

**GOVERNMENT OF WEST BENGAL
DIRECTORATE OF COMMERCIAL TAXES
14, BELIAGHATA ROAD, KOLKATA-700015**

TRADE CIRCULAR No. 08/2024
(Corresponding Central Circular No. 214/08/2024-GST)
DATED: 08.07.2024

Subject: Clarification on the requirement of reversal of input tax credit in respect of the portion of the premium for life insurance policies which is not included in taxable value.

Representations have been received from the trade and field formations seeking clarification on the issue as to whether the amount of insurance premium, which is not included in the taxable value as per Rule 32(4) of West Bengal Goods and Services Tax Rules, 2017 (hereinafter referred to as the “WBGST Rules”) applicable for life insurance business, will be treated as pertaining to an exempt supply/ non-taxable supply and whether the input tax credit availed in respect of such amount shall be required to be reversed or not.

2. In order to clarify the issue and to ensure uniformity in the implementation of the provisions of law across the field formations, the Commissioner, in exercise of his powers conferred by section 168 of the West Bengal Goods and Services Tax Act, 2017 (hereinafter referred to as the “WBGST Act”), hereby clarifies the issues as under:

S.No.	Issue	Clarification
	Whether the amount of insurance premium, which is not included in the taxable value as per Rule 32(4) of WBGST Rules applicable for life insurance business, shall be treated as pertaining to a non-taxable supply/ exempt supply for the purpose of reversal of Input tax credit as per section 17(1) of WBGST Act read with Rule 42 &	‘Life insurance business’ has been defined in Section 2(11) of the Insurance Act, 1938 as below: <i>“2(11) life insurance business means the business of effecting contracts of insurance upon human life, including any contract whereby the payment of money is assured on death (except death by accident only) or the happening of any contingency dependent on human life, and any contract which is subject to</i>

	<p>43 of WBGST Rules.</p>	<p><i>payment of premiums for a term dependent on human life and shall be deemed to include--</i></p> <p><i>(a) the granting of disability and double or triple indemnity accident benefits, if so provided in the contract of insurance,</i></p> <p><i>(b) the granting of annuities upon human life ; and</i></p> <p><i>(c) the granting of superannuation allowances and benefit payable out of any fund applicable solely to the relief and maintenance of persons engaged or who have been engaged in any particular profession, trade or employment or of the dependents of such persons ;</i></p> <p><i>Explanation. -- For the removal of doubts, it is hereby declared that life insurance business shall include any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment and a component of insurance issued by an insurer referred to in clause (9) of this section.</i></p> <p>2. Life insurance companies are providing service of insuring the life of the insured and in return, are charging consideration in the form of premium from the insured. A number of life insurance companies are providing policies which may consist of a component of investment in addition to the component for the risk</p>
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		<p>cover of the life insurance and accordingly, in such cases, the premium charged also includes the component which is allocated for investment or saving on behalf of the policy holder. As per definition of 'Life insurance business' provided in Section 2(11) of the Insurance Act, 1938, life insurance business includes any unit linked insurance policy or scrips or any such instrument or unit, by whatever name called, which provides a component of investment and a component of insurance issued by an insurer. Accordingly, such life insurance policies, which also include a component of investment along with the component of risk cover for life insurance, are also covered under life insurance business.</p> <p>2.1 It is mentioned that value of supply of services in relation to life insurance business is to be determined as per provisions of sub-rule (4) of rule 32 of WBGST Rules. The said sub- rule provides that the value of supply of services in respect of life insurance business is primarily to be determined by deducting the amount of premium allocated for investment/savings on behalf of the policy holder from the gross premium charged from the policy holder. The said sub-rule also provides for determination of value of supply of such services based on certain percentage of the gross premium in other situations. However, where the entire premium is only towards the risk cover in life</p>
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		<p>insurance, the value of supply is not required to be determined under the said sub-rule as in such cases whole of the consideration i.e. gross premium is towards life insurance services.</p> <p>2.2 As per section 2(47) of the WBGST Act, exempt supply means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, 2017 (hereinafter referred to as the “IGST Act”), and includes non-taxable supply. The said definition of exempt supply has the following three limbs: -</p> <ul style="list-style-type: none">(a) Supply of service which is nil rated;(b) Supply of service which is wholly exempted from tax under section 11 of WBGST Act or under Section 6 of IGST Act; or(c) Supply of service which is non-taxable supply. <p>2.2.1. Further, as per section 2(78) of WBGST Act, non-taxable supply means a supply of goods or services or both which is not leviable to tax under the WBGST Act or under the IGST Act.</p> <p>2.2.2 It is mentioned that there is no doubt about taxability of supply of service of providing life insurance services by the insurance company to the insured/ policy holder but the only issue is regarding the</p>
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		<p>treatment of the amount of premium which is not included in the taxable value of supply, as determined under the provisions of Rule 32(4) of WBGST Rules. The service of providing life insurance cover is neither nil rated, nor there is any notification issued under section 11 of WBGST Act by virtue of which the said service or any portion of the said service has been exempted from GST.</p> <p>2.2.3 It is also mentioned that the supply can be considered as a non-taxable supply only when it is not leviable to tax under the WBGST Act or under the IGST Act. It is not a case where the tax is not leviable on the supply of life insurance services provided by life insurance companies to the insured/policy holder. The value of the said supply of service in respect of life insurance business as determined under Rule 32(4) of WBGST Rules, 2017 may not include some portion of gross premium as per methodology provided in the said rule. This portion of premium which is not includible in taxable value as per provisions of Rule 32(4) of WBGST Rules is neither nil rated, nor wholly exempted from tax under section 11 of WBGST Act and also not a non-taxable supply. Therefore, just because some amount of consideration is not included in value of taxable supply as per the provisions of the statute, it cannot be said that the said portion of consideration becomes attributable to a non-taxable or exempt supply.</p>
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	<p>2.2.4. Further, Rule 42 of the WBGST Rules provides for reversal of input tax credit in certain scenarios. As per the said rule, only that input tax credit which attract the provisions of sub-section (1) and sub-section (2) of Section 17 of the WBGST Act needs to be determined and reversed thereof. Further, sub- section (1) and sub-section (2) of Section 17 of the WBGST Act restrict the amount of credit only in a case where the registered person uses the goods or services partly for business or other purposes or partly for making taxable supplies or exempt supplies. However, as discussed in Para 2.2.3 above, the portion of premium, which is not includible in taxable value of supply as per Rule 32(4) of WBGST Rules, cannot be considered as pertaining to an exempt supply.</p> <p>3. In view of this, it is clarified that the amount of the premium for taxable life insurance policies, which is not included in the taxable value as determined under rule 32(4) of WBGST Rules, cannot be considered as pertaining to a non-taxable or exempt supply and therefore, there is no requirement of reversal of input tax credit as per provisions of Rule 42 or rule 43 of WBGST Rules, read with sub-section (1) and sub-section (2) of Section 17 of WBGST Act, in respect of the said amount.</p>
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3. Difficulty, if any, in implementation of this Trade Circular may please be brought to the notice of the Commissioner.

Sd/-
(DEVI PRASAD KARANAM, IAS)
Commissioner, State Tax
West Bengal

Memo. No.- 65/CT/PRO
3C/PRO/2024

Date: 08.07.2024

Copy forwarded to the Special Commissioner, State tax /ISD for information and for uploading it on the official website of the Directorate for information of all concerned.

Sd/-
(Joyjit Banik)
Additional Commissioner, State Tax
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PRO