

TAX INFO

Dated 18/12/2021

Latest update on GST Law: Information regarding **Circular No. 167/2021 dated 17.12.2021.**

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GST on service supplied by restaurants through e-commerce operators

E-commerce Operators are liable to pay GST on restaurant services provided w.e.f 01.01.2022 vide Notification No. 17/2021-Central Tax (Rate) dated 18.11.2021. It is clarified that:

For E-Commerce Operators:

1. There is no mandatory requirement of separate registration by ECOs for payment of tax on restaurant service under section 9(5) of the CGST Act, 2017.
2. ECOs are liable to pay GST on supply of restaurant service made by unregistered business entities.
3. Separate bill is required to be raised if restaurant service and goods or services other than restaurant service are sold by a restaurant to a customer under the same order. It is advisable that ECO raises separate bill on restaurant service in such cases where ECO provides other supplies to a customer under the same order.
4. The invoice in respect of restaurant service supplied through ECO under section 9(5) will be issued by ECO.
5. ECOs for providing service require inputs as well services on which they claim ITC. The situation in this regard remains unchanged even after ECO is made liable to pay tax on restaurant service. ECO would be eligible to ITC as before. They are not required to reverse the ITC on account of restaurant services on which it pays GST in terms of Section 9(5) of the Act.
6. No ITC could be utilised for payment of GST on restaurant service supplied through ECO. The tax liability as per Section 9(5) to be discharged in cash.
7. E-Commerce Operators paying tax under section 9(5) are not required to collect TCS and file GSTR-8.
8. For the goods and services not notified u/s 9(5), they will continue to collect TCS in the same manner.
9. ECOs are not the recipient of the restaurant services supplied through their platform; hence, they need not to report these services as inward supplies in GSTR-3B.
10. ECO operators may continue to pay GST by furnishing details in GSTR 3B as outward taxable supplies. For accounting purpose, they can furnish the details of such supplies of restaurant services under section 9(5) in Table 7A(1) or Table 4A of GSTR-1.

For persons supplying restaurant service through ECOs:

1. For calculating the threshold or any other purpose in the Act, they shall include the aggregate value of supplies made by them through ECOs.
2. For the time being, they will report such supplies of restaurant services made through ECOs in Table of GSTR-1 and Table 3.1 (c) of GSTR-3B.

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