



Newsletter

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**THE INSTITUTE OF
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Azadi Ka
Amrit Mahotsav





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GST COLLECTION UPDATES

₹1,43,612 crore gross GST revenue collected in the month of August 2022

GST Revenues for the month of August 2022 28% higher than the GST revenues of August 2021

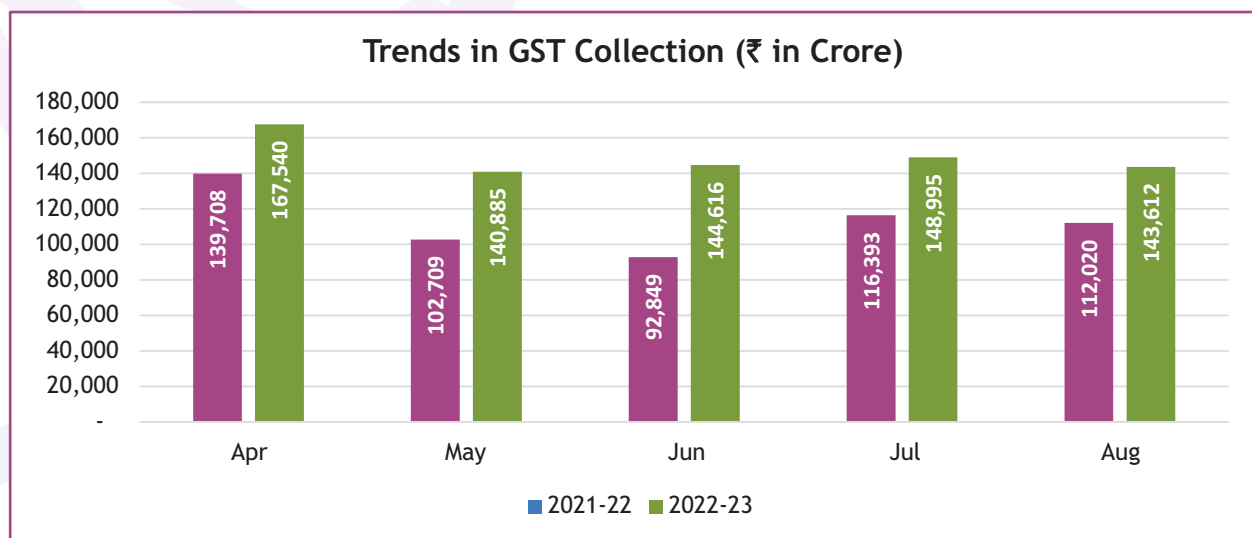
Monthly GST revenues more than ₹1.4 lakh crore for six months in a row

The gross GST revenue collected in the month of August 2022 is **₹1,43,612 crore** of which CGST is **₹24,710 crore**, SGST is **₹30,951 crore**, IGST is **₹77,782 crore** (including ₹42,067 crore collected on import of goods) and cess is **₹10,168 crore** (including ₹1,018 crore collected on import of goods).

The Government has settled **₹29,524 crore** to CGST and **₹25,119 crore** to SGST from IGST. The total revenue of Centre and the States in the month of August 2022 after regular settlement is **₹54,234 crore** for CGST and **₹56,070 crore** for the SGST.

During the month, revenue from import of goods was 57% higher and the revenues from domestic transactions (including import of services) were 19% higher than the revenues from these sources during the same month last year.

The growth in GST revenue till August 2022 over the same period last year is 33%, continuing to display very high buoyancy. This is a clear impact of various measures taken by the Council in the past to ensure better compliance. Better reporting coupled with economic recovery has been having positive impact on the GST revenues on a consistent basis. During the month of July 2022, 7.6 crore e-way bills were generated, which was marginally higher than 7.4 crore in June 2022 and 19% higher than 6.4 crore in July 2021.

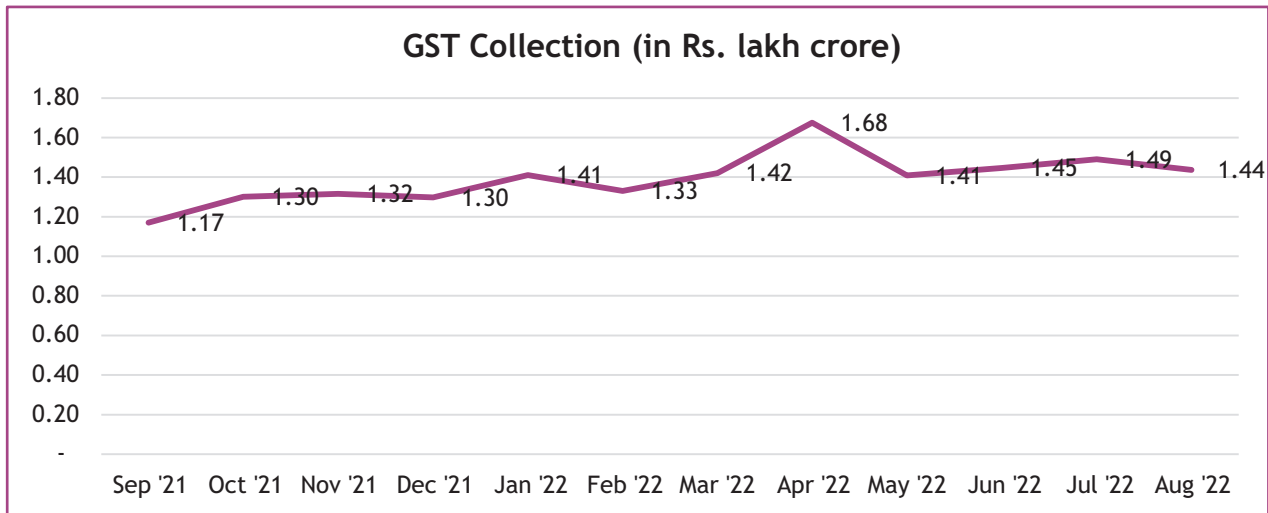


Source: <https://www.pib.gov.in/PressReleasePage.aspx?PRID=1855967>

GST COLLECTION UPDATES

TRENDS IN GST COLLECTION

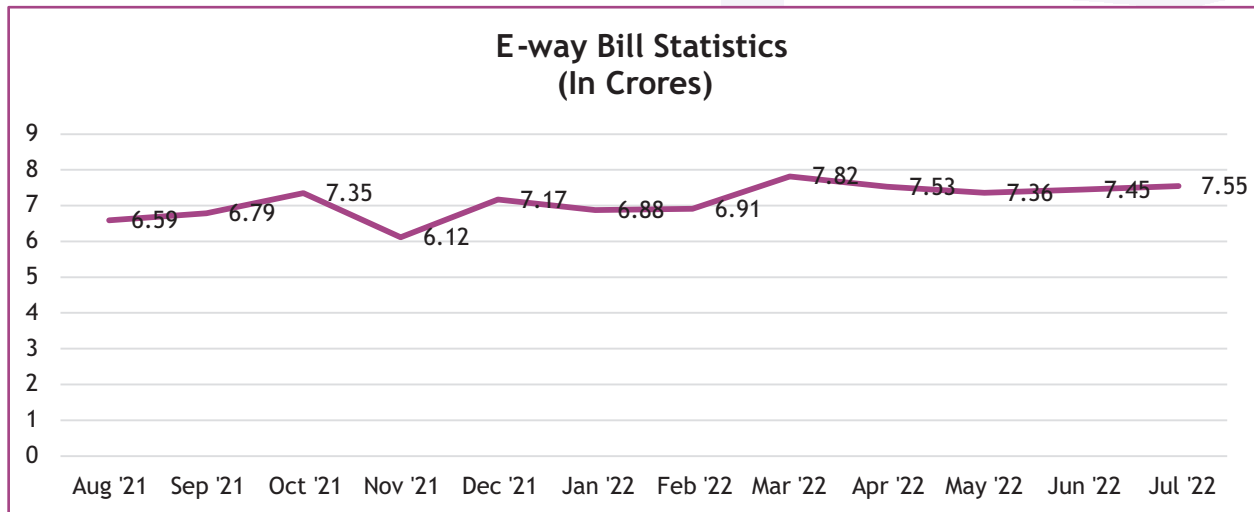
The chart below shows trends in monthly gross GST revenues during the last one year:



Source: Compiled from Press Releases issued by PIB

TRENDS IN E-WAY BILLS GENERATED

The chart below shows E-way bills generated corresponding to the monthly GST collection:



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

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 Sep '21 (as per PIB release) reflects the transactions conducted in Aug '21. Therefore, in the above charts e-way bills generated in Aug '21 is shown corresponding to the GST Revenue collection for Sep '21 and so on.

NOTIFICATIONS AND CIRCULARS

NOTIFICATIONS

Notification No. 17/2022 - Central Tax dated August 01, 2022

This notification seeks to amend Notification No. 13/2020-CT dated March 21, 2020 to reduce the threshold limit of aggregate turnover for the applicability of e-invoicing provisions from ₹20 crore to ₹10 crore. The said amendment shall become effective from October 01, 2022.

Source: <https://cbic-gst.gov.in/pdf/central-tax/17-2022-ct-eng.pdf>

CIRCULARS

Circular No. 177/09/2022-GST dated August 03, 2022

Clarifications regarding applicable GST rates & exemptions on certain services

1. Rate of GST applicable on supply of ice-cream by ice-cream parlors during the period from 01.07.2017 to 05.10.2021

It was clarified *vide* Circular No. 164/20/2021-GST dated 06.10.2021 that ice-cream parlours do not have the character of restaurants as they sell already manufactured ice-creams.

Hence, ice-creams sold by such parlours or outlets attract GST @ 18% with ITC (and not 5% without ITC).

It has now been clarified that past cases (from 01.07.2017 to 05.10.2021) of payment of GST on supply of ice-cream by ice-cream parlors @ 5% without ITC shall be treated as fully GST paid to avoid unnecessary litigation and since this decision is only to regularize the past practice, no refund of GST shall be allowed, if already paid at 18%. With effect from 6.10.2021, the ice Cream parlors are required to pay GST on supply of ice-cream at the rate of 18% with ITC.

2. Applicability of GST on application fee charged for entrance or the fee charged for issuance of eligibility certificate for admission or for issuance of migration certificate by educational institutions

Amount or fee charged from prospective students for entrance or admission, or for issuance of eligibility certificate to them in the process of their entrance/admission as well as the fee charged for issuance of migration certificates by educational institutions to the leaving or ex-students are exempt under Sl. No. 66 of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017.

- 3. Whether storage or warehousing of cotton in baled or ginned form is covered under entry 24B of Notification No. 12/2017-Central Tax (Rate) which has exempted services by way of storage and warehousing of raw vegetable fibres such as cotton before 18.07.2022**

It is clarified that service by way of storage or warehousing of cotton in ginned and or baled form was covered under entry 24B of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 in the category of raw vegetable fibres such as cotton. It may however be noted that this exemption has been withdrawn w.e.f. 18.07.2022.

- 4. Whether exemption under Sl. No. 9B of Notification No. 12/2017- Central Tax (Rate) dated 28.06.2017 covers services associated with transit cargo both to and from Nepal and Bhutan**

It is clarified that exemption under Sl. No. 9B of Notification No.12/2017- Central Tax (Rate) covers services associated with transit cargo both to and from Nepal and Bhutan.

It is also clarified that movement of empty containers from Nepal and Bhutan, after delivery of goods there, is a service associated with the transit cargo to Nepal and Bhutan and is therefore covered by the exemption.

The cargo has to be transhipped / transited to Nepal and Bhutan, as per Regulations under the Customs Act read with the Treaties for Trade & Transit with Nepal & Bhutan in addition to ensuring that an electronic track and trace facility is in place. This facility uses container numbers to locate the cargo. Thus, it is verifiable that the empty container returning from Nepal or Bhutan is the same container which was used to deliver goods to Nepal or Bhutan.

- 5. Applicability of GST on sanitation and conservancy services supplied to Army and other Central and State Government departments**

The exemption under entry 3& 3A of Notification No.12/2017- Central Tax (Rate) dated 28.06.2017 has been given on pure services & composite supplies procured by Central Government, State Government, Union Territories or local authorities for performing functions listed in the 11th and 12th schedule of the constitution.

It is clarified that if such services are procured by Indian Army or any other Government Ministry/ Department which does not perform any functions listed in the 11th and 12th Schedule, in the manner as a local authority does for the general public, the same are not eligible for exemption under Sl. No. 3 and 3A of Notification No.12/2017- Central Tax (Rate).

- 6. Whether the activity of selling of space for advertisement in souvenirs is eligible for concessional rate of 5%**

It is clarified sale of space for advertisement in souvenir book is covered under serial number (i) of entry 21 of Notification No. 11/2017-Central Tax (Rate) and attracts GST @ 5%.

- 7. Taxability and applicable rate of GST on transport of minerals from mining pit head to railway siding, beneficiation plant etc., by vehicles deployed with driver for a specific duration of time**

It is clarified that such renting of trucks and other freight vehicles with driver for a period of

time is a service of renting of transport vehicles with operator falling under Heading 9966 and not service of transportation of goods by road. This being so, it is not eligible for exemption under Sl. No. 18 of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017.

On such rental services of goods carriages where the cost of fuel is included in the consideration charged from the recipient of service, GST rate has been reduced from 18% to 12% with effect from 18.07.2022. Prior to 18.07.2022, it attracted GST at the rate of 18%.

8. Whether location charges or preferential location charges (PLC) collected in addition to the lease premium for long term lease of land constitute part of the lease premium or of upfront amount charged for long term lease of land and are eligible for the same tax treatment

It is clarified that location charges or preferential location charges (PLC) paid upfront in addition to the lease premium for long term lease of land constitute part of upfront amount charged for long term lease of land and are eligible for the same tax treatment, and thus eligible for exemption under Sl. No. 41 of notification no. 12/2017- Central Tax (Rate) dated 28.06.2017.

9. Applicability of GST on payment of honorarium to the Guest Anchors

It is clarified that supply of all goods & services are taxable unless exempt or declared as 'neither a supply of goods nor a supply of service'. Services provided by the guest anchors in lieu of honorarium attract GST liability. However, guest anchors whose aggregate turnover in a financial year does not exceed ₹20 lakhs (₹10 lakhs in case of special category states) shall not be liable to take registration and pay GST.

10. Whether the additional toll fees collected in the form of higher toll charges from vehicles not having Fastag is exempt from GST

It is clarified that additional fee collected in the form of higher toll charges from vehicles not having Fastag is essentially payment of toll for allowing access to roads or bridges to such vehicles and may be given the same treatment as given to toll charges.

11. Applicability of GST on services in form of Assisted Reproductive Technology (ART)/ In vitro fertilization (IVF)

Health care services provided by a clinical establishment, an authorized medical practitioner or paramedics are exempt under Sl. No. 74 of notification No. 12/2017- Central Tax (Rate) dated 28.06.2017. It has been clarified that abnormality/disease/ailment of infertility is treated using ART procedure such as IVF and accordingly services by way of IVF are also covered under the definition of health care services for the purpose of exemption notification.

12. Whether sale of land after levelling, laying down of drainage lines etc., is taxable under GST

As per Sl No. (5) of Schedule III of the Central Goods and Services Tax Act, 2017, 'sale of land' is neither a supply of goods nor a supply of services, therefore, sale of land does not attract GST.

Land may be sold either as it is or after some development such as levelling, laying down of drainage lines, water lines, electricity lines, etc. It is clarified that sale of such developed land

is also sale of land and is covered by Sr. No. 5 of Schedule III of the Central Goods and Services Tax Act, 2017 and accordingly does not attract GST.

However, it may be noted that any service provided for development of land, like levelling, laying of drainage lines (as may be received by developers) shall attract GST at applicable rate for such services.

13. Situations in which corporate recipients are liable to pay GST on renting of motor Vehicles designed to carry passengers

It is clarified that where the body corporate hires the motor vehicle (for transport of employees etc.) for a period of time, during which the motor vehicle shall be at the disposal of the body corporate, the service would fall under Heading 9966, and the body corporate shall be liable to pay GST on the same under RCM. It may be seen that reverse charge thus would apply on act of renting of vehicles by body corporate and in such a case, it is for the body corporate to use in the manner as it likes subject to agreement with the person providing vehicle on rent.

However, where the body corporate avails the passenger transport service for specific journeys or voyages and does not take vehicle on rent for any particular period of time, the service would fall under Heading 9964 and the body corporate shall not be liable to pay GST on the same under RCM.

14. Whether hiring of vehicles by firms for transportation of their employees to and from work is exempt under Sr. No. 15(b) of Notification No. 12/2017-Central Tax (Rate) transport of passengers by non-air conditioned contract carriage

Sr. No. 15 (b) of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 exempts “*transport of passengers, with or without accompanied belongings, by non-air conditioned contract carriage, other than radio taxi, for transport of passengers, excluding tourism, conducted tour, charter or hire.*”

It is clarified that ‘charter or hire’ excluded from the above exemption entry is charter or hire of a motor vehicle for a period of time, where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations.

In other words, the said exemption would apply to passenger transportation services by non-air conditioned contract carriages falling under Heading 9964 where according to explanatory notes, transportation takes place over pre-determined route on a pre-determined schedule. The exemption shall not be applicable where contract carriage is hired for a period of time, during which the contract carriage is at the disposal of the service recipient and the recipient is thus free to decide the manner of usage (route and schedule) subject to conditions of agreement entered into with the service provider.

15. Whether supply of service of construction, supply, installation and commissioning of dairy plant on turn-key basis constitutes a composite supply of works contract service and is eligible for concessional rate of GST prior to 18.07.2022

It is clarified that a contract of the nature described here for construction, installation and

commissioning of a dairy plant constitutes supply of works contract. Dairy plant which comes into existence as a result of such contracts is an immovable property.

It is also clarified that such works contract services were eligible for concessional rate of 12% GST under serial number 3(v)(f) of notification No. 11/2017 Central Tax (Rate) dated 28.06.2017 prior to 18.07.2022. With effect from 18.07.2022, such works contract services would attract GST at the rate of 18% in view of amendment carried out in notification No. 11/2017-Central Tax (Rate) vide notification No. 03/2022-Central Tax (Rate).

16. Applicability of GST on tickets of private ferry used for passenger transportation

As per Sl. No. 17(d) of Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017, *“transportation of passengers by public transport, other than predominantly for tourism purpose, in a vessel between places located in India”* is exempted.

It is clarified that this exemption would apply to tickets purchased for transportation from one point to another irrespective of whether the ferry is owned or operated by a private sector enterprise or by a PSU/Government.

It is further clarified that the expression ‘public transport’ used in the exemption notification only means that the transport should be open to public; it can be privately or publicly owned. Only exclusion is on transportation which is predominantly for tourism, such as services which may combine with transportation, sightseeing, food and beverages, music, accommodation such as in shikara, cruise etc.

For more details please visit <https://cbic-gst.gov.in/pdf/cir-177-08-2022-cgst.pdf>

Circular No. 178/10/2022-GST dated August 03, 2022

GST applicability on liquidated damages, compensation and penalty arising out of breach of contract or other provisions of law

1. Liquidated Damages

Where the amount paid as ‘liquidated damages’ is an amount paid only to compensate for injury, loss or damage suffered by the aggrieved party due to breach of contract and there is no agreement, express or implied, by the aggrieved party receiving the liquidated damages, to refrain from or tolerate an act or to do anything for the party paying the liquidated damages, in such cases liquidated damages are mere a flow of money from the party who causes breach of the contract to the party who suffers loss or damage due to such breach. Such payments do not constitute consideration for a supply and are not taxable. Examples of such cases are damages resulting from damage to property, negligence, piracy, unauthorized use of trade name, copyright, etc.

If a payment constitutes a consideration for a supply, then it is taxable irrespective of by what name it is called; it must be remembered that a “consideration” cannot be considered *de hors* an agreement/contract between two persons wherein one person does something for another and that other pays the first in return. If the payment is merely an event in the course of the

performance of the agreement and it does not represent the 'object', as such, of the contract then it cannot be considered 'consideration'.

Amounts paid for acceptance of late payment, early termination of lease or for prepayment of loan or the amounts forfeited on cancellation of service by the customer as contemplated by the contract as part of commercial terms agreed to by the parties, constitute consideration for the supply of a facility, namely, of acceptance of late payment, early termination of a lease agreement, of pre-payment of loan and of making arrangements for the intended supply by the tour operator respectively. Therefore, such payments, even though referred to as fine or penalty, are actually payments that amount to consideration for supply, and are subject to GST, in cases where the principal supply is taxable. Since these supplies are ancillary to the principal supply for which the contract is signed, they shall be eligible to be assessed as the principal supply. Hence, such payments will not be taxable if the principal supply is exempt.

2. Compensation for cancellation of coal blocks

Due to cancellation of coal block/mine allocations on the order of Hon'ble Supreme Court, the prior allottees were given compensation by the Government. There was no contract/ agreement between the prior allottees and the Government that the previous allottees shall agree to or tolerate cancellation of the coal blocks allocated to them if the Government pays compensation to them. The allottees had no option but to accept the cancellation. The compensation was given to them for such cancellation, not under a contract between the allottees and the Government, but under the provisions of the statute and in pursuance of the Supreme Court Order. Therefore, it cannot be said that the prior allottees of the coal blocks supplied a service to the Government by way of agreeing to tolerate the cancellation of the allocations made to them by the Government or that the compensation paid by the Government was a consideration for such service. Therefore, the compensation paid for cancellation of coal blocks pursuant to the order of the Supreme Court in the above case was not taxable.

3. Cheque dishonor fine/ penalty

The fine or penalty that the supplier or a banker imposes, for dishonour of a cheque, is a penalty imposed not for tolerating the act or situation but a fine, or penalty imposed for not tolerating, penalizing and thereby deterring and discouraging such an act or situation. Therefore, cheque dishonor fine or penalty is not a consideration for any service and not taxable.

4. Penalty imposed for violation of laws

Penalties imposed for violation of laws cannot be regarded as consideration charged by Government or a Local Authority for tolerating violation of laws. Laws are not framed for tolerating their violation. They stipulate penalty not for tolerating violation but for not tolerating, penalizing and deterring such violations. There is no agreement between the Government and the violator specifying that violation would be allowed or permitted against payment of fine or penalty. There cannot be such an agreement as violation of law is never a lawful object or consideration.

The service tax Education Guide issued in 2012 on advent of negative list regime of services explained that fines and penalties paid for violation of provisions of law are not considerations

as no service is received *in lieu* of payment of such fines and penalties. It was also clarified *vide* Circular No. 192/02/2016-Service Tax, dated 13.04.2016 that fines and penalty chargeable by Government or a local authority imposed for violation of a statute, bye-laws, rules or regulations are not leviable to service tax. The same holds true for GST also.

5. Forfeiture of salary or payment of bond amount in the event of the employee leaving the employment before the minimum agreed period

The provisions for forfeiture of salary or recovery of bond amount in the event of the employee leaving the employment before the minimum agreed period are incorporated in the employment contract. The said amounts are recovered by the employer not as a consideration for tolerating the act of such premature quitting of employment but as penalties for dissuading the non-serious employees from taking up employment and to discourage and deter such a situation. The employee does not get anything in return from the employer against payment of such amounts. Therefore, such amounts recovered by the employer are not taxable as consideration for the service of agreeing to tolerate an act or a situation.

6. Compensation for not collecting toll charges during the period 08.11.2016 to 01.12.2016

During the period from 8.11.2016 to 1.12.2016, the service of access to a road or bridge continued to be provided without collection of toll from users. Consideration came from the project authority. The fact that for this period, for the same service, consideration came from a person other than the actual user of service does not mean that the service has changed.

7. Late payment surcharge or fee

The facility of accepting late payments with interest or late payment fee, fine or penalty is a facility granted by supplier naturally bundled with the main supply. Since it is ancillary to and naturally bundled with the principal supply it should be assessed at the same rate as the principal supply.

8. Fixed Capacity charges for Power

The minimum fixed charges/capacity charges and the variable/energy charges are charged for sale of electricity and are not taxable as electricity is exempt from GST. Power purchase agreements which ensure assured supply of power to State Electricity Boards/DISCOMS are ancillary arrangements, the contract is essentially for supply of electricity.

9. Cancellation charges

Cancellation fee can be considered as the charges for the costs involved in making arrangements for the intended supply and the costs involved in cancellation of the supply, such as in cancellation of reserved tickets by the Indian Railways. Facilitation supply of allowing cancellation of an intended supply against payment of cancellation fee or retention or forfeiture of a part or whole of the consideration or security deposit should be assessed as the principal supply. For example, cancellation charges of railway tickets for a class would attract GST at the same rate as applicable to the class of travel.

NOTIFICATIONS AND CIRCULARS

The amount forfeited in the case of non-refundable ticket for air travel or security deposit, or earnest money forfeited in case of the customer failing to avail the travel, tour operator or hotel accommodation service or such other intended supplies should be assessed at the same rate as applicable to the service contract, say air transport or tour operator service, or other such services.

However, forfeiture of earnest money by a seller in case of breach of 'an agreement to sell' an immovable property by the buyer or such forfeiture by Government or local authority in the event of a successful bidder failing to act after winning the bid for allotment of natural resources, is a mere flow of money, as the buyer or the successful bidder does not get anything in return for such forfeiture of earnest money. Such payments being merely flow of money are not a consideration for any supply and are not taxable.

For more details please visit <https://cbic-gst.gov.in/pdf/cir-178-08-2022-cgst.pdf>

Circular No. 179/11/2022-GST dated August 03, 2022

Clarification regarding GST rates & classification (goods) based on the recommendations of the GST Council in its 47th meeting held on 28th - 29th June, 2022 at Chandigarh

1. Electric vehicles whether or not fitted with a battery pack, attract GST rate of 5%

Electrically operated vehicle including three wheeled electric vehicle means vehicle that run solely on electrical energy derived from an external source or from electrical batteries. Therefore, the fitting of batteries cannot be considered as a concomitant factor for defining a vehicle as an electrically operated. In view of the above, it is clarified that electrically operated vehicle is to be classified under HSN 8703 even if the battery is not fitted to such vehicle at the time of supply and thereby attract GST at the rate of 5% in terms of entry 242A of Schedule I of Notification No. 1/2017- Central Tax (Rate).

2. Stones otherwise covered in S. No. 123 of Schedule-I (such as Napa stones), which are not mirror polished, are eligible for concessional rate under said entry

Napa Stone is a variety of dimensional limestone, which is a brittle stone and cannot be subject to extensive mirror polishing. Currently, S. No. 123 of Schedule-I prescribes GST rate of 5% for 'Ecaussine and other calcareous monumental or building stone; alabaster [other than marble and travertine], other than mirror polished stone which is ready to use.' However, being brittle in nature, stones like Napa Stone, even though ready for use, are not subject to extensive polishing.

Therefore, such minor polished stones do not qualify as mirror polished stones.

Therefore, it is clarified that S. No. 123 in schedule-I to the Notification No. 1/2017- Central Tax (rate) dated 28.06.2017 covers minor polished stones.

3. Mangoes under CTH 0804 including mango pulp, but other than fresh mangoes and sliced, dried mangoes, attract GST at 12% rate

It is clarified that mangoes, fresh falling under heading 0804 are exempt; Mangoes, sliced and

dried, falling under 0804 are chargeable to a concessional rate of 5%; while all other forms of dried mango, including Mango pulp, attract GST at the rate of 12%.

4. Treated sewage water attracts Nil rate of GST

In general, Water, falling under heading 2201, with certain specified exclusions, is exempt from GST *vide* entry at S. No. 99 of Notification No. 2/2017-Central Tax (Rate), dated 28th June, 2017.

Treated sewage water was not meant to be construed as falling under “purified” water for the purpose of levy of GST.

Accordingly, it is hereby clarified that supply of treated sewage water, falling under heading 2201, is exempt under GST. Further, to clarify the issue, the word ‘purified’ is being omitted from the above-mentioned entry *vide* Notification No. 7/2022-Central Tax (Rate), dated 13th July, 2022.

5. Nicotine Polacrilex Gum attracts a GST rate of 18%

It is clarified that the Nicotine Polacrilex gum which is commonly applied orally and is intended to assist tobacco use cessation is appropriately classifiable under tariff item 2404 91 00 with applicable GST rate of 18% [Sl. No. 26B in Schedule III of Notification No. 1/2017-Central Tax (Rate), dated 28th June, 2017].

6. Fly ash bricks and aggregate - condition of 90% fly ash content applied only to fly ash aggregate, and not fly ash bricks

It is clarified that the condition of 90% or more fly ash content applied only to Fly Ash Aggregates and not to fly ash bricks and fly ash blocks. Further, with effect from 18th July, 2022 the condition is omitted from the description.

7. Applicability of GST on by-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi

It is clarified that the subject goods which *inter alia* is used as cattle feed ingredient are appropriately classifiable under heading 2302 and attract GST at the rate of 5% *vide* S. No. 103A of Schedule-I of Notification No. 1/2017-Central Tax (Rate), dated 28th June, 2017.

For more details please visit <https://cbic-gst.gov.in/pdf/cir-179-08-2022-cgst.pdf>

GUIDELINES FOR ARREST AND BAIL

After examining Hon'ble Supreme Court's judgment dated 16th August, 2021 in Criminal Appeal No. 838 of 2021, arising out of SLP (Crl.) No. 5442/2021, CBIC issued following guidelines with respect to arrest under CGST Act, 2017 *vide* Instruction No. 02/2022-23.

Conditions for arrest

1. Section 132(1) of CGST Act, 2017 deals with the punishment for offences. Section 69(1) gives power to the Commissioner to arrest a person where he has reason to believe that the alleged offender has committed any offence specified in Section 132(1)(a), (b), (c), (d) which is punishable under Section 132(1)(i), (ii) or Section 132(2) of CGST Act, 2017. Therefore, before placing a person under arrest, legal requirements must be fulfilled. The reasons to believe to arrive at a decision to place an alleged offender under arrest must be unambiguous & amply clear. The reasons to believe must be based on credible material.
2. The arrest should not be made in routine & mechanical manner. Even if all the legal conditions precedent to arrest mentioned in Section 132 of the CGST Act, 2017 are fulfilled, that will not, *ipso facto*, mean that an arrest must be made. Once the legal ingredients of the offence are made out, the Commissioner /competent authority must then determine if the answer to any or some of the following questions is in the affirmative:
 - Whether the person was concerned in the non-bailable offence or credible information has been received / a reasonable suspicion exists of his having been so concerned?
 - Whether arrest is necessary to ensure proper investigation of the offence?
 - Whether the person, if not restricted, is likely to tamper the course of further investigation or is likely to tamper with evidence or intimidate or influence witnesses?
 - Whether person is mastermind or key operator effecting proxy/ benami transaction in the name of dummy GSTIN or non-existent persons, etc. for passing fraudulent input tax credit etc.?
 - As unless such person is arrested, his presence before investigating Officer cannot be ensured.
3. Arrest should not be resorted to in cases of technical nature i.e., where the demand of tax is based on a difference of opinion regarding interpretation of Law. The prevalent practice of assessment could also be one of the determining factors while ascribing intention to evade tax to the alleged offender. Other factors influencing the decision to arrest could be if the alleged offender is co-operating in the investigation.

Procedure for arrest

- Pr. Commissioner/ Commissioner shall record on file that after considering the nature of offence, role of person involved & evidence available, he has reason to believe that the person has committed an offence as mentioned in Section 132 & may authorize an Officer of Central tax to arrest the concerned person(s).
- The arrest memo must be in compliance with the directions of Hon'ble Supreme Court in the case of D.K Basu vs. State of West Bengal reported in 1997(1) SCC 416 (see paragraph 35).
- Format of arrest memo has been prescribed under Board's Circular No. 128/47/ 2019-GST dated 23/12/2019. The arrest memo should indicate relevant section (s) of the CGST Act, 2017/ other laws attracted to the case & to the arrested person & inapplicable provisions should be struck off. In addition,
 - Grounds of arrest must be explained to the arrested person & this fact must be noted in the arrest memo.
 - A nominated / authorized person (as per the details provided by arrested person) of the arrested person should be informed immediately & this fact shall be mentioned in arrest memo.
 - Date & time of arrest shall be mentioned in the arrest memo & arrest memo should be given to the person arrested under proper acknowledgment.
- A separate arrest memo has to be made & provided to each individual/ arrested person.
- Board's Circular No. 122/41/2019-GST dated 5th November, 2019 which makes generation & quoting of DIN mandatory on communication issued by Officers of CBIC to tax payers & other concerned persons for the purpose of investigation. Any lapse in this regard will be viewed seriously.

Modalities to be complied with at the time of arrest & pursuant to an arrest include the following:

1. A woman should be arrested only by a woman Officer in accordance with section 46 of Code of Criminal Procedure, 1973.
2. Medical examination of an arrested person should be conducted by a medical Officer in the service of Central / State Government & in case the medical Officer is not available, by a registered medical practitioner, soon after the arrest is made. If an arrested person is a female, then such an examination shall be made only by / under supervision of a female medical officer, & in case the female medical Officer is not available, by a female registered medical practitioner.
3. It shall be the duty of the person having the custody of an arrested person to take reasonable care of health & safety of arrested person. Arrest should be made with minimal use of force and publicity, & without violence.

Post arrest formalities

Procedure for arrest for Offence specified under section 132(4) of the CGST Act, 2017

1. Where a person is arrested for an offence, the Assistant Commissioner / Deputy Commissioner

GUIDELINES FOR ARREST & BAIL

is bound to release a person on bail against a bail. The bail conditions should be informed in writing to the arrested person & also on telephone to the nominated person of the person(s) arrested. The arrested person should also be allowed to talk to the nominated person.

2. The conditions will relate to, *inter alia*, execution of a personal bail bond and one surety of like amount given by a local person of repute, appearance before the investigating Officer when required & not leaving the country without informing the Officer.
3. If the conditions of the bail are fulfilled by the arrested person, he shall be released by the Officer concerned on bail forthwith, but where the conditions for granting bail are not fulfilled, arrested person shall be produced before the appropriate Magistrate without unnecessary delay & within twenty-four hours of arrest. If necessary, the arrested person may be handed over to the nearest police station for his safe custody, during the night under a challan, before he is produced before the Court.

Offence under section 132(5) of CGST ACT 2017

1. Where a person is arrested, Officer authorized to arrest the person shall inform such person of the grounds of arrest & produce him before a Magistrate within 24 hours. In the event of circumstances preventing the production of the arrested person before a Magistrate, the arrested person may be handed over to nearest Police Station for his safe custody under a proper challan & produced before Magistrate on the next day, and the nominated person of the arrested person may also be informed accordingly.
2. After arrest of the accused, efforts should be made to file prosecution complaint under section 132 of the Act, before the competent court at the earliest, preferably within 60 days of arrest, where no bail is granted. In all other cases of arrest also, prosecution complaint should be filed within a definite time frame.

Bail Register

Every Commissionerate/Directorate should maintain a Bail Register containing the details of the case, arrested person, bail amount, surety amount etc. The money/ instruments/ documents received as surety should be kept in safe custody of a single nominated Officer who shall ensure that these instruments/ documents received as surety are kept valid till the bail is discharged.

Reports to be sent

Pr. Director-General (DGGI)/ Pr. Chief Commissioner(s)/ Chief Commissioner(s) shall send a report on every arrest to Member (Compliance Management) as well as to the Zonal Member within 24 hours of the arrest. To maintain an all India record of arrests made in CGST, from September, 2022 onwards, a monthly report of all persons arrested in the Zone shall be sent by the Principal Chief Commissioner(s)/Chief Commissioner(s) to the Directorate General of GST Intelligence, Headquarters, New Delhi, by the 5th of the succeeding month. The monthly reports received from the formations shall be compiled by DGGI, Hqrs. and a compiled Zone wise report shall be sent to Commissioner (GST-Investigation), CBIC by 10th of every month.

Further, all such reports shall be sent only by e-mail and the practice of sending hard copies to the Board should be stopped with immediate effect.

Source: <https://taxinformation.cbic.gov.in/content-page/explore-instructions>

GUIDELINES ON ISSUANCE OF SUMMONS

While issuing of summons is one of the instruments with the Department to get/obtain information or documents or statement from any person to find out the evasion of the tax etc., however, it needs to be ensured that exercise of such power is done judiciously and with due consideration. Officers are also advised to explore instances when instead of resorting to summons, a letter for requisition of information may suffice. The Board has issued following guidelines regarding use of power of issuance of summons and has desired that the same must be followed in matters related to investigation under CGST Act, 2017:

- a) Summons by Superintendents should be issued after obtaining prior written permission from an Officer not below the rank of Deputy/ Assistant Commissioner with the reasons for issuance of summons to be recorded in writing.
- b) Where for operational reasons it is not possible to obtain such prior written permission, oral/ telephonic permission from such Officer must be obtained and the same should be reduced to writing and intimated to the Officer according such permission at the earliest opportunity.
- c) In all cases, where summons are issued, the Officer issuing summons should record in file about appearance/ non-appearance of the summoned person and place a copy of statement recorded in file.
- d) Summons should normally indicate the name of the offender(s) against whom the case is being investigated unless revelation of the name of the offender is detrimental to the cause of investigation, so that the recipient of summons has prima-facie understanding as whether he has been summoned as an accused, co- accused or as witness.
- e) Issuance of summons may be avoided to call upon statutory documents which are digitally/ online available in the GST portal.
- f) Senior Management Officials such as CMD/ MD/ CEO/ CFO/ similar Officers of any company or a PSU should not generally be issued summons in the first instance. They should be summoned when there are clear indications in the investigation of their involvement in the decision-making process which led to loss of revenue.
- g) Board's Circular No. 122/41/2019-GST dated 5th November, 2019 makes generation and quoting of Document Identification Number (DIN) mandatory on communication issued by Officers of CBIC to tax payers and other concerned persons for the purpose of investigation. Format of summons has been prescribed under Board's Circular No. 128/47/2019-GST dated 23rd December, 2019.
- h) The Summoning Officer must be present at the time and date for which summons is issued. In case of any exigency, the summoned person must be informed in advance in writing or orally.

GUIDELINES ON ISSUANCE OF SUMMONS

- i) All persons summoned are bound to appear before the Officers concerned, the only exception being women who do not by tradition appear in public or privileged persons. The exemption so available to these persons under Section 132 and 133 of CPC, may be kept in consideration while investigating the case.
- j) Issuance of repeated summons without ensuring service of the summons must be avoided. Sometimes it may so happen that summoned person does not join investigations even after being repeatedly summoned. In such cases, after giving reasonable opportunity, generally three summons at reasonable intervals, a complaint should be filed with the jurisdictional magistrate alleging that the accused has committed offence under Sections 172 of Indian Penal Code (absconding to avoid service of summons or other proceedings) and/or 174 of Indian Penal Code (non-attendance in obedience to an order from public servant), as inquiry under Section 70 of CGST Act has been deemed to be a “judicial proceedings” within the meaning of Section 193 and Section 228 of the Indian Penal Code. Before filing such complaints, it must be ensured that summons have adequately been served upon the intended person in accordance with Section 169 of the CGST Act. However, this does not bar to issue further summons to the said person under Section 70 of the Act.

Source: <https://taxinformation.cbic.gov.in/content-page/explore-instructions>



GST PORTAL UPDATES

Single Click NIL Filing of GSTR-1

Single click NIL filing of GSTR-1 has been introduced on the GSTN portal to improve the user experience and performance of GSTR-1/IFF filing. Taxpayers can now file NIL GSTR-1 return by simply ticking the checkbox File NIL GSTR-1 available at GSTR-1 dashboard.

Eligibility to file NIL GSTR-1: Taxpayers may file NIL GSTR-1 if they have:

- a. **No Outward Supplies** (including supplies on which tax is to be charged on reverse charge basis, zero rated supplies and deemed exports) during the month or quarter for which the form is being filed for;
- b. **No Amendments** to be made to any of the supplies declared in an earlier form;
- c. **No Credit or Debit Notes** to be declared / amended; and
- d. **No details of advances received** for services is to be declared or adjusted.

Steps to file NIL GSTR-1:

Taxpayers shall login to GST portal and navigate to online form GSTR-1 by selecting relevant GSTR-1 period in Returns dashboard (Services > Returns > Returns Dashboard > Form GSTR-1 > Prepare Online).

1. Select File NIL GSTR-1 checkbox: In the GSTR-1 dashboard, a File NIL GSTR-1 checkbox shall be available at the top. If the taxpayer is eligible to file NIL GSTR-1, they can select the File NIL GSTR-1 checkbox. On click of the checkbox, system will show a note related to NIL filing and all the tiles/tables shall be hidden.

The screenshot displays the GSTN portal interface for the GSTR-1 dashboard. At the top, there is a navigation bar with links for Dashboard, Services, GST Law, Downloads, Search Taxpayer, Help and Taxpayer Facilities, and e-Invoice. Below this, the breadcrumb trail shows Dashboard > Returns > GSTR-1/IFF. The main heading is 'GSTR-1 - Details of outward supplies of goods or services'. A table below the heading shows GSTIN - FY - 2021-22, Legal Name - Tax Period - August, Trade Name - GSTN Status - Not Filed, and a note indicating mandatory fields with a due date of 11/09/2021. A checkbox labeled 'File Nil GSTR-1' is checked. Below the checkbox, a note states: 'Note: NIL Form GSTR-1 can be filed by you if you have:' followed by four bullet points: a. No Outward Supplies (including supplies on which tax is to be charged on reverse charge basis, zero rated supplies and deemed exports) during the month or quarter for which the return is being filed for; b. No Amendments to be made to any of the supplies declared in an earlier return; c. No Credit or Debit Notes to be declared / amended; d. No details of advances received for services is to be declared or adjusted. At the bottom of the dashboard, there is an 'E-INVOICE DOWNLOAD HISTORY' section with a table containing buttons for BACK, DOWNLOAD DETAILS FROM E-INVOICES (EXCEL), RESET, and FILE STATEMENT. A red arrow points to the RESET button.

GST PORTAL UPDATES

NIL filing of GSTR-1 will not be allowed in case there are already saved records in GSTR-1. The taxpayers are advised to delete already saved records or reset GSTR-1 data by clicking RESET button available on GSTR-1 dashboard before filing NIL GSTR-1. (Above image)

2. File Statement: To file NIL GSTR-1, taxpayer need to click File Statement button, which shall be available at the bottom of the GSTR-1 dashboard page. On clicking of 'File Statement' button, taxpayers will be navigated to the filing page to file GSTR-1/IFF using DSC/EVC.

Source: https://tutorial.gst.gov.in/downloads/news/advisory_for_filing_nil_gstr_1_01_08_2022.pdf

New Functionalities made available for Taxpayers on GST Portal

S. No.	Form/ Functionality	Functionality made available for Taxpayers
Registration		
1.	Allow taxpayer to enter multiple trade names	<p>Earlier only a single Trade Name was being captured during New Registrations and subsequent amendment in core field for Normal Taxpayer on the Portal.</p> <p>Now taxpayers have been provided with an option to provide up to 9 additional trade names for a single GSTIN registration through core field amendment. The taxpayer can upload supporting document for trade name of size 5 MB. Both these new fields will be kept optional.</p>

GST PORTAL UPDATES

S. No.	Form/ Functionality	Functionality made available for Taxpayers
2.	Mandating mobile number for applying for persons applying for Temp ID for Advance Ruling	Providing of Mobile number has been made mandatory to the Advance Ruling Applicants for new Registration with a subsequent facility to Edit Profile.
Returns		
1.	Addition of new GST Rate slab of 6% (3% CGST & 3% SGST or 6 % IGST) in GSTR-1/ IFF	<p>The Government had notified (<i>vide</i> Notification No. 02/2022-Central Tax (Rate) & Notification No. 02/2022-Integrated Tax (Rate) dated 31st March, 2022), a new GST Tax Rate of 6% IGST or 3% CGST + 3% SGST for certain goods.</p> <p>In view of the above, changes have been implemented in Form GSTR-1/IFF for the taxpayers.</p>
2.	Auto population of data in Form GSTR-4 from Form GSTR-1 in Table 4A & 4B (FO)	<p>The details of payment of liability, summary of outward supplies and inward supplies attracting reverse charge are reported by Composition taxpayers in Form GST CMP-08 on quarterly basis. In addition, details of purchases made from registered taxpayers are auto-populated in Form GSTR-4A on basis of Form GSTR-1 filed by suppliers.</p> <p>The Composition taxpayers have been provided with a facility to view the above details and its consolidated summary at GSTIN level. The above details are auto-populated in Form GSTR-4 (Annual) to help the taxpayers in filing their annual return. These details can also be downloaded in Excel format.</p> <p>To access the same login to GST portal and click on Services > Returns > Annual return > Select FY > Search > GSTR-4 Annual > Download summary of GSTR-4A & 4B.</p> <p>This functionality has been made available from 29/06/2022 onwards.</p>
Refund		
1.	Option in Form RFD-01 to get refund arising out of excess payment in GSTR-4, for Taxpayer under Composition levy	<p>Earlier the taxpayers who had opted for Composition levy were not able to file for refund in Form GST RFD-01 under refund category “Excess payment of Tax, if any” but had to choose the refund category “Any other”.</p> <p>While filing annual return (GSTR-4), if the composition taxpayers have deposited excess tax, they will now be able to file for refund under category “Excess payment of Tax, if any”.</p>

GST PORTAL UPDATES

S. No.	Form/ Functionality	Functionality made available for Taxpayers
Advance Ruling		
1.	Functionality to search and view Advance Ruling Orders	<p>Earlier, there was no functionality available to search for the Advance Ruling Orders issued by the Authority / Appellate Authority for Advance Ruling.</p> <p>A functionality has now been implemented on the Portal, under the menu Advance Ruling, in both Pre-login and Post-login, wherein the users would be able to search for Advance Ruling orders issued by all Advance Ruling forums, using following search parameters. The same can be viewed/downloaded and would include orders passed by the Authorities of Model 1 States:</p> <ul style="list-style-type: none"> ● GSTIN/ID of the Applicant ● Legal Name of the Applicant ● Order Date <<From >> <<To>> ● Order Number ● State/UT ● Nature of Activity for which Advance ruling is issued (List Box - Category - as in ARA-01-multiple selection) ● Issue related (List Box as in ARA-01-multiple selection) ● Description of Issue (Keyword searching)
Payments		
1.	Validation on generating Challan in OTC mode	<p>The limit of cash payment in Over the Counter (OTC) mode has now been restricted to ₹10,000. This restriction had been relaxed earlier in view of Law Committee decision.</p> <p>When creating a challan by selecting OTC mode, the user would not be able to enter any amount greater than ₹10,000 and will get an alert message, “This payment mode is not available for Challans exceeding ₹10,000. Please make payment using other payment modes.” If the user attempts to generate more than one challan, where the cumulative value exceeds ₹10,000, the system will restrict its generation beyond ₹10,000 for a tax period, based on his/ her return filing frequency and it will be display message, “The limit for payment in OTC mode is exceeded. Please make payment using other payment modes.”</p>

GST PORTAL UPDATES

S. No.	Form/ Functionality	Functionality made available for Taxpayers
2.	Updated generic messages on GST PMT-06 challan page	<p>To account for any extensions in the due date for filing of Form GST PMT-06, filed by taxpayers who have opted for QRMP scheme for discharging their tax liability for Month 1 and Month 2 of a quarter, certain few generic messages on the GST PMT-06 challan page have been update as under:</p> <p>Please note that when taxpayer exercises 35% challan option, no interest shall be levied for the selected month if payment is made by 25th of the next month or the extended date, if any.</p> <p>Interest will be levied on payment made through “Challan on self-assessment basis” (other than 35% challan) in case of delayed payment (after due date of 25th of next month or the extended date, if any) or short payment.</p>

Source: https://tutorial.gst.gov.in/downloads/news/new_functionalities_compilation_july%202022.pdf



COMPLIANCE CALENDAR

Forms	Period	Due Date	Remarks
GSTR-1	Aug, 2022	Sep 11, 2022	Turnover exceeding ₹5 Crore or opted to file monthly return
GSTR-1	Jul-Sep, 2022	Oct 13, 2022	Opted for quarterly filing as per QRMP scheme
IFF (Optional)	August, 2022	Sep 13, 2022	IFF is a facility where quarterly GSTR-1 filers can choose to upload their B2B invoices every month, currently under the QRMP Scheme
GSTR-3B*	Aug, 2022	Sep 20, 2022	Turnover exceeding ₹5 Crore or opted to file monthly return
GSTR-3B#	Jul-Sep, 2022	Oct 22/ 24, 2022	Opted for quarterly filing as per QRMP scheme.
CMP-08	Jul-Sep, 2022	Oct 18, 2022	Quarterly statement-cum-challan to make tax payment by taxpayers registered under the composition scheme
GSTR-5	Aug, 2022	Sep 20, 2022	Monthly return for Non-Resident taxable person
GSTR-5A	Aug, 2022	Sep 20, 2022	Monthly return for Non-resident OIDAR services providers
GSTR-6	Aug, 2022	Sep 13, 2022	Monthly return for Input Service Distributors
GSTR-7	Aug, 2022	Sep 10, 2022	Monthly return for authorities liable to deduct tax at source (TDS)
GSTR-8	Aug, 2022	Sep 10, 2022	Monthly return for e-Commerce Operators liable to collect tax at source (TCS)
GSTR-9**	FY 2021-22	Dec 31, 2022	Annual return for normal taxpayers
GSTR-9C	FY 2021-22	Dec 31, 2022	Annual reconciliation statement
RFD-10	-	-	Eighteen months after end of the quarter for which refund is to be claimed

*GSTR-3B

20th of next month for taxpayers with an aggregate turnover in the previous financial year more than ₹5 crore or otherwise eligible but still opting out of the QRMP scheme.

#GSTR-3B

For the taxpayers with aggregate turnover equal to or below ₹5 crore, eligible and remaining opted into the QRMP scheme, 22nd of month next to the quarter for taxpayers in category X States/UTs and 24th of month next to the quarter for taxpayers in category Y States/UTs

- **Category X:** Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana and Andhra Pradesh, the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep.
- **Category Y:** Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand and Odisha, the Union Territories of Jammu and Kashmir, Ladakh, Chandigarh and Delhi.

**GSTR-9

Taxpayers having annual aggregate turnover up to ₹2 crores are exempted from the requirement of furnishing annual return for FY 2021-22.

Source: <https://www.gst.gov.in/>



GST QUIZ



1. Ice-creams sold by ice-cream parlors are chargeable to GST at the rate of _____.
a) 5% with ITC b) 5% without ITC
c) 12% with ITC d) 18% with ITC
2. Treated sewage water is chargeable to GST at the rate of _____.
a) NIL b) 5%
c) 12% d) None of the above
3. By-products of milling of Dal/ Pulses such as Chilka, Khanda and Churi used as cattle feed ingredient are chargeable to GST at the rate of _____.
a) NIL b) 5%
c) 12% d) None of the above
4. Nicotine Polacrilex Gum which is commonly applied orally and is intended to assist tobacco use cessation is chargeable to GST at the rate of _____.
a) 5% b) 12%
c) 18% d) 28%
5. Electrically operated vehicle not fitted with battery at the time of supply is chargeable to GST at the rate of _____.
a) 5% b) 12%
c) 18% d) 28%

Answers: 1(d); 2(a); 3(b); 4(c) and 5(a)



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