



**Newsflash:
Major Changes under IGST Act, 2017 effective
from 1 October 2023**

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1.0 Background

The key amendments brought about in the provisions of IGST Act, 2017 and made effective from 1 October 2023 are summarised as under:

2.0 Notified categories of persons may make zero rated supplies with payment of Integrated Tax (IGST) w.r.t. notified class of goods or services and claim refund of IGST paid

- The sub-section (3) of Section 16 of IGST Act, 2017 has been substituted with new sub-sections (3) and (4) vide the Finance Act, 2021 dated 28 March 2021 and made effective from 01 October 2023. Prior to the effective date of amendment, a registered person was allowed to make zero-rated supplies of goods or services and claim GST refund as per the below available options:
 - Under bond or Letter of Undertaking (LUT) without payment of IGST and claim refund of unutilised input tax credit
 - On payment of IGST and claim refund of such tax paid on goods or services supplied
- **Section 16 of IGST Act, 2017 has been amended with effect from 1 October 2023 to withdraw the blanket option which was available for making zero-rated supplies with payment of IGST and claim IGST refund thereon. As per the amended provisions of Section 16 of the IGST Act, 2017, government would specify by way of a notification the below:**
 - a class of persons who may make zero rated supply on payment of IGST and claim refund of the tax so paid;
 - a class of goods or services which may be exported on payment of IGST and the supplier of such goods or services may claim the refund of tax so paid
- In this regard, below notifications have been issued under the IGST Act, 2017:

| Notification No. | Brief summary |
|--|--|
| 01/2023 - Dated: 31-7-2023 - IGST | Goods or services may be exported or supplied to SEZ on payment of integrated tax (IGST) and refund may be claimed thereafter (except for certain specified goods). Such goods are mainly pan-masala, tobacco and related preparations, essential oils of pepper mints and other mints |

| | |
|---|--|
| 05/2023 - Dated: 26-10-2023 - IGST | Goods or services (except few specified) may be exported on payment of integrated tax and on which the supplier of such goods or services may claim the refund of tax so paid. |
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3.0 Supply of goods or services or both *for authorised operations* to a Special Economic Zone (SEZ) developer or unit shall constitute a zero-rated supply under GST

- Section 16(1)(b) of IGST Act, 2017 has been amended vide the Finance Act, 2021 dated 28 March 2021 by virtue of which the supply of goods or services or both to a SEZ unit or developer shall qualify as zero-rated supplies under GST only if the said supplies are for purpose of authorised operations by the SEZ unit/developer. The said amendment is made effective from 1 October 2023.
- Thus, if at any point of time it is identified that the supplies made to an SEZ unit or developer are not for authorised operations by such SEZ, the benefit of zero-rating may be denied to the supplier making such supplies.

4.0 Changes in definition of Online Information and Database Access or Retrieval Services (OIDAR) thereby eliminating the condition of the supply being essentially automated and involving minimal human intervention to constitute as OIDAR services.

- The definition of OIDAR as laid down under Section 2(17) of IGST Act, 2017 has been amended vide the Finance Act, 2023 dated 31 March 2023 with effect from 1 October 2023. In view of the changes brought about in the definition of OIDAR, the degree of human intervention while rendering such services shall play no role to determine classification as an OIDAR service and all electronically supplied services whose delivery is mediated by information technology over the internet or an electronic network, and which are impossible to ensure in the absence of information technology shall be considered as OIDAR Services.
- Thus, the term OIDAR has been broadened to include a gamut of E-services. The broad basing of OIDAR services would impact the tax incidence of the suppliers located offshore and supplying their digital products over internet or electronic network in India.
- The definition of 'non-taxable online recipient' has also been amended to widen its coverage. From 1 October 2023, any unregistered person receiving online information and database access or retrieval services located in taxable territory shall be considered as a non-taxable online recipient.

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This Newsflash summarizes the major changes under IGST Act, 2017 effective from 1 October 2023. 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 judgement and appropriate 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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