

Even though GST was formally launched in July 2017, the law and its interpretations have not fully stabilised yet. This means that new tax risks (and opportunities) will keep opening up for some time.

In this issue of AccountAble, we look at some more GST traps, where the wicked and the virtuous both, can get their comeuppance. Read on to make sure how you can step around these.

D1. Making Sponsorship Payments

Trap: Donor agencies sometimes sponsor programs or activities for other NGOs or entities. This is not a problem for the donor agency in most cases.

However, if the donor agency is registered as a sec. 8 company, then it must pay reverse charge on the sponsorship payments made to others. This is required even if the payment is less than Rs. 20 lakh. For this, the donor agency has to register for GST.

Tip: If you are a donor agency registered as a sec. 8 company, check program agreements carefully. Make sure these are not structured as sponsorship agreements. Also do not ask for your name to be announced or displayed during events or programs.

D2. Paying Royalty or License Fees

Trap: If you buy any copyright or license for a creative work (art-work, pictures, music, literary, documentaries, dramatic work, etc.), you may have to pay royalty or license fees. Buying includes purchase of images online from sites such as shutterstock.com©. Payment of royalty or license fees attracts compulsory reverse charge of GST. To pay this, you will have to register for GST.

Tip: Do not buy copyrights or licenses. If required, work out a publishing agreement with a publisher who will buy the licenses and pay royalty.

D3. Overseas freight on import of goods

Trap: If you are importing relief supplies, you may be asked to pay for the freight from source to

They said there was no rest for the wicked. In fact, there was rest neither for the virtuous nor the wicked, nor for guys like Billy, who were uncommitted regarding the whole idea of virtue versus wickedness and who were just trying to do their jobs.

—Dean Koontz (1994)

India. If you agree to this, you must register for GST to pay reverse charge on the freight (by air, sea or land). This also applies if you are importing books or other material from overseas sites such as amazon.com©, who recover freight separately from you.

Tip: Ask your vendors to quote 'FOB Destination' prices. In such a case, the freight up to India (or your location) will be prepaid by the vendor. If this is not feasible, get services of an India-based import agency, which will pay for the overseas freight. If you are ordering goods online for delivery in India, use an Indian site (such as amazon.in©) rather than an overseas one.

D4. Import of Services

Trap: Sometimes NGOs import services from outside India. These may be online services like software subscription, cloud services, database or internet services. These may also include membership or fund-raising charges paid to mother entity. Sometimes payments are made to overseas consultants or non-resident consultants who visit India. All these are treated as import of services. Some of these attract compulsory reverse charge:

Tip: If you are already registered for GST, the reverse charge is not a problem. However, other NGOs should make sure they don't pay for physical

	GST-registered NGO	Other NGO
Online services for 'charitable activities'	Exempt	Not payable
Online services for other activities	Payable	Not payable
Other services for 'charitable activities'	Exempt	Exempt
Other services for other activities	Payable	Payable

services from non-residents. If this becomes necessary, use a local sourcing agent in India, who will buy these services for you.

D5. Using Unregistered GTA Services

Trap: GTA (Goods Transport Agent) means anyone helping move goods by road and issuing a consignment note. Using a GTA's services may mean you have to pay compulsory reverse charge. To do so you will have to register for GST.

However, this doesn't apply for agricultural produce, for milk, salt, food grains, for very small consignments (up to Rs. 750), or for sending relief supplies [entry 21, Notification no. 12/2017 - CT(Rate) dtd. 28-Jun-17]. This also does not apply if the GTA is already registered for GST [entry 5, Notification no. 20/2017 - CT (Rate), dtd. 22-Aug-2017].

Tip: Avoid dealing with unregistered GTAs. If a registered GTA is not available, move non-exempt goods by rail or courier agency.

D6. Legal Services

Trap: If a lawyer provides services to a client, then the client must pay compulsory reverse charge. This applies even if the lawyer provides services through a firm. An NGO availing services of a lawyer may be advised to pay compulsory reverse charge.

The GST puzzle is so complex it feels like a cruel and nerdy prank played by taxmen on India's entrepreneurs.

—Chetan Bhagat (2017)

Reverse GST on Foreign Trainers

An NGO is not registered for GST. It is organising a training on micro-credit. Most of the resource persons are from India. A consultant from Bangladesh will also visit India to facilitate sessions. She will be paid USD 500 as honorarium in addition to about USD 500 for reimbursement of hotel expenses, air fare and incidentals. Is GST payable on her fees?

Yes. The NGO will have to register for GST and pay compulsory reverse charge of 18% on USD 1000 (fees and expenses). The NGO should also deduct income tax at source or face penalties and lose 30% out of its application of income.

What if the training was on preventive health-care? In such a case, reverse charge GST would not be payable, whether or not the NGO is registered for GST.

What if the Bangladeshi trainer is resident in India? GST may still apply but compulsory reverse charge will not be attracted.

Tip: This applies only if the client is a business entity. As NGOs (charitable trusts, societies, sec. 8 companies) are not business entities, they are not required to pay reverse charge on such services.

D7. Sitting Fees to a Company Director

Trap: Sitting fees are paid to company directors for attending board meetings. This is in addition to reim-

bursement of expenses for attending the meeting. If your NGO is a sec. 8 (or sec. 25) company, then such payment is permitted under Companies Act. However, payment of sitting fees attracts compulsory reverse charge. Therefore, if you pay sitting fees to directors, you will have to register under GST. This requirement doesn't apply to societies or trusts.

Tip: Payment of sitting fees by companies is optional — not compulsory. Therefore, if you are not already registered under GST, avoid paying sitting fees to directors.

D8. Input Tax Credit

Trap: Some NGOs believe they can get refund for GST paid on all their purchases if they register for GST. In reality, you cannot claim Input Tax Credit for GST paid on exempt activities. You can also not claim Input Tax Credit for GST paid in projects under out of pure grants or donations. Input Tax Credit can be claimed only for purchases made for supplying zero-rated items and taxable supplies. Claiming Input Tax Credit wrongly can lead to penalties.

Tip: Don't register for GST just to try and claim Input Tax



Credit. If you are already registered for GST, do not claim Input Tax Credit for expenses related to exempt activities or related to project grants.

D9. Notice Period Recovery from Employees

Trap: Sometimes an employee gives in their resignation but does not want to work during the notice period. In such cases, the NGO may recover equivalent amount of salary as notice-period pay. This may be done as a deduction from their full-and-final set-

tlement. Or the employee may pay this through cheque. The amount recovered may be shown under miscellaneous recoveries or credited to salaries account. Strangely enough this is treated as a service provided by the NGO to the employee. GST must be paid on this!

Tip: Make sure your employment contract includes a clause saying that GST on notice-period pay or any other recoveries will be paid by the employee.

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