

Choosing RCM or FCM on GST portal – GTA taxpayers

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The service of transport of goods by road provided by Goods Transport Agencies (**GTA's**) was brought into the indirect tax net during the Service Tax regime where the tax was liable to be paid by the service receiver under reverse charge mechanism (**'RCM'**). This continued in the GST regime¹ as well.

Though the difference now is that, today a GTA has a choice either to

- a. Pay GST himself (under forward charge mechanism (**FCM**)), or
- b. Require the service recipient to pay it under **RCM**.

In this article we will discuss, when and how a GTA can opt to pay tax for the services it provides and any compliances relating to the same.

Forms

The following are the relevant forms to choose an option:

- a. Annexure V – GTA opting to pay tax under FCM.
- b. Annexure VI – Service receiver to pay tax under RCM.

FCM to RCM

Once the GTA opts to pay under FCM by filing Annexure V, the option to revert back to RCM can be done only for the next financial year. Form Annexure VI in this regard has to be filed by **31st March** of the preceding FY².

RCM to FCM

If a GTA is under RCM option, opting to pay tax under FCM can be done only for the next financial year. Form Annexure V in this regard has to be filed **on or after 1st January of the preceding financial year, but not later than 31st March of the preceding Financial Year**.

For example, in case the GTA wishes to change its option from FCM / RCM to RCM / FCM for **FY 24-25** then the GTA is required to file the relevant annexure by **31st Mar '24**.

If GTA misses to file Annexure V or VI within the due date, it may not be possible to shift the option for the upcoming financial year. The GTA will have to continue the tax payment as has been active for FY 2023-24. Thus, once an option is chosen it remains valid until it is changed by filing the relevant form within the specified due date.

Applicable rate of tax

FCM

1 As per entry no. 1 of Notification No. 13/2017-Central Tax (Rate) dated 28-06-2017.

2 Note to para-C (Form Annexure VI) of Notification No. 06/2023 – Central Tax (Rate) dated 26-07-2023.

In case the GTA wishes to opt to pay GST himself, under forward charge mechanism (**FCM**), the following 2 tax rates are available:

- a. 5% - **No** input tax credit (**ITC**) eligible for the **GTA**
- b. 12% - GTA will be eligible for ITC.

RCM

If the GTA does not wish to pay under FCM, the service receiver is required to pay tax under RCM. The rate of tax in such case for the recipient is 5%. Under this option, the GTA will not be eligible for any ITC³. Though, the recipient will be eligible to take credit of this tax, provided it satisfies the provisions u/s 16 and 17 of the CGST Act, read with the relevant rules.

Can opt for multiple rates under FCM

One may have a question that once GTA has opted to pay under FCM, whether it would be allowed to collect and pay GST @12% for few transactions and 5% for few transactions. W.r.t the said query, no direct answer exists in the statute. Considering the below points, one can infer that the GTA would be allowed to discharge GST either @12% or @ 5% based on its choice.

1. In the declaration to be submitted to opt for FCM, there is no requirement to provide the rate of tax to be charged,
2. There is also no condition in the notification stating that if a particular rate is opted for one supply, the same has to be opted for all the supplies by the GTA.

Which GTA can choose to pay under FCM?

There is no specific condition mentioned in the statute for any GTA to opt for FCM. It is at the option of the GTA that either FCM or RCM can be chosen.

In case of opting to pay under FCM, the GTA shall take note of the following points:

- a. This option can be chosen if GTA would be incurring substantial expenses on which GST would be charged i.e. buying new vehicles, other expansion costs, etc. In such case, it can opt for paying GST @ 12% to be able to avail the input tax credit.
- b. In such a case, GTA should also ensure that its customers are eligible for ITC of the 12% GST that it would charge,
- c. If its customers are not eligible for ITC it can consider charging GST @ 5%. This is for the reason that any GST charged by the GTA over and above 5% would be an additional cost for such customers, which may have to be borne by the GTA.
In this case a cost – benefit analysis can be done to see how much would be the ITC that the GTA will get due to choosing FCM and how much is this 7% additional tax, and then take a suitable call regarding FCM/RCM.
- d. If GTA pays GST @ 5% and 12%, ITC reversal will be required in proportion to the turnover on which GST is paid @ 5⁴%.
- e. GTA has to take registration under GST.
- f. Issuing tax invoice by mentioning the **declaration** as prescribed in **Annexure III**.

³ Section 17(3) of Central Goods and Services Tax Act, 2017 (hereinafter referred as '**CGST Act**').

⁴ Entry no. 9(iii) of Notification no. 11/2017-Central Tax (Rate) dated 28-06-2017.

- g. Other regular compliances under GST to be satisfied i.e. filing of GST returns, issuing tax invoices, etc.

Time limit to make the choice of paying under FCM

New registration

Today if a GTA is taking a new GST registration, then he can opt for FCM:

- a. Before the expiry of **45 days** from the date of **applying of GST registration** or
- b. **One month** from the **date of obtaining registration, whichever is LATER.**

This can be opted by filing Annexure V Form which is available on the GST portal by navigating to **Services>> User services>>GTA>> Opting Forward charge payment by GTA.**

Existing registration – opted for RCM for FY 23-24 and onwards

Refer discussion under RCM to FCM above.

Manner of submission of Annexure V to opt for FCM (If already filed manually)

Manual form filed before 01-01-2024:

If the GTA have already submitted declaration in Annexure V for the FY 2023-24 **manually before 01-01-2023**, they are required to upload their duly acknowledged legible copy of the said annexure on the portal mentioning correct particulars as mentioned in physical Jurisdictional office⁵.

To Access: After Login on the GST portal Navigate to **Service>> User services>>GTA>>Upload Manually Filed Annexure V.**

Manual form filed on or after 01-01-2024 but by 31-03-2024:

If manually filed, within the due date (i.e., 1st January to 31st March) then no need to file it again on the portal for the FY 2023-24⁶.

Conclusion:

All GTA's who wish to now change their option of taxation i.e., moving from FCM to RCM or vice-versa, for FY 2024-25, should ensure that they file the necessary **annexure forms by 31-03-2024 online** on the GST portal and not manually.

The taxation for the GTA's has undergone a lot of changes in the past 1.5 years. Also, keeping alive both the options i.e. FCM and RCM for GTA's, can still pose some tracking challenges for the service recipients.

For example, in case a GTA has opted for RCM and if other GTA's from which a service recipient takes services are under FCM, there is a high chance that the recipient may miss to pay under RCM.

⁵ As per para 3 of Advisory dated 01-01-2024. --> <https://www.gst.gov.in/newsandupdates/read/620>

⁶ As per para 3 of Advisory dated 01-01-2024. ----- <https://www.gst.gov.in/newsandupdates/read/620>

Also now, the service recipients will have to take confirmation from the GTA's what option they have chosen for the financial year and also take a declaration regarding any tax, interest or penal liability due to mis-communication in this regard.

Also, we could expect that many businesses would opt for GTA services where liability is under RCM so that dependency on the small GTA's to file their returns to enable the businesses to take credit is done away with.

These complications will also require the GTA's to analyse and choose the best option that would suit their business considering the type of customers, the purchase/expansion plans of the GTA, cost – benefit of the options, etc.

The views expressed are strictly personal and cannot be regarded as an opinion. For any queries or feedback please write to shilpijain@hnaindia.com or divya.v@hnaindia.com