

# Lawyers & law firms required to take GST registration in certain situations

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1. The general understanding / consensus among lawyers and law firms in India is that they are not required to obtain registration under the GST law and accordingly are not required to pay GST on their supply of legal services in India. This understanding to a large extent is legally correct, however there are certain transaction(s) which may necessitate them to take registration under the GST law and pay applicable GST thereon. This article seeks to highlight such transaction(s).

2. Section 24 of the **CGST Act, 2017** mandates that every person making intra-state supply of goods or services is required to take registration under the GST regime. However, there are certain exceptions wherein this registration requirement does not apply, such as:

a. Section 23 of the CGST Act *inter alia* provides that no registration is required to be taken by persons who are providing exempt services;

b. Similarly, **Notification No. 5/2017-CGST dated 19.06.2017** provides that no registration is required to be taken by persons who are exclusively providing services which are subject to GST under the reverse charge mechanism.

3. In this regard, section 20 of the IGST Act *inter alia* provides that provisions relating to registration requirement under the CGST Act will *mutatis mutandis* apply to levy of IGST on inter-state supplies under the **IGST Act, 2017**.

4. In case of supply of legal services by an advocate or a law firm to a person other than a business entity, no GST is payable as the same has been exempted under Sl. No. 45 of **Notification No. 12/2017-CGST dated 28.06.2017** and Sl. No. 47 of **Notification No. 09/2017-IGST dated 28.06.2017**. Accordingly, no registration requirement arises in respect of such supply of legal services by an advocate or a law firm.

5. On the other hand, supply of legal services to a business entity in taxable territory (India), has been put under the reverse charge mechanism i.e., in case of legal services provided by an advocate (including a senior advocate) and a law firm, to a business entity, the applicable GST is payable under reverse charge by the receiver of service (the said business entity). This has been notified through Sl. No. 2 of **Notification No.**

**13/2017-CGST dated 28.06.2017.**

6. Apart from these two transactions, there a third category of transaction, intermittently done by several lawyers and law firms in India, which is neither exempt nor covered under the reverse charge mechanism. This entails a transaction wherein legal services are provided by them to a *business entity outside the taxable territory (outside India)*. The reverse charge notification does not apply in this context as the same is applicable when legal services are provided to a business entity located in a taxable territory. It will not apply to a situation wherein they are provided to a business entity located in a non-taxable territory. Therefore, export of legal services will be subject to payment of applicable GST by the advocate / law firm.

7. Here, it will be pertinent to point out that export of legal services will tantamount to 'zero rated supply' under the IGST Act, therefore on such supplies the supplier (advocate / law firm) will have the option of either:

a. Paying applicable IGST on such export of legal services and thereafter apply for refund of the same; or

b. Export such services without payment of applicable IGST under bond / LUT (to be executed with the department).

8. This requirement to take registration will be applicable on a number of law firms / lawyers operating in India who are providing legal services to their various clients located outside India and are receiving payment in foreign exchange.

9. The registration requirement will invite other unwarranted consequences as well such as monthly and annual return filing requirement, audit requirement, if applicable and applying for LUT every year, etc. At the same time, this will also result in certain benefits / saving to these lawyers / law firms such as:

a. They will be entitled to take input tax credit (ITC) of their inputs, capital goods and input services (in proportion to the services exported by them). This will be very beneficial for law firms having majority exports who can take ITC of rent paid by them, furniture and laptops purchased by them, several input services availed by them, etc;

b. This ITC can used for payment of applicable IGST on the export of legal services, of which subsequently refund can be obtained from the GST department. This refund will be made available in cash to them.

c. Additionally, on fulfilment of certain additional conditions, these law firms / lawyers can also avail the benefit of duty credit scrips under the Service Export from India Scheme (SEIS), from the DGFT office, on such export of services outside India, which may law firms / advocates are not availing.

10. Thus, lawyers and law firms providing legal services to business entities outside India should obtain registration under the GST law to save themselves from avoidable harassment from the GST authorities at a later, GST liability and accompanying penalty under the GST law.

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September 2020