

Administration of U.T. of Daman and Diu.

Value Added Tax Department

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CIRCULAR

At present the Government departments of Daman & Diu who are registered with Value Added Tax Department as TDS Deductors or Dealer as the case may be.

Under CGST Section 2 (17) (i) defines Business to include "any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as Public authorities"

The CGST Act further under Section 7 (2) (b) provides that only those activity and transaction of the Central Government, a State Government or any local authority in which they are engaged as Public authorities", shall be considered as neither Supply of Goods nor Services which may be notified by the Government on the recommendation of the council

Therefore all other transactions and activities except as may be Notified u/s 7(2) (b), of the Government Department will come under taxability in GST.

Section 51 (4) of the CGST further requires all departments or establishment of the Central Government, or State Government, Local Authority or Governmental Agencies shall require to Deduct 1% tax while crediting or making payments to the supplier of taxable goods or services or both if the value of such supply under a contract exceeds Rs.250 Lakh.

Now therefore it is mandatory for the Government department of Daman & Diu who are making the taxable supply and deduct tax requires to take registration in GST.

The provision for Registration under CGST 2017 is mutatis mutandis applicable to Union Territory Goods and Services Tax Act, 2017. Provision for Registration under Section 22 & 24 along with Section 21 of Union Territory Goods and Services Tax Act, 2017, are as under

The Central Goods & Services Tax Act, 2017 published in the Gazette of India, Extraordinary, Part -- II,

Section 22: "Persons liable for Registration --

(1) Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, from where he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees:

Provided that where such person makes taxable supplies of goods or services or both from any of the special category States, he shall be liable to be registered if his aggregate turnover in a financial year exceeds ten lakh rupees.

(2) Every person who, on the day immediately preceding the appointed day, is registered or holds a license under an existing law, shall be liable to be registered under this Act with effect from the appointed day.

(3) Where a business carried on by a taxable person registered under this Act is transferred, whether on account of succession or otherwise, to another person as a going concern, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession.

(4) Notwithstanding anything contained in sub sections (1) and (3), in a case of transfer pursuant to sanction of a scheme or an arrangement for amalgamation or, as the case may be, demerger of two or more companies pursuant to an order of a High Court, Tribunal or otherwise, the transferee shall be

liable to be registered, with effect from the date on which the Registrar of Companies issues a certificate of incorporation giving effect to such order of the High Court or Tribunal."

Section 2A: "Compulsory registration in certain cases –

Notwithstanding anything contained in sub-section (1) of section 22, the following categories of persons shall be required to be registered under this Act, —

- (i) persons making any inter-State taxable supply;
- (ii) casual taxable persons making taxable supply;
- (iii) persons who are required to pay tax under reverse charge;
- (iv) person who are required to pay tax under sub-section (5) of section 9;
- (v) non-resident taxable persons making taxable supply;
- (vi) persons who are required to deduct tax under section 51, whether or not separately registered under this Act;
- (vii) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- (viii) Input Service Distributor, whether or not separately registered under this Act;
- (ix) persons who supply goods or services or both, other than supplies specified under sub-section (3) of section 9, through such electronic commerce operator who is required to collect tax at source under section 52;
- (x) every electronic commerce operator;
- (xi) every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person; and
- (xii) such other person or class of persons as may be notified by the Government on the recommendations of the Council."

The Union Territory Goods & Services Tax Act, 2017 published in the Gazette of India, Extraordinary, Part – II,

Section 21: "Application of provisions of Central Goods and Services Tax Act –

Subject to the provisions of this Act and the rules made thereunder, the provisions of the Central Goods and Services Tax Act, relating to, —

- (i) scope of supply;
- (ii) composition levy;
- (iii) composite supply and mixed supply;
- (iv) time and value of supply;
- (v) input tax credit;
- (vi) registration;
- (vii) tax invoice, credit and debit notes;
- (viii) accounts and records;
- (ix) returns;
- (x) payment of tax;
- (xi) tax deduction at source;
- (xii) collection of tax at source;
- (xiii) assessment;
- (xiv) refunds;
- (xv) audit;
- (xvi) inspection, search, seizure and arrest;
- (xvii) demands and recovery;

(xviii) liability to pay in certain cases;

(xix) advance ruling;

(xx) appeals and revision;

(xxi) presumption as to documents;

(xxii) offences and penalties;

(xxiii) job work;

(xxiv) electronic commerce;

(xxv) settlement of funds;

(xxvi) transitional provisions; and

(xxvii) miscellaneous provisions including the provisions relating to the imposition of interest and penalty, shall, mutatis mutandis, apply, —

(a) so far as may be, in relation to Union territory tax as they apply in relation to central tax as if they were enacted under this Act;

(b) subject to the following modifications and alterations which the Central Government considers necessary and desirable to adapt those provisions to the circumstances, namely: —

(i) references to "this Act" shall be deemed to be references to "the Union Territory Goods and Services Tax Act, 2017";

(ii) references to "Commissioner" shall be deemed to be references to "Commissioner" of Union territory tax as defined in clause (2) of section 2 of this Act;

(iii) references to "officers of central tax" shall be deemed to be references to "officers of Union territory tax";

(iv) references to "central tax" shall be deemed to be references to "Union territory tax" and vice versa;


(v) references to "Commissioner of State tax or Commissioner of Union territory tax" shall be deemed to be references to "Commissioner of central tax";

(vi) references to "State Goods and Services Tax Act or Union Territory Goods and Services Tax Act" shall be deemed to be references to "Central Goods and Services Tax Act";

(vii) references to "State tax or Union territory tax" shall be deemed to be references to "central tax".

Department Registered Under Daman and Diu Value Added Tax Regulation, 2005 and Finance Act, 1994 (Service Tax Act) shall complete Migration Procedure to GST and obtain Provisional ID for smooth change over to GST

*This is issued with the approval of Commissioner VAT vide noting dt. 06/2017.


Gurav Nilesk Vishikant
Deputy Commissioner (VAT),
Daman

To,

All Heads of Offices,

Daman & Diu

Copy to

1. The PPS to the Administrator, Secretariat, Daman

2. The PA to Advisor to Administrator, Secretariat, Daman

3. The Collector & Commissioner (VAT), Daman/Diu

4. The MO, NIC, Secretariat, Daman

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