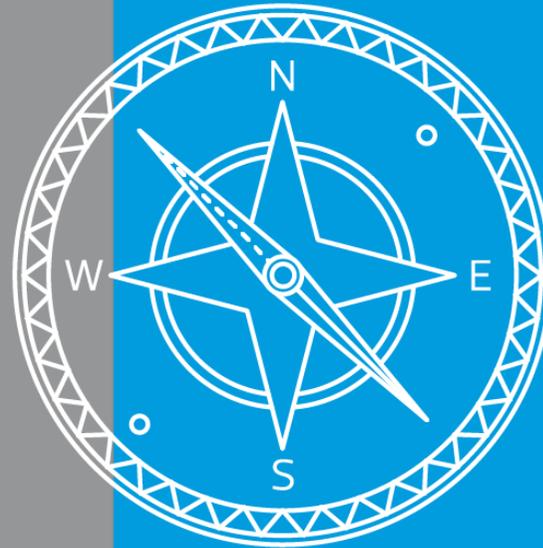


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## Newsflash: GST Council releases FAQs on Banking Sector

Representations have been received seeking clarifications on various issues in the banking sector. In order to clarify such issues, Frequently Asked Questions (FAQs) have been released by the GST Council:

Following are the key points to be considered from the FAQ's in respect of Banking Sector. For detailed FAQ's in respect of banking sector, [Click here](#).

BANKING SECTOR		
Sr. No.	Question	Answer
1.	<b>Whether Banks are required to capture the details of ATMs in registration certificate as a 'place of business'?</b>	No. Banks are not required to provide the details of ATMs while applying for registration. For the purposes of registration, ATM on its own does not constitute a place of business, as defined in the CGST Act, 2017.
2.	<b>Is it necessary for Banks / insurers to report the details of exempt and non-GST supplies in Table 8 of GSTR-1?</b>	Yes. In the absence of any specific exemption to the Banks/insurers, the information is required to be provided in the said table.
3.	<b>Is it necessary for Banks / insurers to report the details of invoices in Table 13 of GSTR-1?</b>	Banks will have to report the details in table 13 including the details required in column 5 & 7. However there is no requirement to provide the details in column 3 & 4 of the said table.
4.	<b>Is the condition to make payment for the value of supply plus the GST thereon required to be complied with by the recipient to claim the input tax credit where supplies for services are</b>	No, this condition is not required to be complied with by the recipient in respect of services between distinct persons.
5.	<b>A customer may avail numerous services from the Bank/insurer in a given taxable period. Is it mandatory for Banks to issue a tax invoice for each transaction or can the Bank issue a consolidated invoice for the service rendered during the tax period?</b>	As per the provisions contained in the first proviso to Rule 47 of the CGST Rules, 2017 an insurer, a banking company or a financial institution, including a NBFC may issue invoices within 45 days from the date of supply of service. Further, sub-rule (2) of rule 54 of CGST Rules, 2017 provides that such entities may issue any other document in lieu of the tax invoice. Accordingly, such entities may issue a consolidated statement/ invoice/ advice to the customer at the end of the month, with the details of all the charges levied during such month and GST payable thereon.
6.	<b>Is there a requirement to issue a 'payment voucher' at the time of making payment to the foreign supplier? When should the details of such transactions be reported in the GSTR re-</b>	Yes. Banks will have to issue a payment voucher in the said cases. Section 31(3)(g) of the CGST Act, 2017 mandates issuance of a payment voucher in such cases and the same is therefore required to be issued at the

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7.	<b>Banks deploy various equipment such as Point of Sale machines or ATMs at various locations. At times, the equipment is required to be moved between locations for the purpose of repairs, encryption, etc. Will such movement constitute a supply for the purpose of the GST law?</b>	There is no supply in the said cases and hence the Equipment can be moved between such locations on the basis of a 'delivery Challan'.
8.	<b>Would Input Tax Credit (ITC) be available to a GST registrant though the services procured from third party vendor are also directly used by various 'distinct persons'? In such cases, is distribution of ITC required to be done mandatorily through Input Service Distributor mechanism?</b>	Yes. Input Tax Credit (ITC) can be availed by a GST registrant in respect of the services procured in a consolidated manner from third party vendor which are directly used in the course or furtherance of business in more than one State, e.g. statutory audit fees, advertisement and marketing expenses, consultancy fees etc. The same needs to be appropriately invoiced or distributed through the ISD mechanism to the "distinct persons" who
9.	<b>Whether for the services received from a related person/ distinct person outside India, the recipient of services would be eligible for full input tax credit?</b>	<p>In terms of the second proviso to section 17(4) of the CGST Act, 2017, the restriction of reversal of 50% credit would not apply to the tax paid on supplies made by one registered person to another registered person having the same PAN and the non-applicability of 50% reversal is only to the extent of inter-branch services between registered branches having the same PAN in India.</p> <p>Thus, tax paid on services received from a related person / distinct person located outside India would be liable to 50% reversal.</p>
10.	<b>Would intermediary services provided to an offshore client and services provided by a banking company to its offshore account holders be treated as an intra-State supply or an</b>	As per the provisions of section 13(8) of IGST Act, 2017, in respect of intermediary services, there would always be an Intra state supply since the place of supply is the place of service provider itself.
11.	<b>Would services provided by banks to RBI be also taxable?</b>	Yes. Services provided by banks to RBI would be taxable as these are not covered by any of the exemptions or excluded from the purview of GST under the CGST Act, 2017 or under the IGST Act, 2017.

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12.	<b>Will the second proviso to Rule 28 apply in the case of a banking company that selects the 50% option to avail input tax credit set out in section 17(4) of the CGST Act, 2017?</b>	The second proviso to Rule 28 of the CGST Rules, 2017 states that where the recipient is eligible for full input tax credit, the value as declared in the Invoice shall be deemed to be the Open Market Value of the goods or services. In view of the second proviso to section 17(4) of CGST Act, 2017, Banks claiming input tax credit under the 50% option will be covered under the scope of the second proviso to Rule 28 relating to valuation, where services are provided between the branches of the bank.
13.	<b>Can value of services be enhanced by invoking the CGST Rules in case of services provided by banks at a concessional / differential rate to a recipient other than 'related party' / 'distinct person'?</b>	<p>Banks provide various services to customers for a charge. However, at times, account holders / customers are provided services free or at a concessional / differential rate. The free or concessional / differential rate is offered considering factors such as credit rating and stability of the customer, size of relationship, expected future business or the opportunity presented in the market elsewhere etc. As a result, the charges for the same service may differ from customer to customer.</p> <p>Such services provided to persons who are not related persons will be taxable on the transaction value, that is, the value of the services charged or recovered from the customers or account holders as per section 15 of the CGST Act, 2017.</p> <p>Thus, in case of services provided at a concessional / differential rate to a recipient other than 'related party' / 'distinct person', there is no requirement for enhancing the value of services by invoking the CGST Rules, 2017.</p>
14.	<b>What is the nature of income earned / expended in instruments like repos and reverse repos and is such income taxable under GST?</b>	<p>Repos and reverse repos are financial instruments of short term call money market that are normally used by banks to borrow from or lend money to RBI.</p> <p>The margins, called the repo rate or reverse repo rate, in such transactions are in the nature of interest charged for lending or borrowing of money and are thus exempted from GST.</p>

Sr. No.	Question	Answer
15.	<b>Whether assignment or sale of secured or unsecured debts is liable to GST?</b>	<p>Section 2(52) of the CGST Act, 2017 defines 'goods' to mean every kind of movable property other than money and securities but includes actionable claim. Schedule III of the CGST Act, 2017 lists activities or transactions which shall be treated neither as a supply of goods nor a supply of services and actionable claims other than lottery, betting and gambling are included in the said Schedule. <b>Thus, only actionable claims in respect of lottery, betting and gambling would be taxable under GST.</b> Further, where sale, transfer or assignment of debts falls within the purview of actionable claims, the same would not be subject to GST.</p>
16.	<b>Is GST required to be paid on additional interest charged in case of default in installment payment by the customer?</b>	<p>As per Section 15(2) of CGST Act, 2017, the value of supply includes, <i>inter alia</i>, interest for delayed payment of any consideration for any supply.</p> <p>Additional Interest charged for default in payment of installment in respect of any supply, <b>which is subject to GST</b>, will be includible in the value of such supply and therefore would be liable to GST.</p>
17.	<b>Whether interest on a finance lease transaction is taxable under GST?</b>	<p>A finance lease is a method of borrowing against the asset. The interest represents the time value of the money expended by the Bank in financing the asset. Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) is exempt. But, in a financial lease the ownership of the asset is with the bank. In essence, it is a 'purchase the asset and lend it further' transaction for bank. Therefore, neither the services are purely in the nature of extending loans nor the consideration for a financial lease is purely in the nature of interest. Thus, interest on finance lease transactions will be taxable under GST.</p>

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18.	<b>Where GST is charged on a supply of service and the amounts due from the customer become irrecoverable as a bad debt in commercial practice, would such GST paid on accrual basis be refundable to the service provider by the Government?</b>	GST already paid on bad debts cannot be adjusted and the supplier shall be required to issue a credit note for reversal of the GST already paid on such irrecoverable sums. Credit note must be issued within the time limit prescribed.
19.	<b>What is the location of the supplier in case of banking and other financial services where multiple locations are involved in providing the services to a customer?</b>	Banking services emanate from the bank account opened by a customer with the branch of a bank or through a contractual relationship between the branch of a bank and the customer. The branch holding the customer's account is referred to as the 'Account Branch' or the 'Home Branch'. An account would include all types of accounts – viz. interest bearing, non-interest bearing, loan account, deposit account, etc. In the present day of "anywhere banking", the customer avails banking services through mobile/ internet banking or by visiting any branch of the bank. At times the services are provided through branches / locations other than the 'Account Branch' or the 'Home Branch'. It is clarified that the services provided by the other branches are actually services provided to the 'Home branch' and are ultimately billed to the home branch. Thus, the location of supplier in such cases is the Home Branch/Account Branch.
20.	<b>Is the Nominated Bank, receiving gold on consignment basis, required to pay IGST on import of gold from the overseas supplier?</b>	The dispatch of gold by the principal from a place outside India to the bank in India is deemed to be a supply in terms of para 3 of Schedule I to the CGST Act, 2017. Accordingly, IGST will be payable on such import of gold by the Nominated Bank at the time of clearance of gold by the Customs. Further, since the supply has already taken place, there will not be another supply when the gold is drawn or appropriated by the Nominated Bank from the stock. There will, therefore, not be another levy of GST.

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21.	<p><b>In the case of gold (metal) loan, whether the supply of gold (metal) to the jeweller will be deemed to take place at the time of delivery of gold (metal) or at the time when the price of gold (metal) is fixed by the jeweller?</b></p>	<p>The Gold (Metal) Loan Scheme approved by the Reserve Bank of India is a means of financing. The Banks deliver gold (metal) to the jewellers who appropriate and use the same in the course of their business. The gold (metal) is seldom returned and the jeweller fixes the price of gold (metal) within the stipulated period of 180 to 270 days. Considering the nature of transaction, the supply of gold (metal) will take place on the date of delivery of gold (metal) to the jeweller. The Banks should raise the invoice at the time of delivery of gold (metal) in terms of section 12 of the CGST Act, 2017. Since the price of gold (metal) is not fixed, banks may issue an invoice wherein the value of the supply may be indicated on the basis of the metal rate in the international or domestic market. As and when the price is finally fixed by the jeweller, the Bank should issue debit or credit notes for the difference in the price as per the original invoice and the price finally fixed, along with applicable GST.</p> <p>Further Interest charged, if any by the banks would not be exempt since the same forms part of a transaction or facility and is not in the nature of Interest.</p>
22.	<p><b>What will be the place of supply in cases where the account is held in a bank in one State but some services are availed in a different branch of the same bank in another State.</b></p>	<p>The home branch where the account is opened of the customer will be the location of supplier. Further, in respect of services provided by the branches, if the branch levies any charges on the main branch for providing this facility, that will be a separate supply between the two branches and will be chargeable to tax separately even if there is no separate consideration for the same.</p>

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This newsflash note is general in nature. In this newsflash, we have summarized certain FAQs / clarifications provided by the GST Council in relation to Banking Sector. It may be noted that nothing contained in this newsflash should be regarded as our opinion and facts of each case will need to be analyzed to ascertain applicability or otherwise of the said announcements and professional advice should be sought for applicability of legal provisions based on specific facts. We are not responsible for any liability arising from any statements or errors contained in this newsflash.

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