

## Treading the GST Path XXX

### What is "cab"?

**(G. Natarajan, Advocate, Swamy Associates)**

The following are the CGST Rates (in addition equal % of SGST would also apply for intra-state supplies) applicable for car / bus rental and transport services.

S.No.	Chapter, Section or Heading	Description of Service	Rate (Percent)	Condition
8	Heading 9964 (Passenger transport services)	(ii) Transport of passengers, with or without accompanied belongings by- (a) air conditioned contract carriage other than motorcab; (b) air conditioned stage carriage; (c) radio taxi.  <i>Explanation.-</i> (a) "contract carriage" has the meaning assigned to it in clause (7) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988); (b) "stage carriage" has the meaning assigned to it in clause (40) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988) ; (c) "radio taxi" means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).	2.5	Provided that credit of input tax charged on goods or services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
		(vi) Transport of passengers by motorcab where the cost of fuel is included in the consideration charged from the service recipient.	2.5	Provided that credit of input tax charged on goods and services used in supplying

				the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
		(vii) Passenger transport services other than (i), (ii) (iii), (iv), (v) and (vi) above.	9	-
10	<b>Heading 9966</b> (Rental services of transport vehicles)	(i) Renting of <b>motorcab</b> where the cost of fuel is included in the consideration charged from the service recipient.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
		(ii) Rental services of transport vehicles with or without operators, other than (i) above.	9	-

*(iv) Wherever a rate has been prescribed in this notification subject to the condition that credit of input tax charged on goods or services used in supplying the service has not been taken, it shall mean that,-*

*(a) credit of input tax charged on goods or services used exclusively in supplying such service has not been taken; and*

*(b) credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions of sub-section (2) of section 17 of the Central Goods and Services Tax Act, 2017 and the rules made thereunder.*

It may be observed from the above that basically there are two types of services, viz., (i) when the service is directly provided to a passenger, who pays for it, it would be a transportation service; (ii) if the vehicle is used for the purpose of transporting the employees of a company, for which the company pays, the service would be in the nature of rental services.

Further as per the classification scheme for services, vide Notification 11/2017, the following are the categories of various services.

120	<b>Group 99660</b>		<b>Rental services of transport vehicles with or without operators</b>
121		996601	Rental services of road vehicles including buses, coaches, cars, trucks and other motor vehicles, with or without operator
122		996602	Rental services of water vessels including passenger vessels, freight vessels and the like with or without operator
123		996603	Rental services of aircraft including passenger aircrafts, freight aircrafts and the like with or without operator
124		996609	Rental services of other transport vehicles nowhere else classified with or without operator

From out of the above, rental services of "motorcab" is specifically dealt with and the rate of 2.5 % CGST (and 2.5 % SGST) has been prescribed, if the cost of fuel is also included in the amount charged and also subject to a condition that no Input Tax Credit is availed. The word "motorcab" is defined in the Motor Vehicles Act, 1989 as,

*Section 2 (25) : Motorcab means any motor vehicle constructed or adapted to carry not more than six passengers excluding driver for hire or reward.*

From the above, it can be concluded that all other rental services of transport vehicles, such as van, bus, etc. would attract 9 % CGST (and 9 % SGST).

\*\*\*

Reference is invited to Section 17 (5) of the Act, according to which no input tax credit is admissible for the following.

*17 (5) Notwithstanding anything contained in sub-section (1) of section 16 and subsection (1) of section 18, input tax credit shall not be available in respect of the following, namely:—*

*(b)*

*(iii) **rent-a-cab**, life insurance and health insurance except where --*

*(A) the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or*

*(B) such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply;*

The above provision refer to the phrase "rent-a-cab". In the absence of any definition for the word "cab" the definition of terms "maxi cab" and "motorcab" as per the Motor Vehicles Act, 1988 can be borrowed to understand the meaning of the term "cab".

*Section 2 (22) : Maxicab means any motor vehicle constructed or adapted to carry more than six passengers but not more than twelve passengers, excluding the driver, for hire or reward.*

*Section 2 (25) : Motorcab means any motor vehicle constructed or adapted to carry not more than six passengers excluding driver for hire or reward.*

Hence, the term "rent-a-cab" cannot cover renting of any vehicles, having a seating capacity of more than twelve (buses, etc.). Hence, the 18 % GST payable on renting of such buses, would very much be entitled for ITC in the hands of the companies hiring such buses, without any restriction.

The term "cab" was defined in the erstwhile Finance Act, 1994, under section 65 (20) as

"cab" means —

- (i) a motorcab, or
- (ii) a maxicab, or
- (iii) any motor vehicle constructed or adapted to carry more than twelve passengers, excluding the driver, for hire or reward

But, this definition has ceased to exist from 01.07.2012 onwards and it may not be relevant to understand the meaning of the term "cab" used in Section 17 (5) of the CGST Act, 2017.

PS. In the GST council meeting held on 05.08.2017, it has been decided to introduce 12 % rate of GST for "renting of cab" with ITC and the notifications in this regard are yet to be issued.

(Published in [www.taxindiaonline.com](http://www.taxindiaonline.com) on 22.08.2017)