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**TAXATION & THE HOSPITALITY  
SECTOR**

# TAXATION & THE HOSPITALITY SECTOR

Query	Response
 What are the tax implications on various incidental/ancillary services provided by hotels?	<ul style="list-style-type: none"><li>Hotels supplying accommodation service often supply incidental services to its resident guests, including restaurant services, transportation services, sight-seeing, concierge etc.</li><li>It would be prudent to determine if such incidental/ancillary supply qualifies as independent supply, composite supply or mixed supply under GST. Further, there are various type of packages offered by hotels such as AP, MAP, CP etc. The applicability of rate of GST depends upon the categorization of supply undertaken by the hotel.</li><li>GST treatment of such supplies will vary depending upon factors such as advertisements by hotel/online travel agents, booking confirmations, invoicing and accounting in the books of account. This must be determined on a case-to-case basis.</li></ul>
 What is the taxability under GST on supply of Cigarettes, Aerated Beverages and Alcohol?	<ul style="list-style-type: none"><li>Certain products such as cigarettes and aerated beverages are supplied by hotels to their guests. In such cases, evaluating whether the supply shall be treated as a composite or mixed supply is fundamental for discharging tax at appropriate rates. Supply of aerated beverages and supply of services by the restaurant are treated to be naturally bundled as supplied in conjunction to each other. This is therefore a composite supply of service classifiable under SAC 996331 chargeable at the applicable rates for restaurant services.</li><li>Sale of cigarettes is not treated as naturally bundled together with restaurant services. The services of the restaurant mainly involve serving of food and beverages alone in the normal course. Hence, supply of cigarette products is not a composite supply but a mixed supply chargeable at 28% and a compensation cess at the rate applicable to cigarettes. Under GST, a mixed supply will have the tax rate of the item which has the highest rate of tax and thus cigarette will be treated as principal supply and 28% will apply on supply of restaurant services as well. The view is supported by ruling pronounced by AAR in the case of Mfar Hotels &amp; Resorts (P.) Ltd. [2020] 120 taxmann.com 442 (AAR –TAMIL NADU) [May 12, 2020].</li><li>Therefore, classification for supply of goods and services is quite essential to discharge appropriate tax. Any incorrect classification will result in short payment of GST, exposing the business to liability in the form of tax, interest and penalty.</li><li>Supply of alcohol for human consumption is outside the purview of GST, as being a non-taxable supply. However, input tax credit in proportion to such supply of alcohol will be required to be reversed.</li></ul>
 How will the advances from the customer be treated under GST?	<ul style="list-style-type: none"><li>In terms of GST law, liability to discharge is typically either on advance or on issuance of invoice. Hotels often receive advance at the time of booking where in the services are provided at a future date. The invoice is issued at the time of check-out after completion of the event. Reporting of advance and treatment to be provided in GST returns need to be adhered to avoid paying tax twice - i.e. on receipt of advance and issuance of invoice.</li></ul>

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 <p>In case of cancellation/no show charges levied by the hotel what shall be the applicable rate of GST?</p>	<ul style="list-style-type: none"> <li>CBIC has clarified vide a circular 178/10/2022-GST dated 03.08.2022, wherein it has been clarified that any amount forfeited in case of hotel accommodation service should be assessed at the same rate as applicable to the service contract.</li> <li>As a result of this circular, if the Hotel is charging GST @5% then GST on any amount forfeited on such cancellation will be @ 5% only.</li> <li>It would be of important that the recovery of cancellation charges and its related documents should be articulated in an appropriate manner</li> </ul>
 <p>How will the TCS provision under GST impact Hotel players?</p>	<ul style="list-style-type: none"> <li>Online platforms (aggregators) which act as a conduit between the customer and the service provider i.e., hotels or accommodation providers, will be recognized as electronic commerce operators (ECOs). ECO are obligated to collect tax at source (TCS) and remit to the government. Hotels need to ensure that the appropriate credit of the same is availed in the GST returns. Appropriate records need to be maintained in order to reconcile the sale made through ECO in order to avoid leakage of tax credit.</li> </ul>
 <p>Extension for fulfilling the Export Obligation for import made under EPCG scheme</p>	<ul style="list-style-type: none"> <li>The DGFT, by amending the Handbook of Procedure, have extended the Export Obligation period from February 01, 2020 till March 31, 2022. DGFT has granted this extension to the Hotel Industry as the entire Hotel Industry was at standstill on account of travel ban announced by the Central and State Governments to curb Covid-19 pandemic. Hotel Industry was not in a position to fulfil their Export Obligation against EPCG licenses because of such travel ban. The extension has brought relief to industry and has to be availed effectively.</li> </ul>
 <p>Foreign Trade Policy 2023 - Developing Districts as export hubs</p>	<ul style="list-style-type: none"> <li>SEIS scheme was effectively discontinued w.e.f. 01.04.2020. With the onset of the new Policy, the government has now overhauled its policy to promote exports activity at a district level i.e. by making the districts as export hubs. Therefore, 'Districts as Export Hubs' is being essentially formulated with the intent to give an impetus to India's foreign trade by decentralizing export promotion. The intention of such a decentralized approach appears to primarily shift the focus on district led export growth, which may be in line with the goal of AtmaNirbhar Bharat, Vocal for local and Make in India.</li> <li>However, constitution of committees, detailed formulation of action plans, identification of services having export potential, assessing the infrastructure facility/landscape at district levels, may entail considerable time and efforts and the efficacy of the said policy will depend on all such factors. Also, clarity is awaited in respect of the availability or quantum of incentives, if any to be provided as well as the manner of implementation and scale of the policy.</li> </ul>

We hope you have found the information helpful. For further details please reach out to the author:

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