Food Corporation of India -
Action points for GST rollout

Annexure 1 dated 12th June, 2017
As updated on 20th June, 2017
Report on GST provisions applicable to Food Corporation of India

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Note: This report has been prepared at the explicit request of M/s Food Corporation of India and is for their exclusive use and purpose.
1 Overview

FCI is in process of obtaining GST registrations and would accordingly be having 34 GST registrations across various States/UTs. The registration would cover all the business operations of FCI located in the same State viz.:

- Principal Place of Business
  - Regional Office in the State
- Additional Place(s) of Business
  - District Office(s) in the State
  - Own Depots/Warehouses in the State
  - Hired Depots/Warehouses in the State
  - Zonal office/HQ/IFS in the State
  - Premises from where supply of goods/services made

This note details the applicability of the reverse charge mechanism and TDS provisions of GST law under the various registrations of FCI.

2 Reverse charge mechanism (‘RCM’)

Reverse charge means the liability to pay GST lies with the recipient of the supply of goods and/or services instead of the supplier. In this regard, Section 9(3) & 9(4) of CGST and SGST Act and Section 5(3) & 5(4) of IGST Act prescribes the category of supply of goods and services that would be subjected to reverse charge under the provisions of respective Act.

2.1 Applicability of reverse charge in case of goods or services received by FCI office from any unregistered person

As per Section 9(4) of CGST Act and 5(4) of IGST Act, GST in respect of the supply of taxable goods or services by an unregistered supplier to a registered person shall be paid by such registered recipient under reverse charge basis and all the provisions of the Act would apply to such recipient as if he is the person liable for paying tax in relation to the supply of such goods or services.

Accordingly if any of the FCI office/premise procures taxable goods or services from any unregistered person, GST liability would arise on FCI under reverse charge. In such scenario, FCI would accordingly need to discharge GST at the applicable rates on such supply as per the time of supply provisions outlined in Annexure 1.
Further as per section 31 (3) (f) of CGST Act, the recipient (i.e. FCI) would need to issue a tax invoice in respect to receipt of taxable goods and/or services from unregistered supplier.

Mandatory details/fields required in such **tax invoice** are outlined as under:

- Name and address of the supplier;
- A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters like hyphen ( - ) and/or slash ( / ) and any combination thereof, unique for a financial year;
- Date of its issue;
- Name, address and GSTIN of the concerned FCI branch;
- HSN code of goods or Accounting Code (SAC) of services;
- Description of goods or services;
- Quantity in case of goods and unit or Unique Quantity Code thereof;
- Total value of supply;
- Taxable value of supply of goods or services or both net of discount or abatement;
- Rate of tax (CGST, SGST/UTGST, IGST and GST CESS);
- Amount of tax charged;
- Place of supply (along with the name of State) in case of inter-State supply;
- Address of delivery (along with the name of State and its code) in case the value of taxable supply is INR 50,000 or more;
- Address of delivery where the same is different from the place of supply;
- Whether the tax is payable on reverse charge basis; and
- Signature or digital signature of the recipient or his authorized representative

Further as per Section 31 (3) (g) of CGST Act, FCI would need to issue a payment voucher at the time of making payment to such supplier.

Mandatory details/fields required in such **payment voucher** are outlined as under:

- Name and address of the supplier;
- A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters like hyphen ( - ) and/or slash ( / ) and any combination thereof, unique for a financial year;
- Date of its issue;
- Name, address and GSTIN of the concerned FCI branch;
- Description of goods or services;
- Amount paid;
- Rate of tax (CGST, SGST/UTGST, IGST or GST CESS);
- Amount of tax payable in respect of taxable goods or services (CGST, SGST/UTGST, IGST or GST CESS);
➢ Place of supply (along with the name of State and its code) in case of inter-State supply; and
➢ Signature or digital signature of the **supplier** or his authorized representative.

Process for reverse charge mechanism under this scenario would as follows:

1. **Receive the good and/or services**
2. **Determine the rate of tax applicable on supply**
3. **Determine the time of supply**
   - In case of supply of goods, earliest of the following:
     - Date of receipt of the goods;
     - Date immediately following 30 days from the date of issue of invoice or other prescribed document; or
     - Date of payment as entered in the books of accounts by FCI office; or
     - Date on which payment is actually debited in bank account
   - In case of supply of services, earliest of the following:
     - Date immediately following 60 days from the date of issue of invoice or any other prescribed document;
     - Date of payment as entered in the books of accounts by FCI office; or
     - Date on which payment is actually debited in his bank account
4. **Issue the tax invoice (as per time of supply)**
5. **Issue payment voucher at the time of making payment to supplier**
6. **Report the supply in GSTR-2 of the respective month of the time of supply**
7. **Discharge the GST liability on the supply**
2.2 Applicability of reverse charge in case of categories of goods or services specified in this behalf and received by FCI office

The Government may by notification under section 9(3) of CGST Act and 5(3) of IGST Act, certain categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis i.e. by the recipient instead by the supplier.

Accordingly if any of the FCI office/premise procures such goods or services, GST liability would arise on FCI under reverse charge. In such scenario, FCI would accordingly need to discharge GST at the applicable rates on such supply as per the time of supply provisions outlined in Annexure 1.

Further, as per Section 31 (3) (g) of CGST Act, the recipient would need to issue a payment voucher at the time of making payment to such supplier.

Details required in such payment voucher are outlined as under:

- Name and address of the supplier along with GSTIN (if he is registered);
- A consecutive serial number not exceeding 16 characters, in one or multiple series, containing alphabets or numerals or special characters like hyphen ( - ) and/or slash ( / ) and any combination thereof, unique for a financial year;
- Date of its issue;
- Name, address and GSTIN of the concerned FCI branch;
- Description of goods or services;
- Amount paid;
- Rate of tax (CGST, SGST/UTGST, IGST or GST CESS);
- Amount of tax payable in respect of taxable goods or services (CGST, SGST/UTGST, IGST or GST CESS);
- Place of supply (along with the name of State and its code) in case of inter-State supply; and
- Signature or digital signature of the supplier or his authorized representative.

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1 Still to be notified
Services as notified on which reverse charge mechanism would be applicable has been outlined in Annexure-2.

Out of the notified services, below may be relevant to the business of FCI as attracting 100% GST liability under reverse charge mechanism:

<table>
<thead>
<tr>
<th>S. no.</th>
<th>Supply of Service</th>
<th>Service Provider</th>
<th>Service recipient</th>
<th>Place of Supply</th>
<th>Rate of GST</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Services in respect to transportation of goods by road by a goods transport agency excluding for Agricultural produce and Food grains including flour, pulses, rice</td>
<td>Goods Transport Agency (GTA)</td>
<td>FCI office registered under GST Act</td>
<td>Place of Concerned FCI office</td>
<td>5%</td>
</tr>
<tr>
<td>2</td>
<td>Legal Services</td>
<td>Individual advocate or firm of advocates</td>
<td>FCI office (business entity)</td>
<td>Place of Concerned FCI office</td>
<td>18%</td>
</tr>
<tr>
<td>3</td>
<td>Services by Government or local authority except:</td>
<td>Governmen t or local authority</td>
<td>FCI office (business entity)</td>
<td>Applicable as per the nature of services</td>
<td>As per respective service</td>
</tr>
<tr>
<td></td>
<td>(1) Renting of immovable property, and</td>
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<td></td>
<td>(2) Below services-</td>
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<td></td>
<td>(i) Services of speed post, express parcel post, life insurance and agency services provided by Department of Post;</td>
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<td>(ii) Services in relation to an aircraft or a vessel, whether inside or outside</td>
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<td>the precincts of a port or an airport;</td>
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<tr>
<td></td>
<td>(iii) Transport of goods or passengers</td>
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</tr>
<tr>
<td>4</td>
<td>Services by an arbitral tribunal</td>
<td>An arbitral tribunal</td>
<td>FCI office (business entity)</td>
<td>Place of Concerned FCI office</td>
<td>18%</td>
</tr>
<tr>
<td>5</td>
<td>Sponsorship services</td>
<td>Any person</td>
<td>FCI office (body corporate)</td>
<td>Place of Concerned FCI office</td>
<td>18%</td>
</tr>
<tr>
<td>6</td>
<td>Any taxable service as provided or agreed to be provided</td>
<td>Person in a non-taxable territory</td>
<td>FCI office located in taxable territory except its non-assessee recipient of OIDAR services</td>
<td>Place of Concerned FCI office</td>
<td>18%</td>
</tr>
<tr>
<td>7</td>
<td>Service by a director</td>
<td>Director</td>
<td>FCI office (Body corporate)</td>
<td>Place of Concerned FCI office</td>
<td>18%</td>
</tr>
</tbody>
</table>
Process for reverse charge mechanism under this scenario would as follows:

1. Receive the good and/or services
2. Determine the rate of tax applicable on supply
3. Determine the time of supply

   - **In case of supply of goods**, earliest of the following:
     - Date of receipt of the goods;
     - Date immediately following 30 days from the date of issue of invoice or other prescribed document; or
     - Date of payment as entered in the books of accounts by FCI office; or
     - Date on which payment is actually debited in bank account

   - **In case of supply of services**, earliest of the following:
     - Date immediately following 60 days from the date of issue of invoice or any other prescribed document;
     - Date of payment as entered in the books of accounts by FCI office; or
     - Date on which payment is actually debited in his bank account.

4. Issue payment voucher at the time of making payment to supplier
5. Report the supply in GSTR-2 of the respective month of the time of supply
6. Discharge the GST liability on the supply
3 Tax Deduction at Source (‘TDS’)

As per Section 51 of the CGST Act and Section 20 of the IGST Act, the government may mandate:
   (a) A department or establishment of the Central Government/State Government, or
   (b) Local authority, or
   (c) Governmental agencies, or
   (d) Any person or category of persons, as may be notified
to deduct the tax at source from the payment made/credited to the supplier of taxable goods/services (i.e. deductee) where total value of supply under a contract (excluding the value of CGST, SGST, UTGST, ITGST & Cess), exceeds INR 2.5 lakhs.

Accordingly if FCI supplies any goods or services to government/government department /local authority / government agency, the same may be subject to tax deduction at source by the concerned.

Further, government may also notify the person or category of person who would also require to deduct the tax. However any notification in this regard is still pending.

The rate of tax that would need to be deducted under the abovementioned provisions is 1% for CGST and 1% for SGST/UTGST. In case of inter-state sales, the tax would need to be deducted at the rate of 2% from the payment to be made.

To determine the tax deduction amount, value of a supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than CGST Act, SGST Act, IGST Act and GST (Compensation to States) Act, if charged separately by the supplier.

The deductor (i.e. recipient of goods/services) shall deposit the deducted tax on or before 10th of the month succeeding to the month of such deduction and also report the same in GSTR-7.

Also, the deductor would need to issue a TDS certificate to the deductee (i.e. supplier) mentioning the prescribed particulars within five days of depositing such tax with government.

If FCI would need to deduct the tax under said provisions of the GST law, then additional compliances would be required such as maintaining TDS liability accounts, filing of GSTR-7 and issuing TDS certificates to suppliers within prescribed time limit.
Annexure A

**Time of supply under reverse charge i.e. point of taxation**

As per Section 12(3) of CGST Act, in case of supply of *goods* in respect of which tax is payable on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:

(i) Date of receipt of the goods;
(ii) Date immediately following 30 days from the date of issue of invoice or other prescribed document; or
(iii) Date of payment as entered in the books of accounts by the recipient; or
(iv) Date on which payment is actually debited in bank account.

As per Section 13(3) of CGST Act, in case of supply of *services* in respect of which tax is payable on reverse charge basis, the time of supply shall be the earliest of the following dates, namely:

(i) Date immediately following 60 days from the date of issue of invoice or any other prescribed document;
(ii) Date of payment as entered in the books of accounts by the recipient; or
(iii) Date on which payment is actually debited in his bank account.

In case time of supply is not determinable under above scenarios, the date of entry in the books of accounts of FCI will be the time of supply.

*(this space has been intentionally left blank)*
List of services on which 100% reverse charge is applicable:

<table>
<thead>
<tr>
<th>S. no.</th>
<th>Supply of Service</th>
<th>Service Provider</th>
<th>Service recipient</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Services provided or agreed to be provided by a goods transport agency (GTA) in respect of transportation of goods by road</td>
<td>Goods Transport Agency (GTA)</td>
<td>a) any factory registered under or governed by the Factories Act, 1948;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>c) any co-operative society established by or under any law;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>d) any person registered under CGST/SGST/UTGST Act;</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>e) anybody corporate established, by or under any law; or</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>f) any partnership firm whether registered or not under any law including association of persons.</td>
</tr>
<tr>
<td></td>
<td></td>
<td></td>
<td>g) Casual taxable person</td>
</tr>
<tr>
<td>2</td>
<td>Services provided or agreed to be provided by an individual advocate or firm of advocates by way of legal services, directly or indirectly</td>
<td>Individual advocate or firm of advocates</td>
<td>Any business entity</td>
</tr>
<tr>
<td>3</td>
<td>Services by Government or local authority except:</td>
<td>Government or local authority</td>
<td>Any business entity</td>
</tr>
<tr>
<td></td>
<td>(1) Renting of immovable property, and</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(2) Below services-</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(iv) Services of speed post, express parcel post, life insurance and agency services provided by Department of Post;</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(v) Services in relation to an aircraft or a vessel, whether inside or outside the precincts of a port or an airport;</td>
<td></td>
<td></td>
</tr>
<tr>
<td></td>
<td>(vi) Transport of goods or passengers</td>
<td></td>
<td></td>
</tr>
<tr>
<td>S. no.</td>
<td>Supply of Service</td>
<td>Service Provider</td>
<td>Service recipient</td>
</tr>
<tr>
<td>-------</td>
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<td>------------------</td>
</tr>
<tr>
<td>4</td>
<td>Services provided or agreed to be provided by an arbitral tribunal</td>
<td>An arbitral tribunal</td>
<td>Any business entity</td>
</tr>
<tr>
<td>5</td>
<td>Sponsorship services</td>
<td>Any person</td>
<td>Anybody corporate or partnership firm</td>
</tr>
<tr>
<td>6</td>
<td>Taxable services provided or agreed to be provided</td>
<td>Person in a non-taxable territory</td>
<td>Any person located in the taxable territory other than non-assessee online recipient (Business Recipient)</td>
</tr>
<tr>
<td>7</td>
<td>Services provided or agreed to be provided by a director</td>
<td>Director</td>
<td>A company or body corporate</td>
</tr>
<tr>
<td>8</td>
<td>Transportation of goods by a vessel from outside India up to customs station of clearance in India</td>
<td>Person in a non-taxable territory</td>
<td>Person located in non-taxable territory being Importer (as defined under clause (26) of section 2 of the Customs Act, 1962)</td>
</tr>
<tr>
<td>9</td>
<td>Services provided or agreed to be provided by an insurance agent</td>
<td>Insurance agent</td>
<td>Any person carrying on insurance business</td>
</tr>
<tr>
<td>10</td>
<td>Services provided or agreed to be provided by a recovery agent</td>
<td>Recovery agent</td>
<td>A banking company or a financial institution or a non-banking financial company</td>
</tr>
<tr>
<td>11</td>
<td>Transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works</td>
<td>Author or music composer, photographer, artist, etc.</td>
<td>Publisher, Music company, Producer</td>
</tr>
<tr>
<td>12</td>
<td>Radio taxi or Passenger Transport Services provided through electronic commerce operator</td>
<td>Taxi driver or Rent a cab operator</td>
<td>Any person (In this case, 100% liability to be paid by such Electronic Commerce Operator)</td>
</tr>
</tbody>
</table>
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