

F. No. 354/428/2018-TRU

Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

**Room No. 146, North Block,
New Delhi, the 1st January, 2019**

To:

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/
Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject: Applicability of GST on various programmes conducted by the Indian Institutes of Managements (IIMs) – Reg.

I am directed to invite your attention to the Indian Institutes of Management Act, 2018 which came into force on 31st January, 2018. According to provisions of the IIM Act, all the IIMs listed in the schedule to the IIM Act are “institutions of national importance”. They are empowered to (i) grant degrees, diplomas, and other academic distinctions or titles, (ii) specify the criteria and process for admission to courses or programmes of study, and (iii) specify the academic content of programmes. Therefore, with effect from 31st January, 2018, all the IIMs are “educational institutions” as defined under notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017 as they provide education as a part of a curriculum for obtaining a qualification recognised by law for the time being in force.

2. At present, Indian Institutes of Managements are providing various long duration programs (one year or more) for which they award diploma/ degree certificate duly recommended by Board of Governors as per the power vested in them under the IIM Act, 2017. Therefore, it is clarified that services provided by Indian Institutes of Managements to their students- in all such long duration programs (one year or more) are exempt from levy of GST. As per information received from IIM Ahmedabad, annexure 1 to this circular provides a sample list of programmes which are of long duration (one year or more), recognized by law and are exempt from GST.

3. For the period from 1st July, 2017 to 30th January, 2018, IIMs were not covered by the definition of educational institutions as given in notification No. 12/ 2017 Central Tax (Rate)

dated 28.06.2017. Thus, they were not entitled to exemption under Sl. No. 66 of the said notification. However, there was specific exemption to following three programs of IIMs under Sl. No. 67 of notification No. 12/2017- Central Tax (Rate): –

- (i) two-year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management,
- (ii) fellow programme in Management,
- (iii) five years integrated programme in Management.

Therefore, for the period from 1st July, 2017 to 30th January, 2018, GST exemption would be available only to three long duration programs specified above.

4. It is further, clarified that with effect from 31st January, 2018, all IIMs have become eligible for exemption benefit under Sl. No. 66 of notification No. 12/ 2017- Central Tax (Rate) dated 28.06.2017. As such, specific exemption granted to IIMs vide Sl. No. 67 has become redundant. The same has been deleted vide notification No. 28/2018- Central Tax (Rate) dated, 31st December, 2019 w.e.f. 1st January 2019.

5. For the period from 31st January, 2018 to 31st December, 2018, two exemptions, i.e. under Sl. No. 66 and under Sl. No. 67 of notification No. 12/ 2017- Central Tax (Rate), dated 28.06.2017 are available to the IIMs. The legal position in such situation has been clarified by Hon'ble Supreme Court in many cases that if there are two or more exemption notifications available to an assessee, the assessee can claim the one that is more beneficial to him. Therefore, from 31st January, 2018 to 31st December, 2018, IIMs can avail exemption either under Sl. No 66 or Sl. No. 67 of the said notification for the eligible programmes. In this regard following case laws may be referred-

- i. H.C.L. Limited vs Collector of Customs [2001 (130) ELT 405 (SC)]
- ii. Collector of Central Excise, Baroda vs Indian Petro Chemicals [1997 (92) ELT 13 (SC)]
- iii. Share Medical Care vs Union of India reported at 2007 (209) ELT 321 (SC)
- iv. CCE vs Maruthi Foam (P) Ltd. [1996 (85) RLT 157 (Tri.) as affirmed by Hon'ble Supreme Court vide 2004 (164) ELT 394 (SC)]

6. Indian Institutes of Managements also provide various short duration/ short term programs for which they award participation certificate to the executives/ professionals as they are considered as “participants” of the said programmes. These participation certificates are not any qualification recognized by law. Such participants are also not considered as students of Indian Institutes of Management. Services provided by IIMs as an educational institution to such participants is not exempt from GST. Such short duration executive programs attract standard rate of GST @ 18% (CGST 9% + SGST 9%). As per information received from IIM Ahmedabad, annexure 2 to this circular provides a sample list of programmes which are short duration executive development programs, available for participants other than students and are not exempt from GST.

7. Following summary table may be referred to while determining eligibility of various programs conducted by Indian Institutes of Managements for exemption from GST.

Sl. No.	Periods	Programmes offered by Indian Institutes of Management	Whether exempt from GST
(1)	(2)	(3)	(4)
1	1 st July, 2017 to 30 th January, 2018	i. two-year full time Post Graduate Programmes in Management for the Post Graduate Diploma in Management, to which admissions are made on the basis of Common Admission Test (CAT) conducted by the Indian Institute of Management, ii. fellow programme in Management, iii. five years integrated programme in Management.	Exempt from GST
		i. One- year Post Graduate Programs for Executives, ii. Any programs other than those mentioned at Sl. No. 67 of notification No. 12/2017- Central Tax (Rate), dated 28.06.2017. iii. All short duration executive development programs or need based specially designed programs (less than one year).	Not exempt from GST
2	31 st January, 2018 onwards	All long duration programs (one year or more) conferring degree/ diploma as recommended by Board of Governors as per the power vested in them under the IIM Act, 2017 including one- year Post Graduate Programs for Executives.	Exempt from GST

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		All short duration executive development programs or need based specially designed programs (less than one year) which are not a qualification recognized by law.	Not exempt from GST
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8. This clarification applies, *mutatis mutandis*, to corresponding entries of respective IGST, UTGST, SGST exemption notifications. Difficulty if any, in the implementation of this circular may be brought to the notice of the Board.

Yours Faithfully,

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Annexure 1: (Programmes exempt under GST Law)

The IIM- Ahmedabad refers such persons as their students who attend long duration programmes offered by the Institute for which diplomas / degrees are awarded by the Institute. These programmes are awarded based on the recommendation by the Board of Governors as per the power vested in them under the IIM Act, 2017. Such programmes are:

1. Post-Graduate Programme (PGP) – 2-year program
2. Post-Graduate Programme in Food and Agri-Business Management (PGP-FABM) – 2-year program
3. Fellow Programme in Management (FPM) – 4 to 5-year program
4. Post-Graduate Programme in Management for Executives (PGPX) – 12 months (1 year) full time program
5. ePost-Graduate Programme (ePGP) – 2-year online program.

This list is an example of long duration programs recognised under IIM Act, 2017 offered by IIM Ahmedabad. Similar programs offered by other IIMs of India may kindly be referred by IIMs and tax authorities during assessment.

Annexure 2: Programmes not exempt under GST Law

The executives / professionals doing short term courses (less than one year) are considered as “participants” of the programmes of the IIM Ahmedabad:

1. Armed Forces Programme
2. Faculty Development Programme
3. Executive Education
 - a. Customized Executive Programmes
 - b. Open Enrolment Programme

This list is an example of short duration executive development programs offered by IIM Ahmedabad which are available to participants. Similar programs offered by other IIMs of India may kindly be referred by IIMs and tax authorities during assessment.

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**North Block, New Delhi,
Dated the 1st January, 2019**

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/
Commissioner of Central Tax (All) /

The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject: Applicability of GST on Asian Development Bank (ADB) and International Finance Corporation (IFC) - reg.

Representations have been received seeking clarification regarding applicability of GST on Asian Development Bank (ADB) and International Finance Corporation (IFC). The matter has been examined.

2. The ADB Act, 1966 provides that notwithstanding anything to the contrary contained in any other law, the Bank, its assets, properties, income and its operations and transactions shall be exempt from all the taxation and from all customs duties. The Bank shall also be exempt from any obligation for payment, withholding or collection of any tax or duty [Section 5 (1) of the ADB Act, 1966 read with Article 56 (1) of the schedule thereto refers]. DEA has already conveyed vide letter No. 1/28/2002-ADB dated 22-01-2004 addressed to ADB that taxable services provided by ADB are exempted from service tax.

2.1 Similarly, IFC Act, 1958 also provides that notwithstanding anything to the contrary contained in any other law, the Corporation, its assets, properties, income and its operations and transactions authorised by the Agreement, shall be immune from all taxation and from all customs duties. The Corporation shall also be immune from liability for the collection or payment of any tax or duty [Section 3 (1) of IFC Act, 1958 read with Article VI, Section 9 (a) of the Schedule thereto refers].

3. CESTAT Mumbai vide final order dated 17-10-2016 in the case of M/s Coastal Gujarat Power Ltd. has held that when the enactments that honour international agreements specifically immunize the operations of the service provider from taxability, a law contrary to that in the form of Section 66A of Finance Act, 1994 will not prevail. With the provider being not only immune from taxation but also absolved of any obligation to collect and deposit any tax, there is no scope for subjecting the recipient to tax. There is no need for a separate exemption and existing laws enacted by the sovereign legislature of the Union suffice for the purpose of giving effect to Agreements.

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4. Accordingly, it is clarified that the services provided by IFC and ADB are exempt from GST in terms of provisions of IFC Act, 1958 and ADB Act. The exemption will be available only to the services provided by ADB and IFC and not to any entity appointed by or working on behalf of ADB or IFC.

5. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board.

Yours Faithfully,

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**Room No. 156, North Block,
New Delhi, the 1st January, 2018**

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal
Commissioners/ Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

**Subject: GST on Services of Business Facilitator (BF) or a Business Correspondent (BC)
to Banking Company- reg.**

Representations have been received seeking clarification on following two issues:

- (i) What is the value to be adopted for the purpose of computing GST on services provided by BF/BC to a banking company?
- (ii) What is the scope of services provided by BF/BC to a banking company with respect to accounts in its rural area branch that are eligible for existing GST exemption?

2. The matter has been examined. The issues involved are clarified as follows:

2.1 Issue 1: Clarification on value of services by BF/BC to a banking company: As per RBI's Circular No. DBOD.No.BL.BC. 58/22.01.001/2005-2006 dated 25.01.2006 and subsequent instructions on the issue (referred to as 'guidelines' hereinafter), banks may pay reasonable commission/fee to the BC, the rate and quantum of which may be reviewed periodically. The agreement of banks with the BC specifically prohibits them from directly charging any fee to the customers for services rendered by them on behalf of the bank. On the other hand, banks (and not BCs) are permitted to collect reasonable service charges from the customers for such service in a transparent manner. The arrangements of banks with the Business Correspondents specify the requirement that the transactions are accounted for and reflected in the bank's books by end of the day or the next working day, and all agreements/contracts with the customer shall clearly specify that the bank is responsible to the customer for acts of omission and commission of the Business Facilitator/Correspondent.

2.3 Hence, banking company is the service provider in the business facilitator model or the business correspondent model operated by a banking company as per RBI guidelines. The banking company is liable to pay GST on the entire value of service charge or fee charged to customers whether or not received via business facilitator or the business correspondent.

3. Issue 2: Clarification on the scope of services by BF/BC to a banking company with respect to accounts in rural areas: It has also been requested that the scope of exemption to services provided in relation to “accounts in its rural area branch” vide Sl. No. 39 of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 be clarified. This clarification has been requested as the exemption from tax on services provided by BF/BC is dependent on the meaning of the expression “accounts in its rural area branch”.

3.1 It is clarified that for the purpose of availing exemption from GST under Sl. No. 39 of said notification, the conditions flowing from the language of the notification should be satisfied. These conditions are that the services provided by a BF/BC to a banking company in their respective individual capacities should fall under the Heading 9971 and that such services should be with respect to accounts in a branch located in the rural area of the banking company. The procedure for classification of branch of a bank as located in rural area and the services which can be provided by BF/BC, is governed by the RBI guidelines. Therefore, classification adopted by the bank in terms of RBI guidelines in this regard should be accepted.

4. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board.

Yours Faithfully,

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