GUIDANCE FOR CA FINAL NOVEMBER 2018 EXAMINATION FOR INDIRECT TAXES – PAPER 8

GST

It is notified by ICAI that the provisions of GST, as amended up to 30-Apr-2018 shall be applicable. These amendments have been done in the classes. Topic wise discussion is as under –

Tax collection at Source (TCS)

This topic is completely excluded from the syllabus and hence not relevant. Provisions for registration of persons required for collecting tax at source as well as provisions of Sec. 52 will not be applicable in exams. We have covered this section in class as well as in printed notes.

Electronic way Bills (EWB)

This is covered in exams. We have done this topic in class as well as covered in printed notes. Questions such as "who is required to prepare EWB? Or what are the contents of EWB i.e. Part A & B? Or When EWB is not required to be prepared i.e. exempted list?" will be relevant in exams.

Good questions along with detailed answers are given from Page No. 50 to 60 of statutory update of ICAI. All of this has been covered in classes & printed notes also.

Tax Deduction at Source (TDS)

TDS provisions are given in Sec. 51 of the CGST Act. Sec. 51 (1) reads as under –

Notwithstanding anything to the contrary contained in this Act, the Government may mandate,––

(a) a department or establishment of the Central Government or State Government; or

(b) local authority; or

(c) Governmental agencies; or

(d) such persons or category of persons as may be notified by the Government on the recommendations of the Council,

(hereafter in this section referred to as "the deductor"), to deduct tax at the rate of 1% from the payment made or credited to the supplier (hereafter in this section referred to as "the deductee") of taxable goods or services or both, where the total value of such supply, under a contract, exceeds Rs. 250,000/-

Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.

On the basis of powers given under clause (d) above, Government has issued **Notification No. 33 / 2017 – CT** dated 15-Sep-2017 which reads as under –

The Central Government hereby appoints the 18th day of September, 2017 as the date on which the provisions of ***sub-section (1) of section 51*** *of the said Act shall come into force* ***with respect to persons specified under clauses (a) and (b)*** *of sub-section (1) of section 51* *of the said Act **and the persons specified below under clause (d)** of sub-section (1) of section 51 of the said Act, namely:-*

(a) an authority or a board or any other body set up by an Act of Parliament or a State Legislature; or established by any Government, with 51% or more participation by way of equity or control, to carry out any function;

(b) society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;

(c) public sector undertakings:

*Provided that the said persons shall be liable to deduct tax from the payment made or credited to the supplier of taxable goods or services or both **with effect from a date to be notified subsequently**, on the recommendations of the Council, by the Central Government.*

Effectively, the above notification prescribes that notified persons shall be covered under TDS provisions. ICAI has notified that TDS provisions are not applicable in CA final Nov-2018 exams except to the extent given above i.e. provisions made effective vide Notification No. 33 / 2017. These points are covered in classes as well in printed notes.

Composition Scheme – Sec. 10

a) Eligibility limit is Rs. 100 lakhs for all states including J&K and Uttrakhand. For special category states excluding J&K and Uttrakhand, it is Rs. 75 lakhs. This is to be counted on all India basis. If a person has turnover in any special category states (excluding J&K and Uttrakhand), then eligibility limit will reduce to Rs. 75 lakhs for all the states. Eligibility limit turnover will not include turnover of exempted services. Eligibility limit turnover is turnover of last year (on all India basis)

b) Rate of tax in composition scheme will be 5% for restaurants / caterers and 1% for all others i.e. traders & manufacturers.

c) While calculating tax, take turnover in a state / UT only and not all India turnover. Registration in Composition scheme will be required in all the states separately. While calculating tax, turnover will not include turnover of exempted services but will include turnover of exempted goods. However, for traders only, it has been notified that turnover will not include turnover of exempted goods also.

Example – for a <u>trader</u> with turnover of taxable goods Rs. 80 lakhs; exempted goods Rs. 10 lakhs; and exempted services of Rs. 12 lakhs, calculate composition tax payable and also determine, whether in next year, he can opt for composition scheme?

For calculation of payment of tax under composition scheme in current year for a trader, 1% GST is payable (0.5% SGST & 0.5% CGST) on taxable supplies of goods i.e. 1% on Rs. 80 lakhs only. For this purpose exempted services & exempted goods shall not be considered.

For eligibility of composition scheme next year, aggregate turnover of the person in current year must not exceed Rs. 100 lakhs (assuming that state is not a special category state). However, aggregate turnover for this purpose will not include turnover of exempted services. Therefore, aggregate turnover is Rs. 90 lakhs only and composition scheme is available next year also.

Example – for a <u>manufacturer</u> with turnover of taxable goods Rs. 60 lakhs; exempted goods Rs. 10 lakhs; and exempted services of Rs. 12 lakhs, calculate composition tax payable and also determine, whether in next year, he can opt for composition scheme?

For calculation of payment of tax under composition scheme in current year for a manufacturer, 1% GST is payable (0.5% SGST & 0.5% CGST) on turnover in state i.e. 1% on Rs. 90 lakhs. For this purpose exempted services shall not be considered. Exempted goods will have to be considered.

For eligibility of composition scheme next year, aggregate turnover of the person in current year must not exceed Rs. 100 lakhs (assuming that state is not a special category state). However, aggregate turnover for this purpose will not include turnover of exempted services. Therefore, aggregate turnover is Rs. 90 lakhs only and composition scheme is available next year also.

Refer Page No. 11 & 12 of Statutory Update given by ICAI.
Also note that if a person wishes to opt for composition, then he needs to intimate the proper officer before commencement of a financial year. But, for FY 2017-18, facility has been given to give intimation before any month and opt for composition from 1st of next month. In this case, GSTR 4 will be applicable from the date when composition is opted but before that month, GSTR 1 / 2 / 3 / 3B needs to be filed.

Reverse Charge Mechanism (RCM)
ICAI has notified that services covered under RCM are included in the syllabus. Same are also covered in printed notes. Amendments are given on Page No. 13 of Statutory Update given by ICAI. All these amendments are important.
Categories of Goods covered under RCM are **not** covered in the syllabus. This list is given in the printed notes and same can be ignored. However, it is advisable to cover scheme of GST on lottery tickets.
RCM under Sec. 9 (4) (i.e. on supplies received from an unregistered person) is deferred and therefore this provision is not relevant.

Registration
In case of Registration, aggregate turnover limit is Rs. 20 lakhs for all states including J&K if any taxable supplies are made. But, if any taxable supplies are made from any special category states (excluding J&K), limit of aggregate turnover of Rs. 10 lakhs will be applicable.
It is important to note that if a person has taxable turnover in any special category states (excluding J&K), then Rs. 10 lakhs limits will be applicable for registration in all the states including non-special category states also.
Without obtaining registration, a person may supply taxable services inter-state but cannot supply taxable goods inter-state.
Refer amendments on Page No. 45 & 46 of Statutory Update given by ICAI.

Input Tax Credit (ITC)
In Input tax credit, in case of supply of capital goods, reverse ITC by reducing ITC @ 5% per quarter / part thereof or GST payable on transaction value, whichever is higher. 5% per quarter method is to be used as suggested by ICAI.
Similarly, when exempted goods / services became taxable and person opts for registration, ITC on capital goods shall be taken after reducing 5% per quarter / part thereof from the date when capital goods are purchased. This is also in accordance with ICAI solutions.

Mandatorily refer **Question 2 (a)** of May 2018 exam paper in CA Final Old Syllabus. Also, **Question 6** in RTP for November 2018 exams must be referred. Follow the treatment as given in suggested answers to these questions for all capital goods related questions. Read Question 6 of RTP carefully and understand the treatment of common credits of capital goods (i.e. machine C, D & E).
Refer also Page No. 43 & 44 of Statutory Update given by ICAI.

Rate of GST

Rate of GST as applicable on goods (except under composition scheme) is not covered in syllabus and not covered in classes also. However, scheme of GST on lottery tickets and second hand goods (margin scheme) must be covered.
Rate of tax on services were covered in syllabus but now ICAI has notified that no rate needs to be remembered (except under composition scheme). This is similar to what has been prescribed for May-2018 exams also.
Therefore, now only following things needs to prepared sincerely –

a) Notification No. 9 / 2017 – IGST for list of exempted services. The entire list, thoroughly amended, is given on Page No. 43 of Printed Notes (Volume 1)
b) Notification No. 10 / 2017 – IGST for list of services under reverse charge mechanism. The entire list, thoroughly amended, is given on Page No. 6 of Printed Notes (Volume 1)
c) Composition tax rates i.e. 5% for restaurants / caterers and 1% for traders & manufacturers.
d) Rule 31A and Rule 32 of GST Rules related to valuation in special cases as given on Page No. 138 of printed notes, thoroughly amended.
e) Sec. 12 & 13 of IGST Act related to provisions of place of supply of services.

Going in to the exams, you must be sure of all services covered in exemption / RCM. Revision can be done category wise i.e. renting related services, government related services, transport related services & so on, as discussed in class. But, at the time of revision, full list of exempted services and services under RCM must be done.

Page No. 16 to Page No. 29 of statutory update by ICAI is also important study though these amendments are covered in printed notes. It is advisable to refer all circulars given from Page No. 24 to 29 as questions based on these circulars may directly appear in exams. Further, circulars given from Page No. 3 to 10 also becomes relevant (most of them already appeared in May-2018 exams)

Place of Supply

As rate of GST on services are excluded from syllabus, place of supply becomes more important. Sec. 10 & 11 of IGST Act for place of supply of goods and Sec. 12 & 13 for place of supply of services must be thoroughly revised. Only one circular is issued by the government and it is given on Page No. 30 of statutory update of ICAI.
For advertising services, place of supply will be location of recipient as per Sec. 12 as well as Sec. 13. However, there is a specific sub-section in Sec. 12 i.e. Sec. 12 (14) which covers place of supply for advertisement services to government and provides that place of supply shall be each state / UT where the advertisement services are used. For the purpose of this sub-section, a detailed notification has been issued by the government and included in the statutory update of ICAI from Page No. 34 to 41. Sec. 12 (14) is covered in the printed notes but this detailed notification is not covered in the printed notes. As the notification has been reproduced in the statutory update, this has to be read once.

In the normal situation, if ABC limited having head office at Kolkata and factories in 8 different states takes advertisement services from Times of India (newspaper) or from Star Plus (TV) and times of India / Star Plus bill the advertisement fee to ABC Limited at HO, then place of supply shall be Kolkata only (i.e. West Bengal) as Kolkata is location of recipient. If Times of India (newspaper) or Star Plus (TV) is located in Mumbai, then they will charge IGST on their bill and will mention that place of supply is Kolkata. ABC Limited, in Kolkata, can avail the ITC.

However, advertisement services are given by Times of India (newspaper) or Star Plus (TV) to government, then Times of India (newspaper) or Star Plus (TV) will have to issue state wise invoices based on the actual circulation of advertisement. This method of bifurcation is given on Page No. 34 to 41 of statutory update of ICAI and needs to be referred.

GST (Compensation to States) Cess Act, 2017

In the ICAI Notification, syllabus specifically includes only CGST Act and IGST Act. Therefore, compensation cess Act is not covered in the syllabus. We have covered the same in classes as well as it is given in printed notes. For exam purposes, it can be ignored. Remember that all provisions of CGST Act (including valuation, manner of calculation and ITC) are applicable for compensation cess also.

Only one circular is given related to compensation cess on Page No. 15 of Statutory update given by ICAI.

Time of Supply

Entire chapter is relevant. In the printed notes, amended provisions are given. Important point is for supplier of goods, time of receiving payment is not relevant now as per Notification No. 66 / 2017. Treatment of this notification is duly explained in printed notes. In Time of Supply, for supplier of goods having turnover up to Rs. 1.50 Crores in last Financial year, TOS will be earlier of date when invoice is issued or date when invoice should have been issued u/s 31 (1). In such a case, date of payment by the customer is not relevant. For such suppliers, topic of advances up to Rs. 1,000/- received will not be relevant as date of payment is not important for such suppliers.

One more circular is given in statutory update of ICAI (Page No. 32 & 33) which will be important in exams.

Tax Invoice / Debit & Credit Notes

Entire theory is important and statutory update from Page No. 47 to 49 also must be referred. Printed Notes are amended properly.

Return Filings

In case of return filing, it is now provided that –

- GSTR 3B is to be filed in place of GSTR 3 till March-2019 by 20^{th} of next month.
- GSTR 1 utility has been given by the government and process is streamlined. GSTR 1 is to be filed monthly except for assesses having aggregate turnover up to Rs. 150 lakhs. For such assesses, quarterly facility of GSTR 1 is available.
- As GSTR 1 due dates are notified now, therefore government has also prescribed that with GSTR 3B, export sales can be entered invoice wise by way of filing table 6A separately. This will help assesses to claim export related refunds without waiting for filing dates of GSTR 2 & 3.
- GSTR 2 & 3 will be filed as and when government will notify the dates. They are not yet in effect.

- ICAI has notified that provisions related to GSTR 1A, 2, 3, 7 & 8 shall not be covered in exams. We have covered these returns in classes as well as in printed notes. Now, we can focus on GSTR 1, 4, 5 & 6 only. Annual return provisions are covered in exam syllabus.
- ICAI has also notified that matching concept in GST (i.e. matching of ITC with details furnished by supplier in GSTR 1 & matching of credit notes) will not be covered in exam syllabus. This has also been covered in lectures and now can be avoided.
- Page No. 61 in statutory update of ICAI is relevant.
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Refunds & Zero Rated Supplies

In case of zero rates supplies (i.e. exports outside India or supplies to SEZ units), all registered assesses have option to file LUT (rather than bond) except when prosecution has been initiated against an assessee. LUT is an easy option as compared to bond. With LUT, no security / surety are required. Also, LUT is given on letterhead of the assessee whereas bond is furnished on stamp paper.

If IGST is paid on zero rated supplies, then IGST can be claimed as refund. If LUT is filed and no IGST is paid on zero rated supplies, then accumulated ITC can be claimed as refund. ITC refund will be given based on formula as per Rule 89 of CGST Rules.

In addition to above refund, following refunds are also covered in CA final syllabus –

1. Refund due to inverted rate structure;
2. Refund for deemed exports under GST. This can be claimed either by supplier or by the recipient. List of deemed exports in GST is given on Page No. 85 of statutory update of ICAI.
3. Refund under Sec. 55 i.e. by person notified by Government (in this section persons such as United Nations etc. are notified for refund of GST paid on all inputs and input services purchased by them)

Except for third type of refund above, all other refund provisions are important in exams including the calculations. In addition, there is a concept of 0.10% special tax rate for merchant exporter.

Page No. 62 to 76 of statutory update is relevant.

Job Working

No amendments are made. Classes' notes and printed notes are relevant. Entire chapter is well explained in CBIC Circular given on Page No. 77 to 81 of the statutory update of ICAI.

Common Topics

Classes' notes & printed notes are thoroughly amended and must be revised. Page No. 82 & 83 of the statutory update can be ignored as monetary limits are generally not asked in the exams. Similarly, Page No. 84 can also be ignored.

Customs

It is notified by ICAI that the provisions of Customs, as amended up to 30-Apr-2018 shall be applicable. But, changes made by Finance Act, 2017 only will apply. Therefore, changes made by Finance Act, 2018 will not be applicable.

Concessional Removal Rules

New Concessional Removal Rules, 2017 have been notified and given in Page 3 to 6 of statutory update given by ICAI. These Rules are similar to earlier rules and will be used for claiming end-use based exemptions in Customs. The rules are important in exams.

High Sea Sales

Page No. 7 of statutory updates can be referred. There is no amendment in treatment of high sea sales. The custom duties including IGST u/s 3 (7) is payable by the last buyer. For example, if ABC limited imported the goods for Rs. 100/- and sold it on high sea basis to PQR Limited for Rs. 120/-, then there will be no tax or GST on Rs. 120/- and it shall be considered as exempt supply for ABC Limited. At the time of clearance, PQR limited will have to file bill of entry and will have to pay all applicable custom duties on Rs. 120/- including IGST u/s 3 (7).

Valuation of Imported Goods

Amendment in Rule 10 (2) is well explained in classes. As per the amendment, transport cost including loading / unloading etc. incurred up to place of importation is to be taken. **Question 17** in RTP for November 2018 is an important guide.

Please note that loading / unloading charges incurred at Indian port / airport is not to be taken at all.

Loading / unloading charges incurred at foreign port / airport is to be added. But, these charges are considered as a part of FOB value. Therefore, if FOB value is given in the question, it will be deemed to have taken loading / unloading charges incurred at foreign port / airport and no further addition is to be made.

Page No. 8 to 10 of statutory updates provide this amendment.

Duty Drawback

In case of duty drawback under Sec. 75, AIR will consist only of excise duty on petroleum products used in manufacturing exported goods and BCD paid on imported inputs used in manufacturing exported goods. All other taxes (i.e. GST) paid on other inputs and input services will not be given as duty drawback as ITC refund can be claimed. It may be noted that duty drawback and ITC refund both can be claimed in case of supply of goods outside India by submitting LUT.

Page No. 11 to 21 in statutory updates are given for duty drawback but same has been covered in classes in detail. Therefore, one reading of procedural part will be sufficient.

Finance Act, 2018 Related Changes

As Finance Act, 2018 amendments are not applicable in exams, therefore, following points are not given in statutory updates and hence **not** relevant in exams –

1. Amendment in definition of Indian custom waters from 12 NM to 200 NM;
2. Introduction of Electronic Cash ledger in Customs;
3. Penalty for delayed or wrong filing of Export Manifest / Export Report;
4. Treatment of duties payable when warehoused goods are sold while being deposited in warehouse;
5. Introduction of Social Welfare Surcharge in place of Education Cess & SHEC.

All the above changes are covered in classes as well as in printed notes. First three points are easy to understand. For the purpose of sale of goods in warehouse, no statutory update is given by ICAI. No question has been given in RTP for Nov-2018 also. Therefore, ICAI may not ask the question in exams also. However, consider the following example and follow the treatment as given below –

ABC limited imported the goods for Rs. 100/- and deposited them in the warehouse. While in warehouse, the goods are sold to PQR Limited (located in the same state) for Rs. 120/-. PQR Limited cleared the goods from warehouse after 1 month.

In the above case, ABC Limited will have to charge IGST on Rs. 120/- i.e. price at which warehouse goods are sold to PQR Limited. This supply is clarified by CBIC as supply in course of import and hence will be deemed as inter-state supply.

At the time of clearance of warehoused goods, PQR limited will have to pay applicable Custom duties including IGST u/s 3 (7) of Customs Tariff Act. The custom duties, though payable by PQR Limited, will be calculated on Rs. 100/- only i.e. the value originally declared by ABC Limited.

Social Welfare Surcharge (SWS)

As Finance Act, 2018 changes are not applicable in exams, SWS is also not applicable. Question on duty calculation is not given in RTP also which indicates that question on duty calculation may not be given in exams.

Instead of SWS @ 10%, education cess and SHEC @ 3% only is to be calculated. The method of calculation will remain same and is given below –

Particulars	**Amount**
Cost of imported goods outside the factory of foreign supplier	
Add: transport & insurance cost in foreign country	
Add: loading / unloading charges incurred in factory or at foreign port / airport	
= FOB Value of Goods	
Add: Rule 10 (1) adjustments	
= Revised FOB Value of Goods	
Add: Rule 10 (2) adjustments i.e. freight & insurance from foreign country to Indian port / airport	
= CIF Value of Goods or Value u/s 14 (A)	
Basic Custom Duty (B) (calculated on A)	
EC & SHEC @ 3% (C) (calculated on B)	
= Value for calculation of IGST & Compensation Cess (D) (D = A+B+C)	
IGST u/s 3 (7) & Cess u/s 3 (9) (E) (calculated on D)	
Total Duty Payable (B+C+E)	

Like SWS, education cess and SHEC is not to be calculated on IGST & Compensation cess and also not to be calculated on Safeguard duties / ADD / ASD.

Other Points

- ICAI has given some practice questions, hosted on following address: https://www.icai.org/post.html?post_id=14562. This is divided in three parts and you must study them all along with answers given therein. Part III is specifically important and contains few good practical questions.
- RTP for May-2018 exams must be referred to along with all answers given therein. Revised RTP is hosted on following address:

  https://resource.cdn.icai.org/48680bos32650p8.pdf
- Suggested answers to May-2018, both old and new syllabus must be referred to.
- Don't worry about questions like question 18 of RTP which are based on old cases as such questions will not be possible to prepare.

At the end

ALL THE BEST FOR EXAMS