



GST Educational Series



**THE INSTITUTE OF
Company Secretaries of India**
भारतीय कम्पनी सचिव संस्थान
IN PURSUIT OF PROFESSIONAL EXCELLENCE
Statutory Body under an Act of Parliament

Goods & Services Tax

Educational Series

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From The President

In the recently released Doing Business Report, 2018 by the World Bank, India ranks 100 among 190 countries assessed by the Doing Business Team, leaping over 30 ranks over its previous rank of 130 in the Doing Business Report 2017. This is one of the contributory parameters towards the progressive growth of Indian economy. Under the major achievements of Doing Business Report, 2018, India improved its rank from 172 to 119 for Paying Tax. This is one indication of the fact that along others, the roll out of GST has brought about significant gains for the comprehensive growth of India's economy along with various recompenses in the form of transparency, uniformity and elimination of black money.

Additionally, with the announcement of Vision New India, 2022, the government is looking forward for the rightly spirited application of various reforms taking place in the country and Goods and Services Tax is not an exception to this. Rightly said that a lamp cannot enlighten the sphere, unless ignited at the right time and place, so is that GST cannot yield the desired results and benefits to all unless implemented with the directed zeal, vigor and proficiency. This requires the creation and building up of thorough understanding of Goods and Services Tax in the public at large.

To ensure the directed implementation and application of the concept of GST in our country, it is of paramount significance that the professionals, stakeholders and public also should have the advance understanding about the diverse facts and facet of Goods and Services Tax.

Under this perspective, to build the capacities of its members, students, and also to advance the knowledge of the public at large about the various facets of GST, the Institute initiated GST Educational Series, being published on daily basis. The series has been well received. This is evident with the fact that till date Institute has brought out more than **100 issues** of GST Educational Series.

Though, the electronic version of all the issues of the series is available on Institute's website, yet to provide a one spot platform for the people to access all the successions of GST Educational Series, the Institute has released this Publication titled as the GST Educational Series to assist the readers in enriching their acumen with the basics of GST and the contemporary advancement related to GST.

I place on record my earnest admiration to CS Nikita Agarwal for preparing this publication in a sincere, effective and presentable manner under the guidance of CS Sonia Baijal, Director, ICSI.

I am sure that this GST Educational Series would be helpful to readers as a ready reckoner on GST and latest developments taking place in the GST regime with the emergent time.

I would personally be grateful to users and readers for offering their suggestions for further improvement of this publication.

Place: New Delhi

Date : November 02, 2017

CS (Dr.) Shyam Agrawal

President

The Institute of Company Secretaries of India

Goods & Services Tax

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Understanding Basics of Goods & Services Tax

- Single tax rate for a product or service in any part of the country (except J & K)
- The following 17 different indirect taxes will be subsumed under GST

<i>Central taxes</i>	<i>State taxes</i>
<ol style="list-style-type: none">1. Central Excise Duty;2. Duties of Excise (Medicinal and Toilet Preparations);3. Additional Duties of Excise (Goods of Special Importance);4. Additional Duties of Excise (Textiles and Textile Products);5. Additional Duties of Customs (commonly known as CVD);6. Special Additional Duty of Customs (SAD);7. Service Tax;8. Cesses and surcharges insofar as they relate to supply of goods or services.	<ol style="list-style-type: none">9. State VAT;10. Central Sales Tax;11. Purchase Tax;12. Luxury Tax;13. Entry Tax (All forms);14. Entertainment Tax (except those levied by the local bodies);15. Taxes on advertisements;16. Taxes on lotteries, betting and gambling;17. State cesses and surcharges insofar as they relate to supply of goods or services.

- Better compliance for trade and industry sector
- Seamless flow of credit across the value chain
- Removal of cascading effect
- Dual GST (Central GST & State GST) and Integrated GST (IGST)
- Tax rates : 5%, 12%, 18% & 28%
- Destination based tax
- Taxable event – SUPPLY
- Threshold exemption limit : Rs 20 lakhs & Rs 10 lakhs (for special category States & North Eastern States)
- Composition scheme threshold: Rs 1 Crore
- Pan based registration
- Tax can be deposited by internet banking, NEFT/RTGS, debit card, credit card & Over the Counter (OTC)
- Goods and service tax network (GSTN), is the technology backbone of GST. It provides IT infrastructure and services to the Central and State Governments, tax payers and other stakeholders for implementation of the Goods and Services Tax (GST)
- GST Suvidha Provider (GSP) is an online compliance platform which will enable the taxpayer to comply with the provisions of the GST law through its web platform.

Goods & Services Tax

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Supply – an Integral Part

Previously under the old regime taxable event for various taxes were different. For example, for excise duty the taxable event was manufacture or production of goods in India. Similarly, for services the taxable event was when a service was provided or agreed to be provided. Under CST and VAT it was sale of goods. Thus, all this led to lot of confusion in determining taxable event under different taxes. To replace such multiple taxable events, GST has brought a single and uniform taxable event, which is, **SUPPLY**. It is important that the term “Supply” be understood in depth as the levy of taxes are based on the occurrence of taxable event.

Supply has been very subjectively and inclusively defined in the Act. The types of supply identified under the Act are:

- *Supply which are made or agreed to be made for a consideration by a person in the course or furtherance of business*. The chart below indicates different forms of supply which although on the face sometimes are not considered as supply but comes under the ambit of supply in GST



- *Import of services which are for consideration* (whether or not in the course or furtherance of business).
- *Schedule I activities* (whether or not for consideration) like transfer of goods from principle-agent transaction etc.
- *Schedule II activities* (activities to be treated as supply of goods or supply of services)

There are few activities which are specifically **not** to be considered as SUPPLY and these are:

1. *Schedule III activities* which includes
 - Services from an employee to employer
 - Services by any court or Tribunal
 - Functions performed by Member of Parliament etc.
 - Services of funeral, burial, crematorium or mortuary
 - Sale of land and, Schedule II(5)(b), sale of building
 - Actionable claims, other than lottery, betting and gambling.
2. Activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council.

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Understanding Schedule I

Schedule I lists activities that are to be treated as supply even if they are **without a consideration**. The important point to note here is that though the following activities will be considered as supply even if there is no consideration involved, it is required that the activity is done **in the course or furtherance of business**. The forms of Supply listed in Schedule I are as follows:

- **Permanent transfer or disposal of business assets where Input Tax Credit (ITC) has been availed on such assets**

When ITC is availed on a particular asset and the asset is disposed off or transferred permanently without a consideration, it will be considered as supply and attract GST. Example: Suppose, if XYZ Ltd. purchases 10 laptops worth Rs. 5,00,000 + GST Rs. 25,000 for office purpose and further avails ITC of Rs. 25,000 on GST paid, and after few years disposes these laptops, it will be deemed as supply without consideration.

- **Supply of goods or services between Related Parties**

Supply of goods or services between related parties or between distinct persons (as in section 25) will attract tax when made in the course or furtherance of business.

Although gifts from an employer to an employee not exceeding Rs. 50,000 will not be considered as goods or services and thus there will be no supply.

- **Principal – Agent Transactions**

In the current indirect tax regime, supply of goods between principal to his agent or agent to its principle was not taxable but under GST, such a supply will be taxable.

- **Import of services**

Any services imported by a taxable person from a related person or from any of his other establishments outside India, will attract GST. Thus, for example if an office located out of India provides interior designing services to its office in India, the service will be a taxable service under GST.

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Understanding Schedule II

(Part - I)

In the previous issue we discussed about the activities which are to be considered as supply of goods or supply of services even if they are without a consideration, but are done in the course or furtherance of business. Schedule II of the Central Goods & Services Tax Act, 2017 lists activities which are to be treated as supply of goods and supply of services. In this issue, activities which form supply of goods are discussed. The next issue will cover the list of activities to be treated as supply of services, as enumerated in Schedule II.

Activities to be treated as supply of goods

<i>Form of supply</i>	<i>Description</i>
Transfer	Transfer of title in goods
	Transfer of title in goods under an agreement where property in goods passes at a future date on payment of full consideration
Transfer of business assets	Permanent transfer or disposal of goods forming part of business assets by or under the directions of the person carrying on the business whether or not for consideration
	Any goods forming a part of business assets will be deemed to be transferred in furtherance of business, before any person ceases to be a taxable person Exception <ul style="list-style-type: none">• The business is transferred as a going concern• The business is carried on by a personal representative who is deemed to be a taxable person
Supply by unincorporated association	Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

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Understanding Schedule II

(Part - II)

Activities to be treated as supply of services

Form of supply	Description
Transfer	Any transfer of right in goods or undivided share in goods without transfer of title
Land and Building	Any lease, tenancy, easement, licence to occupy land
	Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly
Treatment or process	Any treatment or process which is applied to another person's goods
Transfer of business assets	Where, by or under the direction of a person carrying on a business, goods held or used for the purpose of business are put for any private use or made available to any person for any use other than for the purpose of business, at the direction of the person carrying on the business, whether or not for a consideration.
Immovable property	Renting of immovable property
Construction or Sale	Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier
Intellectual Property rights	Temporary transfer or permitting the use or enjoyment of any intellectual property right
Information technology software	Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software
Action	Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act
Rights to use goods	Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration
Composite Supplies	Works Contract as defined under Section 2(119)
	Supply of goods, as a part of any service or in any manner, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration

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Composite Supply and Mixed Supply

When two or more goods are sold in a combination, it becomes difficult to identify the rate of tax to be levied. For such goods or services, CGST Act, 2017 has provided with two terms - "Composite Supply" and "Mixed Supply". Composite supply is similar to the concept of "bundled service" as under service tax laws. Both Composite supply and Mixed supply consist of two or more taxable supplies of goods or services or both but the main difference between the two is that Composite supply is **naturally bundled** i.e., goods or services are usually provided together in normal course of business and cannot be separated. Whereas in Mixed supply, the goods or services can be sold separately.

Let's take an example:

Booking of Air tickets which involves cost of the meal to be provided during travel will be Composite supply and tax will be calculated on the principle supply which in this case is transportation through flight.



On the other hand, Diwali gift hamper which consist of different items packed in one pack is Mixed supply as these items can be sold separately and it shall be treated as a supply of that particular item which attracts the highest rate of tax.



Tax Liability on Composite & Mixed Supply (CGST Act, 2017 [section 8 J])

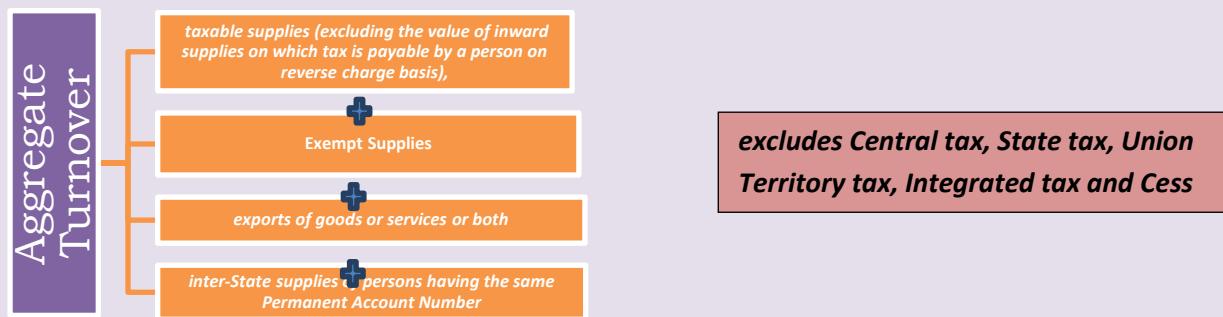
- (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
- (b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

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Composition Scheme

Composition Scheme is a scheme which is mainly devised for small taxpayers who find filling of monthly returns both difficult and costly. A registered tax payer under this scheme enjoys benefits like concessional rate of tax and filing of quarterly returns instead of monthly return. To be eligible for registration under Composition scheme it is required that the **aggregate turnover of a registered tax payer should not exceed Rs. 1,00,00,000** in the preceding financial year.



It is important to note that, registration under this scheme is optional and the registered tax payer whose aggregate turnover is less than Rs. 1,00,00,000 can opt not to register for the scheme. A quarterly return in form GSTR-4 is required to be filed within eighteen days after the end of each quarter or part thereof.

Conditions & Restrictions

- A Casual tax payer and a non-resident taxable person cannot register under this scheme
- The registered person under composition scheme is not permitted to collect tax and thus cannot issue a taxable invoice
- Input tax credit is not available
- Tax payers making inter-state supplies or making supplies through ecommerce operators who are required to collect tax at source shall not be eligible for composition scheme
- A person should not be engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II, to opt for this scheme
- Supplier of goods which are not taxable under the CGST Act/SGST Act/UTGST Act is not eligible to register under this scheme.

Rate of tax

Tax is to be paid, as calculated at such rate as may be prescribed, but not exceeding,

- (a) one per cent of the turnover in State or turnover in Union territory in case of a manufacturer
- (b) two and a half per cent of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and
- (c) half per cent of the turnover in State or turnover in Union territory in case of other suppliers, subject to such conditions and restrictions as may be prescribed

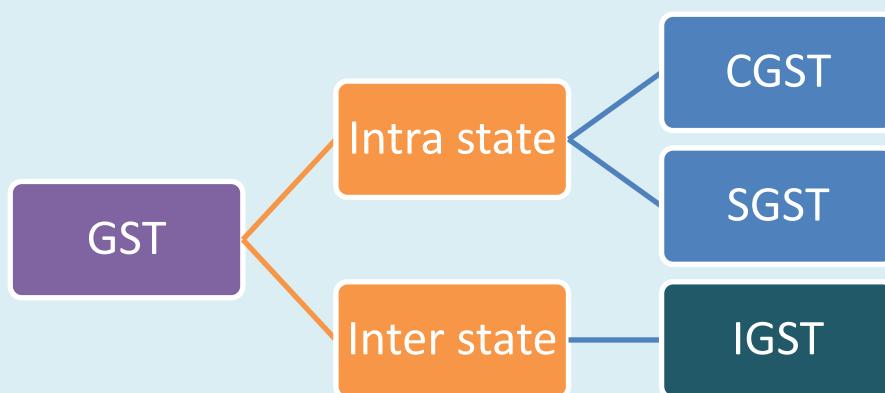
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Levy and Classification

Under the previous indirect tax regime, there is a clear demarcation on the levy of taxes. The Centre has the power to levy taxes on manufacture of goods (except few items like alcoholic liquor for human consumption, opium, narcotics etc) which is referred to as "Central Excise Duty", while the States have the power to levy taxes on sale of goods under Value Added Tax. In case of interstate sales, the Centre had the power to levy tax, called the Central Sales Tax, but this tax was collected and retained by the originating states. With the introduction of GST, an amendment in the Constitution was made to empower both Centre and State to levy and collect tax.

Under GST regime, the tax is levied as Dual GST separately but concurrently by the Union (CGST) as well as the States (including Union Territories with legislatures) (SGST) and Union territories without legislatures (UTGST). The Parliament has exclusive powers to levy Integrated GST (IGST) on inter-State trade or commerce (including imports) on goods or services or both.



Alcohol for human consumption is kept out of the purview of GST. Also, GST on specified petroleum products (crude, high speed diesel, petrol, ATF and natural gas) would be levied from a later date on the recommendation of the GST Council.

Classification

Goods under GST regime, are classified under, Harmonised System of Nomenclature (HSN) code whereas services are classified as per the Services Accounting code (SAC). HSN is an internationally standardized system of names and numbers to classify traded products. Earlier, HSN code was used to classify goods under Value Added Tax.

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Liability for Registration

Section 22 of the Central Goods & Services Tax (CGST) Act, 2017 specifies persons who are liable for registration under GST whereas section 24 of CGST Act, 2017 specifically provides list of persons who are compulsorily required to take registration. A list of such persons liable to obtain registration under CGST Act, 2017 has been summarised as under:

1.	Supplier	<i>Supplier of taxable goods and services exceeding the specified threshold limit</i>
2.	Licensee	<i>Holder of licence under the existing law</i>
3.	Transferee	<i>Transfer of business as a going concern which is carried on by a taxable person</i>
4.	Transferee under a scheme	<i>Transfer pursuant to sanction of a scheme or an arrangement for amalgamation or demerger of two or more companies</i>
5.	Interstate supplier	<i>Persons making any inter-State taxable supply</i>
6.	Casual Taxable person	<i>Casual taxable persons making taxable supply</i>
7.	Payer of Reverse charge	<i>Persons who are required to pay tax under reverse charge</i>
8.	Specific Categories	<i>Persons who are required to pay tax under sub-section (5) of section 9</i>
9.	Non-resident	<i>Non-resident taxable persons making taxable supply</i>
10.	Deductor of Tax at Source	<i>Persons who are required to deduct tax under section 51, whether or not separately registered under this Act</i>
11.	Supplier on behalf of another person	<i>Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise</i>
12.	Input Service Distributor	<i>Whether or not separately registered under this Act</i>
13.	Supplier through Electronic Commerce Operator	<i>Persons who supply goods or services or both (other than supplies specified under sub-section (5) of section 9), through such electronic commerce operator who is required to collect tax at source under section 52</i>
14.	Electronic Commerce Operator	<i>Who owns, operates or manages digital or electronic facility or platform for electronic commerce</i>
15.	Supplier of online information	<i>Every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person</i>
16.	Government notified	<i>Such other person or class of persons as may be notified by the Government on the recommendations of the Council</i>

"casual taxable person" means a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business

"non-resident taxable person" means any person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India.

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Time of Supply

Central GST Act, 2017 states provisions to determine time of supply of goods under section 12 and time of supply of services under section 13 of the Act.

Type	Goods (Sec 12)	Services (Sec 13)
General provision (sub section 2)	<p>(Earliest of the three)</p> <ul style="list-style-type: none"> • date of issue of invoice • last date when invoice is required to be issued (sec 31(1)) • receipt of payment 	<p>(Earliest of the three)</p> <ul style="list-style-type: none"> date of issue of invoice (sec 31(2)) date of receipt of payment date of receipt as entered in the books of account
Excess amount <i>amount received is up to Rs. 1000 in excess to the amount indicated in tax invoice</i>	<ul style="list-style-type: none"> • date of issue of invoice (with respect to such excess amount), (at the option of supplier) 	<ul style="list-style-type: none"> • date of issue of invoice (with respect to such excess amount), (at the option of supplier)
<p>Here "supply" shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment and</p> <p>"the date of receipt of payment" shall be the earliest of the following:</p> <ul style="list-style-type: none"> ○ date on which the payment is entered in the books of account of the supplier or ○ the date on which the payment is credited to his bank account 		
Reverse Charge Basis (sub section 3)	<p>(Earliest of the following)</p> <ul style="list-style-type: none"> • the date of the receipt of goods • the date of payment as entered in the books of account or the date when payment is debited in his bank account, whichever is earlier or • the date immediately following thirty days from the date of issue of invoice or any other document 	<p>(Earliest of the following)</p> <ul style="list-style-type: none"> • the date of payment as entered in the books of account or date when payment is debited in his bank account or • the date immediately following sixty days from the date of issue of invoice or any other document
<p>where it is not possible to determine the time of supply</p> <ul style="list-style-type: none"> ○ the date of entry in the books of account of the recipient of supply 		
Vouchers (sub section 4)	<ul style="list-style-type: none"> • the date of issue of voucher, if the supply is identifiable at that point or • the date of redemption of voucher, in all other cases 	<ul style="list-style-type: none"> • the date of issue of voucher, if the supply is identifiable at that point or • the date of redemption of voucher, in all other cases
<p>Where it is not possible to determine the time of supply under the provisions of sub-section (2) or sub-section (3) or sub-section (4), the time of supply shall--</p> <ul style="list-style-type: none"> • in a case where a periodical return has to be filed, be the date on which such return is to be filed; or • in any other case, be the date on which the tax is paid. 		
<p>The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.</p>		

Supply of services by associated enterprises:where the supplier of service is located outside India, the date of entry in the books of account of the recipient or the date of payment, whichever is earlier.

Goods & Services Tax

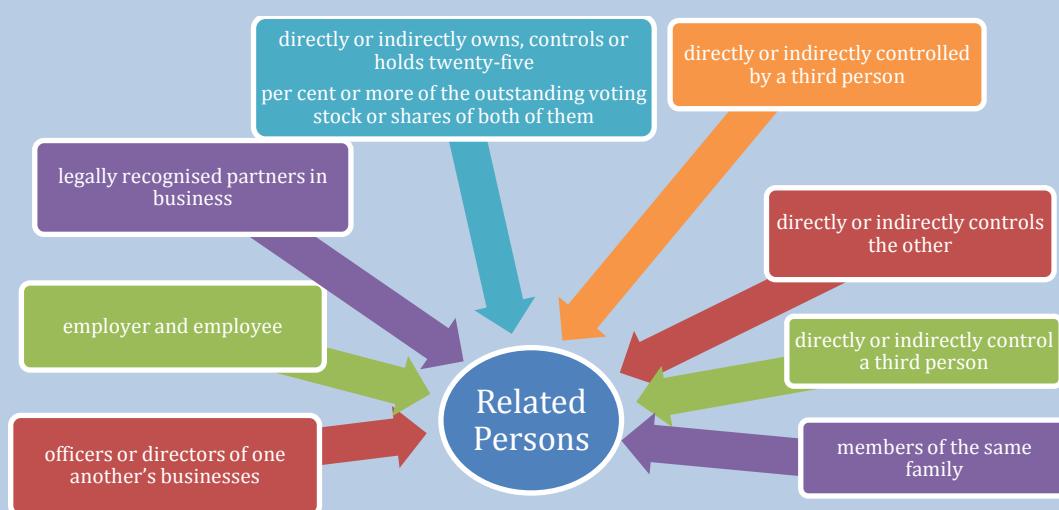
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Value of Supply

Value of supply is the value on which tax shall be levied. Section 15 of the Central GST Act, 2017 states that the value of a supply of goods or services or both, shall be the transaction value.

Transaction value means

- price actually paid or payable for the said supply of goods or services or both
- where the supplier and the recipient of the supply are not related and
- the price is the sole consideration for the supply



Value of Supply		
Includes	Excludes Discount	
<ul style="list-style-type: none"> • any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than CGST,SGST,UTGST and GST(Compensation to States) Act,2017 • any amount that the supplier is liable to pay, in relation to supply, incurred by the recipient and not included in the price actually paid • incidental expenses, charged by supplier from recipient or any amount charged to make the supply • interest or late fee or penalty for delayed payment of any consideration for any supply • subsidies directly linked to the price excluding subsidies provided by the Central Governments or State Governments 	<p>Before or at the time of supply</p> <ul style="list-style-type: none"> • if discount has been duly recorded in invoice 	<p>After the supply</p> <ul style="list-style-type: none"> • such discount is established in terms of an agreement and specifically linked to relevant invoices • input tax credit , attributable to discount have been reversed by recipient

Valuation rules will apply to those value of supplies which are not covered under section 15 of the CGST Act, 2017.

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Place of Supply of Goods

Section 10 of the Integrated Goods & Services Tax Act, 2017, specifies place of supply of goods, other than supply of goods imported into, or exported from India. Place of supply of goods is important to determine the nature of sale (inter-state, intra-state, import or export) and the State where State component of GST will accrue.

Supply involving **movement of goods** (whether by the supplier or the recipient or by any other person)

- location of the goods at the time at which the movement of goods terminates for delivery to the recipient

Delivery of goods (by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise,) either by way of transfer of documents of title to the goods or otherwise, before or during movement of goods, it shall be deemed that the third person has received such goods

- principal place of business of such person

Supply **not involving movement of goods** (whether by the supplier or the recipient)

- location of such goods at the time of the delivery to the recipient

Installation/Assembling of goods

- place of such installation or assembly

Goods supplied **on board a conveyance, including a vessel, train, aircraft or motor vehicle**

- location at which such goods are taken on board

Goods & Services Tax

Educational Series

Place of Supply of Services

Section 12 of the Integrated GST Act, 2017 lists place of supply of services, where location of supplier and recipient is in India.

(Sub Section) Applicability	Type	Place of Supply of Service
(2) General Provision	Made to a registered person	location of such person
	Made to unregistered person	<ul style="list-style-type: none"> • location of recipient where address on records exist • location of the supplier of services in other cases
(3) Immovable property, boat or vessel	services provided by architects, interior decorators or any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work	location at which immovable property or boat or vessel is located or intended to be located
	By way of lodging accommodation, including a houseboat or vessel	
	Accommodation for organising marriage or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; etc.	
	Any ancillary services to the above services	
	outside India	the place of supply shall be the location of the recipient
Property/boat/vessel	located in more than one State	proportionate allocation amongst states as per the value of service received or as per the contract or as may be prescribed
(4) Specific services	Services like beauty parlour, fitness, restaurant and catering services etc.	location where the services are actually performed
(5) Training and performance appraisal	Made to a registered person	location of such person
	Made to unregistered person	location where the services are actually performed
(6) Services by way of	admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto	where the event is actually held or where the park or such other place is located.
(7) Organisation of a cultural, artistic, sporting event etc., and services ancillary to organisation of any of the events or assigning of sponsorship of such events	Made to a registered person	location of such person
	Made to unregistered person	the place where the event is actually held
	event held outside India	location of the recipient
	Held in more than one State	proportionate allocation amongst states as per the value of service received or as per the contract or as may be prescribed

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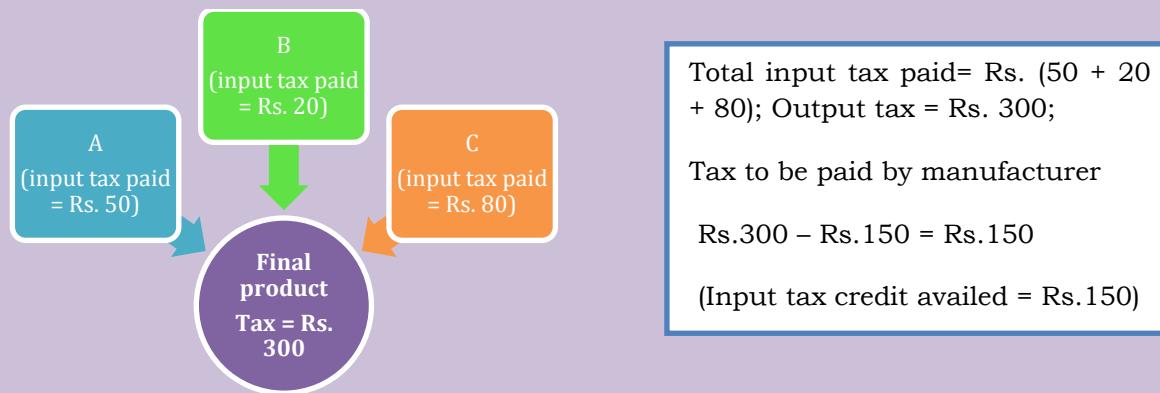
(Sub Section) Applicability	Type	Place of Supply of Service
(8) Transportation of goods, including by mail or courier	registered person	location of such person
	unregistered person	location at which such goods are handed over for their transportation
(9) Passenger transportation service	registered person	location of such person
	unregistered person	place where the passenger embarks on the conveyance for a continuous journey
Right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage	Made to a registered person	Location of such person
	Made to unregistered person	<ul style="list-style-type: none"> - location of recipient where address on records exist - location of the supplier of services in other cases
<p>*The return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time</p>		
(10) On board a conveyance	including a vessel, an aircraft, a train or a motor vehicle	location of the first scheduled point of departure of that conveyance for the journey
(12) Banking and other financial services	including stock broking services to any person	<ul style="list-style-type: none"> - location of the recipient of service on records of supplier or - if location of recipient is not available, location of the supplier of services
(13) Insurance services	Made to a registered person	location of such person
	Made to unregistered person	location of the recipient of services on the records of the supplier of services.

Goods & Services Tax

Educational Series

Input Tax Credit

Input tax credit is a provision of reducing the tax already paid on inputs, to avoid the cascading effect of taxes. This can be understood with the help of the following diagram:



Input Tax Credit (ITC) is considered as a cornerstone of GST. In the previous tax regime, there was non-availability of credit at various points of supply chain, which led to a cascading effect of tax and increased the cost of goods and services. This flaw has been removed under GST and a seamless flow of credit throughout the value chain is provided thus reducing the cascading effect of tax.

Under GST, Input tax, means the Central tax (CGST), State tax (SGST), Integrated tax (IGST) or Union territory tax (UTGST) charged on supply of goods or services or both made to a registered person and includes taxes paid on input goods, input services or both. To avail the benefit of ITC, it is required that the person availing such benefit is registered under GST. An unregistered person is not eligible to take the benefit of ITC.

Section 16 of the CGST Act, 2017, states the condition and eligibility to obtain ITC. Following four conditions are required to be fulfilled by a registered taxable person:

- he should be in possession of tax invoice or debit note or such other tax paying documents as may be prescribed;
- he should have received the goods or services or both;
- the supplier should have actually paid the tax charged in respect of the supply to the government; and
- he should have furnished the return under section 39.

(where the goods against an invoice are received in lots or instalments, the registered person shall be entitled to take credit upon receipt of the last lot or instalment)

Availability of ITC to recipient has been made dependent on payment of tax by supplier, other than supplies where tax is payable on reverse charge basis. Thus, even if the receiver has paid the amount of tax to the supplier and the goods and/or services so procured are eligible for ITC, no credit would be available, till the time tax so collected by the supplier is deposited to the Government. Also, if a recipient fails to pay the amount of supply along with tax payable thereon within a period of 180 days from the date of issue of invoice by the supplier, an amount equal to the input tax credit availed by the recipient shall be added to his output tax liability, along with interest thereon.

Goods & Services Tax

Educational Series

Job Work

A large number of industries depend upon outside support for completing manufacturing activity. Job work means undertaking any treatment or process by a person on goods belonging to another registered taxable person. The person who is treating or processing the goods belonging to other person is called 'job worker' and the person to whom the goods belongs is called 'principal'.

Section 143 of CGST Act, 2017 states that a Principal under intimation and subject to such conditions as may be prescribed can send inputs or capital goods to a job worker without payment of tax for further process or treatment and from there subsequently to another job worker(s) and shall either bring back such inputs/capital goods after completion of job work or otherwise within 1 year/3years of their being sent out or supply such inputs/capital goods after completion of job work or otherwise within 1 year / 3 years of their being sent out, from the place of business of a job worker on payment of tax within India or with or without payment of tax for export.

(Capital Goods exclude moulds and dies, jigs and fixtures, or tools.)

Further, a principal can supply goods from the place of business of job worker if the principal declares the place of business of the job worker as his additional place of business, except in following two conditions:

- where the job worker is registered under section 25; or
- where the principal is engaged in the supply of such goods as may be notified by the Commissioner.

The responsibility for keeping proper accounts for the inputs or capital goods shall lie with the principal. Any waste and scrap generated during the job work may be supplied by the job worker directly from his place of business on payment of tax, if such job worker is registered, or by the principal, if the job worker is not registered.

Under GST regime, when goods are sent from a taxable person to a Job worker it shall be treated as supply and will be liable to GST if the goods so sent are not received back within 1 year or 3 years in case of inputs or capital goods as the case may be.

For the purposes of job work, input includes intermediate goods arising from any treatment or process carried out on the inputs by the principal or the job worker.

Input Tax Credit in case of Job Work

Section 19 of the CGST Act, 2017 states that the principal shall, subject to such conditions and restrictions as may be prescribed, be allowed input tax credit on inputs sent to a job worker for job work.

Although section 16 of the CGST Act, 2017 specifically states that ITC will be provided only when goods are actually received, but under Job work this condition is exempted and ITC can be availed even if inputs or capital goods are directly sent to the Job Worker without being first brought to the place of business of Principal.

Goods & Services Tax

Educational Series

Nature of Supply

GST is a destination based consumption tax, which means tax will be levied where goods and services are consumed and will accrue to that state. Thus, it is of immense importance that the place of supply of any transaction is determined correctly. To determine the correct place of supply, it is important that the nature of supply be understood first. Following table list provisions as contained in Integrated GST Act, 2017, to know whether a supply will be treated as Inter State or Intra State supply:

Inter State Supply (Sec 7)		
Supply of	Goods	Services
a. Location of the supplier and the place of supply are in	two different States; two different Union territories; or a State and a Union territory	two different States; two different Union territories; or a State and a Union territory,
b. Import	till they cross the customs frontiers of India	No specific requirement (all services imported will be treated as inter state supply)
c. supplier located in India and the place of supply is outside India		
d. to or by a Special Economic Zone developer or a Special Economic Zone unit		
e. in the taxable territory, not being an intra-State supply and not covered elsewhere in this section		

Intra State Supply(Sec 8)		
Supply of	Goods	Services
Location of the supplier and the place of supply are in	same State or same Union territory	same State or same Union territory
Following will not be considered as Intra State Supply:		
a. supply of goods/services to or by a Special Economic Zone developer or a Special Economic Zone unit	b. goods imported into the territory of India till they cross the customs frontiers of India	c. supplies of goods made to a tourist

Following will be treated as establishments of distinct persons.

- an establishment in India and any other establishment outside India;
- an establishment in a State or Union territory and any other establishment outside that State or Union territory; or
- an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory

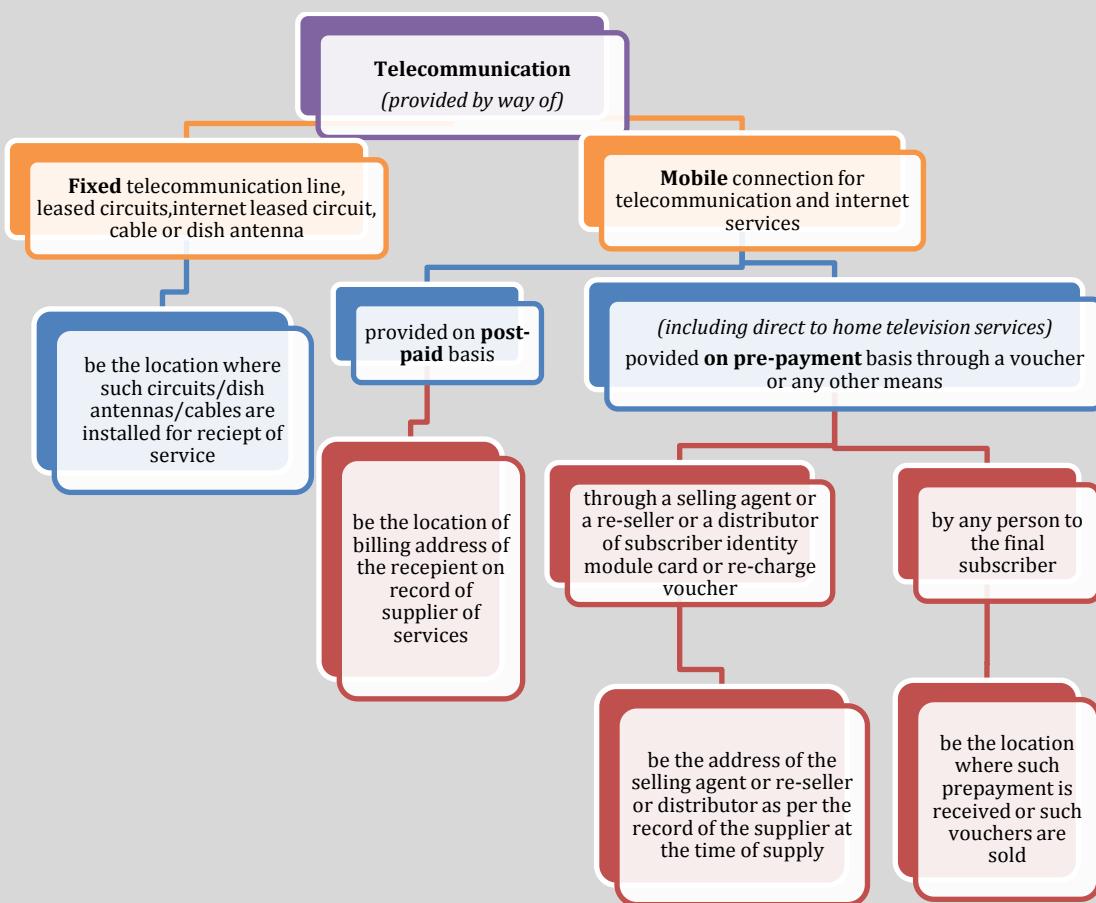
A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

Goods & Services Tax

Educational Series

Place of supply of Telecommunication Services

Section 12(11) of the Integrated GST Act, 2017 states the provisions for determining the place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person



- In any other case, place of supply will be the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services
- If pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services
- Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of service shall be proportionately allocated amongst states/Union Territories as per the value of service received or as per the contract or as may be prescribed.

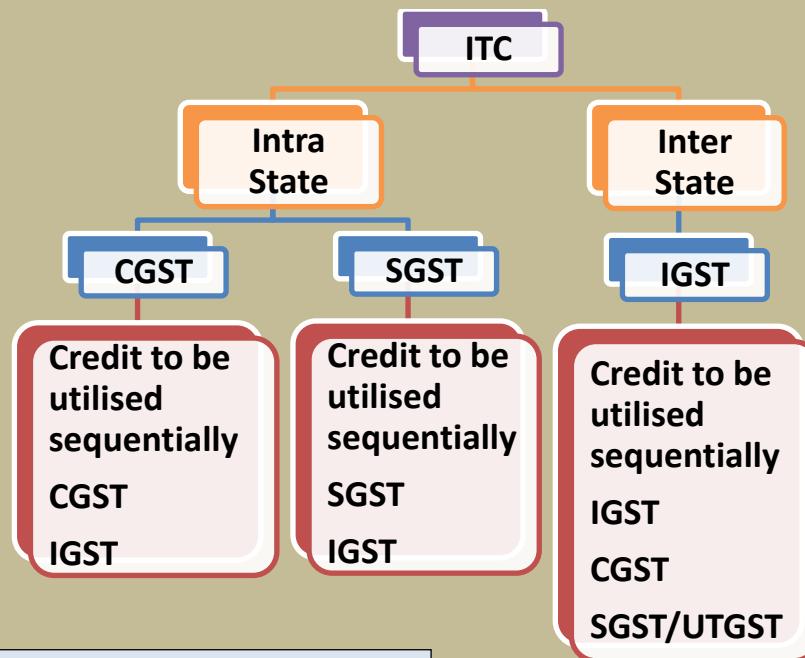
Goods & Services Tax

Educational Series

Utilisation of Input Tax Credit

The new indirect tax regime follows a dual model of GST with the Centre and States simultaneously levying tax on a common base. On every transaction within state (Intra State)/ Union Territory, both Central GST and State GST/IGST is levied, whereas on transactions between different states or a state and a union territory or between different union territories, Integrated GST is levied.

The input tax credit allowed can be utilised in the following manner:



Cross utilisation of CGST and SGST is not available

Utilization of CGST Credit

CGST credit has to be first utilized against CGST liability and if any balance is available, same can be utilized against IGST.

Utilization of SGST

SGST has to be first utilized against SGST liability and if any balance is available, same can be utilized against IGST.

Utilization of IGST

IGST has to be first utilized against IGST liability and if any balance is available, same can be utilized against CGST and if still any balance is available same can be utilized against SGST.

Goods & Services Tax

Educational Series

Input Tax Credit Restriction

Goods and Services Tax aims at providing seamless flow of credit throughout supply chain. However, below is a list of few situations as mentioned in section 17 of Central GST Act, 2017 where input tax credit will not be available:

- a.) **Goods or services partly used for business purpose** :The Act specifically states that input tax credit can only be taken for the amount of input tax paid on goods or services or both used for the **purpose of business**. Thus, if goods or services or both are used partly for purpose of business and partly for other purpose, only that amount of input tax which is attributable to the purpose of business will be allowed as credit.
- b.) **Zero rated and Exempted Supplies** :Where goods or services or both are used partly for taxable supplies including zero rated supplies under IGST or under CGST Act, and partly for exempted supplies, only that amount of input tax which is attributable to the taxable supplies including zero rated supplies will be allowed as credit.
- c.) **Motor Vehicle and other conveyance** : Input tax credit is not available on motor vehicle and other conveyance. However, if motor vehicle and other conveyance are used for taxable supply of transportation of such vehicles/conveyances, transport of passengers or imparting training on flying, driving and navigating such vehicles or conveyances or for transportation of such goods, Input Tax Credit will be allowed.
- d.) **Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery** :Input tax credit is not available on supply of above mentioned services except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply. Thus, if a caterer uses a service of another caterer, Input Tax Credit will be allowed.
- e.) **Membership of a club, health and fitness centre** : Input tax credit is not available on supply of membership of a club, health and fitness centre
- f.) **Rent-a-cab, life insurance and health insurance** :Input tax credit is not available on supply of services of rent-a-cab, life insurance and health insurance. However, wherethe Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force or such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply, input tax credit will be available.
- g.) **Travel benefits extended to employees on vacation such as leave or home travel concession** : Input tax credit is not available on travel benefits extended to employees on vacation such as leave or home travel concession
- h.) **Works contract services** :Input tax credit is not available on works contract services when supplied for construction of an immovable property (other than plant and machinery). However, Input Tax Credit will be allowed when it is an input service for further supply of works contract service
- i.) **Construction on own account** :Input tax credit on goods or services by a person for construction of immovable property, other than plant and machinery, is not allowed.
- j.) **Tax paid under Composition Scheme** :If tax has been paid under composition scheme on supply of goods or services or both, input tax credit is not allowed.
- k.) **Goods or services or both received by a non-resident taxable person** :Input Tax Credit is not allowed when goods or services or both are received by a non-resident taxable person, however, if goods are imported by such non-taxable person, input tax credit will be allowed.
- l.) **Goods or services or both used for personal consumption** : Input tax credit is not allowed for goods or services or both used for personal consumption
- m.) **Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples** :Input tax credit is not allowed with respect to goods lost, stolen, destroyed or written off as well as on goods given as gifts or free samples.

Goods & Services Tax

Educational Series

Invoice under Goods & Services Tax

An invoice indicates what must be paid by the buyer to the seller. On every sale/purchase, an invoice is issued by the supplier i.e., person making the sale. An invoice provides a detailed account of the products or services along with details of supplier, purchaser, tax charged and other particulars such as discounts, terms of sale etc. Invoice for goods is required to be raised before or at the time of –

- removal of goods for supply to the recipient, where the supply involves movement of goods; or
- delivery of goods or making available thereof to the recipient, in any other case

A registered taxable supplier of services, is required to raise invoice at the following timeline:

General provision	In case of taxable supply of services, invoice shall be issued within a period of thirty days from the date of supply of service (In case the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the invoice shall be issued within 45 days from the supply of service.)
Continuous Supply of service	before or at the time each such statement is issued or, as the case may be, each such payment is received
Continuous supply having ascertainable due date	on or before the due date of payment
Continuous supply having unascertainable due date	before or at the time when the supplier of service receives the payment
Continuous Supply where the payment is linked to the completion of an event	on or before the date of completion of that event
When contract ceases before completion of supply	at the time when the supply ceases and such invoice shall be issued to the extent of the supply made before such cessation

Where the goods being sent or taken on approval for sale or return are removed before the supply takes place, the invoice shall be issued before or at the time of supply or six months from the date of removal, whichever is earlier.

Here, “tax invoice” shall include any revised invoice issued by the supplier in respect of a supply made earlier. The Government may, on the recommendations of the Council, by notification, specify the categories of goods or services in respect of which a tax invoice shall be issued or any other document issued in relation to the supply shall be deemed to be a tax invoice.

Goods & Services Tax

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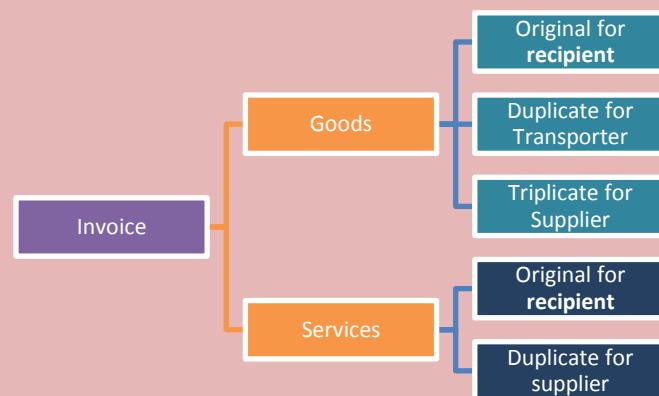
Invoicing under Goods & Services Tax

All the registered taxpayers are free to design their own invoice format under GST; however, it is required that certain fields as mentioned in the invoice rules be incorporated in all invoices. Some of these fields are as follows:

- name, address and GSTIN of the supplier;
- a consecutive serial number, in one or multiple series;
- date of its issue;
- name, address and GSTIN or UIN, if registered, of the recipient;
- name and address of the recipient and the address of delivery, along with the name of State and its code, if such recipient is un-registered and where the value of taxable supply is fifty thousand rupees or more;
- HSN code of goods or Accounting Code of services;
- description of goods or services;
- quantity in case of goods and unit or Unique Quantity Code thereof;
- total value of supply of goods or services or both;
- taxable value of supply of goods or services or both taking into account discount or abatement, if any;
- rate of tax (central tax, State tax, integrated tax, Union territory tax or cess);
- amount of tax charged in respect of taxable goods or services (central tax, State tax, integrated tax, Union territory tax or cess);
- place of supply along with the name of State, in case of a supply in the course of inter-State trade or commerce;
- address of delivery where the same is different from the place of supply;
- whether the tax is payable on reverse charge basis;
- Signature or digital signature of the supplier or his authorized representativeetc.

Manner of issuing Invoice

Invoice under GST shall be issued in the following manner:



Issued vide reference number PD & PP: GST: 21/2017 dated June 28, 2017.

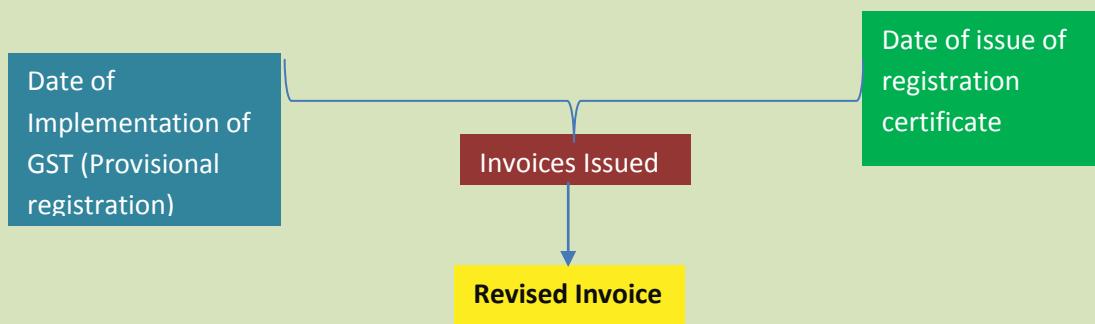
Goods & Services Tax

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Revised Invoice, Credit Note and Debit Note

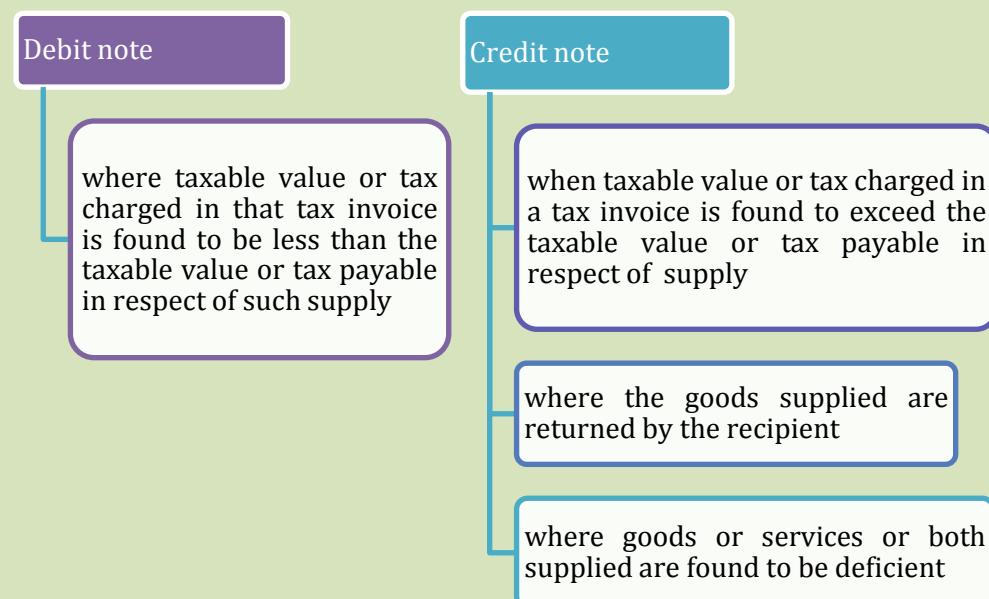
Revised Invoice

A registered person is required to issue a revised invoice against the invoice already issued during the period beginning with the effective date of registration till the date of issuance of certificate of registration, within one month from the date of issuance of certificate of registration and in such manner as may be prescribed.



Credit and Debit Notes

Following table summarizes debit notes and credit notes under certain situations:



Goods & Services Tax

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Documents in lieu of Invoice

Bill of Supply

Where a supplier is not required to charge any tax, he shall raise a bill of supply instead of invoice. Bill of supply will be raised by:

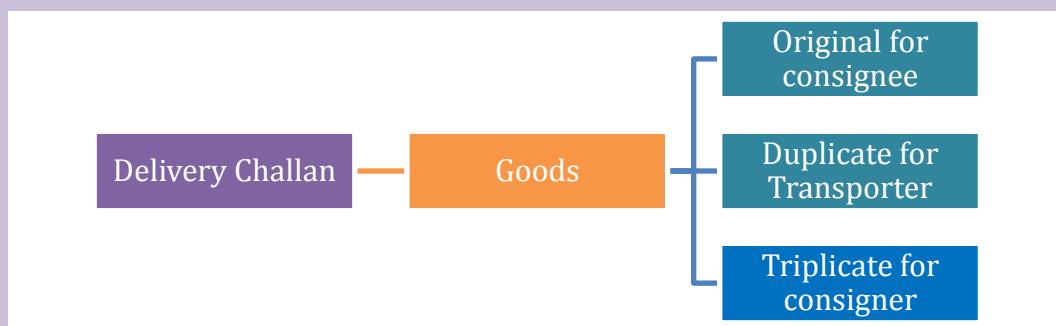
- a registered person supplying exempted goods or services or both or
- a registered person paying tax under the provisions of Section 10

Delivery Challan

Rule 55 of Invoice Rules list few situations where a delivery challan, serially numbered, will be issued instead of invoice. Such situations are as follows:

- supply of liquid gas where the quantity at the time of removal from the place of business of the supplier is not known
- transportation of goods for job work
- transportation of goods for reasons other than by way of supply, or
- such other supplies as may be notified by the Board

Manner of issuing Delivery Challan



The supplier is required to issue a tax invoice after delivery of goods where tax invoice could not be issued at the time of removal of goods for the purpose of supply.

Where the goods are being transported in a semi knocked down or completely knocked down condition:

- the supplier shall issue the complete invoice before dispatch of the first consignment;
- the supplier shall issue a delivery challan for each of the subsequent consignments, giving reference of the invoice;
- each consignment shall be accompanied by copies of the corresponding delivery challan along with a duly certified copy of the invoice; and
- the original copy of the invoice shall be sent along with the last consignment.

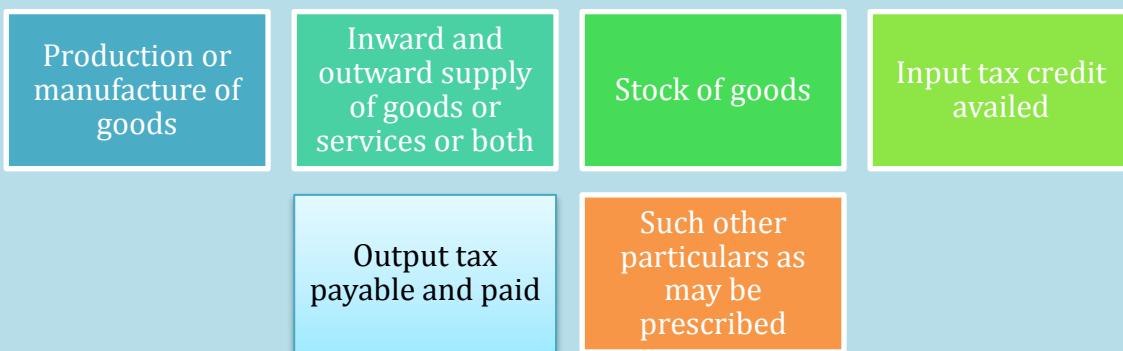
Goods & Services Tax

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Accounts and Records

A registered person is required to maintain proper accounts and records and keep it at his registered, principal place of business. If there is more than one place of business specified in the certificate of registration, the accounts relating to each place of business is required to be kept at such places of business. To facilitate digitisation, there is a facility to maintain accounts and other records in electronic form under GST.

According to Section 35 of Central Goods and Services Tax Act, 2017 read with Account and Records Rules following List of accounts is required to be maintained:



Owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, **irrespective of whether he is a registered person or not**, shall maintain records of the consigner, consignee and other relevant details of the goods in such manner as may be prescribed. The Commissioner is empowered to notify a class of taxable persons to maintain additional accounts or documents for specified purpose or to maintain accounts in other prescribed manner

The time duration for retention of accounts and records under GST is until expiry of **seventy-two months** from the due date of furnishing of annual return for the year pertaining to such accounts and records. (Section 36 CGST Act, 2017)

A registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX, shall retain the books of account and other records pertaining to the subject matter of such appeal or revision or proceedings or investigation for a period of **one year** after final disposal of such appeal or revision or proceedings or investigation, or for the period specified above, whichever is later.

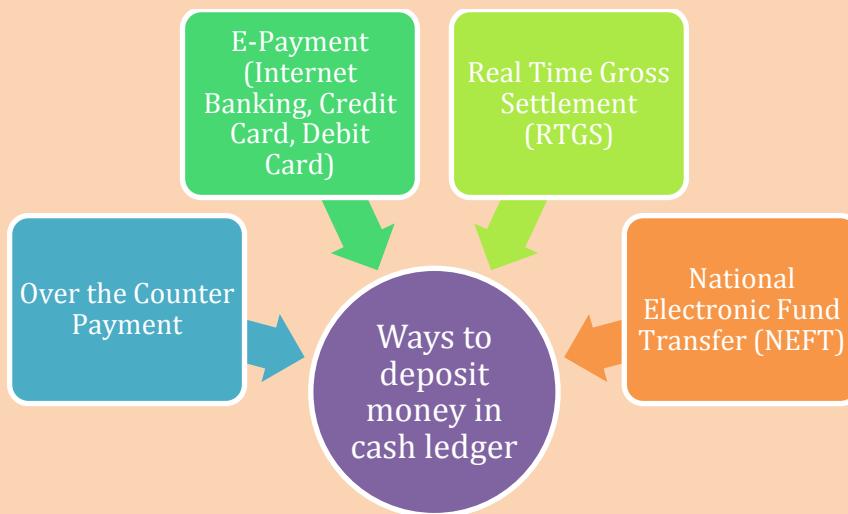
Goods & Services Tax

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Payment under Goods & Services Tax

As India is moving towards digitisation, GST has provided an easy and simple way of payment of taxes. Under GST regime, all the taxpayers get three electronic ledgers namely E-cash Ledger, E-credit Ledger & E-liability Ledger through their GST profile.

E-cash ledger: The electronic cash ledger under sub-section (1) of section 49 shall be maintained in FORM GST PMT-05 for each person, liable to pay tax, interest, penalty, late fee or any other amount, on the Common Portal for crediting the amount deposited and debiting the payment therefrom towards tax, interest, penalty, fee or any other amount. Thus, payment can be made in cash by debiting the e-cash ledger maintained on the common portal.



Money can be deposited in the Cash Ledger by modes as depicted in the above diagram. Over the Counter Payment can be made in branches of Banks Authorized (for deposits up to ten thousand rupees per challan per tax period, by cash, cheque or demand draft) to accept deposit of GST. A challan in FORM GST PMT-06 is required to be generated and the details of the amount to be deposited towards tax, interest, penalty, fees or any other amount will be entered in the challan. Challan in FORM GST PMT-06 generated at the Common Portal shall be valid for a period of fifteen days.

E-debit or credit ledger: Every registered taxable person is required to record and maintain an electronic liability ledger in Form GST PMT-01 and all amounts payable will be debited in the said register. The electronic credit ledger shall be maintained in FORM GST PMT-02 for each registered person eligible for input tax credit under the Act on the Common Portal and every claim of input tax credit under the Act shall be credited to the said Ledger. Payment of every liability by a registered taxable person can be made by debiting the e-liability ledger or e-cash ledger. Any amount of demand debited or amount of penalty imposed or liable to be imposed in the electronic tax liability register shall stand reduced to the extent of relief given by the appellate authority or Appellate Tribunal or court or if the taxable person makes the payment of tax, interest and penalty specified in the show cause notice or demand order, the electronic tax liability register shall be credited accordingly.

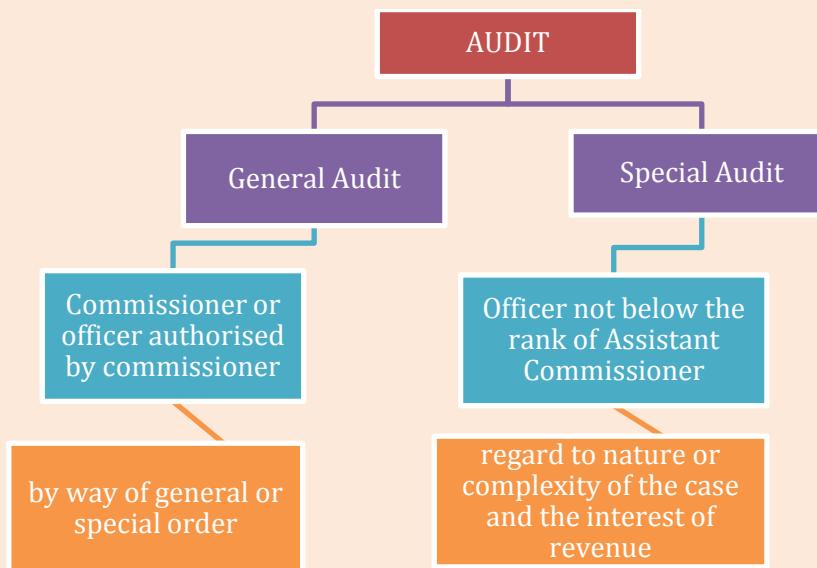
Any payment required to be made by a person who is not registered under the Act, shall be made on the basis of a temporary identification number generated through the Common Portal.

Goods & Services Tax

Educational Series

Audit under Goods & Services Tax

Audit under Goods & Services Tax (GST) can be of following two types:



General Audit: A prior notice of not less than fifteen working days will be sent to the registered person before the audit is conducted. The audit needs to be completed within a period of three months from the date of commencement of the audit, but a further extension for a period of six months may be provided by the Commissioner for the reasons recorded in writing. On conclusion of audit, the proper officer shall, within thirty days, inform the registered person, whose records are audited, about the findings, his rights and obligations and the reasons for such findings.

Special Audit: If at any stage of scrutiny, inquiry, investigation or any other proceedings before him, any officer not below the rank of Assistant Commissioner, having regard to the nature and complexity of the case and the interest of revenue, is of the opinion that the value has not been correctly declared or the credit availed is not within the normal limits, he may, with the prior approval of the Commissioner, direct such registered person by a communication in writing to get his records including books of account examined and audited.

A report of audit signed and certified by the appointed Chartered Accountant or Cost Accountant is required to be submitted within 90 days although this period can be further extended to 90 days. The registered person shall be given an opportunity of being heard in respect of any material gathered on the basis of special audit which is proposed to be used in any proceedings against him under this Act or the rules made thereunder. Where the special audit conducted results in detection of tax not paid or short paid or erroneously refunded, or input tax credit wrongly availed or utilised, the proper officer may initiate required action.

Goods & Services Tax

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Returns under Goods & Services Tax

All the returns under the Goods & Services Tax regime are required to be filed electronically through GST Network portal. Chapter IX of the Central GST Act, 2017, read with CGST Rules, 2017 contains the provisions of returns to be filed by various taxable persons. Following is a summarised list of these returns:

Forms	Applicability	Type	Timeline
GSTR-1	Every registered person (other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of Section 10/51/52 of the CGST Act,2017 or Section 14 of the IGST Act,2017)	Outward Supplies	On or before 10 th of next month
GSTR-2	Every registered person (other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of Section 10/51/52 of the CGST Act,2017 or Section 14 of the IGST Act,2017)	Inward Supplies	After the 10th day but on or before the 15th day of the month succeeding the tax period
GSTR-3		Monthly return	On or before 20 th of next month
GSTR-4	Registered Composition Supplier	Quarterly Return	Within 18 days after the end of each quarter
GSTR-5	Every Registered non-resident Taxable Person	Inward and Outward Supplies	<ul style="list-style-type: none">➢ Within 20 days after the end of a calendar month or➢ Within 7 days after the last day of the period of registration (section 27 (1)), whichever is earlier
GSTR-6	Every Input Service Distributor (ISD)	Details of Tax invoices	Before 13 th of next month
GSTR-7	Every Registered Person deducting tax at source (Section 51)	Details of TDS	Within 10 days after the end of the month in which deductions is made
GSTR-8	Every E-commerce operator required to collect tax (Section 52)	Details of TCS	Within ten days after the end of the month in which collection is made
GSTR-9	Every Registered Person (except ISD, Non resident taxable, Section 10,51,52 and Casual Taxable Person)	Annual Return	31 st December of the following Financial Year
GSTR-10	Taxable Person whose registration has been cancelled or surrendered	Final return	Within three months of <ul style="list-style-type: none">➢ the date of cancellation or➢ date of order of cancellation, whichever is later
GSTR-11	Persons specified under section 25(9)	Refund of taxes	Before the expiry of six months from the last day of the quarter in which such supply was received

Goods & Services Tax

Educational Series

Furnishing Returns under Goods & Services Tax

Goods & Services Tax (GST) is a comprehensive indirect tax system which works on self monitoring mechanism. Under GST, a normal taxpayer needs to file monthly returns and an annual return. The type of return to be filed by a taxpayer depends on the type of activities undertaken by him.

A normal taxpayer undergoes the following process of furnishing returns under GST:

1. Firstly, the supplier other than an Input Service Distributor, a non-resident taxable person and a person paying tax under the provisions of section 10 or section 51 or section 52, shall enter electronically details of outward supply in Form GSTR 1 by 10th of the next month.
2. The details entered by the supplier in Form GSTR 1 will be made available in Part A of Form GSTR 2A, Form GSTR 4A and Form GSTR 6A through the common portal.
3. The changes if any made by the recipient in details of inward supplies will be made available in Form GSTR 1A for the supplier to either accept or reject the modifications. The same may be done on or before the seventeenth day, but not before the fifteenth day of the month succeeding the tax period. Thus suppliers' Form GSTR 1 will stand amended accordingly. Thus by 17th day, both the supplier and the recipient reconcile the invoice details.
4. An auto populated Part A of return in Form GSTR 3 is generated on basis of information furnished in Form GSTR 2 and Form GSTR 1. Details of tax payable, tax paid, interest, fees etc. will be included in Part B of Form GSTR 3 and the registered person is required to file Form GSTR -3 by 20th day of the month succeeding such calendar month.
5. An annual return in Form GSTR-9 is required to be filed by 31st December of the following financial year by the registered taxable person through the common portal either directly or through a Facilitation Centre notified by the Commissioner

Under GST, the returns are filed online and invoice level information is uploaded. Returns can be filed using the following methods:

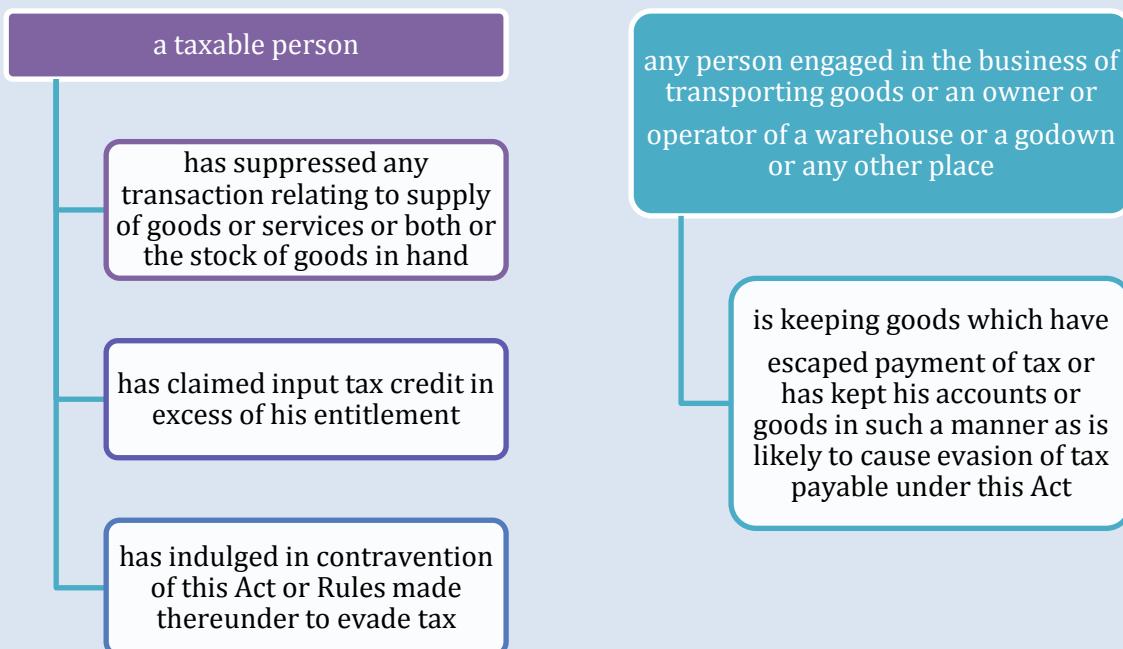
- GSTN Portal
- Offline utilities provided by GSTN
- GST Suvidha Providers (GSP)

Goods & Services Tax

Educational Series

Inspection and Seizure under Goods & Services Tax

"Inspection" means careful examination or scrutiny. Under Goods and Services Tax (GST), there is a provision of inspection which acts as deterrent for tax evasion. These provisions help restricting tax evaders gain unfair advantage over authentic tax payers. Chapter XIV of the Central Goods and Services Tax Act, 2017 deals with the provisions of Inspection, Search, Seizure and Arrest. Section 67 of CGST Act, 2017 read with Rules states that where the proper officer, not below the rank of Joint Commissioner, has reasons to believe that



The officer may authorise in writing any other officer of Central tax or State tax to inspect any places of business of the taxable person or the persons engaged in the business of transporting goods or the owner or the operator of warehouse or godown or any other place. The authorisation to conduct the inspection or search or, as the case may be, seizure of goods, documents, books or things liable to confiscation will be in form GST INS- 01

Goods & Services Tax

Educational Series

Understanding Seizure under Goods & Services Tax

Seizure is defined as taking of something by force. Section 67 of Central Goods and Services Tax Act, 2017, read with respective rules state provisions relating to seizure. The salient points of seizure are as follows:

Order of Seizure

- A proper officer not below the rank of Joint Commissioner or an officer authorised by such proper officer can make an order of seizure in form GST INS-02 for cases authorised under Section 67(2).

Order of Prohibition

- Where Goods or things cannot be seized, the proper officer or the authorised officer may serve on the owner or the custodian of the goods, an order of prohibition in FORM GST INS-03 that he shall not remove, part with, or otherwise deal with the goods except with the previous permission of such officer.

Preparation of Inventory

- When goods are seized, the officer is required to prepare an inventory of such goods or books or documents seized containing, inter alia, description, quantity or unit, make, mark or model, where applicable, and get it signed by the person from whom such goods or documents or books or things are seized.

Bond for release of seized goods

Goods seized by a proper officer or an authorised officer can be released on a provisional basis upon execution of a bond for the value of goods and furnishing of a security. The bond so executed will be in Form GST INS-04 and the security in the form of a bank guarantee equivalent to the amount of applicable tax, interest and penalty payable. In case the person to whom the goods were released provisionally fails to produce the goods at the appointed date and place indicated by the proper officer, the security shall be encashed and adjusted against the tax, interest and penalty and fine, if any, payable in respect of such goods.

Procedure in respect of seized goods

If the goods so seized are of perishable or hazardous nature, such goods can be released by an order under Form GST INS-05 only after the taxable person pays an amount equivalent to the market price of such goods or things or the amount of tax, interest and penalty that is or may become payable by the taxable person, whichever is lower and produce the proof of payment. If the taxable person doesn't pay the amount, the Commissioner has the power to dispose of such goods or things and the amount realized thereby will be adjusted against the tax, interest, penalty, or any other amount payable in respect of such goods or things.

Goods & Services Tax

Educational Series

Arrest under Goods & Services Tax

Section 69 of the CGST Act, 2017 grants power to a Commissioner to authorise any officer of Central Tax to arrest such person who has committed following offence:

Offence (Section 132(1))

(a) supplies any goods or services or both without issue of any invoice,with the intention to evade tax	(b) issues any invoice or bill without supply of goods or services or both leading to wrongful availment or utilisation of input tax credit or refund of tax	(c) avails input tax credit using such invoice or bill without supply of goods or services or both	(d) collects any amount as tax but fails to pay the same to the Government beyond a period of three months from the date on which such payment becomes due
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Punishment (Section 132(1))

When a person commits any of the offences stated above the punishment will be as follows

Where the amount of tax evaded or the amount of input tax credit wrongly availed or utilised or the amount of refund wrongly taken exceeds	
500 lakh Rupees	200 to 500 lakh Rupees
imprisonment for a term which may extend to 5 years and with fine	imprisonment for a term which may extend to 3 years and with fine

(Section 132 (2))

Where any person convicted of an offence under this section is again convicted of an offence under this section, then, he shall be punishable for the second and for every subsequent offence with imprisonment for a term which may extend to five years and with fine.

Goods & Services Tax

Educational Series

Transitional Provision for Input Tax Credit

According to section 140(1) of the CGST Act, 2017 read with Transitional Provision Rules, to avail CENVAT Credit, it is important that the person who is willing to take credit is registered under GST and is not a composition dealer as specified under section 10 of CGST Act, 2017. Such registered person is eligible to take in his electronic credit ledger (**GST PMT -2**), amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day. Entitled person is required to submit a declaration duly signed, electronically in **FORM GST TRAN-1** within 90 days of the appointed day on the common portal. The commissioner may, on recommendation of Council, extend the period by a further period not exceeding 90 days.

No credit shall be allowed under following circumstances:

- where the said amount of credit is not admissible as input tax credit under this Act; or
- where the registered person has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or
- where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.

Unavailed CENVAT Credit

In the erstwhile regime, Rule 4(2)(a) of the CENVAT Credit Rules 2004 stated that CENVAT credit in respect of capital goods received in a factory or in the premises of the provider of output service at any point of time in a given financial year shall be taken only for an amount not exceeding fifty per cent of the duty paid on such capital goods in the same financial year.

Section 140(2) of the CGST Act, 2017, read with transitional provision rules states that such unavailed CENVAT Credit in respect of capital goods, not carried forward in a return, can be taken as credit in the electronic ledger of such registered person. The unavailed credit would not be admissible as CENVAT Credit unless it is admissible as credit in both old and new regime.

Duty already paid

Section 140(5) of the CGST Act, 2017 states that in case where inputs or input services are received on or after the appointed date but eligible duties with respect to such goods have been paid under the old regime, the registered person will be eligible to take credit of duties paid, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day. The period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days.

The following details need to be furnished by the supplier —

- the name of the supplier, serial number and date of issue of the invoice by the supplier or any document on the basis of which credit of input tax was admissible under the existing law
- the description and value of the goods or services
- the quantity in case of goods and the unit or unit quantity code thereof
- the amount of eligible taxes and duties or, as the case may be, the value added tax [or entry tax] charged by the supplier in respect of the goods or services, and
- the date on which the receipt of goods or services is entered in the books of account of the recipient.

Goods & Services Tax

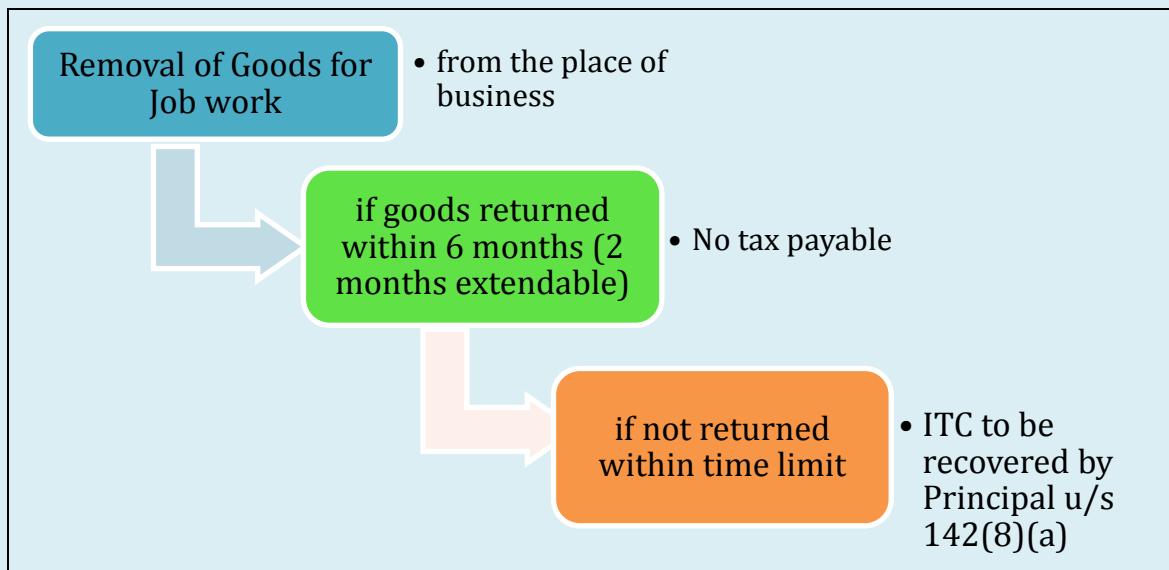
Educational Series

Transitional Provision for Job Work

Section 141 of the Central GST Act, 2017 specifies provisions for cases where the job worker holds goods belonging to the principal on the appointed day. No tax is required to be paid under following situations:

Inputs (1)	Semi finished goods (2)	Finished goods (3)
removed from place of business as such or removed after being partially processed to a job worker for further processing, testing, repair, reconditioning	removed from the place of business to any other premises for carrying out certain manufacturing processes	manufactured at a place of business had been removed without payment of duty for carrying out tests or any other process not amounting to manufacture, to any other premises
Returned to the place of business within 6 months from appointed date (extendable by 2 months)		
<i>The manufacturer and the job worker have declared the details of the inputs or goods held in stock by the job worker on behalf of the manufacturer on the appointed day in form GST Tran-1, specifying therein, the stock of inputs, semi-finished goods or finished goods, as applicable, within 90 days of the appointed day.</i>		

If above conditions are not fulfilled input tax credit claimed by the principal shall be liable to be recovered under section 142(8)(a) of the CGST Act, 2017.



Proviso to section 141(2) & (3) provides that the manufacturer may, in accordance with the provisions of the existing law, transfer the said goods from the said other premises on payment of tax in India or without payment of tax for exports.

Goods & Services Tax

Educational Series

Refunds

Refund refers to an amount that is due to the tax payer from the tax administration. According to section 54 of the CGST Act, 2017, any person claiming refund of any tax and interest, if any, paid on such tax or any other amount paid by him, may make an application **before the expiry of two years from the relevant date**. If there is any balance in the electronic cash ledger or electronic credit ledger after payment of tax, interest, penalty, fee or any other amount payable may claim such refund in the return furnished under section 39.

A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, before the expiry of six months from the last day of the quarter in which such supply was received.

Refund of unutilised input tax credit

Section 54(3) of CGST Act, 2017 states that, subject to the provisions of section 54(10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period, subject to provisions under the section.

Refund allowed in following cases (first proviso)

zero rated supplies made without payment of tax or

where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies other than nil rated or fully exempt supplies, except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council

Refund not allowed (second and third proviso)

goods exported out of India are subjected to export duty

if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

Goods & Services Tax

Educational Series

Refund Process

While seeking refund, the refund application shall be accompanied by:

- Documentary evidence to establish that refund is due to the applicant and
- evidence to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund was collected from, or paid by him and the incidence of such tax and interest had not been passed on to any other person.

However, if amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

After receipt of the application or declaration as the case may be, the proper officer is satisfied that the whole or part of the amount claimed as refund is refundable, he may make an order within **sixty days** from the date of receipt of application and the amount so determined shall be credited to the Consumer Welfare Fund. (Section 54(4),(5) & (7))

Interest on delayed refunds

Section 56 of the CGST Act, 2017 states that if any tax ordered to be refunded under section 54 is not refunded within sixty days from the date of receipt of application, interest at such rate not exceeding six per cent as may be specified in the notification issued by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application under the said sub-section till the date of refund of such tax.

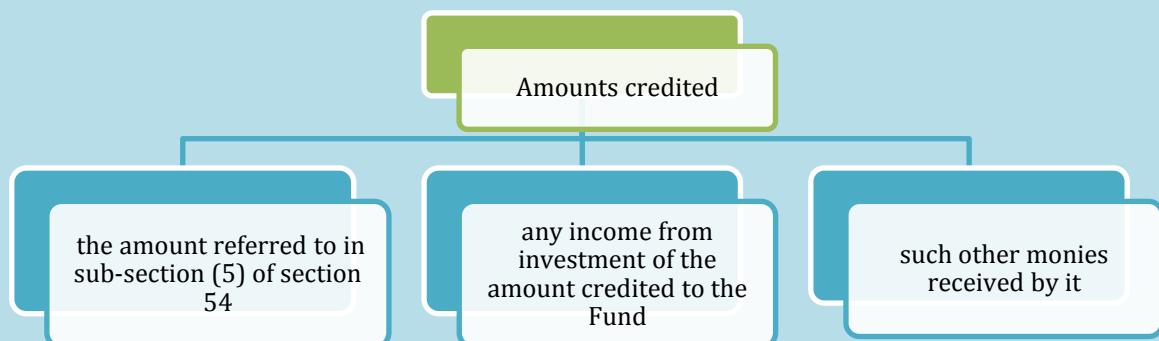
Where any claim of refund arises from an order passed by an adjudicating authority or Appellate Authority or Appellate Tribunal or court which has attained finality and the same is not refunded within sixty days from the date of receipt of application filed consequent to such order, interest at such rate not exceeding nine per cent as may be notified by the Government on the recommendations of the Council shall be payable in respect of such refund from the date immediately after the expiry of sixty days from the date of receipt of application till the date of refund. Where any order of refund is made by an Appellate Authority, Appellate Tribunal or any court against an order of the proper officer under sub-section (5) of section 54, the order passed by the Appellate Authority, Appellate Tribunal or by the court shall be deemed to be an order passed under the said sub-section (5).

Goods & Services Tax

Educational Series

Consumer Welfare Fund

Under section 2(51) of the CGST Act, 2017, "Fund" means the Consumer Welfare Fund established under section 57. Section 57 of the CGST Act, 2017 states that the Government shall constitute a fund, to be called the Consumer Welfare Fund and the following amounts will be credited in the Fund:



All sums credited to the Consumer Welfare Fund shall be utilised by the Government for the welfare of the consumers in such manner as may be prescribed.

Refund is normally credited to the Consumer Welfare Fund constituted by the Government except under following cases, where it shall be paid to the applicant :

- refund of tax paid on zero-rated supplies of goods or services or both or on inputs or input services used in making such zero-rated supplies;
- refund of unutilized input tax credit under sub-section 54(3);
- refund of tax paid on a supply which is not provided, either wholly or partially, and for which invoice has not been issued, or where a refund voucher has been issued;
- refund of tax in pursuance of section 77;
- the tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or
- the tax or interest borne by such other class of applicants as the Government may, on the recommendations of the Council, by notification, specify

The Government or the authority specified by it is required to maintain proper and separate accounts and other relevant records in relation to the Fund and prepare an annual statement of accounts in such form as may be prescribed in consultation with the Comptroller and Auditor-General of India.

Goods & Services Tax

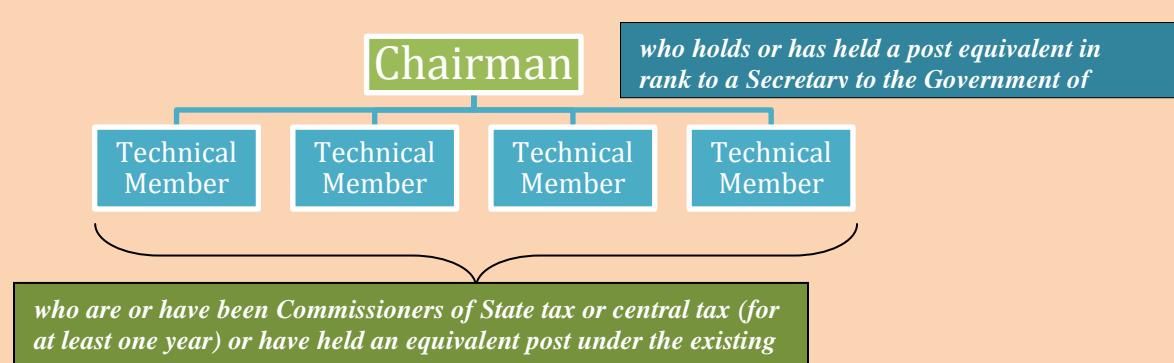
Educational Series

Anti Profiteering Measures

Profiteer means a person who seeks exorbitant profits. Anti profiteering is a measure to curb such practice whereby trade and industry enjoy unjust enrichment by extracting profits and not passing it to the consumers. Section 171 of the CGST Act, 2017 states that if there is any reduction in rate of tax on any supply of goods or services or the benefit of input tax credit, it should be passed on to the recipient by way of commensurate reduction in prices.

"Commensurate" means equal in measure or size. The quantum of benefit received by the trade or industry due to GST should be passed on to the consumers.

Rule 122(Anti Profiteering Rules) of the CGST Rules, 2017 prescribes the constitution of the Authority formed to curb Anti Profiteering measures. The constitution is as depicted in the diagram below:



The Council may constitute two types of committees which are namely:

- **Standing Committee on Anti profiteering:** It shall consist of such officers of the State Government and Central Government as may be nominated by it.
- **Screening Committee:** It shall be a State level committee constituted in each State by the State Governments which shall consist of
 - a) one officer of the State Government, to be nominated by the Commissioner, and
 - b) one officer of the Central Government, to be nominated by the Chief Commissioner.

The Additional Director General of Safeguards under the Board shall be the Secretary to the Authority.

Duties of the Authority

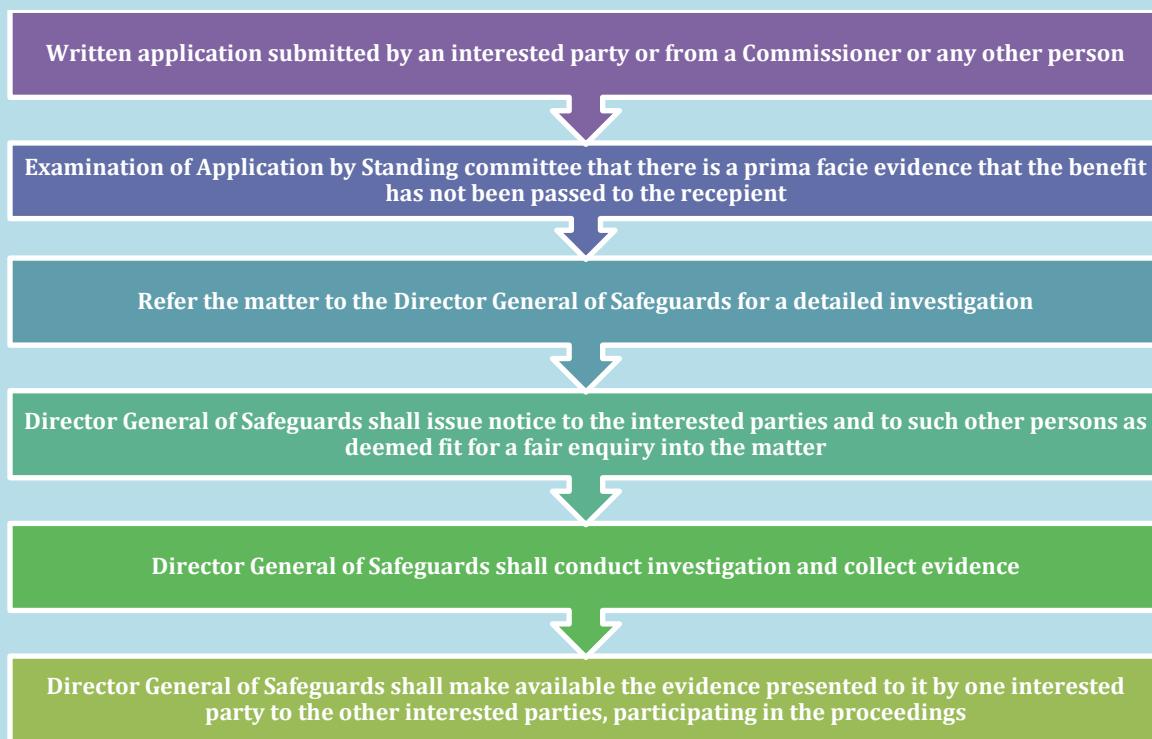
- To determine whether any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices
- To identify the registered person who has not passed on the benefit of reduction in the rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices
- To order,(a) reduction in prices; (b) return to the recipient, an amount equivalent to the amount not passed on by way of commensurate reduction in prices along with interest at the rate of eighteen per cent. from the date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned, as the case may be, in case the eligible person does not claim return of the amount or is not identifiable, and depositing the same in the Fund referred to in section 57; (c) imposition of penalty as specified in the Act; and (d) cancellation of registration under the Act.

Goods & Services Tax

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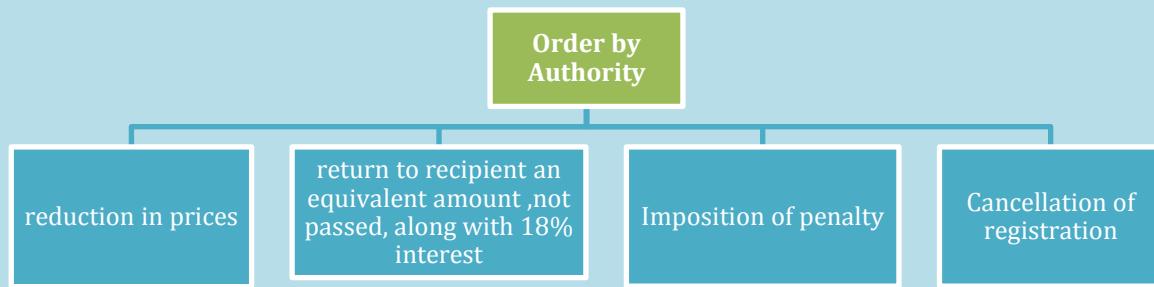
Anti Profiteering Procedure

Although the Anti Profiteering Authority has the power to decide the methodology and procedure for determination as to whether the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit has been passed on by the registered person to the recipient by way of commensurate reduction in prices, Anti Profiteering Rules prescribe the following procedure:



The Director General of Safeguards shall complete the investigation within a period of three months of the receipt of the reference from the Standing Committee or within such extended period not exceeding a further period of three months for reasons to be recorded in writing as allowed by the Standing Committee and, upon completion of the investigation, furnish to the Authority, a report of its findings along with the relevant records.

Where the Authority determines, within a period of three months from the date of the receipt of the report from the Director General of Safeguards, that a registered person has not passed on the benefit of the reduction in the rate of tax on the supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices, the Authority may order-

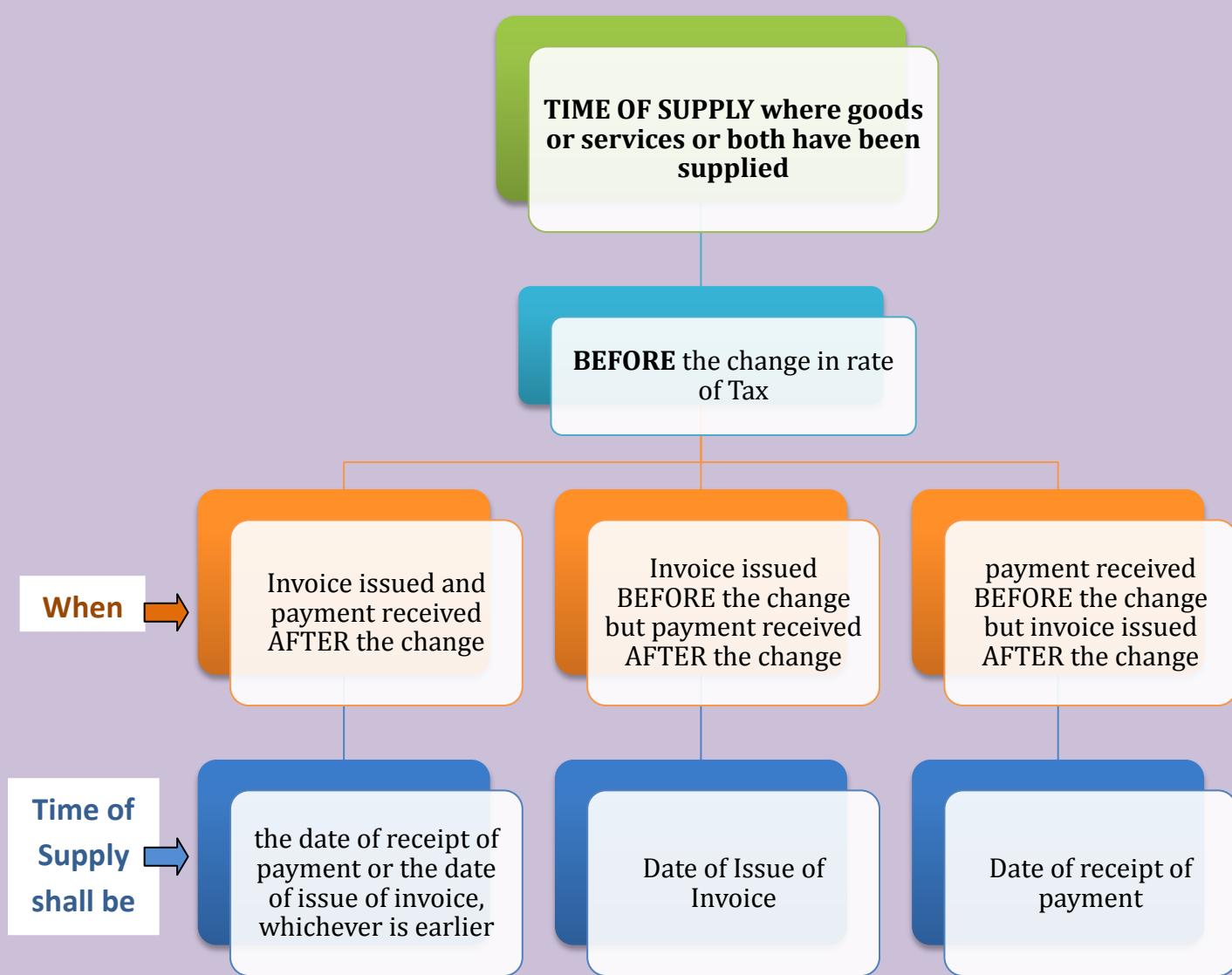


Goods & Services Tax

Educational Series

Time of Supply BEFORE change in Rate of Tax

Section 14 of the CGST Act, 2017 states that the time of supply, where there is a change in the rate of tax in respect of goods or services or both. In case the goods or services or both have been supplied before the change in rate of tax, the time of supply can be determined as follow:



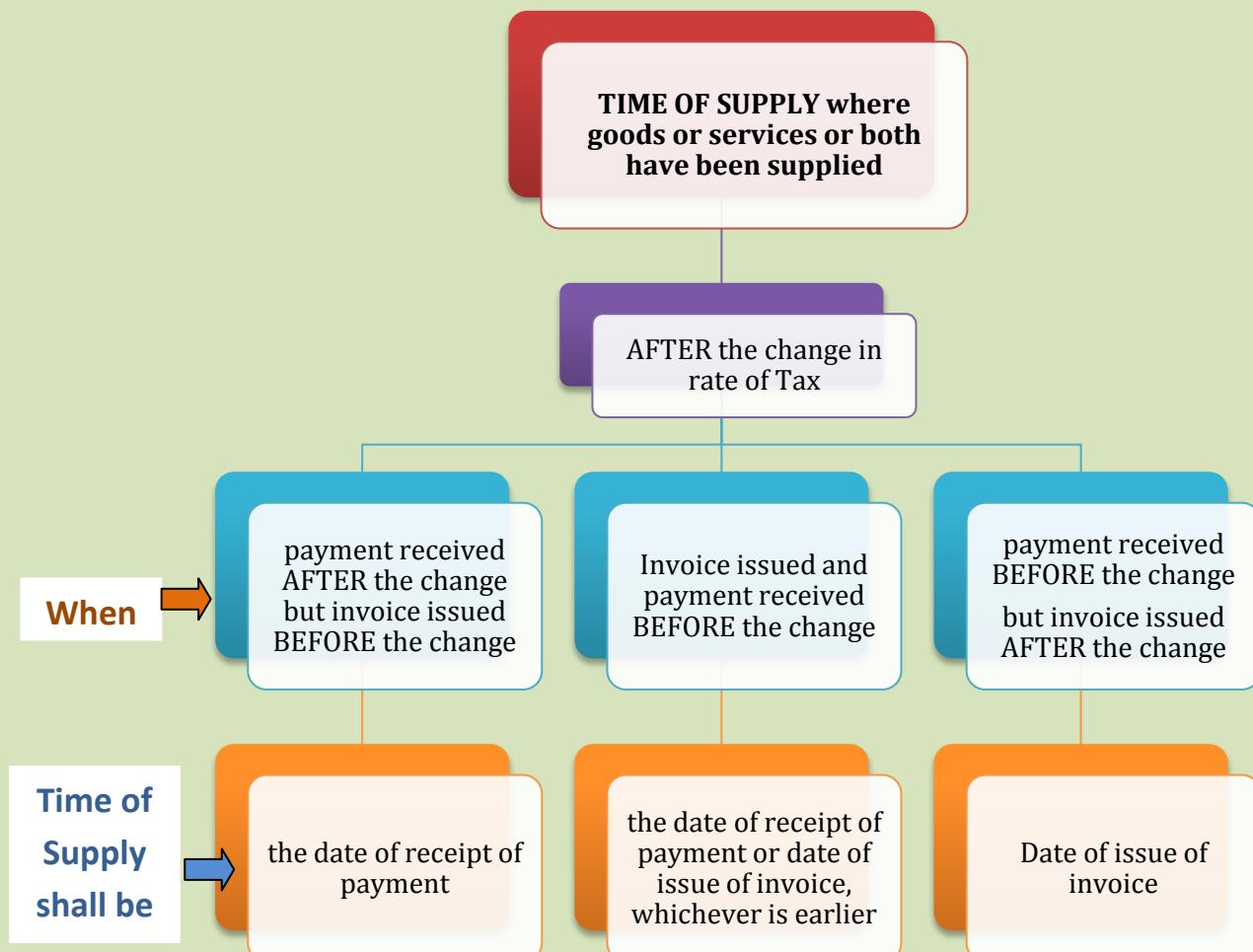
The date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after four working days from the date of change in the rate of tax.

Goods & Services Tax

Educational Series

Time of Supply AFTER Change in Rate of Tax

Section 14 of the CGST Act, 2017 states that the time of supply, where there is a change in the rate of tax in respect of goods or services or both. In case the goods or services or both have been supplied after the change in rate of tax, the time of supply can be determined as follow



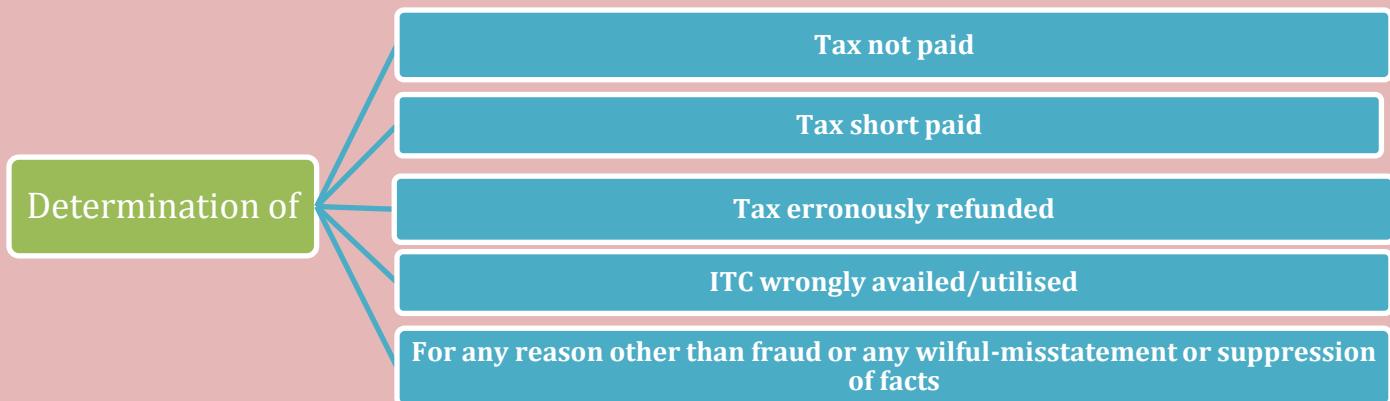
"The date of receipt of payment" shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.

Goods & Services Tax

Educational Series

Demands and Recovery (For reasons other than fraud)

To recover any tax not paid inadvertently, GST provides for various provisions whereby a proper officer can demand and recover such amount of tax alongwith interest and penalty. Section 73 states that under the following circumstances a proper officer can serve a show cause notice for recovery of tax alongwith interest or penalty applicable.

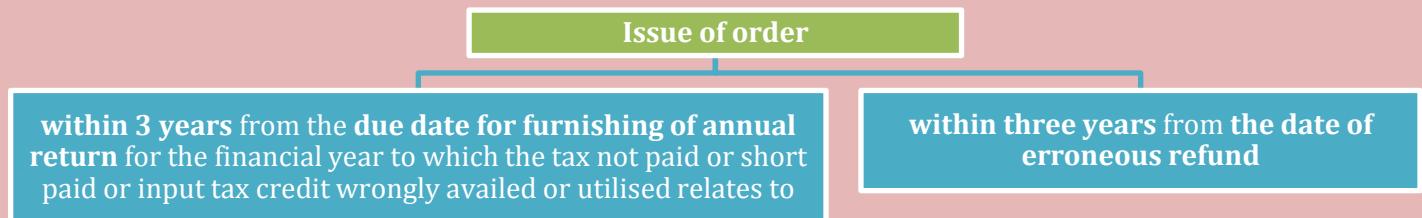


The Act further specifies that if a Show Cause Notice(SCN) was previously issued on same grounds for earlier period, a proper officer can issue a statement instead of a show cause notice containing the details of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for such periods.

Payment of Tax before SCN

A person chargeable to tax can, on the basis of his own ascertainment, pay tax alongwith interest payable thereon under section 50, before service of SCN or statement as the case may be. But if the amount paid by such person is falling short of the amount actually payable, the proper officer may issue a SCN in respect of the amount falling short. *If the tax along with the interest is paid within 30 days of SCN, no penalty will be levied and all proceedings in respect of the said notice shall be deemed to be concluded.*

The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest and a penalty equivalent to ten per cent. of tax or ten thousand rupees, whichever is higher, due from such person and issue an order.



Goods & Services Tax

Educational Series

Demands and Recovery

(When there is fraud, wilful misstatement or suppression of facts)

Section 74 of the CGST Act, 2017 states that if tax is not paid, short paid, erroneously refunded or when Input Tax Credit is wrongly availed or utilised by fraud, wilful misstatement or suppression of facts, a proper officer can demand and recover such amount of tax along with interest and penalty.

SCN

- A proper officer can serve a show cause notice for recovery of tax alongwith interest or penalty applicable.
- Show cause notice to be issued at least six months prior to the period of five years from the due date for furnishing of annual return for the financial year to which the tax not paid or short paid or within five years from the date of erroneous refund.

Issue of statement

- if any SCN was previously issued on same grounds for earlier period, a proper officer can issue a statement instead of a show cause notice containing the details of tax not paid or short paid etc. for tax periods other than those already covered under Section 74(1)

Payment of Tax before SCN

To promote voluntary compliance and to reduce litigation, the Act provides that a person chargeable to tax, can on the basis of his own ascertainment, pay tax alongwith interest payable thereon under section 50 and 15% of tax as penalty on the basis of his own ascertainment or as ascertained by proper officer before the SCN is issued. If the amount paid by such person is falling short of the amount actually payable, the proper officer may issue a SCN in respect of the amount falling short.

If the tax along with the interest payable under section 50 and 25% of tax as penalty is paid within 30 days of SCN, all proceedings in respect of the said notice shall be deemed to be concluded.

The proper officer shall, after considering the representation, if any, made by person chargeable with tax, determine the amount of tax, interest due from such person and issue an order.

If a person served with an order pays tax, along with interest payable thereon under section 50 and a penalty equivalent to fifty percent of such tax within thirty days of communication of the order, all proceedings in respect of the said notice shall be deemed to be concluded.

Goods & Services Tax

Educational Series

Recovery of Tax

When demand is not paid by a person liable to pay, the process of recovery will be initiated by a proper officer. Section 79 of the CGST Act, 2017 specifies that a proper officer or any other specified officer can recover amount payable by any person under this Act through following modes of recovery.

Deduction from amount payable from any money owing to such person which may be under the control of the proper officer or such other specified officer

Detaining and selling any goods belonging to such person which are under the control of the proper officer or such other specified officer

Recovery from any other person from whom money is due or may become due to such person from whom recovery is to be made

Distain any movable or immovable property belonging to or under the control of such person

Recovery as arrear of land revenue through certification sent to the Collector of the district in which such person owns any property or resides or carries on his business

Application to the appropriate Magistrate for recovery

The Act further specifies that if a bond or any other instrument has been executed under this Act or any rules or regulations made thereunder and the manner of recovery is specified in such bond in accordance to section 79(1) of the CGST Act, 2017 then the amount will be recovered in accordance with the provisions of that sub-section.

Where any amount of tax, interest or penalty is payable by a person to the Government under any of the provisions of this Act or the rules made thereunder and which remains unpaid, the proper officer of State tax or Union territory tax, during the course of recovery of said tax arrears, may recover the amount from the said person as if it were an arrear of State tax or Union territory tax and credit the amount so recovered to the account of the Government

Goods & Services Tax

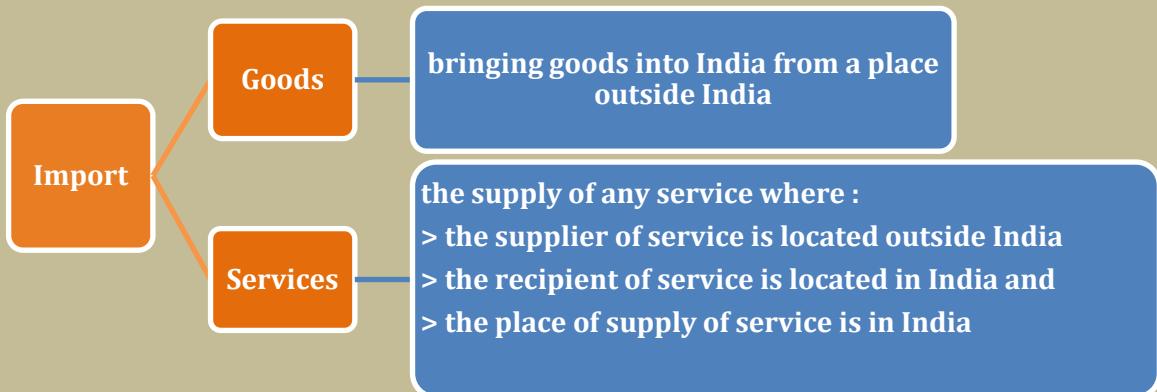
Educational Series

Import of Goods

Under GST, the Basic Custom Duty will continue to be levied on imports although Additional Custom Duty (CVD) and Special Custom Duty are subsumed in GST. Imports of goods and services are treated as inter-state supplies and IGST is levied under the new tax regime.



"Import of goods and services" is defined under the Central GST Act, 2017.



Schedule I of the CGST Act specifically states that import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business, will be treated as supply even if it is made without consideration.

Goods & Services Tax

Educational Series

Import of Services

Section 21 of the IGST Act, 2017 states that all services imported on or after 1st July (appointed day) are liable to tax under GST, regardless of whether the transactions for such import of services had been initiated before the appointed day.

Exception to section 21 of the IGST Act, 2017 are as follows:

No tax payable
under GST

- When tax on such import of services had been paid in full under the previous law

Balance
amount of tax
payable under
GST

- If the tax on such import of services had been paid in part under the existing law

For the purposes of this section, a transaction shall be deemed to have been initiated before the appointed day if either the invoice relating to such supply or payment, either in full or in part, has been received or made before the appointed day.

According to section 7(1)(b) of CGST Act, 2017, import of services for a consideration whether or not in the course or furtherance of business, will be considered as supply.

Schedule I of CGST Act, 2017 states that import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business made even without consideration will be treated as supply under GST.

Goods & Services Tax

Educational Series

Zero Rated Supplies

Zero rated supplies mean Nil rated supplies. It means that the items specified under zero rated supplies will be taxable but nil rate of tax will be levied on those items.

Section 16 of the IGST Act, 2017 specifies zero rated supplies as supplies of goods or services or both, namely:--

- (a) export of goods or services or both; or
- (b) supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

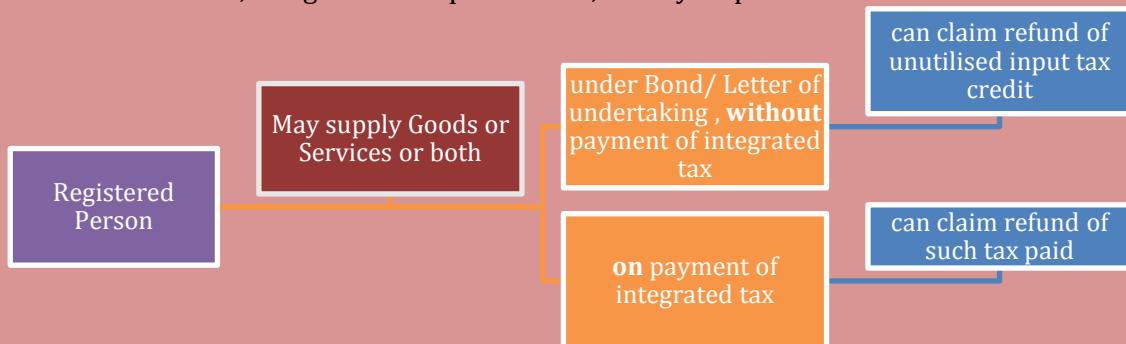


Input Tax Credit in Zero Rated Supplies.

Section 16(2) specifies that Input Tax Credit will be available on making zero rated supplies, notwithstanding that such supply may be an exempt supply.

Refund Procedure

Subject to such conditions, safeguards and procedures, as may be prescribed:



Goods & Services Tax

Educational Series

Place of Supply

Section 13 of the IGST Act, 2017 specifies the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

Sub section	Type	Place of Supply
(2) General Provision	Except cases in Section 13(3) to Section 13(13)	location of the <i>recipient of services</i>
	where the location of the recipient of services is not available in the ordinary course of business	location of the <i>supplier of services</i>
(3)(a) services where	Goods which are required to be made physically available by the recipient of services to the supplier of services	location where the <i>services are actually performed</i>
(3) (a)(1st Proviso) services supplied	in respect of goods from a remote location by way of electronic means	<i>location where goods are situated</i> at the time of supply of services
(3)(a) (2nd Proviso)	Above provisions shall not apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs and are exported after repairs without being put to any other use in India, than that which is required for such repairs	
(3)(b) services supplied to an individual	which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services	location where the <i>services are actually performed</i>
(4) In relation to an immovable property	including services supplied in this regard by experts and estate agents,	the place where the <i>immovable property is located or intended to be located</i>
	supply of accommodation by a hotel, inn, guest house, club or campsite	
	grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators	
(5) supply of services supplied by way of admission to, or organisation of events	cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation	the place where the <i>event is actually held</i>

Goods & Services Tax

Educational Series

Place of Supply

(where the location of the supplier/recipient of services is outside India)

Section 13 of the IGST Act, 2017 specifies the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.

(6) Services referred to in sub-section (3) or sub-section (4) or sub-section (5) is supplied at more than one location	including a location in the taxable territory	the location in the taxable territory
(7) Services referred to in sub-section (3) or sub-section (4) or sub-section (5) are supplied in more than one State or Union territory,		Proportionate Basis
(8)(a) banking company, or a financial institution, or a non-banking financial company	to account holders	the location of the supplier of services
(8)(b) intermediary services		
(8)(c) services consisting of hiring of means of transport	including yachts but excluding aircrafts and vessels, up to a period of one month	
(9) transportation of goods	other than by way of mail or courier	the place of destination of such goods
(10) passenger transportation services		The place where the passenger embarks on the conveyance for a continuous journey
(11) services provided on board a conveyance during the course of a passenger transport operation	including services intended to be wholly or substantially consumed while on board	the first scheduled point of departure of that conveyance for the journey
(12) online information and database access or retrieval services		the location of the recipient of services

Issued vide reference number PD & PP: GST : 48/2017 dated August 04, 2017.

Goods & Services Tax

Educational Series

Location of Recipient of Services under Goods & Services Tax

Determining the location of recipient of services under GST Law is of prime importance to determine the Place of Supply. Section 2(70) of CGST Act, 2017 defines the location of recipient of services as under:

A.) PLACE OF BUSINESS

- When supply is received at registered place of business

B.) FIXED ESTABLISHMENT

- When supply is received at a fixed establishment other than registered place of business

C.) DIRECTLY CONCERNED ESTABLISHMENT

- When supply is received at more than one establishment (place of business or fixed establishment)

D.) USUAL PLACE OF RESIDENCE OF RECIPIENT

- In absence of any such places

Goods & Services Tax

Educational Series

Location of Supplier of Services under Goods & Services Tax

Under the GST regime, location of supplier of services holds a very important role in order to understand other related areas like Place of Supply and other similar provisions.

Section 2(71) of the CGST Act, 2017 enumerates the places which may be considered as Location of Supplier of Services under GST in various different circumstances, which are as under:

A.) PLACE OF BUSINESS

- When supply is received at registered place of business

B.) FIXED ESTABLISHMENT

- When supply is received at a fixed establishment other than the registered place of business

C.) DIRECTLY CONCERNED ESTABLISHMENT

- When supply is received at more than one establishment (place of business or fixed establishment), the establishment directly concerned with such supply

D.) USUAL PLACE OF RESIDENCE OF RECIPIENT

- In absence of any such places

Issued vide reference number PD & PP: GST: 50/2017 dated August 09, 2017.

Goods & Services Tax

Educational Series

Government Notifies Dates for Filing of Returns (GSTR-1, GSTR-2 and GSTR-3)

Under the GST, Form GSTR 1 and Form GSTR 2 shall be filed every month.



With the recommendations of Goods and Services Tax (GST) Council, the Government has notified dates for filing of first GST returns, for the months of July and August vide Notification No. 18/2017 – Central Tax and Notification No. 19/2017 – Central Tax which came into force w.e.f. August 8, 2017. Notification No. 29/2017-Central Tax and Notification No. 30/2017-Central Tax extend filing of returns as under:

July, 2017

Sl. No.	Details/return	Class of taxable/registered persons	Time period for furnishing of details/return
1.	GSTR-1	Having turnover of more than one hundred crore rupees	Upto 3rd October, 2017
		Having turnover of upto one hundred crore rupees	Upto 10th October, 2017
2.	GSTR-2	All	Upto 31st October, 2017
3.	GSTR-3	All	Upto 10th November, 2017

August, 2017



Issued vide reference number PD & PP: GST: 51/2017 dated August 10, 2017, updated version.

Goods & Services Tax

Educational Series

Government Notifies Dates for Filing of Returns (GSTR-3B)

The taxpayers need to file Form GSTR-3B under the GST regime.

GSTR 3B

Details of supply under
Reverse Charge, Eligible
ITC, Exempt, Nil-Rated
inward Supplies,
TDS/TCS Credit etc.

With the recommendations of Goods and Services Tax Council, the Government has extended dates for filing GSTR-3B; vide Notification No. 35/2017 – Central Tax

Sl. No.	Month	Last Date for filing of return in FORM GSTR-3B
1.	August, 2017	20th September, 2017
2.	September, 2017	20th October, 2017
3.	October, 2017	20th November, 2017
4.	November, 2017	20th December, 2017
5.	December, 2017	20th January, 2017

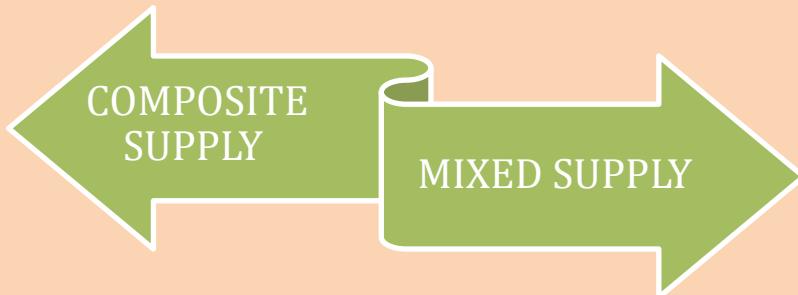
Issued vide reference number PD & PP: GST: 52/2017 dated August 11, 2017, updated version.

Goods & Services Tax

Educational Series

Composite Supply vs. Mixed Supply

Composite Supply as defined in **Section 2(30)** means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principle supply.



Mixed Supply as defined in **Section 2(74)** means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

ILLUSTRATION:

Mr. A packs and transports goods along with insurance, this would amount to Composite Supply as supply would include packing material, transport and insurance which are naturally bundled, supply of goods being the principle supply.

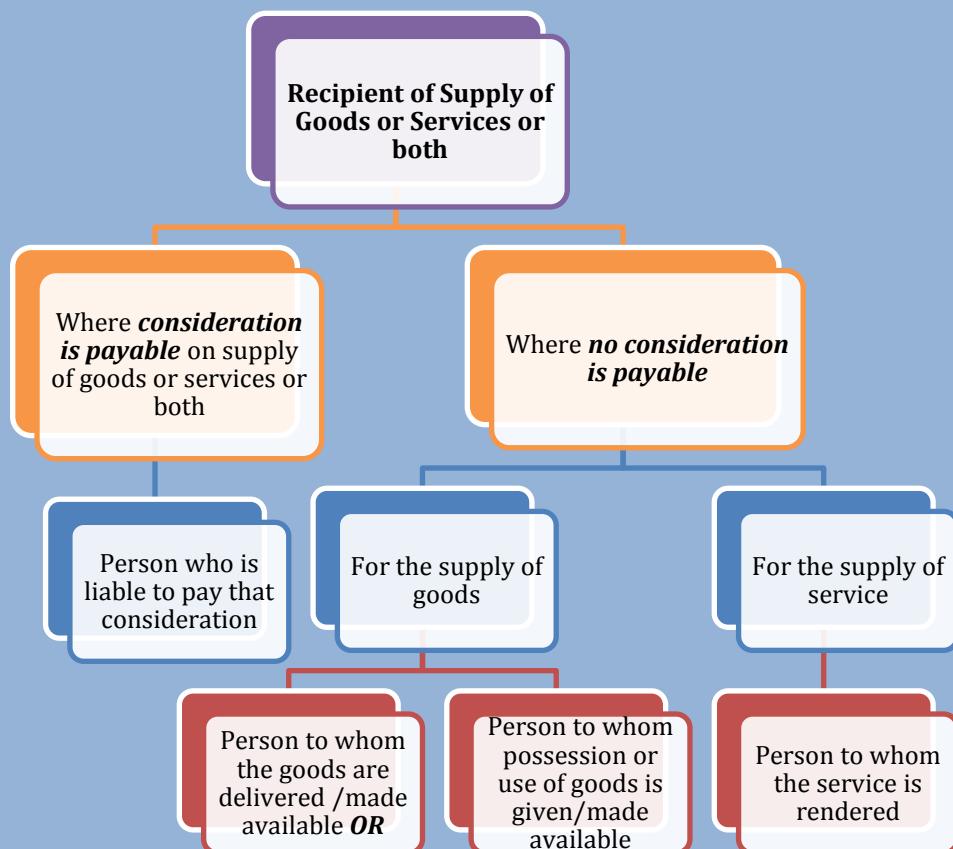
Now if Mr. A supplies a package containing multiple items like fruits, juices, sweets etc. at a single price, it will be a mixed supply as the supply is made in conjunction with each other. These are all individual items and can be supplied separately but since they are sold together at a single price, it amounts to Mixed Supply.

Goods & Services Tax

Educational Series

Recipient under Goods & Services Tax regime

Recipient of supply of goods or services or both is defined in Section 2(93) of the CGST Act, 2017 as:



Any reference to a person to whom supply is made shall be construed as a reference to recipient of supply.

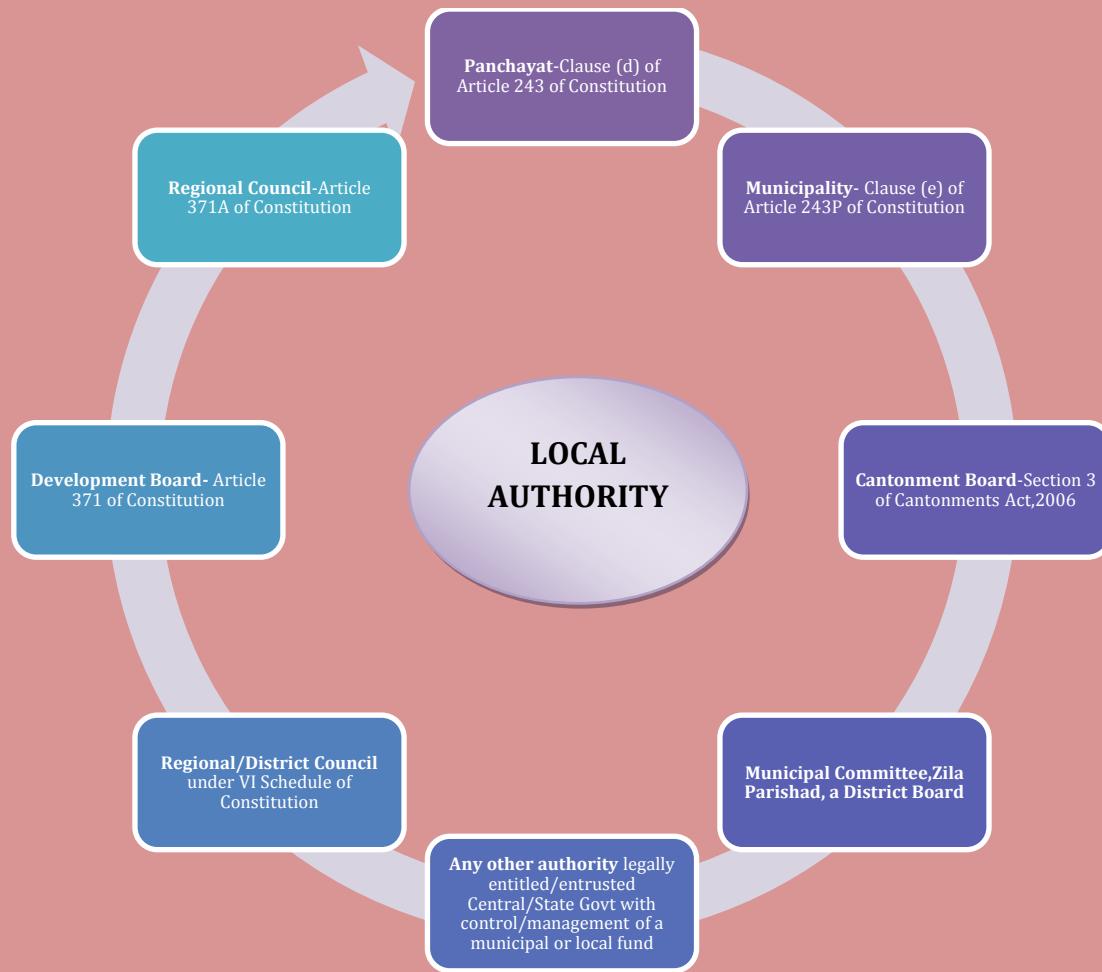
It shall also include an agent acting as such on behalf of the recipient in relation to goods or services or both supplied.

Goods & Services Tax

Educational Series

Local Authority under Goods & Services Tax

Local Authority has been defined under Section 2(69) of CGST Act, 2017 and includes as depicted below. Under GST regime, definition of a “person” also includes Local Authority.



Issued vide reference number PD & PP: GST: 55/2017 dated August 17, 2017.

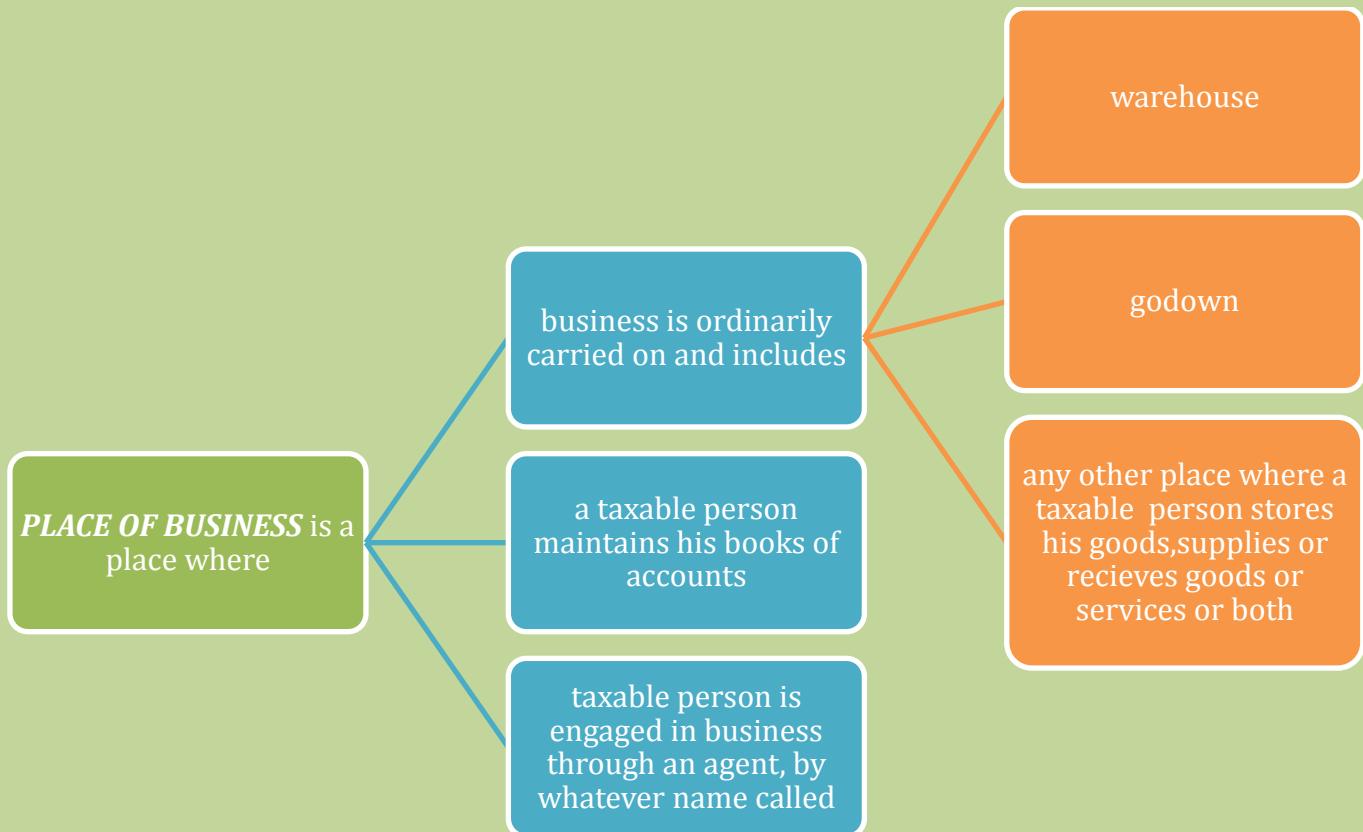
Goods & Services Tax

Educational Series

Concepts relating to Place of Business

Place of Business is an important concept under the GST regime. Place of Business is helpful in determining issues related to utilization of input tax credit along with placement of accounts and records, audit, determining casual taxable person, non-resident and also determining provision of transitional provisions under Job Work.

Section 2(85) of CGST Act, 2017 defines the Place of Business as under:



Section 2(89) of the CGST Act, 2017 defines **Principle Place of Business** as principle place of business specified in the certificate of registration.

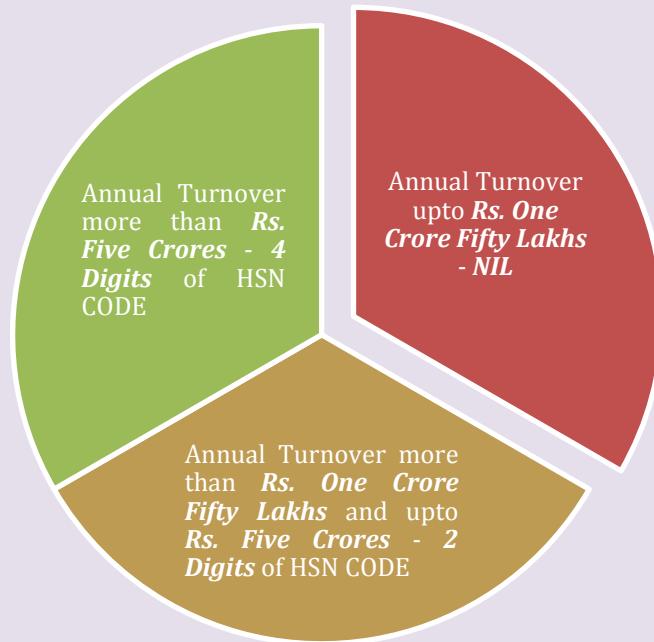
Goods & Services Tax

Educational Series

Harmonized System of Nomenclature under IGST

The Central Board of Excise and Customs (CBEC) vide Notification No. 5/2017-Integrated Tax dated June 28, 2017 notifies that in accordance of the first proviso to rule 46 of the Central Goods and Services Tax Rules, 2017 read with Notification No. 4/2017-Integrated Tax, Central Board of Excise and Customs, on the recommendations of the Council, a registered person shall mention the digits of Harmonized System of Nomenclature (HSN) Codes according to the ***annual turnover in the preceding financial year***, in a tax invoice issued by such person under the said rules.

The Notification came into effect with effect from July 1, 2017.



Issued vide reference number PD & PP: GST: 57/2017 dated August 21, 2017.

Goods & Services Tax

Educational Series

Concept of “BUSINESS” under Goods & Services Tax

Understanding what all is included in the definition of business is of prime importance under the GST Law. It is ancillary in determining the “supply” under GST where it is to be determined whether or not the supply is being made in furtherance of business, which is an essential condition for a transaction to be supply. Section 2(17) defines business to include:

- (a) •any trade,commerce,manufacture,profession,vocation,adventure,wager or any other similar activity,whether or not it is for a pecuniary benefit
- (b) •any activity or transaction in connection with or incidental or ancillary to sub clause (a)
- (c) •any activity or transaction in the nature of sub clause(a),whether or not there is volume, frequency,continuity or regularity of such transaction
- (d) •supply or acquisition of goods including capital goods and services in connection with commencement or closure of business
- (e) •provision by a club,association,society,or any such body(for a subscription or any other consideration) of the facilities or benefits to its members
- (f) •admission,for a consideration,of persons to any premises
- (g) •services supplied by a person as the holder of an office which has been accepted by him in the course of furtherance of his trade,profession or vocation
- (h) •services provided by a race club by way of totaliser or licence to book maker in such club ; and
- (i) •any activity or transaction undertaken by Central Government, a State Government or any local authority in which they are engaged as public authorities

Goods & Services Tax

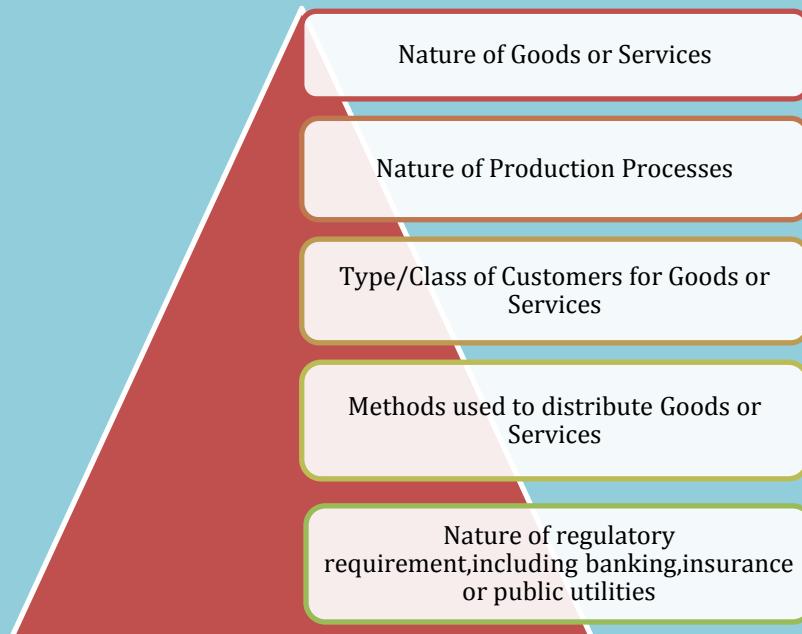
Educational Series

Business Vertical under Goods & Services Tax

After understanding what constitutes to be Business under Goods & Services Tax Regime, it is important to understand what is a Business Vertical. GST gives the option of separate registration for each business vertical.

Section 2(18) defines Business Vertical as a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.

Explanation to the definition elaborates the factors that should be considered in determining whether goods or services are related and includes:



Goods & Services Tax

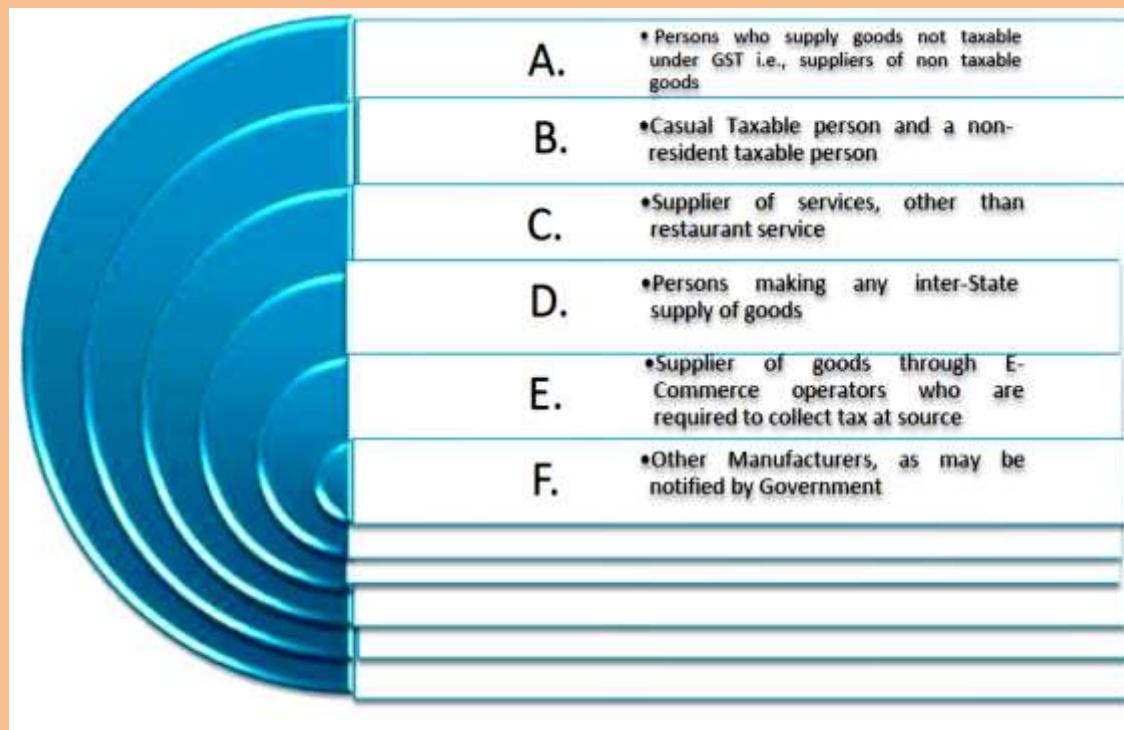
Educational Series

Composition Scheme

The composition scheme under the GST regime is a method of levy of tax designed for small taxpayers whose turnover is up to Rs. 1 Crore (Rs. 75 lakhs in case of States like Sikkim, other North Eastern States and hilly areas except Uttarakhand and Jammu & Kashmir).

It is an optional scheme and not all taxpayers are eligible to opt for this.

The basic eligibility criteria to opt for Composition scheme is to small taxpayers whose aggregate turnover in the **preceding financial year** did not cross Rs. 1 Crore/75 lakhs. Following is a list of persons who cannot avail the Composition Scheme.



Goods & Services Tax

Educational Series

Rates of Tax Under Composition Scheme

Under the composition scheme of GST, which is an optional scheme, the eligible person opting to pay tax under this scheme can pay tax at a prescribed percentage of his turnover every quarter, instead of paying tax at normal rate .

The tax rate which is prescribed for different categories of registered persons under the scheme is as follows:

S. NO.	REGISTERED PERSON	CGST RATE	SGST RATE	TOTAL TAX RATE
1.	Manufacturers (other than manufacturers of goods as may be notified by the Government)	1%	1%	2%
2.	Restaurant Services i.e., suppliers of food/ drink for human consumption (other than alcoholic liquor for human consumption)	2.5%	2.5%	5%
3.	Traders or any other supplier eligible for composition levy	0.5%	0.5%	1%

Goods & Services Tax

Educational Series

Conditions and Restrictions for Composition Levy

Chapter II of Central Goods & Services Tax Rules, 2017 specify Composition Rules which lay down the conditions and restrictions of composition levy. The person exercising the option to pay tax under section 10 shall comply with the following conditions, namely:-

- a. •he is neither a casual taxable person nor a non-resident taxable person
- b. •the goods held in stock by him on the appointed day have not been purchased in the course of inter-State trade or commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State, where the option is exercised under sub-rule (1) of rule 3
- c. •the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under section 9(4)
- d. •he shall pay tax under section 9(3) or 9(4) on inward supply of goods or services or both
- e. •he was not engaged in the manufacture of goods as notified under clause (e) of sub-section (2) of section 10, during the preceding financial year
- f. •he shall mention the words "composition taxable person, not eligible to collect tax on supplies" at the top of the bill of supply issued by him
- g. •he shall mention the words "composition taxable person" on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business

The registered person paying tax under section 10 may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the Act and these rules.

Goods & Services Tax

Educational Series

Forms for Composition Scheme

Chapter II of Central Goods & Services Tax Rules, 2017 specify Composition Rules which lay down the forms to be submitted by a person opting to be a Composition Dealer under Section 10 of the Act. The following is the list of forms specified in relation to a Composition Dealer.

S. No.	Form No.	Description	Due date
1.	GST CMP-01	Intimation to pay tax under section 10 (Only for persons registered under the existing law migrating on the appointed day)	Prior to appointed date or within 30 days of the appointed date
2.	GST CMP-02	Intimation to pay tax under section 10 (For persons registered under the Act)	Prior to commencement of financial year for which the scheme is opted for
3.	GST CMP-03	Intimation of details of stock and inward supplies from unregistered person	Within 90 days of exercise of option
4.	GST CMP-04	Intimation/Application for withdrawal from composition scheme	Within 7 days of occurrence of event
5.	GST CMP-05	Show cause notice on contravention of rules or act by proper officer	On contravention
6.	GST CMP-06	Reply to the notice to show cause	Within 15 days from service of such Notice
7.	GST CMP-07	Order for acceptance / rejection of reply to show cause notice	Within 30 days

Issued vide reference number PD & PP: GST: 63/2017 dated August 29, 2017, updated version.

Goods & Services Tax

Educational Series

Form and Manner of Submission of Quarterly Return by Composition Supplier

Chapter VIII of Central Goods & Services Tax Rules, 2017 deals with Returns under the CGST Act, 2017 and Rule 62 provides for form and manner of submission of quarterly return by the composition supplier.

Return	Time	Details to be furnished
Form GSTR-4A	Quarterly	Auto-populated details of inward supplies made available to the recipient registered under composition scheme on the basis of FORM GSTR-1 furnished by the supplier.
Form GSTR-4	Quarterly (to be submitted on 18 th of the succeeding month)	All outward supplies of goods and services including auto-populated details from Form GSTR-4A and tax payable details. Details of any additions, modifications, or deletions in Form GSTR-4A should also be submitted in Form GSTR-4 .

The return furnished in **FORM GSTR 4** shall include:

- ❖ Invoice wise inter-State and intra-State inward supplies received from registered and un-registered persons
- ❖ consolidated details of outward supplies made

A registered person who has opted to pay tax under section 10 from the beginning of a financial year shall, where required, furnish the details of outward and inward supplies and return under rules 59, 60 and 61 relating to the period during which the person was liable to furnish such details and returns till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier.

Under Notification No. 41/2017-Central Tax, the Commissioner extended the time limit for filing GSTR-4, for July-September, 2017 quarter till 15th day of November, 2017.

Goods & Services Tax

Educational Series

Forms for Goods & Services Tax Practitioner

A Company Secretary is eligible to practice as a GST Practitioner under the GST Law, subject to certain conditions mentioned therein.

The Forms related to GST Practitioners are prescribed in Central Goods & Services Tax Rules, 2017. Rule 83 contains the provisions relating to a Goods and Services Tax Practitioner and prescribes the following forms for a GST Practitioner.

SR. NO.	FORM NO.	DESCRIPTION
1	GST PCT-01	APPLICATION FOR ENROLMENT AS GST PRACTITIONER
2	GST PCT-02	ENROLMENT CERTIFICATE FOR GST PRACTITIONER
3	GST PCT-03	SHOW CAUSE NOTICE FOR DISQUALIFICATION
4	GST PCT-04	ORDER OF REJECTION OF APPLICATION FOR ENROLMENT AS GST PRACTITIONER/OR DISQUALIFICATION TO FUNCTION AS GST PRACTITIONER
5	GST PCT-05	AUTHORISATION / WITHDRAWAL OF AUTHORISATION TO GST PRACTITIONER

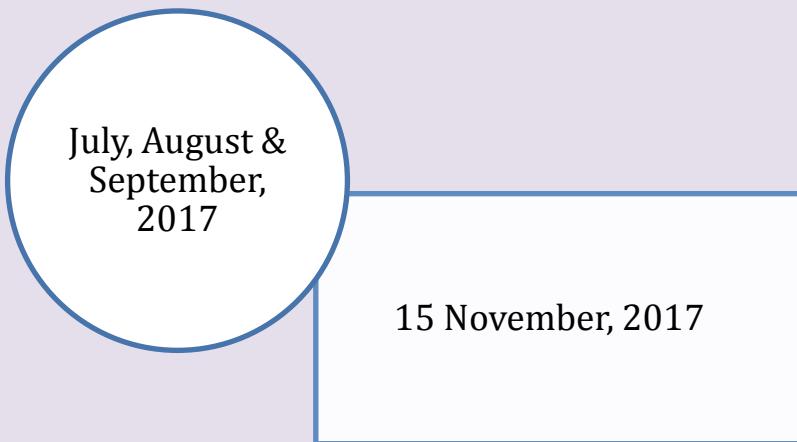
Goods & Services Tax

Educational Series

Returns by Input Service Distributor

Under sub-section (4) of section 39 of the Central Goods & Services Tax Act, 2017 read with rule 65 of the Central Goods and Services Tax Rules, 2017, an Input Service Distributor needs to file the return in **FORM GSTR-6**. The Commissioner extended the time limit for furnishing the return by an Input Service Distributor vide Notification Number 43/2017-Central Tax.

The time period specified is as under:



The Commissioner also extended the time limit for furnishing the return by a **person supplying online information and database access or retrieval services from a place outside India to a non-taxable online recipient (GSTR-5A)** referred to in section 14 of the Integrated Goods and Services Tax Act, 2017 and rule 64 of the Central Goods and Services Tax Rules, 2017, for the months of July, August & September, 2017, vide Notification Number 42/2017-Central Tax till **20th day of November, 2017** with effect from September 15, 2017.

Goods & Services Tax

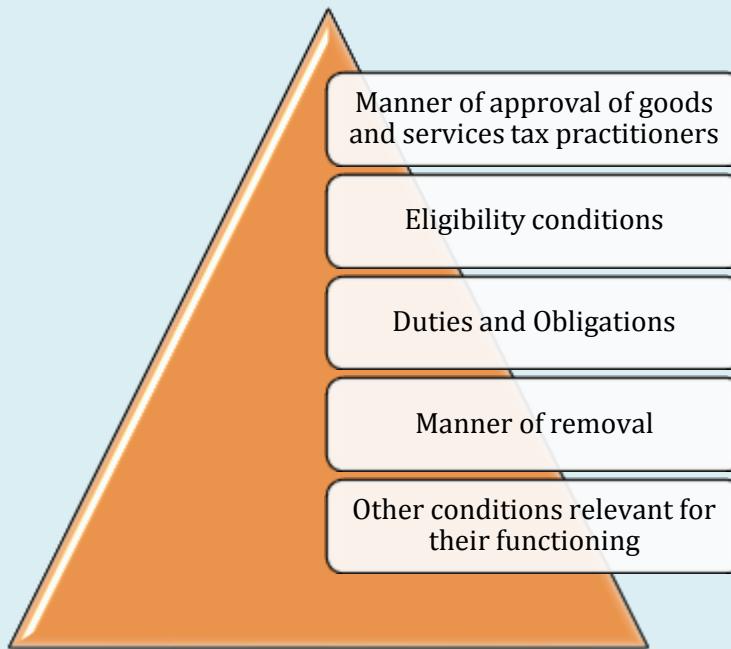
Educational Series

Goods & Services Tax Practitioner

GST Practitioner is a Goods and Services Tax professional under CGST Act, who can prepare returns and perform other activities on the basis of the information furnished to him by a Registered Person.

Definition of GST Practitioner is provided under section 2(55) of CGST Act, 2017. It states that “Goods and Services Tax Practitioner” means any person who has been approved under section 48 to the act as such practitioner. Therefore, it is very clear that Company Secretary to become GST Practitioner need to get an approval under section 48 of the CGST Act 2017 to act as GST Practitioner.

Section 48 (1) of CGST Act, 2017 under Chapter IX read with Rule 83 of Central Goods and Services Tax (CGST) Rules, 2017 deals with:



Goods & Services Tax

Educational Series

Goods & Services Tax Practitioner: Eligibility

A person can apply for GST Practitioner registration under Rule 83(1), if he:



He should also possess any one of the following qualifications or conditions in order to make application as GST Practitioner:

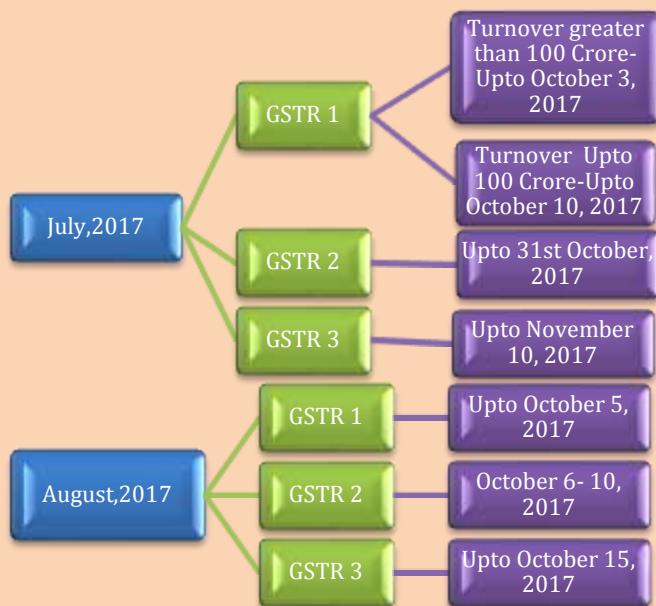
- (a) that he is a **retired officer** of the Commercial Tax Department of any State Government or of the Central Board of Excise and Customs, Department of Revenue, Government of India, who, during his service under the Government, had worked in a post not lower in rank than that of a **Group-B gazetted officer** for a period of **not less than two years**; or
- (b) that he has been enrolled as a **sales tax practitioner** or **tax return preparer** under the **existing law** for a period of not less than **five years**;
- (c) he has passed:
 - (i) a graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian University established by any law for the time being in force; or
 - (ii) a degree examination of any Foreign University recognized by any Indian University as equivalent to the degree examination mentioned in sub-clause (i); or
 - (iii) any other examination notified by the Government, on the recommendation of the Council, for this purpose; or
 - (iv) has passed any of the following examinations, namely:-
 - (a) final examination of the Institute of Chartered Accountants of India ;or
 - (b) final examination of the Institute of Cost Accountants of India; or
 - (c) final examination of the Institute of Company Secretaries of India.

Goods & Services Tax

Educational Series

Extension of Due Dates

The Central Board of Excise and Customs (CBEC) vide **Notification No. 29/2017-Central Tax dated September 5, 2017** notifies that in exercise of the powers conferred by the second proviso to sub-section (1) of section 37, first proviso to sub-section (2) of section 38 and sub-section (6) of section 39 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and in **supersession of Notifications No. 18/2017-Central Tax, dated the 8th August, 2017**, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 994 (E) dated the 8th August, 2017, **No. 19/2017- Central Tax, dated the 8th August, 2017**, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 995 (E), dated the 8th August, 2017 and **No. 20/2017-Central Tax, dated the 8th August, 2017**, published in the Gazette of India, Extraordinary, Part II, Section 3, Subsection (i) vide number G.S.R. 996 (E), dated the 8th August, 2017, the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing the details or return, as the case may be, specified in sub-section (1) of section 37, sub-section (2) of section 38 and sub-section (1) of section 39 of the said Act as under. Also, Notification No. 30/2017-Central Tax superceeds Notification No. 29/2017-Central Tax in respect of July returns:



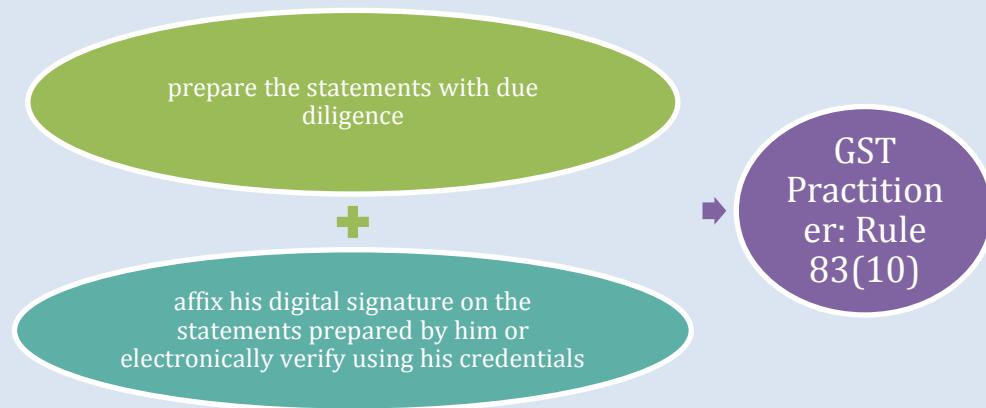
Issued vide reference number PD & PP: GST: 69/2017 dated September 06, 2017, updated version.

Goods & Services Tax

Educational Series

Goods & Services Tax Practitioner- Responsibilities

The Goods and Services Tax Practitioner shall under Rule 83(10) of the GST Act-



Thus although the responsibility for correctness of particulars furnished in return is of the taxable person but it is the duty of the professional to furnish correct return otherwise he may be charged under negligence.

Additional responsibility for Company Secretary as a GST Practitioner:



Goods & Services Tax

Educational Series

Functions of a Goods & Services Tax Practitioner: [Rule 83(8)]

A Goods and Services Tax Practitioner can undertake any or all of the following activities on behalf of a registered person, if so authorized by him to:

furnish the details
of outward and
inward supplies

furnish monthly,
quarterly, annual
or final return

make deposit for
credit into the
electronic cash
ledger

file a claim for
refund

file an application
for amendment or
cancellation of
registration

Rule 83(11) states that a Goods and Services Tax Practitioner enrolled in any other State or Union territory shall be treated as enrolled in the State or Union territory for the purposes specified in sub-rule (8) of Rule 83.

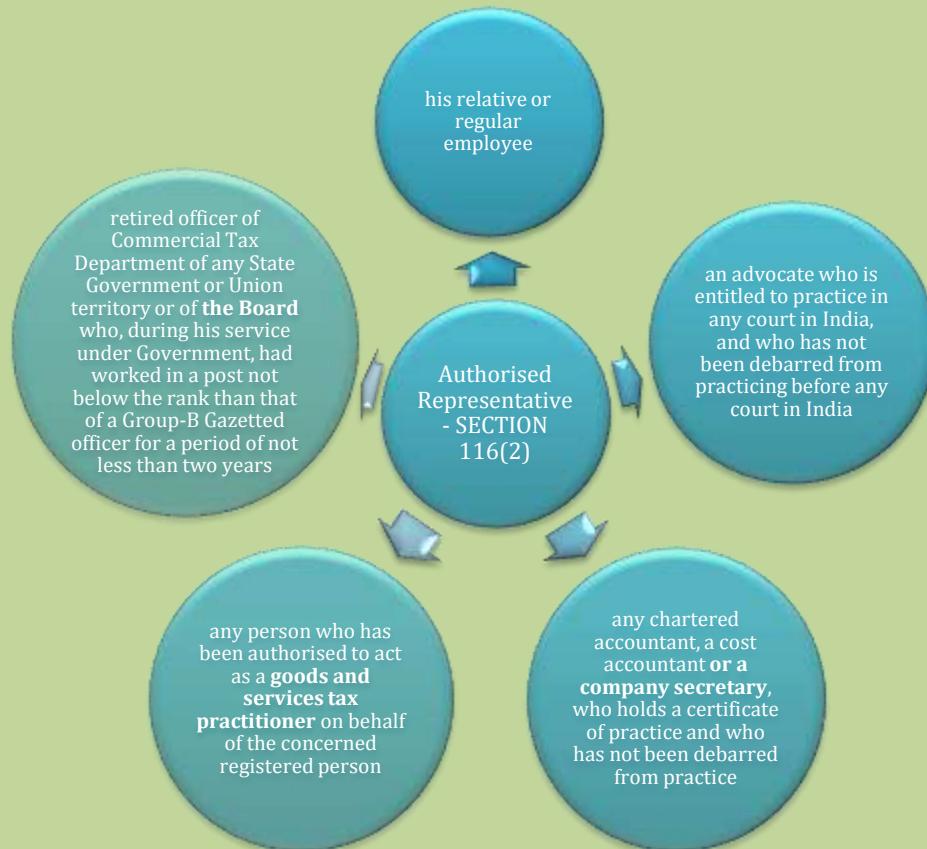
Goods & Services Tax

Educational Series

Company Secretary as an Authorised Representative

Section 2(15) of CGST Act, 2017 lays down that “authorised representative” means the representative as referred to in Section 116 of the CGST Act, 2017.

Section 116(1) of CGST Act provided that any person who is entitled or required to appear before an officer appointed under this Act, or the Appellate Authority or the Appellate Tribunal in connection with any proceedings under this Act, may, otherwise than when required under this Act to appear personally for examination on oath or affirmation, subject to the other provisions of this section, appear by an authorised representative.



Goods & Services Tax

Educational Series

Filing of Returns - Revised

The GST Council, in its 21st meeting held at Hyderabad on 9th September 2017, has recommended the following measures to facilitate taxpayers:

In view of the difficulties being faced by taxpayers in filing returns, the following revised schedule has been approved:

Sl. No.	Details / Return	Tax Period	Revised due date
1	GSTR-1	July, 2017	10-Oct-17
For registered persons with aggregate turnover of more than Rs. 100 crores, the due date shall be 3 rd October 2017			
2	GSTR-2	July, 2017	31-Oct-17
3	GSTR-3	July, 2017	10-Nov-17
4	GSTR-4	July-September, 2017	18-Oct-17 (no change)
Table-4 under GSTR-4 not to be filled for the quarter July-September 2017. Requirement of filing GSTR-4A for this quarter is dispensed with.			
5	GSTR-6	July, 2017	13-Oct-17

- Due dates for filing of the above mentioned returns for subsequent periods shall be notified at a later date
- GSTR-3B will continue to be filed for the months of August to December, 2017
- The due date for submission of FORM GST TRAN-1 has been extended by one month i.e. 31st October, 2017 and the same can be revised once
- The registration for persons liable to deduct tax at source (TDS) and collect tax at source (TCS) will commence from 18th September 2017.

Source: Press Release by Ministry of Finance dated September 9, 2017

Goods & Services Tax

Educational Series

Disqualifications for Authorized Representation

Under Section 116 (3) CGST Act, 2017, the following persons shall be disqualified to act as an authorized representative under this Act:



- Disqualifications under(a), (b) and (c) are all time disqualifications but disqualification under (d) above is for the period during which the insolvency continues.
- Where an authorised representative, **other than those referred to in clause (b) or clause (c) of sub-section(2) of section 116 is found**, upon an enquiry into the matter, guilty of misconduct in connection with any proceedings under the Act, the Commissioner may, after providing him an opportunity of being heard, disqualify him from appearing as an authorised representative.
- Any person who has been disqualified under the provisions of the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act shall be deemed to be disqualified under this Act.

Goods & Services Tax

Educational Series

Assessment under Goods & Services Tax

Assessment means determining tax liability under this CGST Act, 2017 and includes the following type of assessments:



Every registered person is required to self-assess the taxes payable under this Act and furnish a return for each tax period.

A provisional assessment is done when the taxable person is unable to determine the value of goods or services or both or determine the rate of tax applicable thereto, and request the proper officer in writing giving reasons for payment of tax on a provisional basis and the proper officer shall pass an order, within a period not later than 90 days from the date of receipt of such request, allowing payment of tax on provisional basis at such rate or on such value as may be specified by him.

Summary Assessment is done if an officer believes that any delay in assessment can adversely affect the interest of the revenue.

Goods & Services Tax

Educational Series

Export under Goods & Services Tax

As per Section 2(6) of IGST Act, 2017, “Export of Services” means supply of any service when:

i.) the supplier of service is located in India

ii.) the recipient of service is located outside India

iii.) the place of supply of service is outside India

iv.) the payment for such service has been received by the supplier of service in convertible foreign exchange

v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in Section 8

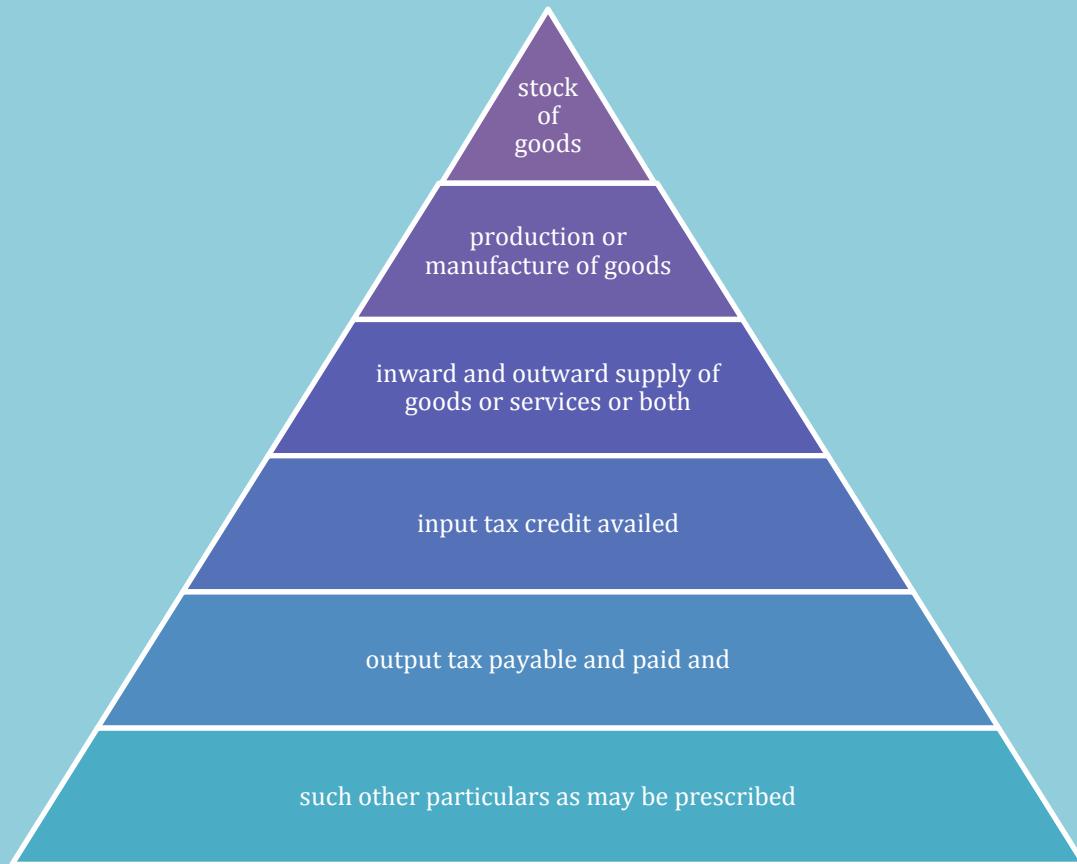
Goods & Services Tax

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Accounts & Records

A registered person is required to maintain proper accounts and records and keep it at his registered principal place of business. If there is more than one place of business specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business.

The GST law provides for accounts to be maintained, as follows:



To facilitate digitisation, there is a facility to maintain accounts and other records in electronic form under GST.

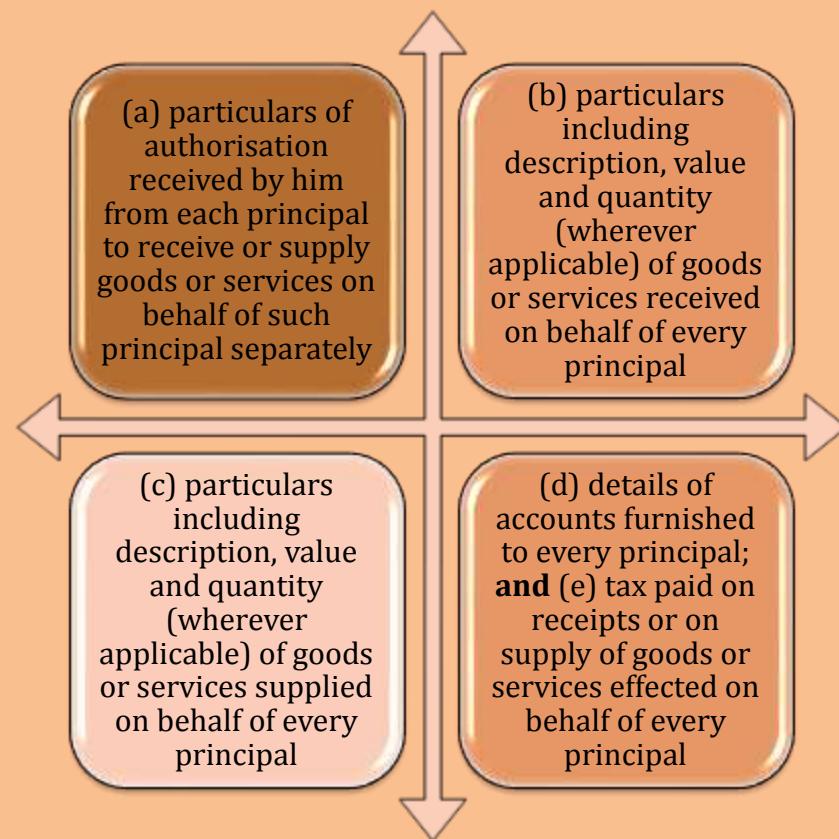
Goods & Services Tax

Educational Series

Accounts & Records - Agent

Section 2(5) to the CGST Act,2017 sums up agent as meaning a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another.

Chapter VII of CGST Rules, 2017 deals with Accounts & Records Rules and Rule 56 specifies the records to be maintained by an agent. Rule 56(11) states that every agent referred to in clause (5) of section 2 shall maintain accounts depicting the following:



Goods & Services Tax

Educational Series

Accounts & Records - Works Contract

Rule 56 of Chapter VII deals with Accounts & Records to be kept by registered persons. Rule 56(14) states that every registered person executing works contract shall keep separate accounts for works contract showing:

Works Contract Accounts

names and addresses of the persons on whose behalf the works contract is executed	description, value and quantity (wherever applicable) of goods or services received for the execution of works contract	description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract	details of payment received in respect of each works contract	the names and addresses of suppliers from whom he received goods or services
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Rule 56(18) provides that every registered person shall, on demand, produce the books of accounts which he is required to maintain under any law for the time being in force.

Goods & Services Tax

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Maintenance of Electronic Records

Rule 56(15) clarifies that records under the provisions of Chapter VII may be maintained in electronic form and the record so maintained shall be authenticated by means of a digital signature and Rule 57 goes on to state the provisions for generation and maintenance of electronic records as under:



Proper electronic back-up of records shall be maintained and preserved in such manner that, in the event of destruction of such records due to accidents or natural causes, the information can be restored within a reasonable period of time



The registered person maintaining electronic records shall produce, on demand, the relevant records or documents, duly authenticated by him, in hard copy or in any electronically readable format



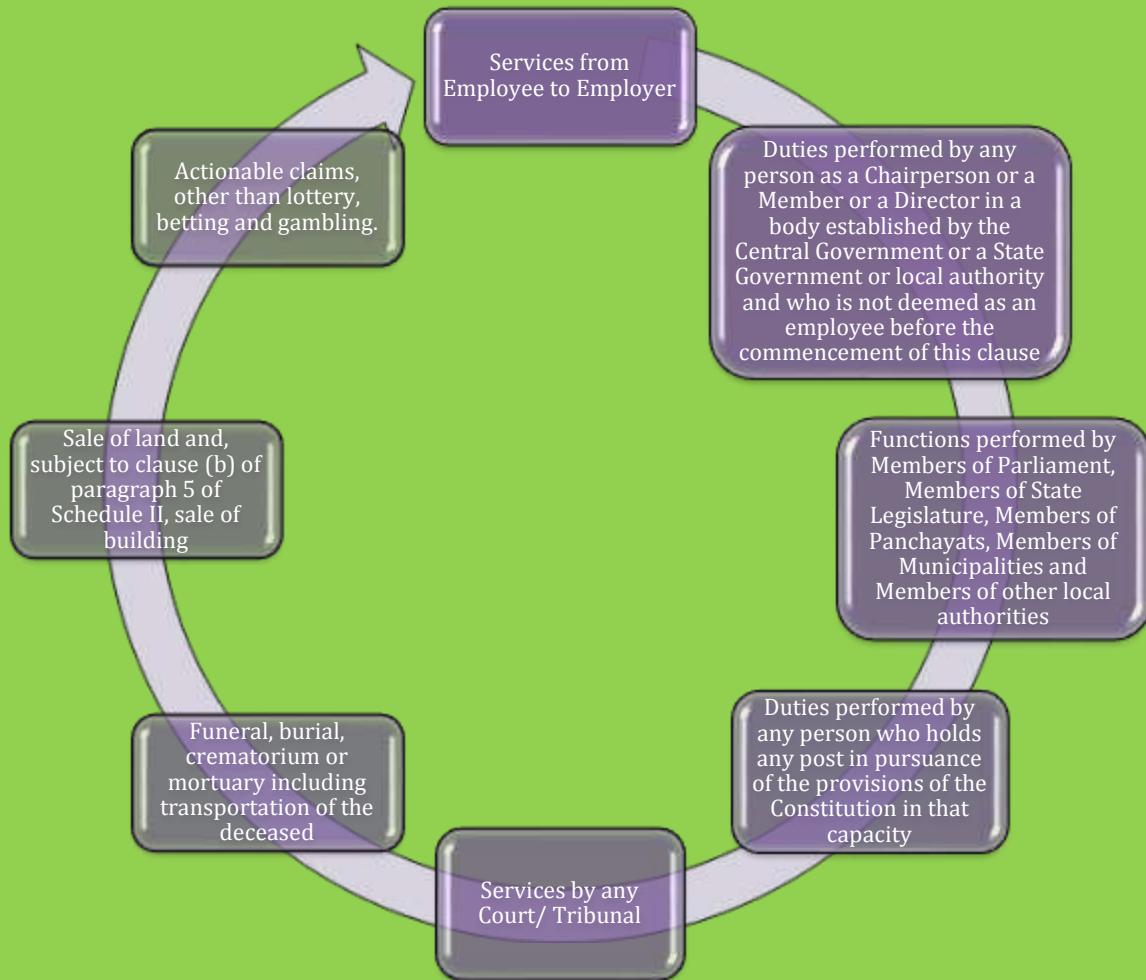
Where the accounts and records are stored electronically by any registered person, he shall, on demand, provide the details of such files, passwords of such files and explanation for codes used, where necessary, for access and any other information which is required for such access along with a sample copy in print form of the information stored in such files

Goods & Services Tax

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Supply-Schedule III

There are a few activities which are specifically not to be considered as Supply. Schedule III to CGST Act, 2017 lists down the following activities which shall neither be treated as supply of goods nor supply of services.



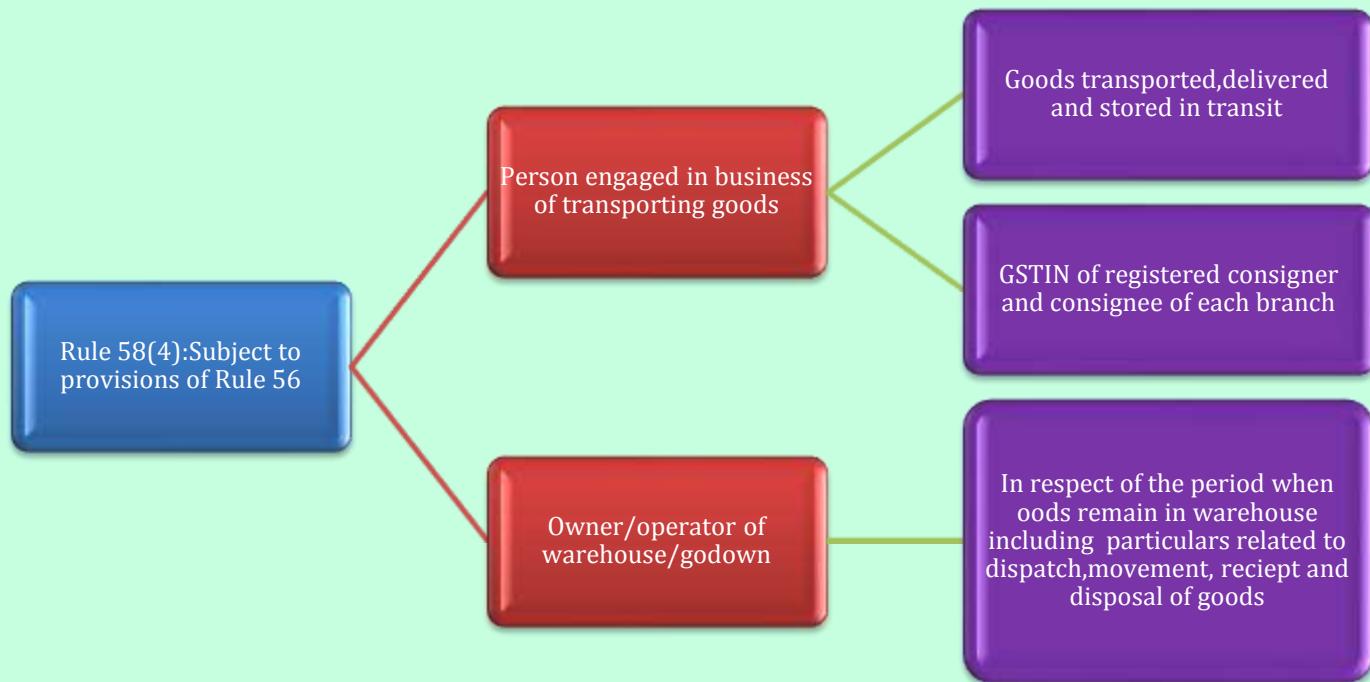
Goods & Services Tax

Educational Series

Accounts & Records-Godown/Warehouse & Transporters

Under the CGST Rules, 2017, Chapter VII deals with accounts and records that are required to be maintained under the GST law. Rule 58 provides for records to be maintained by owner or operator of godown/warehouse and transporters.

The person required to maintain records and accounts in accordance with Section 35(2) of the said Act, shall submit/amend the details of business in **FORM GST ENR-01**. The following details are required to be maintained by the above mentioned persons:



The goods stored should be identifiable item wise and owner wise and shall facilitate physical verification /inspection by proper officer on demand.

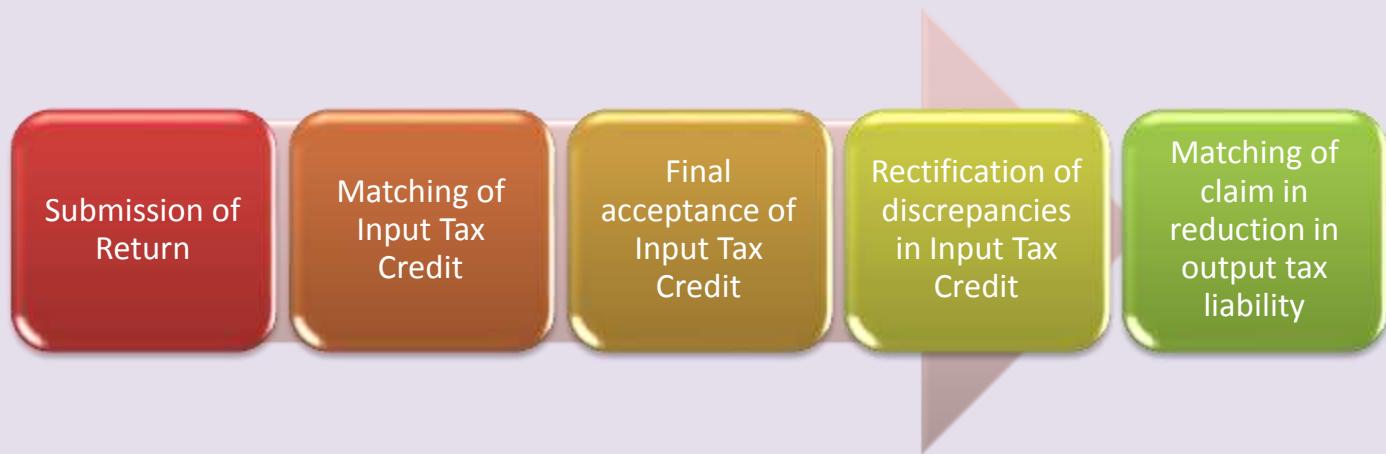
Goods & Services Tax

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Returns under Goods & Services Tax

GST Law introduces many returns in the form of First Return, Monthly Return, TDS Return, Returns for Composition Scheme as well as Input Service Distributor, Annual Return and Final Return. Few businesses will be required to file as many as 37 returns in a year per state. If a business is done from offices in multiple states, the number of returns will go up accordingly.

The entire procedure of filling returns can be divided into 5 parts:



The concept of revised returns is not provided in the GST return rules and accordingly, the businesses would have to avail and re-avail, the mismatched credit by way of credit notes, debit notes, and supplementary invoices. The return rules have prescribed different forms to be filled by a registered person.

Goods & Services Tax

Educational Series

Supplies outside India which do not constitute Export of Goods or Services

The concept of Export of Services is defined under Section 2(6) of IGST Act, 2017. IGST Act, 2017 deals with other concepts like Deemed Exports, High Sea Sales and the like. The following activities are supplies outside India which do not constitute export of Goods or Services:

Supply of service to a person located outside India where place of supply of service is in India

Supply of services where consideration is received in Indian currency or a currency other than convertible currency

Services provided to overseas branch due to specific exclusion in definition of "Export of Service"

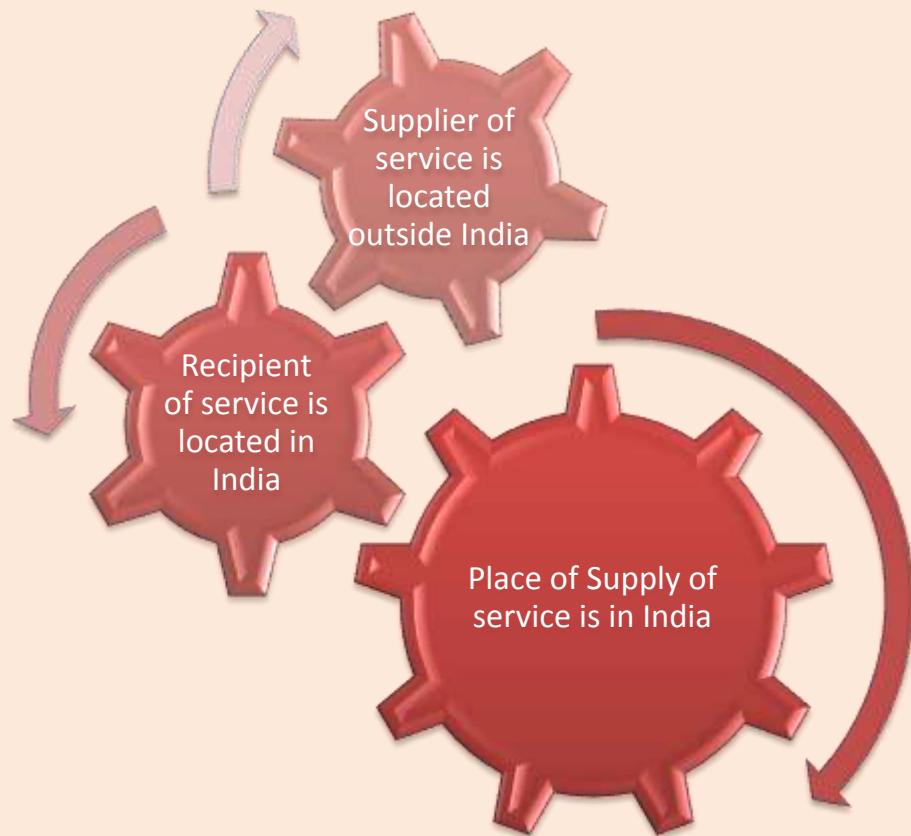
Goods & Services Tax

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Import of Goods & Services

Section 2(10) of IGST Act, 2017 defines **Import of Goods**,with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India.

Section 2(11) of IGST Act, 2017 defines **Import of Services** to mean Supply of any service when:

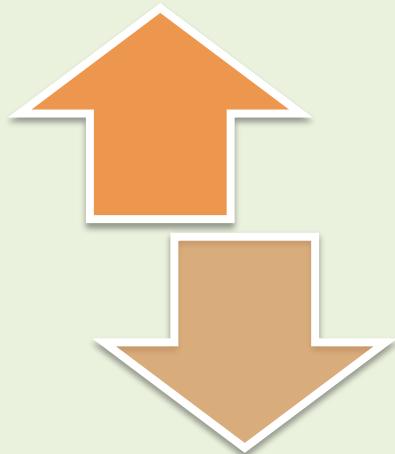


Goods & Services Tax

Educational Series

Zero Rated Supply & Exports

In the GST law, Export of goods & services is treated as:



Inter State supply and covered under IGST Act

Zero Rated Supply

Zero Rated Supply has been defined under sub section 16(1) of the IGST Act, 2017 as any of the following supplies of goods or services or both namely:



export of goods or services or both



supply of goods or services or both to a SEZ developer or a SEZ unit

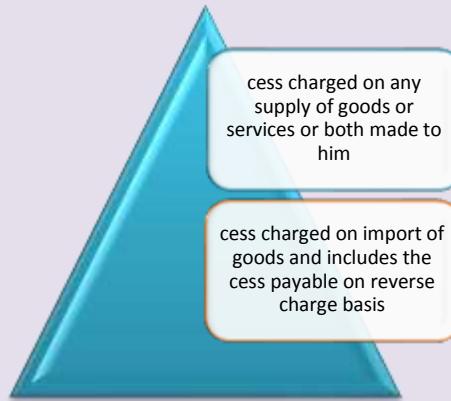
Goods & Services Tax

Educational Series

Important Terms Underthe Goods & Services Tax (Compensation to States) Act, 2017

Few key terms under the GST (Compensation to States) Act, 2017, as established under Section 2(1) of the said Act, may be understood before delving into the Act:

- a) **"Central Tax"** means the central goods and services tax levied and collected under the Central Goods and Services Tax Act
- b) **"Central Goods and Services Tax Act"** means the Central Goods and Services Tax Act, 2017
- c) **"Cess"** means the goods and services tax compensation cess levied under section 8
- d) **"Compensation"** means an amount, in the form of goods and services tax compensation, as determined under Section 7
- e) **"Council"** means the Goods and Services Tax Council constituted under the provisions of article 279A of the Constitution
- f) **"Fund"** means the Goods and Services Tax Compensation Fund referred to in section 10
- g) **"Input tax"** in relation to a taxable person, means:



- h) **"Integrated Goods and Services Tax Act"** means the Integrated Goods and Services Tax Act, 2017
- i) **"Integrated tax"** means the integrated goods and services tax levied and collected under the Integrated Goods and Services Tax Act
- j) **"Prescribed"** means prescribed by rules made, on the recommendations of the Council, under this Act

Goods & Services Tax

Educational Series

Important Terms under the Goods & Services Tax (Compensation to States) Act, 2017

In continuation, few other key terms under the GST (Compensation to States) Act, 2017, as established under Section 2(1) of the said Act are as under:

- (k) "**Projected growth rate**" means the rate of growth projected for the transition period as per Section 3
- (l) "**Schedule**" means the Schedule appended to this Act
- (m) "**State**" means:

for the purposes of sections 3, 4, 5, 6 and 7 the States as defined under the Central Goods and Services Tax Act;

for the purposes of sections 8, 9, 10, 11, 12, 13 and 14 the States as defined under the Central Goods and Services Tax Act and the Union territories as defined under the Union Territories Goods and Services Tax Act

- (n) "**State tax**" means the State goods and services tax levied and collected under the respective State Goods and Services Tax Act
- (o) "**State Goods and Services Tax Act**" means the law to be made by the State Legislature for levy and collection of tax by the concerned State on supply of goods or services or both
- (p) "**Taxable supply**" means a supply of goods or services or both which is chargeable to the cess under this Act
- (q) "**Transition date**" shall mean, in respect of any State, the date on which the State Goods and Services Tax Act of the concerned State comes into force
- (r) "**Transition period**" means a period of five years from the transition date
- (s) "**Union Territories Goods and Services Tax Act**" means the Union Territories Goods and Services Tax Act, 2017.

Goods & Services Tax

Educational Series

Refund under Goods & Services Tax

According to section 54 of the CGST Act, 2017, any person claiming refund of tax and interest, if any, paid on such tax or any other amount paid by him, may make an application **before the expiry of two years from the relevant date**. If there is any balance in the electronic cash ledger, he may claim such refund in the return furnished under section 39.

Nature of Refund	Mode of claiming
Balance in the electronic cash ledger	Claim such refund in the return under section 39
Balance in the electronic credit ledger	Claim such refund by an application within 2 years
Refund claimed by UNO Agencies, Embassies etc.	By application before the expiry of six months from the last day of the quarter in which such supply was received.

A specialised agency of the United Nations Organisation or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries or any other person or class of persons, as notified under section 55, entitled to a refund of tax paid by it on inward supplies of goods or services or both, may make an application for such refund, in such form and manner as may be prescribed, **before the expiry of six months from the last day of the quarter in which such supply was received**.

Goods & Services Tax

Educational Series

Recommendations made by the Goods & Services Tax Council in its 22nd Meeting held on October 06, 2017

A. Composition Scheme

- ❖ The composition scheme shall be made available to taxpayers having annual aggregate turnover of up to Rs. 1 crore as compared to the current turnover threshold of Rs. 75 lacs
- ❖ This threshold of turnover for special category States, except Jammu & Kashmir and Uttarakhand, shall be increased to Rs. 75 lacs from Rs. 50 lacs
- ❖ The turnover threshold for Jammu & Kashmir and Uttarakhand shall be Rs. 1 crore
- ❖ The facility of availing composition under the increased threshold shall be available to both migrated and new taxpayers up to 31.03.2018
- ❖ New entrants to this scheme shall have to file the return in FORM GSTR-4 only for that portion of the quarter from when the scheme becomes operational and shall file returns as a normal taxpayer for the preceding tax period
- ❖ Persons who are otherwise eligible for composition scheme but are providing any exempt service (such as extending deposits to banks for which interest is being received) which were being considered ineligible for the said scheme shall now be eligible for the composition scheme

B. Relief for Small and Medium Enterprises

- ❖ Presently, anyone making inter-state taxable supplies, except inter-State job worker, is compulsorily required to register, irrespective of turnover but it has now been decided to exempt those service providers whose annual aggregate turnover is less than Rs. 20 lacs (Rs. 10 lacs in special category states except J & K) from obtaining registration even if they are making inter-State taxable supplies of services
- ❖ To facilitate the ease of payment and return filing for small and medium businesses with annual aggregate turnover up to Rs. 1.5 crores, it has been decided that such taxpayers shall be required to file quarterly returns in FORM GSTR-1, 2 & 3 and pay taxes only on a quarterly basis, starting from the Third Quarter of this Financial Year i.e. October-December, 2017.

Source: Press Release by CBEC dated October 6, 2017

Issued vide reference number PD & PP: GST: 90/2017 dated October 09, 2017.

Goods & Services Tax

Educational Series

Recommendations made by the GST Council in its 22nd Meeting held on October 6, 2017

A. Relief for Small and Medium Enterprises

- ❖ The registered buyers from such small taxpayers would be eligible to avail ITC on a monthly basis. The due dates for filing the quarterly returns for such taxpayers shall be announced in due course
- ❖ Meanwhile, all taxpayers will be required to file FORM GSTR- 3B on a monthly basis till December, 2017
- ❖ All taxpayers are also required to file FORM GSTR-1, 2 & 3 for the months of July, August and September, 2017
- ❖ Due dates for filing the returns for the month of July, 2017 have already been announced. The due dates for the months of August and September, 2017 will be announced in due course
- ❖ The reverse charge mechanism under sub-section (4) of section 9 of the CGST Act, 2017 and under sub-section (4) of section 5 of the IGST Act, 2017 shall be suspended till 31.03.2018 and will be reviewed by a committee of experts
- ❖ It has been decided that taxpayers having annual aggregate turnover up to Rs. 1.5 crores shall not be required to pay GST at the time of receipt of advances on account of supply of goods
- ❖ The services provided by a GTA to an unregistered person shall be exempted from GST

B. Other Facilitation Measures

- ❖ Registration and operationalization of TDS/TCS provisions shall be postponed till 31.03.2018
- ❖ The e-way bill system shall be introduced in a staggered manner with effect from 01.01.2018 and shall be rolled out nationwide with effect from 01.04.2018
- ❖ The last date for filing the return in FORM GSTR-4 by a taxpayer under composition scheme for the quarter July-September, 2017 shall be extended to 15.11.2017
- ❖ Also, the last date for filing the return in FORM GSTR-6 by an input service distributor for the months of July, August and September, 2017 shall be extended to 15.11.2017
- ❖ Invoice Rules are being modified to provide relief to certain classes of registered persons.

Source: Press Release by CBEC dated October 6, 2017

Issued vide reference number PD & PP: GST: 91/2017 dated October 10, 2017.

Goods & Services Tax

Educational Series

Refund of Unutilised Input Tax Credit under Goods & Services Tax

Section 54(3) of CGST Act, 2017 states that, subject to the provisions of section 54(10), a registered person may claim refund of any unutilised input tax credit at the end of any tax period.

Refund of unutilized input tax credit is allowed in following cases (first proviso)

zero rated supplies made without payment of tax or

where the credit has accumulated on account of rate of tax on inputs being higher than the rate of tax on output supplies other than nil rated or fully exempt supplies, except supplies of goods or services or both as may be notified by the Government on the recommendations of the Council

Refund not allowed (second and third proviso)

goods exported out of India are subjected to export duty

if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

The refund application shall be accompanied by:

- Documentary evidence to establish that a refund is due to the applicant
- evidence to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund was collected from, or paid by, him and the incidence of such tax and interest had not been passed on to any other person.

However, amount claimed as refund is less than two lakh rupees, it shall not be necessary for the applicant to furnish any documentary and other evidences but he may file a declaration, based on the documentary or other evidences available with him, certifying that the incidence of such tax and interest had not been passed on to any other person.

After receipt of the application/declaration, on satisfaction of the proper officer, he may make an order within **sixty days** from the date of receipt of application and the amount so determined shall be credited to the Consumer Welfare Fund.

Goods & Services Tax

Educational Series

Power to make Rules under Goods & Services Tax (Compensation to States) Act, 2017

Section 12 of the GST (Compensation to States) Act lays down that the Central Government shall, on the recommendations of the Council, by notification in the Official Gazette, make rules for carrying out the provisions of this Act.

In particular, and without prejudice to the generality of the foregoing power, such rules may provide for all or any of the following matters, namely:

conditions which were included in the total base year revenue of the States, referred to in sub-clause (g) of clause (4) of article 279A of the Constitution, under sub-section (3) of section 5

the conditions subject to which any part of revenues not credited in the Consolidated Fund of the respective State shall be included in the total base year revenue of the State, under sub-section (6) of section 5

the manner of refund of compensation by the States to the Central Government under sub-section (6) of section 7

the manner of levy and collection of cess and the period of its imposition under sub-section (1) of section 8

the manner and forms for payment of cess, furnishing of returns and refund of cess under sub-section (1) of section 9

any other matter which is to be, or may be, prescribed, or in respect of which provision is to be made, by rules

Goods & Services Tax

Educational Series

Levy and Collection of CESS under Goods & Services Tax (Compensation to States) Act, 2017

Section 8 of GST (Compensation to States) Act, 2017 forms the basis for levy and collection of cess which will be levied on for the purposes of providing compensation to the States for loss of revenue arising on account of implementation of the goods and services tax with effect from the date from which the provisions of the Central Goods and Services Tax Act were brought into force. The cess is levied on:

- ❖ such intra-State supplies of goods or services or both, as provided for in section 9 of the Central Goods and Services Tax Act, and
- ❖ such inter State supplies of goods or services or both as provided for in section 5 of the Integrated Goods and Services Tax Act.

The same shall be collected in such manner as may be prescribed, on the recommendations of the Council, for a period of five years.

However, no such cess shall be leviable on supplies made by a taxable person who has decided to opt for composition levy under section 10 of the Central Goods and Services Tax Act.

The cess shall be levied on such supplies of goods and services as are specified in Schedule to the Act.

Where the cess is chargeable on any supply of goods or services or both with reference to their value, for each such supply the value shall be determined under section 15 of the Central Goods and Services Tax Act for all intra-State and inter-State supplies of goods or services or both

Cess on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975, at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962, on a value determined under the Customs Tariff Act, 1975.

Goods & Services Tax

Educational Series

Schedule to GST (Compensation to States) Act, 2017

Reference to a "tariff item", "heading", "sub-heading" and "Chapter", shall mean respectively a tariff item, heading, sub-heading and Chapter in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975) in the Schedule to GST (Compensation to States) Act, 2017.

The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), the section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this Schedule.

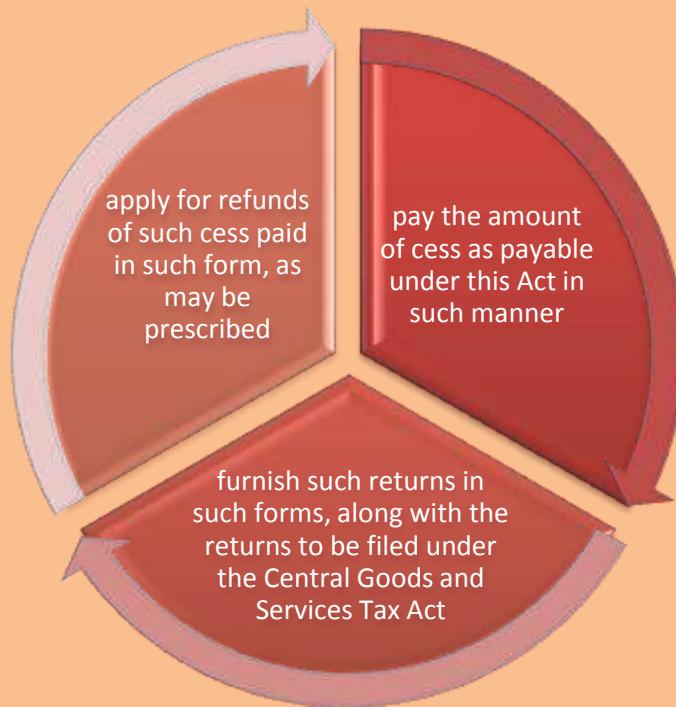
S.No.	Description of Supply of Goods/ Services	Tariff item, heading, sub-heading, Chapter, or supply of goods or compensation cess may be services, as the case collected may be	Maximum rate at which GST compensation cess may be collected
1.	Pan Masala	2106 90 20	One hundred and thirty-five per cent ad valorem.
2.	Tobacco and manufactured tobacco substitutes, including tobacco products	24	Four thousand one hundred and seventy rupees per thousand sticks or two hundred and ninety per cent ad valorem or a combination thereof, but not exceeding four thousand one hundred and seventy rupees per thousand sticks plus two hundred and ninety per cent ad valorem.
3.	Coal, briquettes, ovoids and similar solid fuels manufactured from coal, lignite, whether or not agglomerated, excluding jet, peat (including peat litter), whether or not agglomerated	2701, 2702 or 2703	Four hundred rupees per tonne.
4.	Aerated waters	2202 10 10	Fifteen per cent ad valorem.
5.	Motor cars and other motor vehicles principally designed for the transport of persons (other than motor vehicles for the transport of ten or more persons, including the driver), including station wagons and racing cars	8703	Fifteen per cent ad valorem.
6.	Any other supplies		Fifteen per cent ad valorem.

Goods & Services Tax

Educational Series

Returns, Payments & Refunds : Goods & Services Tax (Compensation to States) Act, 2017

Section 9 to GST (Compensation to States) Act, 2017 deals with Returns, Payments and Refunds under the said Act wherein every taxable person, making a taxable supply of goods or services or both, shall—



For all purposes of furnishing of returns and claiming refunds, except for the form to be filed, the provisions of the Central Goods and Services Tax Act and the rules made thereunder, shall, as far as may be, apply in relation to the levy and collection of the cess leviable under section 8 on all taxable supplies of goods or services or both, as they apply in relation to the levy and collection of central tax on such supplies under the said Act or the rules made thereunder.

Goods & Services Tax

Educational Series

Goods & Services Tax Compensation Fund

The proceeds of the cess leviable under section 8 of GST (Compensation to States) Act, 2017 and such other amounts as may be recommended by the Council, shall be credited to a non-lapsable Fund known as the Goods and Services Tax Compensation Fund, which shall form part of the public account of India and shall be utilised for purposes specified in the said section. Few key points to be noted in relation are as follows:

All amounts payable to the States under section 7 shall be paid out of the Fund

50% of unutilised amount in Fund at end of transition period shall be transferred to CFI as share of Centre, and balance 50% shall be distributed amongst States in ratio of their total revenues from the State tax or UTGST, as the case may be, in last year of the transition period

Accounts relating to Fund shall be audited by the Comptroller and Auditor-General of India or any person appointed by him at such intervals as may be specified by him and any expenditure in connection with such audit shall be payable by the Central Government to the Comptroller and Auditor-General of India

Accounts of the Fund, as certified by the Comptroller and Auditor-General of India or any other person appointed by him in this behalf together with the audit report thereon shall be laid before each House of Parliament.

Goods & Services Tax

Educational Series

Miscellaneous Provisions under Goods & Services Tax (Compensation to States) Act, 2017

Few miscellaneous provisions contained in Section 11, Section 13 and Section 14 of GST (Compensation to States) Act, 2017 which are as under:

Section 11 contains the provisions related to Cess and includes:

The provisions of the Central Goods and Services Tax Act, and the rules made thereunder, including those relating to assessment, input tax credit, non-levy, short-levy, interest, appeals, offences and penalties, shall, as far as may be, mutatis mutandis, apply, in relation to the levy and collection of the cess leviable under section 8 on the intra-State supply of goods and services, as they apply in relation to the levy and collection of central tax on such intra-State supplies under the said Act or the rules made thereunder. Similarly, the provisions of the Integrated Goods and Services Tax Act, shall, mutatis mutandis, apply in relation to the levy and collection of the cess leviable under section 8 on the inter-State supply of goods and services.

However, the input tax credit in respect of cess on supply of goods and services leviable under section 8, shall be utilised only towards payment of said cess on supply of goods and services leviable under the said section.

Section 13 specifies that every rule made under this Act by the Central Government shall be laid, as soon as may be after it is made, before each House of Parliament, while it is in session, for a **total period of thirty days** which may be comprised in one session or in two or more successive sessions, and if, before the expiry of the session immediately following the session or the successive sessions aforesaid, both Houses agree in making any modification in the rule or both Houses agree that the rule should not be made, the rule shall thereafter have effect only in such modified form or be of no effect, as the case may be; so, however, that any such modification or annulment shall be without prejudice to the validity of anything previously done under that rule

Section 14 provides that if any difficulty arises in giving effect to the provisions of this Act, the Central Government may, on the recommendations of the Council, by order published in the Official Gazette, make such provisions, not inconsistent with the provisions of this Act, as appear to it to be necessary or expedient for removing the difficulty

However, no order shall be made under this section after the **expiry of three years** from the commencement of this Act and every order made under this section shall, as soon as may be after it is made, be laid before each House of Parliament.

Goods & Services Tax

Educational Series

Anti Profiteering Authority

Rule 127 of CGST Rules, 2017 specifies the duties which are to be carried out by the Anti Profiteering Committee as constituted under the GST Laws, which are as under:

to determine whether any reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit has been passed on to the recipient by way of commensurate reduction in prices

to identify the registered person who has not passed on the benefit of reduction in the rate of tax on supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices

to order
•reduction in prices
•return to the recipient, the reduction in amount along with interest at the rate of 18% from date of collection of the higher amount till the date of the return of such amount or recovery of the amount not returned
•imposition of penalty as specified in the Act
•cancellation of registration under the Act

to furnish a performance report to the Council by the tenth of the close of each quarter



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Goods & Services Tax

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Issue 100

Goods & Services Tax in India

- It has been 17 years since GST was first conceptualized in India, from as early as the year 2000.
- Presently, there are around 160 countries that have implemented the GST or VAT in some form or the other.
- Globally, the standard GST rate varies from 1.5% in Aruba to 27% in Hungary.
- India's GST rates are one amongst the highest in the world.
- The power to levy existing indirect taxes was removed from the Constitution on September 16, 2016.
- The Constitution of India has been amended to insert articles empowering the government of India to levy GST. Before the introduction of said amendment, there was no concurrent power of taxation between the States and Centre.
- For the nationwide implementation of GST, 33 GST Acts were required :

Particulars	Number of Acts
Central GST Act	1
Integrated GST Act	1
State GST Acts:	
States	29
Union Territories	2
Total	33

- States will be compensated for 5 years for loss arising due to implementation of GST.
- Alcoholic liquor for human consumption has been kept outside the scope of GST. However, State excise duties and VAT will still be applicable on alcoholic liquor for human consumption.
- Tobacco shall be leviable to existing taxes as well as GST.

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