



Newsletter

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GST



**THE INSTITUTE OF
Company Secretaries of India**

भारतीय कम्पनी सचिव संस्थान

IN PURSUIT OF PROFESSIONAL EXCELLENCE

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GST COLLECTION UPDATES

Posting a growth rate of 12% Y-o-Y, ₹14.97 lakh crore gross GST collection during April-December 2023 period

Gross GST collection averages ₹1.66 lakh crore in first 9 months of FY24

₹1,64,882 crore gross GST revenue collection for December, 2023



During the April-December 2023 period, gross GST collection witnessed a robust 12% y-o-y growth, reaching ₹14.97 lakh crore, as against ₹13.40 lakh crore collected in the same period of the previous year (April-December 2022).

The average monthly gross GST collection of ₹1.66 lakh crore in the first 9-month period this year represents a 12% increase compared to the ₹1.49 lakh crore average recorded in the corresponding period of FY23.

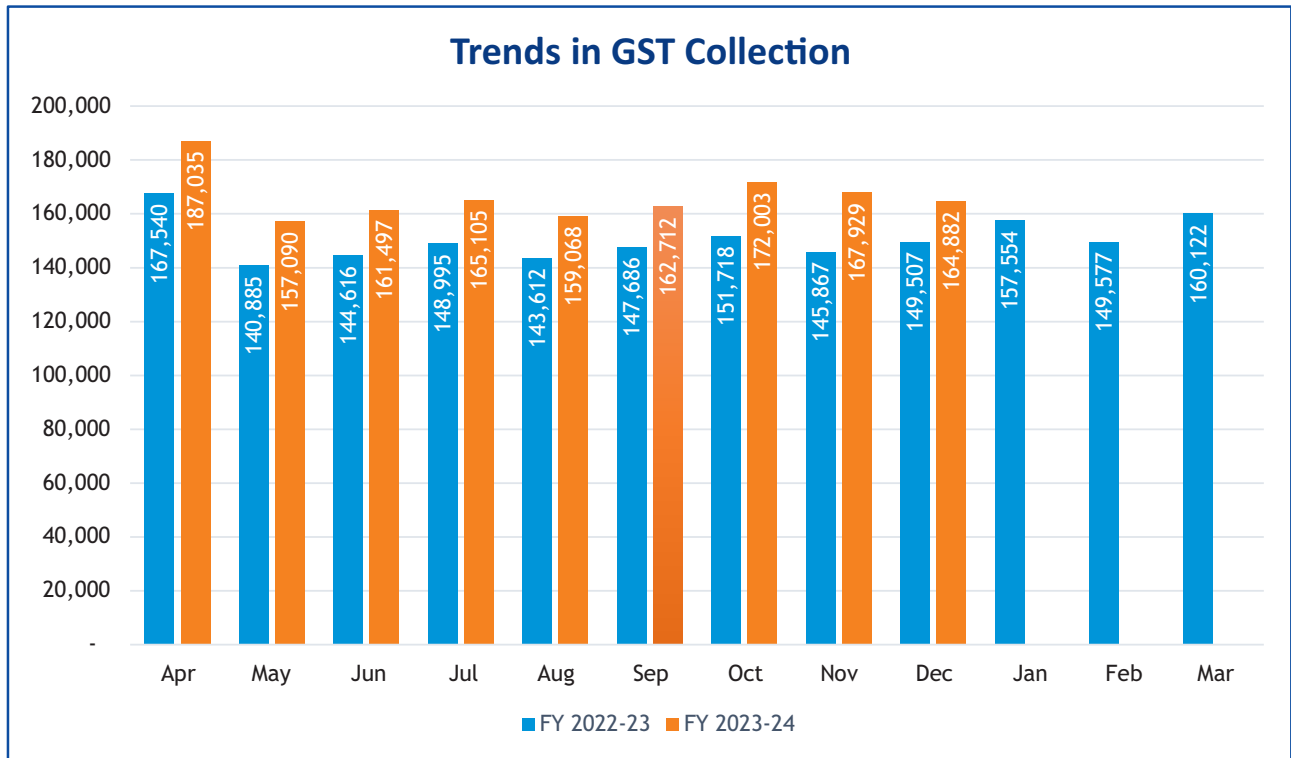
The gross GST revenue collected in the month of December, 2023 is ₹1,64,882 crore out of which CGST is ₹30,443 crore, SGST is ₹37,935 crore, IGST is ₹84,255 crore (including ₹41,534 crore collected on import of goods) and cess is ₹12,249 crore (including ₹1,079 crore collected on import of goods). Notably, this marks the seventh month so far this year with collections exceeding ₹1.60 lakh crore.

The government has settled ₹40,057 crore to CGST and ₹33,652 crore to SGST from IGST. The total revenue of Centre and the States in the month of December, 2023 after regular settlement is ₹70,501 crore for CGST and ₹71,587 crore for the SGST.

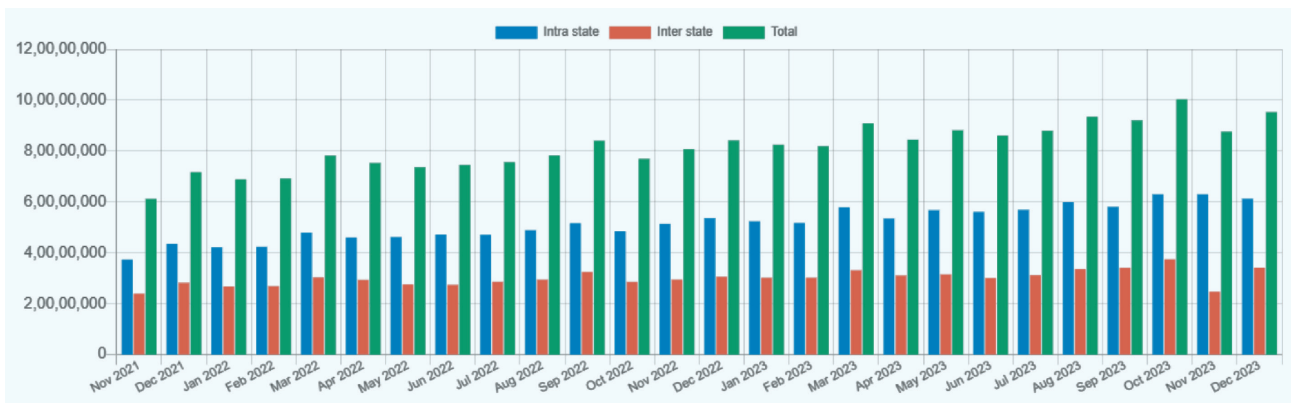
The revenues for the month of December, 2023 are 10.3% higher than the GST revenues in the same month last year. During the month, the revenues from domestic transactions (including import of services) are 13% higher than the revenues from these sources during the same month last year.

The chart below shows trends in monthly gross GST revenues during the current financial year.

Chart: Gross GST Collection (₹ crore)



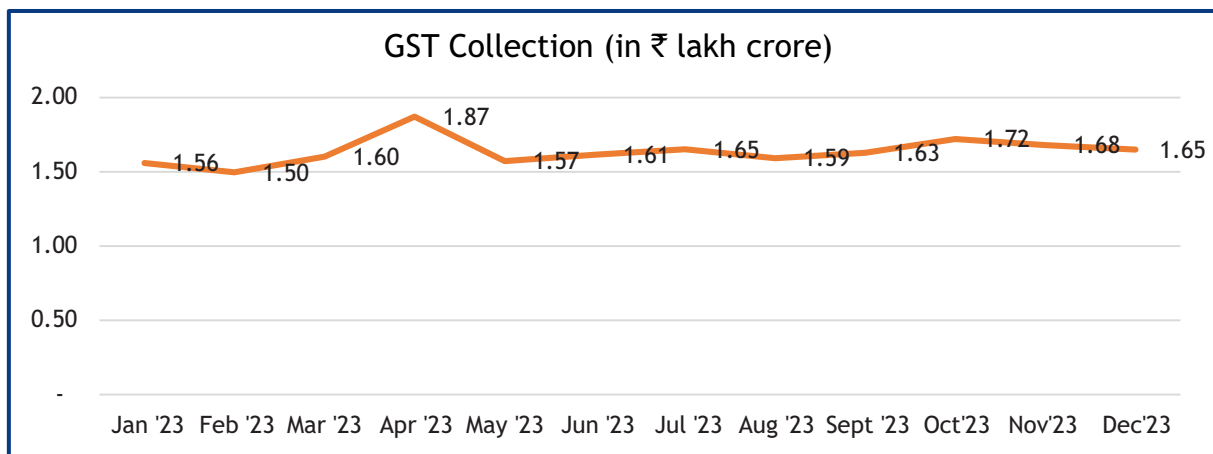
Source: <https://pib.gov.in/PressReleaseDetail.aspx?PRID=1992123#>



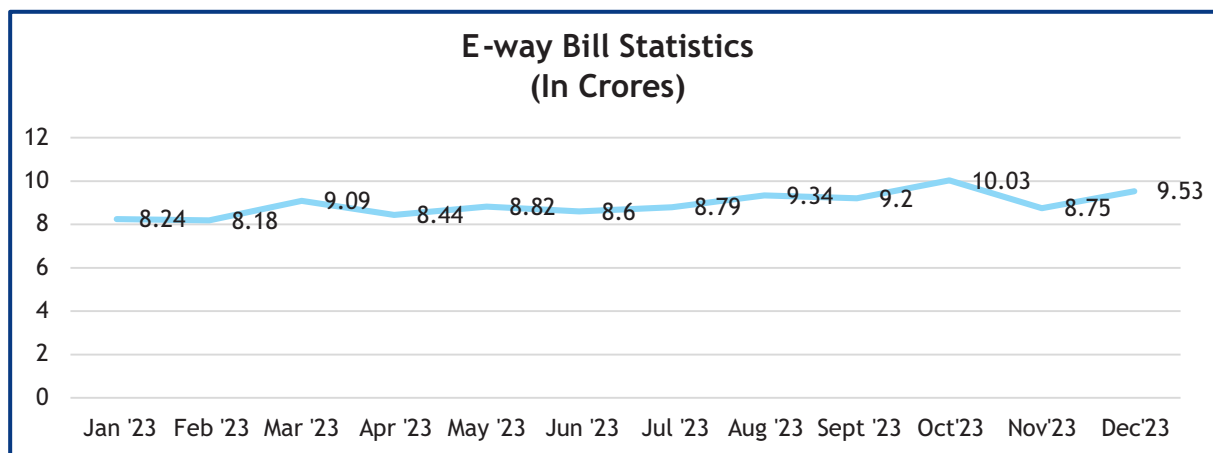
Source: <https://gstn.org.in/>

TRENDS IN GST COLLECTION AND E-WAY BILLS GENERATED

GST COLLECTION



E-WAY BILL STATISTICS



Note: The revenue collections in the current month pertains to the transactions conducted in the previous month. For example: Revenue collections for the month of Jan'24 (as per PIB release) reflects the transactions conducted in Dec'23. Therefore, in the above charts e-way bills generated in Dec'23 is shown corresponding to the GST Revenue collection for Jan'24 and so on.

SUMMARY OF NOTIFICATIONS

CENTRAL TAX NOTIFICATIONS

NOTIFICATION NO. 55/2023- CENTRAL TAX DATED 20TH DECEMBER, 2023

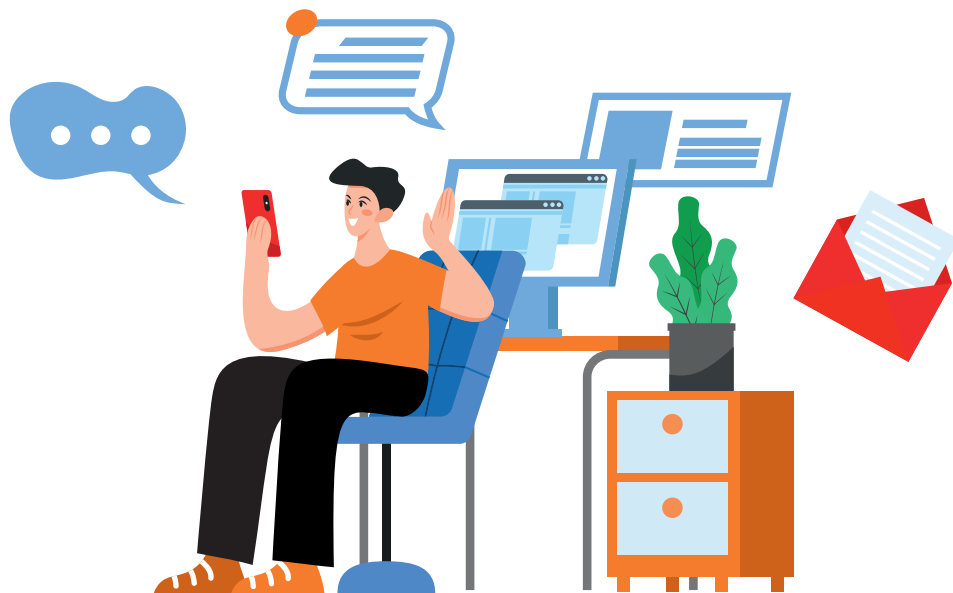
This Notification is for the Extension of due date for filing of return in FORM GSTR-3B for the month of November, 2023, till the twenty-seventh day of December, 2023, for the registered persons whose principal place of business is in the districts of Chennai, Tiruvallur, Chengalpattu and Kancheepuram in the state of Tamil Nadu and are required to furnish return under sub-section (1) of section 39 read with clause (i) of sub-rule (1) of rule 61 of the Central Goods and Services Tax Rules, 2017.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1009957/ENG/Notifications>

NOTIFICATION NO. 56/2023- CENTRAL TAX DATED 28TH DECEMBER, 2023

This Notification seeks to extend dates of specified compliances in exercise of powers under section 168A of CGST Act.

Source: <https://taxinformation.cbic.gov.in/view-pdf/1009964/ENG/Notifications>



INSTRUCTIONS & GUIDELINES

Judgment of the Honourable Supreme Court in the case of Northern Operating Systems Private Limited (NOS).

The CBIC vide Instruction No. 05/2023-GST dated 13th December, 2023 has issued Judgment of the Honourable Supreme Court in the case of Northern Operating Systems Private Limited (NOS).

1. Representations have been received in the Board that, subsequent to the aforesaid judgment, many field formations have initiated proceedings for the alleged evasion of GST on the issue of secondment under section 74(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as the 'CGST Act').
2. The matter has been examined by the Board. It appears that the Hon'ble Supreme Court in its judgment inter-alia took note of the various facts of the case like the agreement between NOS and overseas group companies, and held that the secondment of employees by the overseas group company to NOS was a taxable service of 'manpower supply' and Service Tax was applicable on the same. It is noted that secondment as a practice is not restricted to Service Tax and issue of taxability on secondment shall arise in GST also. A careful reading of the NOS judgment indicates that Hon'ble Supreme Court's emphasis is on a nuanced examination based on the unique characteristics of each specific arrangement, rather than relying on any singular test.

Hon'ble Supreme Court in the case of Commissioner of Central Excise, Mumbai Versus M/s Fiat India (P) Ltd in Civil Appeal 1648-49 of 2004 has given the following observation-

"66. Each case depends on its own facts and a close similarity between one case and another is not enough because either a single significant detail may alter the entire aspect. In deciding such cases, one should avoid the temptation to decide cases (as said by Cardozo) by matching the colour of one case against the colour of another. To decide, therefore, on which side of the line a case falls, the broad resemblance to another case is not at all decisive."

It may be relevant to note that there may be multiple types of arrangements in relation to secondment of employees of overseas group company in the Indian entity. In each arrangement, the tax implications may be different, depending upon the specific nature of the contract and other terms and conditions attached to it. Therefore, the decision of the Hon'ble Supreme Court in the NOS judgment should not be applied mechanically in all the cases. Investigation in each case requires a careful consideration of its distinct factual matrix, including the terms of contract between overseas company and Indian entity, to determine taxability or its extent under GST and applicability of the principles laid down by the Hon'ble Supreme Court's judgment in NOS case.

3. It has also been represented by the industry that in many cases involving secondment, the field formations are mechanically invoking extended period of limitation under section 74(1) of the CGST Act.

In this regard, section 74(1) of CGST Act reads as follows:

“(1) Where it appears to the proper officer that any tax has not been paid or short paid or erroneously refunded or where input tax credit has been wrongly availed or utilized by reason of fraud, or any wilful-misstatement or suppression of facts to evade tax.”

From the perusal of wording of section 74(1) of CGST Act, it is evident that section 74(1) can be invoked only in cases where there is a fraud or wilful mis-statement or suppression of facts to evade tax on the part of the said taxpayer. Section 74(1) cannot be invoked merely on account of non-payment of GST, without specific element of fraud or wilful mis-statement or suppression of facts to evade tax. Therefore, only in the cases where the investigation indicates that there is material evidence of fraud or wilful mis-statement or suppression of fact to evade tax on the part of the taxpayer, provisions of section 74(1) of CGST Act may be invoked for issuance of show cause notice, and such evidence should also be made a part of the show cause notice.

4. The above aspects may be kept in consideration while investigating such cases and issuing show cause notices.
5. Difficulties, if any, in implementation of these instructions may be informed to the Board (gst-cbec@gov.in).

Source: <https://taxinformation.cbic.gov.in/view-pdf/1000492/ENG/Instructions>

GST IN NEWS

21,791 fake GST registrations, suspected tax evasion of ₹24,000 crore detected in special drive: FM

Finance Minister Nirmala Sitharaman said GST officers have detected 21,791 fake GST registrations and over ₹24,000 crore of suspected tax evasion during a two-month-long special drive. In a written reply to a question in Rajya Sabha, the minister said to safeguard the interest of honest taxpayers and avoid extreme hardship to taxpayers, instructions have been issued from time to time, directing officers to exercise due caution and care in the exercise of powers such as summons, provisional attachment of property, blocking of tax credit etc.

“A total of 21,791 entities (11,392 entities pertaining to state tax jurisdiction and 10,399 entities pertaining to CBIC jurisdiction) having GST registration were discovered to be non-existent. An amount of Rs 24,010 crore (state - Rs 8,805 crore + Centre - Rs 15,205 crore) of suspected tax evasion was detected during the special drive,” Sitharaman said.

Source: <https://timesofindia.indiatimes.com/business/india-business/21791-fake-gst-registrations-suspected-tax-evasion-of-rs-24000-crore-detected-in-special-drive-fm/articleshow/105756706.cms?from=mdr>

Thane cyber crime branch nabs Chartered Accountant and accomplice for Hacking Payment Gateway, Siphoning ₹25 Crore

The Thane cyber crime branch arrested a Chartered Accountant (CA) and one other person in the payment gateway firm by hacking into it in which ₹25 crore was siphoned. The duo aided the primary accused to route money hacked to various countries like China, Hong Kong and Singapore.

The accused CA is a resident of Vashi and the other accused is a Kandivli resident and has an import export business. A total of 11 accused have been arrested in the case- the police said. They zeroed in on the role of CA while investigating the case and it was found that the accused had aided the primary accused in the scam.

Source: <https://timesofindia.indiatimes.com/city/thane/police-arrest-ca-for-siphoning-25-crore-from-payment-gateway-firm/articleshow/105690916.cms>

Centre to mandate e-invoice for B2C transactions in 2-3 years

The government is likely to make it mandatory for businesses to issue electronic or e-invoice for B2C transactions in the next 2-3 years, an official said on Wednesday.

Currently, businesses with a turnover of Rs 5 crore and above are required to generate e-invoices for their Business-to-business (B2B) sales and purchases.

The government is planning to extend the e-invoice requirement to B2C transactions as well.

Source: <https://www.newindianexpress.com/business/2023/dec/06/centre-to-mandate-e-invoice-for-b2c-transactions-in-2-3-years-2639120.html>

CEAMA pitches for rationalisation in GST on energy-efficient products, industry projected to grow to ₹1.5 lakh cr by 2025

The Consumer Electronics and Appliances Manufacturers Association (CEAMA) has been pitching for rationalisation of GST for energy-efficient appliances in order to grow their adoption and provide a boost to the industry. The industry body believes that the consumer durables industry is poised to see strong growth in the coming years on the back of low penetration levels and growing aspirations of consumers. The appliances and consumer electronics industry is projected to grow to about ₹1.5 lakh crore by 2025.

Source: <https://www.thehindubusinessline.com/economy/ceama-pitches-for-rationalisation-in-gst-on-energy-efficient-products-industry-projected-to-grow-to-15-lakh-cr-by-2025/article67614904.ece>

State Taxes Department conducts enforcement drive to ensure GST compliance

Under the overall directions of Commissioner State Taxes J&K, Dr Rashmi Singh, various wings of the department today carried out surprise inspections of various places to ensure strict compliance of GST law and interacted with various stakeholders to ensure better awareness of GST law.

Source: <https://www.greaterkashmir.com/business/state-taxes-deptt-conducts-enforcement-drive-to-ensure-gst-compliance/>

Non-alcoholic beverages: Industry bodies pitch for rationalisation of GST

Industry bodies have urged the GST Council to rationalise GST on the non-alcoholic beverages segment. The industry wants lower GST on agri-based beverages and exemption for packaged drinking water.

Stating that non-alcoholic beverage industry in India faces “one of the highest tax rates globally”, the industry bodies added that most of the products in this category are taxed under high GST tax slabs of 12 per cent to 28 per cent.

Source: <https://www.thehindubusinessline.com/economy/non-alcoholic-beverages-industry-bodies-pitch-for-rationalisation-of-gst/article67618620.ece>

Delhi High Court grants relief to Indian Oil Corporation (IOC); asks govt to pay denied input tax credit

In what could be a boon for fertiliser, cooking oil, acrylic yarn, and traders of goods incurring costs on packing materials, apart from OMCs, the Delhi High Court ruled in favor of Indian Oil Corporation (IOC) Limited on 5th December regarding their claim for a refund of accumulated Input Tax Credit under the GST regime due to the inverted duty structure.

This judgment not only clarifies the interpretation of the inverted duty structure provisions but also paves the way for a transparent GST system for all businesses operating in the country. The dispute was about the accumulated ITC of IOC due to certain inputs having a higher tax rate than the final product's tax rate.

Source: <https://www.cnbcv18.com/business/companies/delhi-high-court-indian-oil-corporation-input-tax-credit-18529411.htm>



GST PORTAL UPDATES

(i) Advisory for Pilot Project of Biometric-Based Aadhaar Authentication and Document Verification for GST Registration Applicants of Andhra Pradesh

1. Rule 8 of the CGST Rules, 2017 has been amended to provide that an applicant can be identified on the common portal, based on data analysis and risk parameters for Biometric-based Aadhaar Authentication and taking photograph of the applicant along with the verification of the original copy of the documents uploaded with the application.
2. The above-said functionality has been developed by GSTN. It will be rolled out in Andhra Pradesh on 4th December, 2023.
3. The said functionality now also provides for the document verification and appointment booking process. After the submission of the application in Form GST REG-01, the applicant will receive either of the following links in the e-mail,
 - (a) A Link for OTP-based Aadhaar Authentication OR
 - (b) A link for booking an appointment with a message to visit a GST Suvidha Kendra (GSK) along with the details of the GSK and jurisdiction, for Biometric-based Aadhaar Authentication and document verification (the intimation e-mail)
4. If the applicant receives the link for OTP-based Aadhaar Authentication as mentioned in point 3(a), she/he can proceed with the application as per the existing process.
5. However, if the applicant receives the link as mentioned in point 3(b), she/he will be required to book the appointment to visit the designated GSK, using the link provided in the e-mail. Once the applicant gets the confirmation of appointment through e-mail (the appointment confirmation e-mail), she/he will be able to visit the designated GSK as per the chosen schedule.
6. At the time of the visit of GSK, the applicant is required to carry the following details.
 - (a) a copy (hard/soft) of the appointment confirmation e-mail
 - (b) the details of jurisdiction as mentioned in the intimation e-mail
 - (c) Aadhaar Number
 - (d) the original documents that were uploaded with the application, as communicated by the intimation e-mail.
7. The biometric authentication and document verification will be done at the GSK, for all the required individuals as per the GST application Form REG-01.

8. The applicant is required to choose an appointment for the biometric verification during the maximum permissible period for the application as indicated in the intimation e-mail. In such cases, ARNs will be generated once the Biometric-based Aadhaar Authentication process and document verification are completed.
9. The feature of booking an appointment to visit a designated GSK is currently available for the applicants of the Andhra Pradesh.
10. The operation days and hours of GSKs will be as per the guidelines provided by the administration in your respective state.

Source: <https://www.gst.gov.in/newsandupdates/read/616>

(ii) Advisory: Two-factor Authentication for Taxpayers

1. GSTN is introducing two-factor authentication (2FA) for taxpayers to strengthen the login security in GST portal. The pilot rollout has been done for a state of Haryana and working seamlessly. Currently, 2FA will be rolled out for Punjab, Chandigarh, Uttarakhand, Rajasthan and Delhi in 1st phase. In 2nd phase, it is planned to be rolled out all states across India.
2. Taxpayers would need to provide one-time password (OTP) post entering user id and password, the OTP will be delivered to their Primary Authorized Signatory “Mobile number and E-mail id”.
3. Tax-payers are requested to keep their email and mobile number of authorized signatory updated on the GST Portal for receiving the OTP communication. This OTP would only be asked, in case the tax-payer changes the system (desktop or laptop or browser) and location.
4. The solution would be rolled out from 1st of December’2023.

Source: <https://www.gst.gov.in/newsandupdates/read/618>

(iii) Advisory: Date extension for reporting opening balance for ITC reversal

1. In order to facilitate the taxpayers in correct and accurate reporting of ITC reversal and reclaim thereof and to avoid clerical mistakes, a new ledger namely Electronic Credit and Re-claimed Statement was introduced on the GST portal. This statement was made available to help the taxpayers in tracking their ITC that has been reversed in Table 4B(2) and thereafter re-claimed in Table 4D(1) and 4A(5). Kindly click here for the detailed advisory provided earlier.
2. Now to facilitate taxpayers further, opportunity to declare opening balance for ITC reversal in the statement has been extended till 31st January, 2024.
3. Kindly note that after declaring the opening balance for ITC reversal, only three amendment opportunities post the declaration will be provided to correct declared opening balance in case of any mistakes or inaccuracies in reporting.
4. Facility to amend declared opening balance for ITC reversal will be available till 29th February, 2024.

Source: <https://www.gst.gov.in/newsandupdates/read/619>

GST QUIZ

1. Which of the following persons are not liable for registration?

- a) Any person engaged exclusively in supplying services wholly exempt from tax
- b) Casual Taxable Person
- c) Both (a) and (b)
- d) None of the above

2. Within how many days a person should apply for registration?

- a) Within 60 days from the date he becomes liable for registration.
- b) Within 30 days from the date he becomes liable for registration.
- c) No Time Limit
- d) Within 90 days from the date he becomes liable for registration.

3. A person having _____business verticals in a State _____ obtain a separate registration for each business vertical.

- a) Single, shall
- b) Multiple, shall
- c) Multiple, may
- d) Single, may

4. What is the validity of the registration certificate?

- a) One year
- b) No validity
- c) Valid till it is cancelled.
- d) Five years.

5. The registration certificate granted to Non-resident taxable person is valid for days from the effective date of registration.

- a) 30
- b) 60
- c) 90
- d) 120

Answers: 1(a), 2(b), 3(c), 4(c), 5(c)

Motto

सत्यं वद। धर्मं चर।
इष्टार्कं तेह त्पते. शोवेह ह्यु तेह त्त्व.

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