**Taxes Applicable under GST Regime for Petroleum Operation**

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| --- | --- | --- | --- | --- |
| **Incidence / Nature of taxes** | **Applicability of Taxes on Input to Contractor** | **Remarks** | **Credit availability to Contractor** |  |
| **Domestic supply of services** **by Contractor to Company** | | | Full Credit of GST (ITC) is available to Contractor on eligible input goods and services |  |
| CGST+SGST  (Location of supplier & Place of Supply is within same state) | a. GST Rate on all support services to exploration, drilling or mining of Petroleum Crude & Natural Gas is 12%  b. GST rate on Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both is 12%  c. General rate on various other services is 18%  d. There are certain relevant services wherein lower rate of GST is applicable. Same is attached as List A. | a. As per Notification No. 01/2018-CGST(Rate) dated 25.01.2018 and 20/2019-CGST(Rate) dated 30.09.2019  b. Considering provisions of GST Laws as on date |  |
| IGST (Location of supplier & Place of Supply are in different state) | a. GST Rate on all support services to exploration, drilling or mining of Petroleum Crude & Natural Gas is 12%  b. GST rate on Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both is 12%  c. General rate on various other services is 18% |  |
| **Import of services by Contractor from its overseas sub-contractors** | | |  |
| IGST  (Company will pay GST directly to Indian Tax Authorities under reverse charge mechanism) | a. GST Rate on all support services to exploration, drilling or mining of Petroleum Crude & Natural Gas is 12%  b. GST rate on Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both is 12%  c. General rate on various other services is 18%  d. There are certain relevant services wherein lower rate of GST is applicable. Same is attached as List A. | a. As per Notification No. 01/2018-IGST(Rate) dated 25.01.2018 and 19/2019-IGST(Rate) dated 30.09.2019  b. Considering provisions of GST Laws as on date |  |

**Note (GST Regime):**

1. Contractor to charge appropriate GST upon Supply of Services to Company on its Tax Invoice as per Pricing Schedule and will be responsible to pay tax to government. Non-Resident Vendors will be required to take registration in India if its place qualifies as fixed establishment for the purpose of the GST Act. In addition, PAN & other registrations will be necessary.
2. The price bid submitted by the bidder should specify the applicable output GST (which bidder wants to charge to Company).
3. List of services where Company is responsible to pay GST directly to Tax Authorities under RCM is attached as **List – B**. In all other cases, vendor will be responsible for payment of tax to government.
4. However, in the case of Non-Resident Contractor who do not have fixed establishment in India for the purpose of GST Act, in such cases, Company shall pay GST to Indian Tax Authorities under Reverse Charge Mechanism (RCM) and in such case, Non-Resident Contractor shall not charge GST in its invoices.
5. Company will deduct GST TDS as per applicable provisions and the same will be in Contractor’s account.

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| **Incidence / Nature of taxes** | **Applicability of Taxes on Input to Contractor** | **Remarks** | **Credit availability to Contractor** |
| **Import of Goods by Contractor to make provision of service (IEC of supplier to be used) (on DDP Basis)** | | | |
| Case I: Goods are eligible for concessional duty under custom notification  BCD on Goods + IGST on Goods | Exempt + 12 %  Or  Rate applicable as per HSN,  Whichever is lower | a. As per custom notification no. 50/2017- customs dated 30 Jun 2017 (sl. No. 404, condition 48, list 33) and 02/2022-customs dated 01 Feb 2022 and 40/2022-customs dated 13 July 2022  b. Considering provisions of GST law as on date | IGST will be paid by Contractor on import, and same will be available to him as Input Credit. |
| Case II: Goods are not eligible for concessional duty under custom notification  BCD on Goods  +  SWS + IGST on Goods | As per applicable HSN +  10% of BCD  + As per applicable HSN | In case the goods are not falling under the revised list 33 of the custom notification (as referred as above), goods shall be cleared under full custom duty. | * Custom duties will be paid by Contractor on import * IGST paid will be available to contractor as Input Credit. * Company will reimburse the custom duty (BCD+SWS) to contractor by way of variation. |

**Note (GST Regime):**

* + - 1. Appropriate Certificate to be obtained by Contractor from company to avail concessional rate of GST on supply of Goods as mentioned in relevant Notifications.
      2. Responsibility for customs clearance will be on bidder.

**Lists:**

**List A -** Below are some of the services availed by the company which attracts lower GST of 5%:

a. Goods Transport Agency (GTA)

b. Rent a cab services

c. Catering Services

**List – B *-*** List of services where Company is paying service tax directly to Tax Authorities under RCM

a. Services by GTA

b. Services provided by advocates by way of legal services

c. Services provided by Arbitral Tribunal

d. Sponsorship services

e. Services by way of renting of residential dwelling to registered person

f. Security Services provided by any person other than body corporate

g. services of renting of any motor vehicle designed to carry passengers where cost of fuel is included in the consideration

***Note:***

1. ***In all cases, vendor should ensure that relevant compliances are timely filed on GST portal w.r.t. GST collected from the Company.***
2. ***The document is for information only. Bidder is advised to take its review, opinion and assessment from its own tax consultant /internal tax department to assess the tax understanding and avail relevant tax benefits/exemptions.)***

***Annexure 1: Definitions as per GST Law.***

1. ***Fixed Establishment:-***

*Section 2(50) of the CGST law defines the term 'fixed establishment' to mean a place (other than the registered place of business) which is characterized by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs.*

*Possible factors wrt creation of fixed establishment in India for the purpose of GST laws:*

1. *If it could be proven that, the place in question has sufficient degree of permanence, coupled with suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs, the place would qualify as a fixed establishment. What constitutes suitable structure in terms of human and technical resources to supply services, or to use services, is a factual question, which need to be looked into on a case by case basis.*
2. *Since there is no further guidance under the GST law, one may like to refer CBEC Education guide for guidance in this regard. The CBEC's education guide in this regard provides that temporary presence of staff by way of a short visit at a place cannot be called a fixed establishment. Also, the number of staff at a location is not important, and what is relevant is the adequacy of the arrangement (of human and technical resources) to carry out an activity for consideration, or to receive and use a service supplied. Similarly, it will be important to evaluate the permanence of the arrangement i.e., whether the same is capable of executing the task*
3. *Basis the above parameters, and any further guidance the Government may provide going forward, one may like to determine if an office/activity would create a fixed establishment in India.*

**APPLICABILITY OF WITHHOLDING (WHT) TAX ON SERVICES**

| **Particulars** | **Applicability** |
| --- | --- |
| If Bidder has Permanent Establishment/ Project office in India | Where the bidder has a Permanent Establishment in India, WHT will be as per the withholding certificate issued by the tax authorities. Documents required will be as under:   * WHT Order from tax Authorities in India * PAN |
| If Bidder does not have Permanent Establishment in India | Following 2 scenarios are possible:   1. **Bidder is from Tax treaty jurisdiction**   Where the vendor is from a tax treaty jurisdiction (list of countries with which India has concluded DTAAs enclosed as **Annexure A**) and treaty benefit is availed (i.e. Nil or lower WHT rate) following documents are required:   * PAN * No PE Declaration * Tax Residency certificate * **Online Form 10F** (process of filing the form is enclosed **Annexure B**)  1. **Bidder is from non-tax treaty jurisdiction**   Where bidder is not from a tax treaty jurisdiction (example Argentina, Bermuda, Bahrain), service transaction is taxable in India under domestic laws at applicable withholding rate. |
| * *The TDS/Withholding tax so deducted will be in Bidder’s account only.* | |

**Annexure A and B**

**List of countries with which India has concluded DTAAs**

|  |  |  |
| --- | --- | --- |
| Albania | Israel | Qatar |
| Armenia | Italy | Romania |
| Australia | Japan | Russian Federation |
| Austria | Jordan | Saudi Arabia |
| Bangladesh | Kazakhstan | Serbia |
| Belarus | Kenya | Singapore |
| Belgium | Korea | Slovak Republic |
| Bhutan | Kuwait | Slovenia |
| Botswana | Kyrgyzstan | South Africa |
| Brazil | Latvia | Spain |
| Bulgaria | Libya | Sri Lanka |
| Canada | Lithuania | Sudan |
| China, People's Republic of | Luxembourg | Sweden |
| Colombia | Macedonia | Switzerland |
| Croatia | Malaysia | Syria |
| Cyprus | Malta | Tajikistan |
| Czech Republic | Mauritius | Tanzania |
| Denmark | Mexico | Thailand |
| Egypt | Mongolia | Trinidad and Tobago |
| Estonia | Montenegro | Turkey |
| Ethiopia | Morocco | Turkmenistan |
| Fiji | Mozambique | Uganda |
| Finland | Myanmar | Ukraine |
| France | Namibia | United Arab Emirates |
| Georgia | Nepal | United Kingdom |
| Germany | Netherlands | United States |
| Greece | New Zealand | Uruguay |
| Hong Kong | Norway | Uzbekistan |
| Hungary | Oman | Vietnam |
| Iceland | Philippines | Zambia |
| Indonesia | Poland |  |
| Ireland | Portugal |  |



