

## Remuneration Paid to Directors: GST Payable or Not?

The Department has put a pause on one of the most controversial and hot topic going around in the industry these days. With the latest Circular No. 140/09/2020-GST dated June 10<sup>th</sup>, 2020 the Department has given clarification on whether the GST is leviable on Director's remuneration paid by companies to their directors.

The issue of remuneration to directors has been examined & clarification is given under following two different categories:

S. no	Category	Clarification
I.	Leviability of GST on remuneration paid by companies to the <b>independent directors</b> or those directors who are not the employee of the said company.	<ul style="list-style-type: none"> <li>• <b>Definition as per Companies Act, 2013:</b> Independent director should not have been an employee or proprietor or a partner of the said company, in any of the three financial years immediately preceding the financial year in which he is proposed to be appointed in the said company.</li> <li>• Outside the scope of <b>Schedule III</b> of the CGST Act and are therefore <b>taxable</b>.</li> </ul>

S. no	Category	Clarification
II.	Leviability of GST on remuneration paid by companies to the directors, who are also <b>an employee of the said company</b>	<ul style="list-style-type: none"> <li>• <b>Reference of Income Tax Act, 1961</b> has been made wherein the salaries paid to directors are subject to Tax Deducted at Source ('TDS') under Section 192 of the said Act. Where the remuneration is in the nature of professional fees and not salary, the same is liable for deduction under Section 194J of the IT Act.</li> <li>• Within the purview of <b>Schedule III</b> of the CGST Act and are therefore <b>not taxable</b>.</li> </ul>

### Conclusion:

Type of Director	Employees as per Companies Act	TDS 192B	TDS 194J	Schedule III CGST	Taxable Service	RCM
Independent Director	x	x	✓	x	✓	✓
Whole Time Director	✓	✓	x	✓	x	x