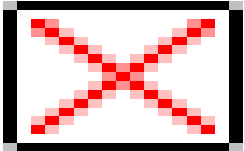


Should students pay GST on Hostel rent?

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FOR

small town students, tier-I/ tier-II cities provide better opportunities for education. However, for such students, the first hurdle is to find a place to stay, at cheapest cost, in such cities.

Colleges provide hostels but the same are not enough to meet the ever-rising demand. Also, residential apartments are available, however, majority of students can't afford the same. So, most are left with hostels (mostly run by **charities**, welfare institutions etc).

What is the issue of GST on hostels?

Sr. No. 14 of Not. No. [12/2017](#)-CTR provided for Nil tax rate to Services of heading 9963 viz. ***"Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having value of supply of a unit of accommodation below or equal to one thousand rupees per day or equivalent"***

Aforesaid Sr. No. 14 was omitted vide Not. No. [3/2022](#)-CT (R) w.e.f. 18.07.2022.

Resultantly, most students who seek such hostel facilities are confused as to whether they are required to pay GST to hostels.

What GST law says in this regard?

Although aforesaid sr. no. 14 is withdrawn, yet insofar as student's hostel accommodation is concerned, another exemption entry can be explored i.e. sr. no. 12 of Not. No. [12/2017](#)-CT (R).

Sr. no. 12 of Not. No. [12/2017](#)-CT (R) provides Nil tax rate to services of heading 9963 or heading 9972 viz. ***“Services by way of renting of residential dwelling for use as residence except where the residential dwelling is rented to a registered person”***.

It can be observed that exemption under aforesaid sr. no. 12 is available subject to fulfilment of following two conditions:

- a. Property should be a 'residential dwelling'
- b. It should be used for 'residence' [but not by a registered person]

What is meant by 'residential dwelling'?

It may be noted that the term 'residential dwelling' is not defined in the GST Legislation.

The term 'Residential' is stated to mean 'reside', 'residing', 'residence' etc. Further, as regards the term 'Dwelling', it refers to inhabit; to reside; to remain; (***Concise Law Dictionary*** “P Ramanatha Aiyer” 3rd edition)

Thus, as students 'reside' in a hostel, the hostel can be said to qualify as a 'Residential dwelling'.

Even the CBIC in its erstwhile Service Tax Educational Guide clarified that,

'the phrase 'residential dwelling' has not been defined in the Act. It has, therefore, to be interpreted in terms of the normal trade parlance as per which it is any residential accommodation, but does not include hotel, motel, inn, guest house, campsite, lodge, house boat, or places meant for temporary stay'.

Is hostel for a 'temporary stay'?

It may be noted that, ordinarily, students stay in a hostel for around a year or more till completion of their course and the rental charges for hostels are mostly collected annually in advance.

Typically, in a hostel, student pays and stays for the duration of his course. Thus, hostel accommodation, which is for around a year, can be stated as not a temporary stay. It needs mention that rental agreements for 'residential apartments' (which qualify as 'residential dwelling') are, typically, for eleven months and extendable.

Given the aforesaid, as the students 'reside' in a hostel for a year or more, the exemption under 'residential dwelling' can be stated as available.

Prayer for clarity!

Although the aforesaid analysis makes it clear that the exemption for such hostel facilities continues under a different entry in the notification, yet, for benefit of students and their parents, a suitable clarification by CBIC would be a godsend!

(The authors are Founder and CEO, PMA, Assistant Manager, PMA. Mr. Yashodip Sakhare from PMA also contributed to the article.)

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