

Maintenance Charges levied by Co-operative Societies and the GST thereon

1. Tax Rate: -

All the Co-operative Societies registered under GST laws are liable to collect GST on the services provided by them to their members. The rate of tax is 18% to be charged separately under two headings namely; CGST @ 9% and SGST @ 9%.

2. Issue of Tax Invoice: -

The services include exempt services, zero rated services as well as other rated taxable services. The Society has to issue "Tax Invoice" for taxable services and separate "Bill of Supply" for exempt services rendered by society. Supply of zero rated services will be part of Tax Invoice.

3. Taxes on the Basis of RCM: -

A society is required to pay the GST on the basis of Reverse Charge Mechanism (RCM) on the services such as legal services from Advocates, Transport Services from Good Transport Agency (GTA) and Inward supply of Goods or Services or both from unregistered persons.

4. GST on Advance Received: -

If the society receives advance against maintenance the same will be chargeable to GST, under the circumstances, the society needs to maintain record of appropriation of advance against exempt services, zero rated services and taxable services. Proper accounting may help society reduce its compliance burden and tax liability.

5. Property Tax and GST: -

Property tax (PT) is not subsumed in the GST. The local authorities will continue to levy PT. However; GST cannot be levied on PT because it will amount to double taxation.

Property Tax is collected by society from its members and paid to Local Authority by it. The Assessment of the Property Tax is completed by the Local Authority separately for every property and the society is required to collect the exact amount from its members. As such it acting as an agent of its members who are Service Recipient and therefore it is not subject to GST.

6. Sinking Fund and GST: -

Views are expressed that Sinking Fund (SF) Contribution is of the nature of deposit which is accumulated in the form of Reserve in the hands of society and therefore the Sinking Fund is out of the Scope of GST.

At the same time views are also expressed that if and when the Society will use Sinking Fund it will become a taxable service and tax will have to be paid on the same.

I am of the view Sinking Fund is required to be created under Bye-laws of the society and the manner of collection as well as its use are also part of the Bye-laws. The Bye-laws also do not mention that the contribution is of the nature of deposit. The contribution is not refundable and therefore the same cannot be treated as deposit. As such Sinking Fund Contribution should be subject to GST.

7. Electricity: -

Electricity usage has been specifically kept out of GST.

8. Water – Zero rated under GST: -

Water is supplied by local authorities to the society and society in turn distributes amongst its members. In any case the water which is the goods bearing HSN code 2201 and water which is other than mineral water, purified water, distilled water is Zero rated under GST. As such if the society collects the water charges separately in its Tax Invoice; it will be taxed at zero rate. However, if the Service charges include Water Charges, the same will be taxed @ 18% along with Service Charges.

9. Repairs and Maintenance Fund: -

Repairs and Maintenance Fund is created by societies in terms of its Bye-laws, the contribution to that fund has to be minimum 0.75% p.a. on the cost of construction of each flat incurred at a time of construction of the building. This money is used for normal repairs of society building / property. This is the taxable turnover under GST law and accordingly, 18% GST is chargeable on the Repairs and Maintenance Fund Contribution.

10. ITC on the Goods and Services availed for Repairs and Maintenance of Building: -

Society will be eligible to benefit of ITC of GST paid on cement, steel, sand and other materials used for building repair and also GST paid on job work done by contractor. As such proper accounting will be necessary for claiming correct ITC benefit. These expenses will be out of repair fund collected by society which is subject to 18% GST.

11. GST on Repairs and Maintenance expenses collected separately: -

It is observed that many societies collect the repairing expenses separately. Such collection will also be subject to GST @ 18% and on the other hand collection of Repair Fund which is mandatory

under the Bye-laws of society is also subjected to GST. Under the circumstances, it is advisable for the society to plan and budget in the matter to reduce the tax burden.

12. GST on other funds collected: -

Other Funds such as Major Repair Fund, legal expenses fund or any other such specific fund created to provide for earmarked expenses will be chargeable @ 18% GST. The society can schedule such collection to reduce the burden of GST.

13. GST on Service Charge: -

Service Charges as per Bye-laws of the society includes Salaries to its employees, office expenses, property tax for office, electricity and water charges for office, education and training fund subscription, audit fees which will include Statutory Audit, Tax Audit as well as GST Audit, meeting expenses, legal fees and common electricity charges. General Body of the society may include any other charges except the charges covered elsewhere. The Service charges are subject to GST @ 18%.

14. Exempted Service Charges: -

Even if the Service charges or the reimbursement of expenses in a Co-operative Society is less than Rs. 5,000/- this limit of Rs. 5,000/- relates to provision of service to the members by procuring the same from third party. As such the charges like vehicle parking charges, non-occupancy charges, Other facilities provided by the societies such as Gymnasium, Swimming Pool, Club House, Share Transfer Premium are taxable and therefore the charges of these nature will not be part of Rs. 5,000/- for the purpose of exemption.

15. GST on Interest charged by society on the defaulted dues.

Interest charged by society on the defaulted dues is also chargeable to GST. However, even though interest received from Banks on investment is included for the purpose of aggregating turnover to compare with threshold limit of 20 lakh rupees for the purpose of deciding liability under GST, the same is not subject to GST.