

CLARIFICATIONS ON FILING OF ANNUAL RETURN (FROM GSTR-9)

Press release dated 04-06-2019

Link -> <http://pib.nic.in/PressReleaseDetailm.aspx?PRID=1573319>

The Annual Return in the form GSTR-9 for FY 2017-18 is to be filed by 30th June 2019. However, there have been many inconsistencies in the form requiring suitable amendment therein so that the intent of the Government and legal provisions are synced and appropriate disclosure is enabled in the Annual Return. Considering that 2017-18 has been first year of implementation of GST and there have been numerous confusions and unintended mistakes by the taxpayers, the form should be kept simple with minimal information and opportunity for rectification of the mistakes occurred in the past.

One important step taken by the CBIC to remove various confusions as existed in the form is to issue a press release clarifying many pressing issues in the form though it would have been ideal to make necessary amendments in the format of form itself. Nonetheless, it is a welcome move to since it is intended to resolve many of the open issues which hitherto were hindering the preparation and filing of the form.

We have summarised below the clarifications in the sequence in which they appear in the said form for better understanding.

Clarifications regarding Part II of Form GSTR-9

1. In Part II of Form GSTR-9 only the following transactions will be disclosed,
 - a. Transactions in respect of which the tax is paid in Form GSTR-3B for the period Jul '17 to Mar '18 (irrespective of when such transaction was disclosed in Form GSTR-1), [\[point 'd' of press release\]](#) or
 - b. Any additional outward supply not declared in Form GSTR-1 and GSTR-3B to be disclosed in the Part II. However, tax element in respect of these transactions shall be declared in Part IV in 'Tax Payable' and the differential tax shall be paid vide DRC-03. [\[point 'e' of press release\]](#)

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H&A comments – This is a welcome clarification (though many experts believe that it is not in line with statutory provision) whereby the assessee is given last opportunity to disclose errors of omission and pay the taxes on such supply. Further, since it coming out to be a self declaration system, therefore, assessee should be permitted to use the ITC available with him while discharging the additional liability through DRC-03. However, the instruction number 9 to Form GSTR 9 specifically provides for payment of the additional liability through electronic cash ledger only.

2. There are instances where there are differences between the details auto-populated in Table 4 of Form GSTR-9 and the actual entry in the books of accounts or returns. It is clarified that Table-4 can be altered by the taxpayer reflecting the actual tax paid as per returns / DRC-03 and auto-population is only a functionality provided to the taxpayer.

H&A Comments- The figures auto-populated in the Form GSTR-9 in table 4 is only for facilitation derived based on the GSTR-1 and should not be accepted by the assessee on the face of it for the reason that the responsibility of the correctness of the figures in the said form is with the assessee only. Hence such figures shall be again cross checked with Form GSTR-3B and the books of accounts (where additional liability is declared and paid in DRC-03) and appropriate edit shall be done in the table 4.

Clarifications relating to Part III of GSTR-9

3. ITC in Form GSTR-2A as on **1st May'19** will be considered for auto-population in Table 8A of Form GSTR-9.

H&A comments - Till now there have been doubts regarding the date up to which the data from Form GSTR-2A would be populated to Form GSTR-9. Now it has been clarified that such date would be 1st May '19. However, it has to be noted that ITC relating to supply made during FY 2017-18 that was availed after due date of Sep '18 return, would be eligible only if it is disclosed by the supplier in their GSTR-1 upto the month of March 2019. Considering that the due date of filing of GSTR-1 for March month was 13th April for regular return filers and 30th April for the quarterly return filer, 2A has been made available till 1.5.2019 so that the person filing the GSTR-9 could reconcile the credit appearing in 2A till said date with the credit availed in GSTR-3B.

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4. ITC pertaining to Jul'17- Mar'18 which is availed during Apr'18 to Mar'19 shall be declared in Table 8C of GSTR-9.

H&A comments: This has been done in light of ROD 02/2018 which has extended the time limit to avail ITC by the due date of filing of return for March 2019 as against original due date of September month return. However, the Form GSTR-9 in the Rules and such form (i.e. as seen in the online portal), states that ITC availed up to Sep '18 has to disclosed in table 8C. It would be required that an amendment, to the Form in the Rules and in the online portal, be carried out to synchronise with the intention of the legislature as indicated in the press release.

5. Further, in respect of the imports during FY 2017-18 for which ITC was availed during Apr'18 to Mar'19, ITC shall be disclosed in Table 6(E) of Form GSTR-9.

H&A comments: This will result in difference in table 6J of the form, as the figure reported in table 6A would be the ITC that has been availed during FY 2017-18. Suitable amendments should be made in the instructions to the form and the description of the entry 6E in the form, to reflect the intention of the legislature.

Clarifications relating to Part V of GSTR-9

6. Part V of the Form GSTR-9 shall have details of transactions (both outward supply and ITC) relating to FY 2017-18 that were declared in the returns between Apr '18 to Mar '19, including the amendments furnished in Table 10 and 11 of Form GSTR-1.

H&A comments: This has been done in light of ROD 02/2018 which has extended the time limit to avail ITC and to declare outward supply details in Form GSTR-1. Further the form online also has made changes to the heading in Part V to indicate that the transactions disclosed during FY 2018-19 shall be declared. However, the Form GSTR-9 in the Rules states that transactions declared up to Sep '18 has to disclosed in Part V. It would be required that an amendment to the Form in the Rules be carried out to synchronise with the intention of the legislature as indicated in the press release and the description in the form on the online portal. However, uncertainty exists in cases where certain assesses have already filed Form GSTR-9 without including the transactions relating to Oct '18 to Mar '19 going by the provisions in the Rules. In order to address such cases, whether an amendment facility to Form GSTR-9 could be provided?

Other Clarifications

7. Wherever there is conflict between GSTR-3B and GSTR-1 for the outward supply, the disclosure made in the GSTR-3B would prevail considering that the tax has been paid through GSTR-3B.
8. The sequencing for arriving the value of outward supply for disclosure in the GSTR-9 would be as below:
 - a. Identify actual supply made as per books of account. This should come in the GSTR-9 by disclosing in the appropriate tables.
 - b. Ensure that such supplies have been disclosed and taxes thereon have been paid in the GSTR-3B. Disclose in GSTR-9 as per below:
 - i. If supplies and taxes declared and paid till March 2018 – show in Part II of the GSTR-9.
 - ii. If supplies and taxes declared and paid between April 2018 to March 2019 – Disclose in Part V of GSTR-9.
 - iii. If not disclosed in GSTR-3B at all- disclose the value of supply in the Part II, tax payable on such supply in Part IV and pay taxes through DRC-03.
 - c. Detailed break up (B2C, B2B, exports etc.) of above supplies to be taken as per GSTR-1 if it is in sync with the GSTR-3B. If GSTR-1 has incorrect reporting, it may be ignored.
9. Wherever additional disclosure is made in Part II and taxes thereon is paid through DRC-03, such details should be disclosed in GSTR-9C i.e. Supply declared in the GSTR-3B during the year was Rs. 1,000/- on which tax payable and paid (by utilising ITC and cash payment) was Rs. 180. Now additional supply of Rs. 200 is shown in part II on which Rs. 36 is tax payable. Such differential tax is paid through DRC-03 but there is no place in the GSTR-9 to disclose the fact of payment of tax through DRC-03. Hence, the fact of payment of tax should be shown in the GSTR-9C by the auditor.

Areas still requiring clarifications:

10. Credit notes issued in FY 2018-19 pertaining to supplies made in the previous FY, whether such credit note should form part of GSTR-9 of 2017-18 or 2018-19?

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11. RCM liability paid during April 2018 to March 2019 – how to disclose the value of such inward supply in Part II and Part V
 12. 8B does not auto populate the credit availed on ISD invoices whereas auto populated ITC as per GSTR-2A in Table 8A of GSTR-9 may cover the ITC availed on ISD also. How to resolve this difference?
 13. If RCM liability is detected and paid now, whether the credit of taxes so paid can be claimed by registered person now?
 14. If some ineligible credit is identified which was availed earlier in the GSTR-3B, how should it be disclosed in the GSTR-9?
- Many more.....

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