

NOTE ON MANDATORY INPUT SERVICE DISTRIBUTOR (ISD) REGISTRATION, ITC DISTRIBUTION AND PROCEDURAL COMPLIANCES:-

The Finance (No.1) Act, 2024 has amended the CGST Act, 2017, read with Notification No. 16/2024-CT dated August 6, 2024 mandating that the assessee must mandatorily obtain ISD registration at the Office (HO) for distributing common ITC under both forward charge and Reverse Charge Mechanism (RCM) to its distinct persons. This mandatory distribution of ITC related requirement will come into effect from April 1, 2025.

Further, The GST Council in its 52nd meeting had recommended changes to Rule 39 of the CGST Rules, 2017 regarding the procedure for distribution of ITC by ISD. The Central Government has accordingly amended Rule 39, with the changes becoming applicable from a date to be notified in future (presumably w.e.f. 1.4.2025 itself). This is outlined in Notification No. 12/2024-CT dated July 11, 2024.

What actions have to be taken by assessee who receive common input services at offices (HO) both under RCM and FCM, for and on behalf of its distinct persons?

The assessee will have to ensure compliance with the amended provisions related to ISD, mostly in the following manner:

A. Obtain ISD Registration:

- Apply for ISD registration at the Head Office (HO) if not already done. Ensure that the application is submitted well before the mandatory implementation date to avoid any last-minute issues.

B. Review and Update ITC Distribution Procedures :

- Modify your accounting and ERP systems to handle the distribution of ITC as per the new ISD rules qua monthly distribution of ITC.

C. Proper Documentation and Record-Keeping:

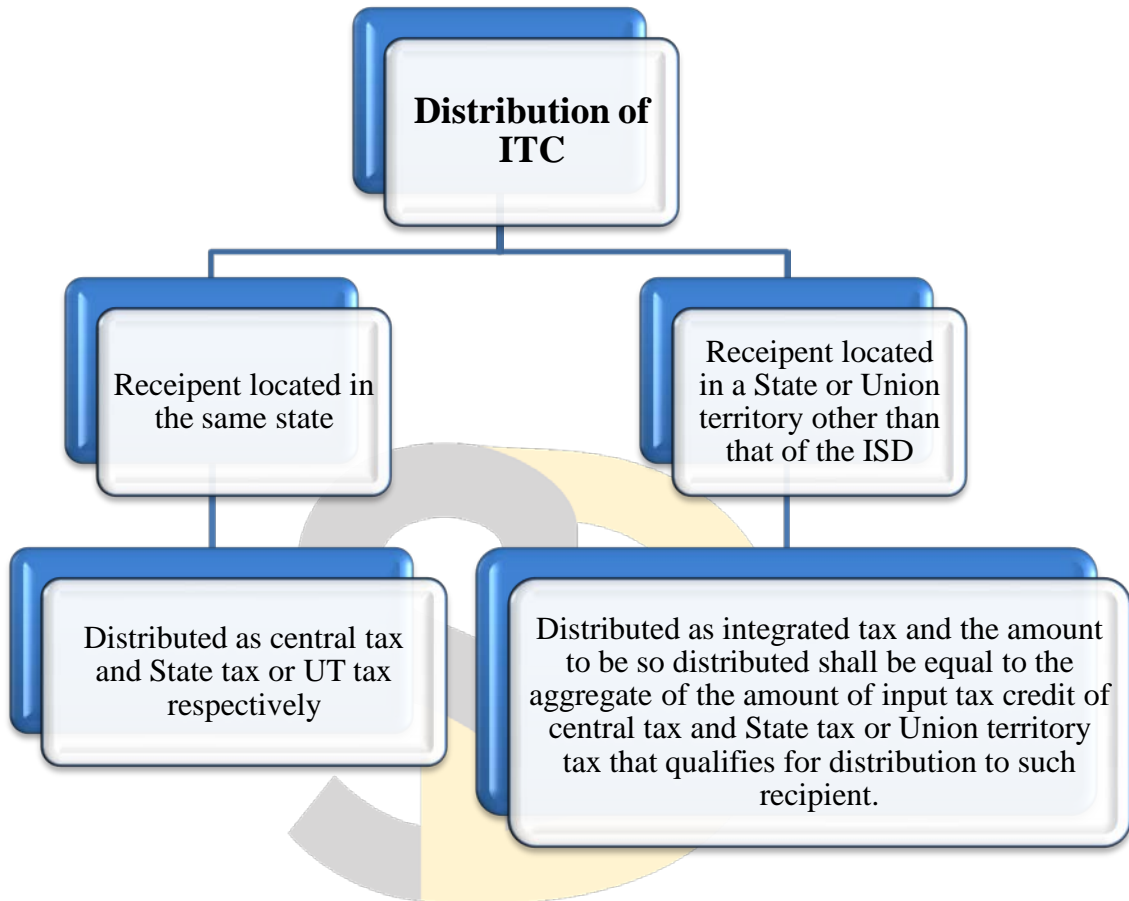
- Maintain detailed records of all ITC received and distributed to all the distinct person branches, including invoices, debit/credit notes, and other supporting documents. Ensure that the documentation adheres to the standards required by GST laws for ISD transactions.
- Ensure the previous year/ quarter turnover is correctly determined, for proper distribution of ITC through ISD route.
- Ensure timely availment and distribution of ITC through ISD route as envisaged under law.

D. File Necessary Returns:

- Form GSTR-6 is a monthly return to be filed by taxpayers who have taken ISD registration. The due date for filing GSTR-6 is 13th of the next month (month following the month of distribution of ITC). In case of no common ITC being availed, a Nil return has to be filed by taxpayers.
- The input tax credit available for distribution in a month shall be distributed in the same month and the details thereof shall be furnished in FORM GSTR-6 in accordance with the provisions of Chapter VIII of these rules.
- The late fee for filing GSTR-6 is Rs. 50 per day.
- Form GSTR-6A is a system generated 'draft' Statement of Inward Supplies for an ISD (Input Service Distributor)- it is similar to GSTR2B as such for information on available ITC for distribution. Form GSTR-6A is a read only form. ISD cannot take any action in Form GSTR-6A. For more details please refer CBIC FAQ on GSTR-6A (https://tutorial.gst.gov.in/userguide/returns/GSTR-6A_faq.htm).



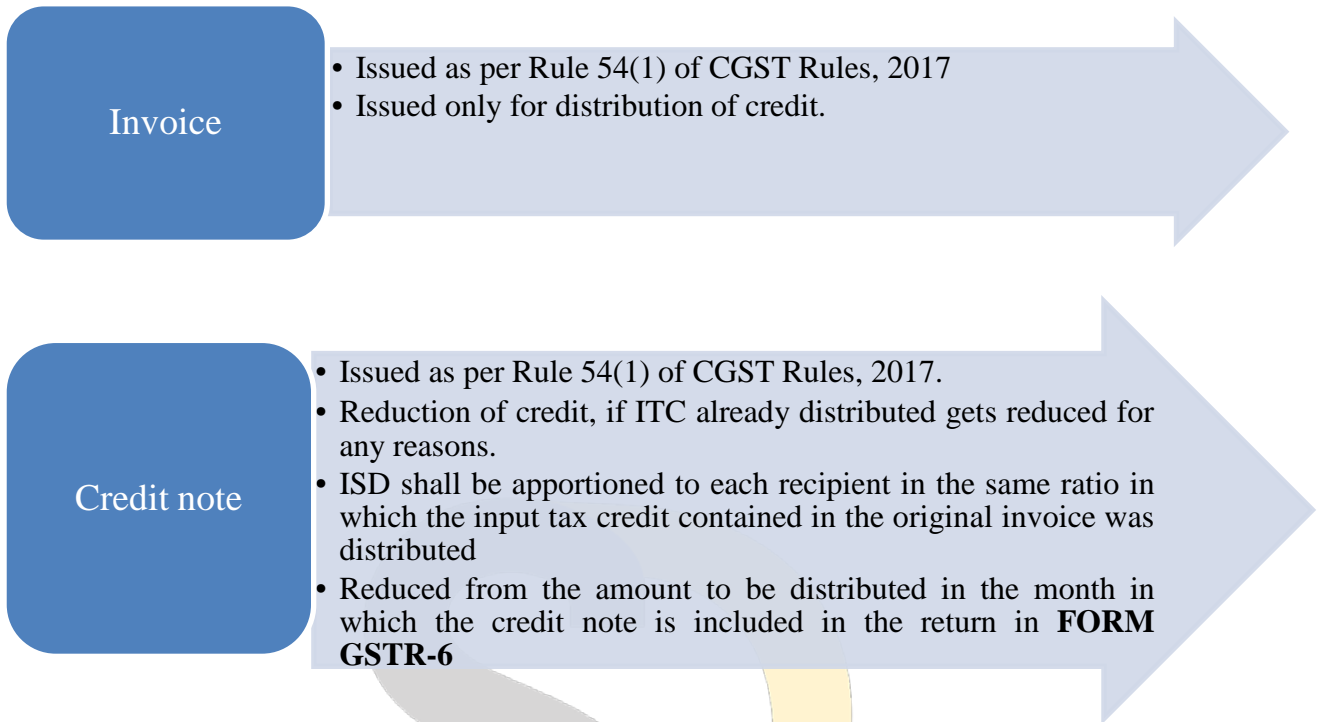
E. Distribution of ITC:



F. Invoice, Credit note & Debit Note :

Debit Note

- Issued as per Rule 54(1) of CGST Rules, 2017.
- For additional amount of credit.
- ISD shall be apportioned to each recipient in the same ratio in which the input tax credit contained in the original invoice was distributed.
- Credit shall be distributed in the month in which the debit note is included in the return in **FORM GSTR-6**.



G. Conditions:

The amount of the credit distributed shall not exceed the amount of credit available for distribution.

The HO should distribute the credit only to that branches who have actually received the service and paid the tax on it.

Credit attributable to more than one branches, distribute the tax credit among the branches based on their aggregate turnover.

Separately distribute both the amount of ineligible and eligible input tax credit.

ITC related to CGST, SGST, UTGST and IGST shall be distributing separately.

H. Example:

- The Corporate office of XYZ Ltd., is at Delhi, with its business locations of selling and servicing of goods at Delhi, Chennai, Mumbai and Kolkata. Service of Chartered Accountant, Lawyers and maintenance of software and license are used at all the locations, but invoice for these services (indicating CGST and SGST) are received at Corporate Office. Since the services are used at all the four locations, the input tax credit of entire services cannot be claimed at Delhi. The same has to be distributed to all the four locations. For that reason, the Delhi Corporate office has to act as ISD to

distribute the credit. Similarly, input service pertains exclusively to only one unit and the bill is raised in the name of ISD, the ISD can distribute the credit only to that unit and not to other units.

I. The question is, if once an assessee is registered under ISD and distributing ITC, whether separate cross charge compliance is required?

- It is important to note that the ISD mechanism is meant only for distributing the credit on common invoices pertaining to **input services only** and not goods (inputs or capital goods), whereas cross charge encompasses a broader scope, including common inputs and capital goods.
- Further, Cross-charging involves one unit or branch charging another unit within the same legal entity for services provided and It helps in attributing costs and ITC accurately, reflecting the internal transactions for cost allocation and tax purposes.
- ISD registration and cross-charging serve different functions. ISD handles the distribution of ITC on input services, while cross-charging involves internal billing and cost allocation. For example: certain expenses which have not borne GST at all (vendor not registered under GST), if cross charged, cannot be done under ISD route, since there is no ITC to be distributed, but will have to go under cross charge route. Of course, CBIC has under its concurrent Circulars clarified that if related / distinct person recipient is in a position to avail ITC, in terms of Rule 28 of CGST Rules, 2017, any value adopted for payment of GST under cross charge is deemed open market value and accepted under law. This will include a situation where no invoice at all is raised for cross charge and no GST is charged, in such case, the law presumes that it tax invoice for cross charge was raised and that too with NIL value, and no liability arises in such case.
- According to our view separate cross-charge compliance may typically be required in certain circumstances, even if an entity is registered under ISD. The ISD registration helps in distributing ITC appropriately across branches but does not eliminate the need for proper documentation and compliance for cross-charges as well as ensure each branch bears fair share of the cost and ITC is correctly allocated.



J. Future Notifications:

- Keep an eye on further notifications and updates related to these amendments for any additional guidance or changes purposed by the Central Govt. and as understood by CBIC. While this requirement may look merely procedural, however it has vast ramifications including allegations of wrongly availing and retaining ITC belonging to other distinct person, and consequent recovery with interest as well as penal action. You are requested to follow these requirements in timely and proper manner.

Disclaimer: The contents of this note have been prepared on the basis of Finance (1) Act, 3034, the Press Release by the GST Council and Notifications issued by the CBIC. Although care has been taken to ensure the accuracy, completeness and reliability of the information available, the author assumes no liability. Therefore, users of this information are expected to refer to the extant law. The information as given above in no case shall be constructed as a professional advice or opinion.

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