



GURUGRAM BRANCH OF NIRC

The Institute of Chartered Accountants of India
(Setup by an Act of Parliament)

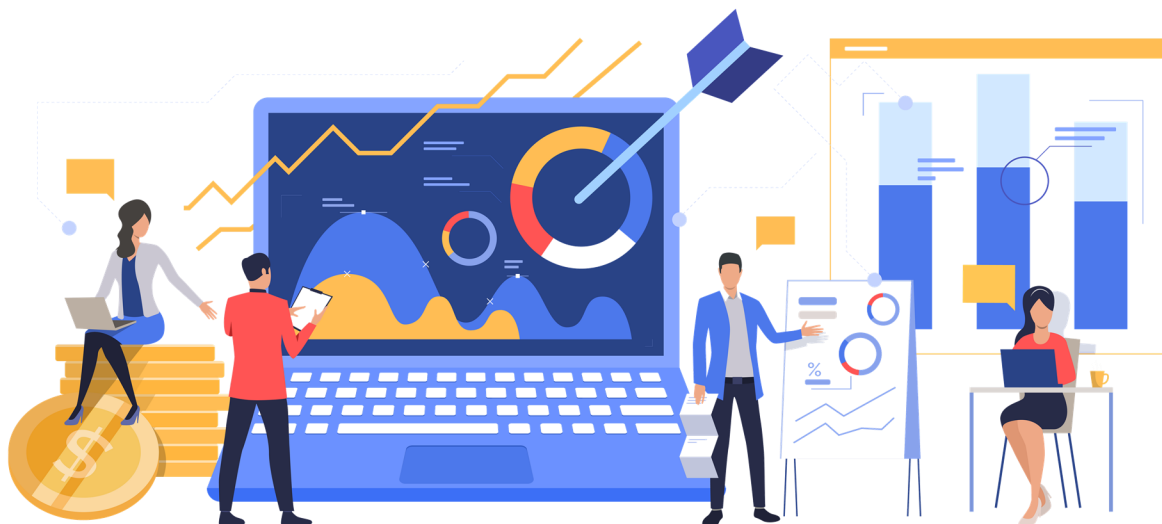


E-NEWSLETTER
CHARTERED ACCOUNTANTS
SEPTEMBER 2022 EDITION



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Office: 2A, Pavilion Building, 339/2, Sector-14, Gurugram-122001
Phone: 0124-4268867 | Email: gurgaon@icai.org | Website: www.icaigurugram.org



Stay Connected-Get Updated with ICAI Gurugram Branch

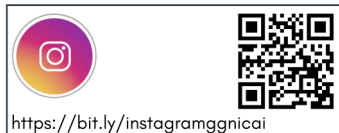
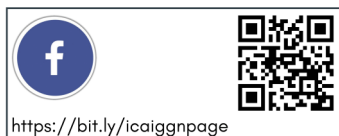
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Connect to BRANCH



A platform for Members and Students to
Connect & Interact with the Chairman of
Gurugram Branch of ICAI



**LIVE ((to))
STREAMING**

Connect by Facebook Live on
1st Sunday of Every Month at 11 AM
<https://bit.ly/icaiggnpage>



Connect and Share to ME

- **IDEAS** of yours for our Fraternity
- Redressal of your **GRIEVANCE**
- Willingness to be a **VOLUNTEER**
- Share your valuable **SUGGESTIONS**

"Always available to the Profession"

CA. Mohit Singhal
Chairman, Gurugram Branch



Members & Students of Gurugram Branch can take Benefit of the Initiative



ICAI MOTTO

य एष सुप्तेशु जागर्ति कामं कामं पुरुषो निर्ममाणः ।
तदेव शुक्रं तद् ब्रह्म तदेवामृतमुच्यते ।
तस्मिंल्लोकाः श्रिताः सर्वे तदु नात्येति कश्चन । एतद् वै तत् ॥

Ya eṣa supteṣu jāgarti kāmam kāmam puruṣo nirmimāṇah ।
Tadeva śukram tad brahma tadevāmṛtamucyate ।
Tasminlokāh śritāh sarve tadu nātyeti kaścan । Etad vai tat ॥

That person who is awake in those that sleep, shaping desire after desire, that, indeed, is the pure. That is Brahman that, indeed is called the immortal. In it all the worlds rest and no one ever goes beyond it. This, verily, is that, kamam kamam: desire after desire, really objects of desire. Even dream objects like objects of waking consciousness are due to the Supreme Person. Even dream consciousness is a proof of the existence of the self.

No one ever goes beyond it: of Eckhart: 'On reaching God all progress ends'.

Source: Kathopanishad





Study Group Membership for Gurugram Branch is open for FY 2022-23

Particulars	Fee Per member	GST @ 18%	Total Amount
For Individual Member	Rs. 5500/-	Rs. 990/-	Rs. 6490/-
For five or more declared members from any organization	Rs. 5000/-	Rs. 900/-	Rs. 5900/-

Fee Structure:-

A. For Individual Member:- Rs 5500 plus Rs. 990(18% GST)= Rs. 6490/-

B. For five or more declared members from any organization i.e. names of the Members to be declared at the time of payment of fee- Rs.5000 plus Rs.900 (18% GST)= Rs. 5900/- per member

Payment Option:

1. **Offline Mode** - Please fill up the form ([Click Here](#)) and send the cheque to branch along duly filled form.
2. **NEFT/RTGS Mode** : RTGS/NEFT at below bank and share the details of payment along duly filled form at gurgaonicai1@gmail.com

Bank Account Details:-

A/C Name : Gurgaon Branch of NIRC of ICAI

A/C Number : 910010026661826 | IFSC Code : UTIB0000056

(Kindly mention your name and Membership Number in the remarks while making the payment)

3. **Payumoney** - Please follow the link and make the payment.

For Individual Member : <https://pmny.in/LIsJxib5Qz4P>

For Five Member : <https://pmny.in/EIPOkfzu4vCH>

Note:- GST details (in membership form) need to be shared at the time of making the payment. An invoice once issued will not be altered.

Disclaimer:

Request you to please send a mail at gurgaonicai1@gmail.com along with invoice/GST details (in membership form) within 3 days of making the payment to receive a copy of GST Invoice with your details.



CA Mohit Singhal
Gurugram Branch of NIRC of ICAI



Dear Professional Colleagues,

Warm greetings.

I pray for well-being of you and your family with the trust that trust this message will find you and your family safe and healthy. I believe your constructive suggestions enable this newsletter to plays an important role to improve the communication with members and students.

"You don't have to be great to start, but you have to start to be great." Don't be afraid to Innovate be different. Have your own ideas. Following the crowd is a path to mediocrity. Innovation distinguishes between a leader and a follower. Don't worry about blame and don't waste time in complaining. Make your decisions and move on. People aren't always going to be there for you, that is why you need to learn to handle things on your own.

We all are going to celebrate Teacher's Day on 5th of this month. Teachers / mentors play a vital role in transformation of life or their students. My heartiest regards to all the seniors and warm wishes and blessings to all the students of this noble profession. In this month your branch has planned multiple activities for students to provide them an opportunity to improvise their skills and explore for networking.



Applicability of GST on Renting of Residential Dwelling

Ashish Saxena



Meaning - The term 'Residential Dwelling' is not defined in Central Goods and Services Tax Act, 2017 (hereinafter referred to as Act). So, the dictionary meaning of the same is referred to, which is as follows:

- As per Black's Law Dictionary: 'Residential dwelling means living in a certain place permanently or for a considerable length of time'
- As per Merriam Webster dictionary: 'A shelter (as a house) in which people live'
- As per the Oxford dictionary: 'A house or apartment or other places of residence or a place to live in or building or other places to live in'.

Thus, residence means a place which is taken for staying regularly by the people but would not include any temporary accommodation. On analyzing the exemption entry in line with the above dictionary meanings, it appears that residential dwelling could be said to be used as a residence if the accommodation is rented for use as a living space and for a considerable period of time.

Applicability of GST on Renting of Residential Dwelling:

Till 17 July, 2022, Services by way of renting of residential dwelling to any person (whether registered or unregistered under the Goods and Services Tax Act, 2017) were exempt under GST, as per the Notification No. 12/2017-Central Tax (Rate) dated 28 June, 2017. The two-fold tests to determine eligibility of exemption in case of residential rentals under GST regime were -

Firstly, the nature of property test, i.e., property should be a "residential dwelling"; and secondly, the end-use test, i.e., property should be used as residence.

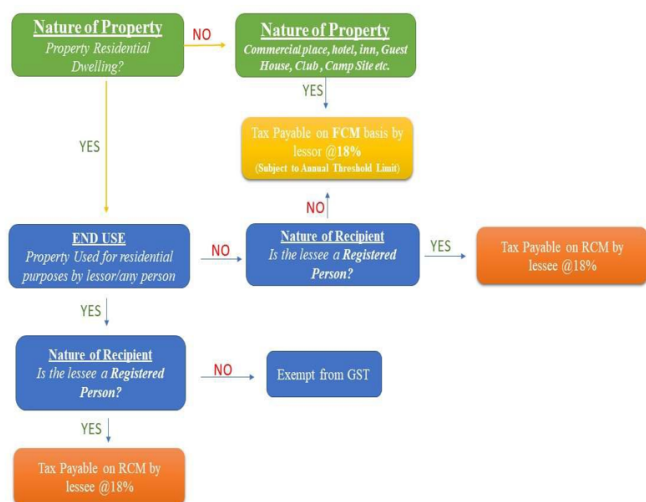
Other factors such as registration status of the lessor or lessee were not material.

Following the 47th GST Council recommendations and issue of Notification No. 04/2022 -Central Tax (Rate) dated 13th July, 2022, a new condition has been added to the exemption notification for residential rentals, whereby apart from the nature of dwelling and end-use conditions which existed earlier, exemption from GST is not available "where the residential dwelling is rented to a regis-

tered person". Such residential rental services not covered under the exemption notification are now taxed at 18%. Thus, "Service by way of renting of residential dwelling to a registered person" is now covered under reverse charge mechanism where the lessee will be the person responsible to remit tax, irrespective of end-use.

Further, the Government has clarified that if the house property is used for residential purpose and rent is not considered as a business expenditure in such case GST is not applicable on the same.

Flowchart to simplify the understanding



Practical implications and ambiguities as per my understanding:

Place of Supply

Place of supply in case of rentals would be where the property is located. Hence, for payment of tax under RCM, the registered person would be required remit tax from the state where the property is located.

Residential dwelling is used for commercial purposes

RCM applies even when residential dwelling is used for commercial purposes by lessee who is registered person. In other words, if "residential dwelling" is taken on rent as a commercial office by any registered taxpayer, GST is now payable under RCM even if the landlord is registered (RCM is not optional).

Corporates taking residences on rent for providing rent-free-accommodation to employees or as hostels, etc. may be required to remit GST under RCM.

Where managed residential properties (such as hostels) are directly rented to end customers, the agreement between the landlord and the operator needs to be checked for implied "renting" between landowner and managed service operator, based on substance and conduct of the parties.

**Scenario Covering the Practical Implications:**

Scenario 1: A company (registered in GST) takes a residential house property for use of residence on rent for employees. Is GST payable on such a transaction? If yes, then it is eligible to take ITC?

Response: Company is required to pay GST @ 18% under RCM. Further, such expense will be considered as an item of business expenditure and eligible to claim Input Tax Credit by the company.

Scenario 2: A company (registered in GST) takes a residential property on rent for one of its directors for residential purposes. Is GST payable on such a transaction? If yes, then it is eligible to take ITC?

Response: The company is required to pay GST @ 18% under RCM as per N.No.05/2022-Central Tax (Rate) dt. 13.07.2022. Further, such expense will be considered as an item of business expenditure and eligible to claim Input Tax Credit by the company.

Scenario 3: Instead of the Company, if the Director (who is unregistered) himself takes on rent the residential flat then will GST be payable?

Response: This activity would be exempted from GST and neither the owner of the house

nor the Director will be liable to pay any GST as per Notification No.12/2017-Central Tax (Rate) dated. 28.06.2017.

Scenario 4: A Company registered under GST, rents out a residential property to an unregistered person. Who is required to pay GST?

Response: The rent will be exempt in the hands of the Company as well as in the hands of an unregistered person and will be covered by the exemption notification No.12/2017-Central Tax (Rate) dated. 28.06.2017.

Scenario 5: An unregistered person (Unregistered under GST) has given a residential house property to an unregistered person (Unregistered under GST) for use for residential purposes. In such circumstances who will pay GST?

Response: In the current case, the tenant is not liable to pay GST as it is exempted as per Notification No.12/2017- Central Tax (Rate) dated. 28.06.2017.

Scenario 6: When a person is having GST registration under the Composition Scheme and takes a residential house property for the purpose of residence on rent then who is required to pay GST and whether ITC can be claimed?

Response: A registered person is required to pay





GST under RCM. It will be considered as an item of business expenditure and still not eligible to claim the input tax credit as per Section 10(4) by a composition dealer.

Scenario 7: A Company rents out a residential property to a Firm that is registered under GST. In the current case, GST will be payable by whom and whether they can claim the benefit of ITC?

Response: In such a case, the GST on rent will be payable by the recipient i.e. the firm under RCM. In this case, even if the company, or owner of the property is registered under GST, only the recipient of service is liable to pay GST under RCM. It will be considered as an item of business expenditure and the firm will be eligible to take the benefit of an input tax credit.

Scenario 8: If the taxpayer is located in a State different from the State in which the rented Residential property then what will be the Place of Supply?

Response: Place of supply shall be the place of residential property. Thus, it is an inter-state supply and IGST will be applicable.

Scenario 9: Mr ABC is having 3 residential Flats and he unregistered person (Under GST) and he has given a second Flat to Mr XYZ (Tenant). Mr XYZ is doing departmental stores business and is having GST registrations (under Composition Dealer). Now, who will be liable to pay GST and whether they can claim ITC?

Response: In such case, Mr XYZ is liable to pay GST under RCM on the 2nd flat used for residential purposes. Further, he is not eligible to claim ITC.

Scenario 10: A person registered (landlord) in GST rents out commercial property to another registered person (registered in GST). Who will pay GST?

Response: In the current case, GST is applicable to be paid in forwarding charge i.e. landlord is required to collect tax from the registered person (tenant) and pay to the government. A registered person in such a case can avail of ITC.



Gurugram Branch Managing Committee for the Session 2022-23

SNo.	Designation	Name	Mobile	Email ID
1	Chairman	CA. Mohit Singhal	9555379714	fcasmc@gmail.com
2	Vice-Chairman	CA. Amit Gupta	9654346350	amitmbaca@gmail.com
3	Secretary	CA. Jitender	9911656371	cajitender9@gmail.com
4	Treasurer	CA. Pooja Aggarwal	9810559631	poojaaggarwal8@gmail.com
5	NICASA Chairman	CA. Vipin Agrawal	9599336633	cavipinagrawal@gmail.com
6	Chairman of Members in Industry	CA. Amit Kithania	9716013030	caamitkithania@yahoo.co.in
7	Executive Member	CA. Amit Mittal	9873515068	amit.mittal@gkcindia.com
8	Executive Member	CA. Himmat Yadav	9999929513	cayadavhimmat@gmail.com
9	Executive Member	CA. Nishant Kumar	9560753535	nishant@srjnindia.com
10	Ex-Officio Member	CA. Naveen Garg Chairman, NIRC	9911283111	nv_n_garg@yahoo.com
11	Ex-Officio Member	CA. Pitam Goel	9650777079	pitam.goel@tattvamgroup.in
12	Ex-Officio Member	CA. Sandeep Agarwal	7903121471	sandeep.agarwal@felixadvisory.com
13	Ex-Officio Member	CA. Sangam Agarwal	9818911609	ashcompanyca@gmail.com
14	Ex-Officio Member	CA. Vijay Kr. Gupta	9871174091	vkguptaca@gmail.com

Feedback & Suggestions: Gurugram Branch will be happy to receive the feedback from you regarding the seminars/workshops and other activities organized by branch. You may please send feedback at Gurugram Branch of NIRC of ICAI requests the members & students to come forward & share the articles (Professional & other) to be published in the upcoming newsletter. The submissions may be sent to **fcasmc@gmail.com** with the subject line (Article Newsletter).

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