the Bus operator (Physical booking, own website booking, etc.)	Taxable	Bus operator

