

VAT - A PRACTICE AREA FOR CS

CAN A PRACTISING COMPANY SECRETARY BECOME VAT PRACTITIONER ?

In last many years, introduction and implementation of VAT has become very hot topic and in current days the GST has added some more hotness in matter. With the implementation of VAT in Gujarat, many of our Practicing members have doubt whether, we are legally allowed to do practice and register ourselves as Tax Practitioners under Gujarat VAT Act.

RECOGNITION CORNER to Practicing Company Secretary(PCS)

The following States have authorized Company Secretaries in Practice to appear before VAT authorities under their respective Statutes, namely:

1. West Bengal Value Added Tax Rules, 2005

To appear before Appellate and Revisional Board, the Commissioner, the Special Commissioner, the Additional Commissioner or any person appointed to assist the Commissioner on behalf of a dealer under Rule 2(1)(a)(iv) of the said Rules.

2. Bihar Value Added Tax Act, 2005

To appear before VAT authorities appointed under Section 10 or before the Tribunal or before an Officer of the Bureau of Investigation constituted under Section 86 vide Section 87(d) of the Act.

3. Daman and Diu Value Added Tax Regulation, 2005

To appear before any VAT authority in connection with any proceedings under this Act under Section 82(1)(b) of the Act.

4. Goa Value Added Tax Act, 2005

To appear before any VAT authority including the Tribunal in connection with any proceedings under this Act under Section 82(1)(b).

5. Karnataka Value Added Tax Act, 2003 read with Karnataka Value Added Tax Rules, 2005

To appear before any Authority other than the High Court in connection with any proceeding under this Act [Section 86 (c) read with Rule 168(2) (c) (iv)(b)].

6. Delhi Value Added Tax Act, 2004

To appear before any VAT authority including the Tribunal in connection with any proceedings under this Act under Section 82(1) (b).

7. Arunachal Pradesh Goods Tax Act, 2005 read with Arunachal Pradesh Goods Tax Rules, 2005

To appear and attend before any authority in connection with any proceedings under this Act [Section 83 (1)(c) read with Rule 78(1) (a)].

8. Gujarat Value Added Tax Act, 2003 read with Gujarat Value Added Tax Rules, 2006.

No specific mention of word CS under the Act !!

To appear before VAT Authorities in connection with any proceedings under this Act [Section 81(1) (c) read with Rule 59 (1) (a)].

Section 81. (Who Can Appear)

(1) Any person, who is entitled or required to attend before any authority in connection with any proceedings under this Act, may attend:

- (a) by a person authorised by him in writing in this behalf, being a relative or a person regularly employed by him; or
- (b) by a legal practitioner or Chartered Accountant or Cost Accountant who is not disqualified by or under sub-section (2) ; or
- (c) by a sales tax practitioner who possesses the prescribed qualifications and is entered in the list, which the Commissioner shall maintain in that behalf, and who is not disqualified by or under sub-section (2).

Rule 59. Qualifications of tax practitioners.

- (1) A tax practitioner shall be eligible for having his name entered in the list of tax practitioners maintained under section 81, if he has –
 - (a) passed any accountancy examination recognized by the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (Act of 1924), for the purpose of clause (v) of sub-section (2) of section 288 of the income Tax Act, 1961 (Act 43 of 1961) and under **rule 50 of the Income Tax Rules, 1962: or**
 - (b) acquired such educational qualification as are prescribed by the Central Board of Revenue constituted under the Central Board of Revenue Act, 1924 (Act 4 of 1924), for the purpose of clause (vi) of sub-section (2) of section 288 of the Income Tax Act 1961 (Act 43 of 1961) and under rule 51 of the Income Tax Rules, 1962, or.
 - (C) held any office for a period not less than five years not below the rank of a CTO in the sales tax department of the Govt. of Gujarat and has retired or resigned from such office.

- (2) A tax practitioner who is eligible to appear in a proceeding under the Act before any authority appointed under section 16 shall on application made in writing to the Commissioner in Form 601 be entitled to have his name entered into the list referred to in sub-rule (3).
- (3) The Commissioner shall maintain a list of all tax practitioners in Form 602 who are entitled to attend in a proceeding before an authority appointed under section 16 and shall, from time to time, bring the list up to date.
- (4) The tax practitioner entitled to have his name entered in the list maintained under section 81 and whose name stands entered immediately before the appointed day, in the list which was maintained by the Commissioner under rule 71 of the Gujarat Sales Tax Rules, 1970, shall be deemed to have his name duly entered on the appointed day, in the list maintained under this rule.

Conclusion

To clarify the actual position, directly company secretaries have not been named as persons who can be registered as tax practitioners or act as authorized representative of the dealer under the GVAT. However, while reading the relevant VAT Rules applicable in Gujarat, following position emerges, which has also been endorsed by our Institute.

Under Rule 59 of the VAT Rules of Gujarat, a tax practitioner also includes a person who has passed any accountancy examination for the purpose of section 288 (2) (v) of Income Tax Act and under Rule 50 of the Income Tax Rules. This covers a person who has passed the final examination of ICSI.

Section 288 (2)(v) of the Income Tax Act reads as under : (Relevant Para)

288 (2) : For the purpose of this section, ‘authorised representative’ means person authorised by assesses in writing to appear on his behalf, being –

(v) any person who has passed any accountancy examination recognized in this behalf by the Board

Similarly Rule 50 of the Income tax Rules reads as under.

Rule 50 : The following accountancy examinations, inter alia, are recognized for the purpose of clause (v) of sub-section (2) of section 288 :-

(2A) Final Examination of the Institute of Company Secretaries of India, New Delhi

In view of the above, a Company Secretary is qualified to be appointed as Sales Tax Practitioner and as per section 63 & section 81, a Sales Tax Practitioner is authorized to conduct VAT Audit and to appear before the authority respectively,

for that purpose, he has to make an application to the Commissioner for getting his name entered in the list maintained by the Commissioner in **Form 601**.

Resolution passed by the Council under Regulation 168 of the Company Secretaries Act, 1982, prescribes the areas where the members of Company Secretaries are eligible to conduct or carry in any business or occupation generally.

Therefore, as per the resolution the appointment as Sales Tax Practitioner will not be considered as Professional Misconduct.

VAT AT A GLANCE

VAT System in Globe (World Tour)

- ▶ France is the first Country in the world, which has adopted VAT in 1954,
- ▶ Brazil biggest country by area has adopted VAT in 1960,
- ▶ China biggest country by population has adopted VAT in 1994,
- ▶ Our neighbor countries like Pakistan, Nepal, Bangladesh have adopted before us,
- ▶ Today around 130 countries have implemented VAT System,
- ▶ Around 70% world populations living under VAT System,
- ▶ Surprise to know that the U.S.A. has not adopted VAT,

→ VAT made Effective from 1st April, 2006 in Gujarat

→ Gujarat VAT Act, 2003 (VAT Act) replaced following Acts.

- Gujarat Sales Tax Act, 1969
- The Bombay Sales of Motor Spirit Taxation Act, 1958 (MST)
- Gujarat Purchase Tax on Sugarcane Act, 1989

→ VAT legal framework consists of VAT Act and VAT Rules.
[Note that CST Act is also administered by VAT Dept.]

→ VAT Act contains 100 Sections and 3 Schedules.

→ VAT Rules contain 67 Rules and 75 Forms.

→ VAT Schedule – I, contains list of goods, the sales or purchase of which are exempt from Tax [e.g. Akik Stone, Bindi, Cattle, Bread, Bangles, Salts etc]

→ VAT Schedule – II, contains list of goods, the sales or purchase of which is subject tax at a Rate mentioned against name of commodity [normally 4 % and last entry – 87, cover all goods not covered by Sch.-I and any specific entry of sch.-II, Rate of Tax for this entry is @ 12.5 %]

→ VAT Schedule – III, contains list of (motor spirit) goods, the sales or purchase of which is subject tax at a Rate mentioned against name of commodity [24, 26, 30, 36, 38 %]

* Broad rate 0%, 1%, 4%, 12.5% and 15%

A. Applicability of VAT Act / Who is liable to pay VAT [Section – 3]

1. Every **Registered Dealer**, irrespective of his turnover,
2. **Regular Dealer** Whose total turnover during the year exceeded rupees *Five Lacs* and whose taxable turnover exceeded rupees *Ten Thousand*.
3. A **casual dealer or auctioneer** whose taxable turnover exceeded rupees *Ten Thousand* in a year.

All above dealers have to pay tax on his turnover after he crosses above said limit. And dealer covered in Para 2 and 3 above shall have to apply for registration within 30 days of crossing limit of turnover under VAT in prescribed Form.

* see definition of TOT and Taxable TO

B. Non Applicability of VAT Act / Exception [Section – 3]

a. Dealer not covered :

- 1) An Agriculturist who sells exclusively his own agricultural produce;
- 2) An individual who sells exclusively fish or any sea food caught by him or by a member of his family ;
- 3) A charitable, religious or educational institution, carrying on the activity of manufacturing, buying, selling or supplying goods for achieving its avowed objects, which are not in the nature of business,

above three categories of persons **is not dealer and not covered by VAT Act irrespective of his turnover.**

- 4) A dealer dealing only in **exempted goods** : means goods covered under Schedule – I or exempted by Govt. u/s. 5 (1) or (2);
- 5) A dealer whose total turnover is less than *Rupees Five Lacs*.
- 6) A dealer doing only Job-work or labour work not involving use of any material;

b. Transactions not covered under VAT: [Section -4,5,5A]

VAT shall not be imposed on (shall **not apply** to)

- inter state sales or purchases
- sale or purchases taking place outside the State.
- imports or exports.
- goods specified in Schedule I, subject to specified conditions therein.
- Exempted U/S. 5 (1) or (2) by notification in the Official Gazette.
- Sales or purchase without any consideration, gifts, free samples etc.

C. Definitions

→ Like other statute, section 2 deals with the definitions of some key words:

- **Business [section 2(4)]** : it is inclusive definition and covers almost all activities of trade, commerce, manufacture, adventure, whether or not such activity is carried on with a motive of profit or gain and all transactions of sales, purchases, supply, etc.
- **Capital Goods [section 2(5)]** : it is important as Input Tax Credit (ITC) is available on purchase of Capital Goods. It means Plant and Machinery (other than second hand) meant for use in manufacture of taxable goods and accounted as capital assets in the books of accounts.
- **Dealer [section 2(10)]**: this definition is also an inclusive one and very wide in scope. It covers unusual persons like Central Govt., State Govt., Local Authority, HUF, Company, Auctioneer, Factor, Broker, Commission Agent, Del Credere Agent, and mercantile Agent who carries on business.

- Dealer does not include an agriculturist, fisheries and charitable religious or educational institution.
- **Place of Business [section 2(16)]**: means any place where a dealer carries on business and includes –
 - a) a warehouse, godown or other place where a dealer stores or processes his goods;
 - b) any place where a dealer produces or manufactures goods;
 - c) any place where a dealer keeps his books of accounts;
 - d) any vehicle or vessel or any other carrier wherein the goods are stored or used for transporting the goods;
 - e) any place of business of an agent by whatever name called through whom a dealer carries on business;
- **“Turnover of purchase”, “Turnover of Sales”** : means the aggregate of the amounts of purchase price or sale price as the case may be after deducting the value of goods returned within six month from the date of sale or purchase
- **Total Turnover [section – 2 (36)]** means aggregate of the following transactions effected by a dealer: -
 - (a) turnover of sales or purchases of goods within the State whether such sales or purchases of goods are taxable or exempt under this Act;
 - (b) turnover of sales of goods in the course of inter-State trade or commerce;
 - (c) turnover of sales of goods in the course of export of goods out of the territory of India;
 - (d) turnover of sales by a dealer on his own account and also on behalf of his principal.

Note-1: that turnover of inter state purchase and import are not to be considered while determining total turnover.

Note-2: total turnover need to be considered while determining the liability of the dealer in respect of – getting registered under the Act, VAT Audit, Forms 402,403.

- **Taxable Turnover [section – 2 (30)]** means the turnover of all **sales** or **purchases** of a dealer during the prescribed period in any year, which remains after deducting there from:
 - (a) the turnover of sales not subject to tax under this act,
 - (b) the turnover of goods declared exempt under section 5 (1) or 5(2) and,
 - (c) in case of works contract, the charges toward labour, service and other like charges.

“sale” means a sale of goods made within the State for cash or deferred payment or other valuable consideration and includes,-

- a) transfer, otherwise than in pursuance of a contract, of property in goods for cash, deferred payment or other valuable consideration,
- b) transfer of property in goods (whether as goods or in some other form) involved in execution of a works contract,
- c) delivery of goods on hire purchase or any system of payment by instalments,

- d) 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,
- e) supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration,
- f) supply of goods by a society or club or an association to its members on payment of a price or of fees or subscription or any consideration,
- g) supply of goods by way of or as part of any service or in any other manner whatsoever, or
- h) supply of goods being food or any other article for human consumption or any drink (whether or not intoxicating) where such supply or service is for cash, deferred payment or other valuable consideration,
- i) supply by way of barter of goods,
- j) disposal of goods by a person in the manner prescribed in Explanation (iii)

but does not include a mortgage, hypothecation, charge or pledge; and the words “sell”, “buy” and “purchase” with all their grammatical variations and cognate expressions shall be construed accordingly.

D. Type of Tax under VAT :

1. **Normal VAT Tax** : as leviable normally on goods
2. **Purchase Tax** : when a Registered Dealer purchases taxable goods from a Unregistered Dealer, the PT is leviable on such purchase at normal rate
3. **Lump Sum VAT**: leviable on dealers who opted scheme u/s. 14, 14A, 14B, 14C and 14D.
4. **Additional VAT SEC. 7(1A) & 9(6)**
 - 1) W.e.f. 01/04/2008, Additional tax is levied u/s. 7(1A) on the turnover of sales of goods except the following:
 - A. Schedule I -Tax Free Goods
 - B. Schedule III - Petrol, Diesel ATF, Motor Spirit, etc .
 - C. Schedule II Entry 13 - Bullion & Species, gold, silver & other precious metals, precious stones & pearls and Articles/Jewellery of gold/ silver or both or other precious metals.
 - D. Taxable Declared Goods However, w.e.f. 1-4-2011, additional tax is payable @ 1% on these goods also.
 - 2) As per Section 9(6), Additional Tax is also leviable on turnover of purchases liable to P.T. u/s. 9 except aforementioned goods.
 - 3) The rate of Additional Tax is 1% in case of goods which are liable to tax @ 4% and is 2.5% in case of other goods, which are liable to tax @ 12.5 % or more. The Additional Tax is Vatable and is leviable on sales price excluding VAT. The Additional Tax is not payable on the tax payable under the lump sum Scheme.

E. RATE OF TAX UNDER THE GVAT ACT, 2003

1. Schedule I, governed by Section 5(1), contains 54 entries, which are exempt from the levy of tax. In Schedule II, First 86 Entries are taxable @ 4% except for the commodities enlisted hereunder which are taxable at specified rates:
2. Entry (13) Gold/Silver, etc. @1%, Entry (25) Liquors @ 60%. Entry (46B) Kerosene other than sold under PDS @ 25%, Entry (48A) Lignite @ 20%, Entry (49A) Low Sulphur Heavy Stock (LSHS) @ 15%, Entry (49B) Lubricants @ 15%, Entry (51A) Naphtha @ 16%, & w.e.f. 01-04-2011, Entry 76A Tobacco of all types & Tobacco Products such as Bidi, Cigarette, Gutkha, Pan Masala, Snuff containing Tobacco @ 22.5%.
3. 87th Entry in schedule II is Residuary Entry taxable @ 12.5% (Means those commodities which are not found either in Schedule I or Schedule III or in Entries 1 to 86 in Schedule II).
4. Schedule III gives specific tax rates for Motor Spirit goods *vi*□, Entry 1 High Speed Diesel Oil @ 24% (Rate reduced to 21% by notification Dt.10-06-2008), Entry 2 Aviation Gasoline (Duty Paid) @ 13%, Entry 3 Aviation Gasoline (Bonded) @ 26%, Entry 4 Aviation Turbine Fuel (Duty Paid) @ 30%, Entry 5 Aviation Turbine Fuel (Bonded) @ 38%, Entry 6 Any other type of motor spirit excluding natural gas & LPG @ 26% (Rate reduced to 23% by notification Dt.10-06-2008).

The above entries are to be read with various notifications issued by the State Government u/s. 5(2), conferring exemption or reduction in the tax rate from time to time.

5. ZERO RATED SALES [section 5A]

The concept of zero rated sales has been introduced w.e.f. 01/04/2008, for allowing ITC on the purchases of goods which are sold to the Developer or Co-Developer of SEZ or to a Unit carrying on business in the Processing or Demarcated area of SEZ. This benefit is not admissible on sale by dealers opting for lump sum/ composite tax & for Schedule III goods i.e. Motor spirit goods & also to crude oil, lignite & vehicles of any type & its equipments, accessories or spare parts as per Notification Dt. 1-4-2008.

As per Rule 42(2)(2A), the tax invoice in such case shall have to be issued in triplicate. Original invoice is to be given to buyer. Duplicate, duly endorsed by customs authorities is to be returned to the seller. Triplicate is to be retained by the seller. Local sellers shall have to dispatch goods with form 402, duly pre authenticated by his jurisdictional officer.

F. Input Tax Credit (ITC) [section – 11]:

The whole VAT mechanism is based on this section. Provision relating to ITC is the heart of Vat Act. Under Gujarat VAT, Tax is levied at each point of sale. Tax levied on purchase point will be allowed to be Credit, also referred to as **input tax credit** under VAT.

Section – 11 elaborately deals with the issue. ITC provisions can be summarized as under:

Section : 11 (1) (a), Rule : 15,16,17,18

A registered dealer who has purchased the taxable goods (hereinafter referred to as the “purchasing dealer”) shall be entitled to claim tax credit equal to the amount of,-

- (i). tax collected from dealer by a registered dealer from whom he has purchased such goods or the tax payable by the purchasing dealer to registered dealer who has sold such goods to him during the tax period, or
- (ii). tax paid by him during the tax period under sub-section (1) or (2) of section 9 or
- (iii). tax paid by the purchasing dealer under the Gujarat Tax on Entry of Specified Goods into Local Areas Act, 2001.

(b)The tax credit to be so claimed under this sub-section shall be subject to the provisions of sub-sections (2) to (12); and the tax credit shall be calculated in such manner as may be prescribed.

♣ Taxes covered for ITC

- Only VAT, Additional VAT, PT paid under VAT Act, Entry Tax, are eligible for ITC. the ITC shall not to be exceeded to the tax actually paid on purchase.

♣ Purchase Eligible for ITC

- Goods must be purchased with following intention:
 - For sales or resale in the state
 - For inter state sales or for Export
 - For branch transfer or consignment to other state (ITC to be reduced by 4 %)
 - For sales to EOU or units in SEZ in the courses of export
 - For use as raw material in the manufacture of goods referred in above Para
 - For use as packing material of goods so manufactured
 - For use as Capital Goods (not being second hand plant and machinery) in the manufacture of taxable goods and must be accounted as Fixed Assets and not to be sold upto five years.

♣ General Conditions for ITC

1. ITC is available to Registered Dealer (RD) only.
2. No co-relation or nexus with goods is required. Tax paid on any taxable goods can be used as input tax credit against tax payable on any other taxable goods.
3. ITC made available at the point of purchase itself, if other conditions are fulfilled.

4. Local Purchase made through Tax Invoice is only eligible and purchasing dealer must receive original Tax invoice.
5. In case of Consignment / Branch or Depot Transfer / Fuel used in manufacturing, ITC to be reduced by 4%
6. 2% ITC shall be reduced on all local purchase, when the purchase is used for inter state transactions. w.e.f. 01.07.2010 – (now 1% w.e.f. 1.10.2014)
7. Dealer shall maintain the registers and books of accounts in such manner as may be prescribed.

♣ ITC not available in following case

1. Not available for purchase from Unregistered Dealer (URD)
2. Purchase made before effective date of your Registration, not eligible
3. Purchase made from a dealer who has opted for lump sum scheme is not eligible for ITC.
4. OGS purchase, Import
5. Purchase of goods which are disposed of otherwise than in sale, resale or manufacture.
6. Purchase of Exempted Goods under the Act,
7. Purchase of goods used in the manufacture or packing of exempted goods.
8. Purchase of capital goods used in the in the manufacture exempted goods or in generation of electrical energy including captive power.
9. Vehicles of any type and its parts or accessories (not for resale)
10. Purchase not connected with business e.g. stationery, A.C. for office, computer
11. Purchase of goods used as fuels in generation of electrical energy meant for captive use or otherwise.
12. Purchase of fuel for motor vehicles
13. Purchase of petrol, HSD, crude oils and lignite unless such purchase is for resale.
14. Purchase of goods for which right to use is transferred.
15. Purchase of capital goods used in execution of any works contract,
16. Purchase made from a dealer after the name of such dealer has been published u/s. 27 or 97 (suspended or cancelled dealer)
17. Purchase of goods for which no tax invoice is available or in tax invoice the amount of tax is not separately mentioned.
18. Govt. may by notification specify any goods or the class of dealers that shall not be entitled to whole or partial tax credit.

Under this clause, Neptha, Netural & Associated Gas and LSHS used by Fertilizer Industries.[No ITC on these goods]

♣ ITC REVERSAL @ 2% FOR INTER STATE SALES (1% w.e.f. 01.04.2014)

Input Tax Credit (ITC) will have to be reversed w.e.f. 1st July, 2010 @ 2% of taxable turnover of purchases within the state, of goods, other than Schedule-II (13) goods (bullion etc.), for which tax credit is admissible, if the goods are either sold/ resold in the

course of interstate trade and commerce or are used as input in the manufacture of goods, which are sold in the course of interstate trade and commerce. W.e.f. 01-10-2010, no such reversal will have to be made for following goods of schedule II.

- a) Entry 13 - Bullion, etc.
- b) Entry 24 - Cotton & Cotton waste, Bidi Pan, timaru Pan
- c) Entry 48(i) - viz Isabgul, Jira, Variali, Methi, Suva, Ajma, Asalia, Shalingda seeds, Khas Khas, Dhana, Dhanani Dal & Paper.
- d) Entry 54 - Oildseeds, Peanuts, other taxable seeds &
- e) Entry 76 - Timru Leaves or Beedi Leaves

G. VAT Liability Determination:

VAT payable = Output tax (Including PT) – Input tax (Including PT)+ entry Tax if paid.

If answer comes in negative then it is termed as excess tax credit. Tax credit of the particular tax period will be adjusted firstly with VAT payable, thereafter if any excess **shall be adjusted against CST payable for the same period** and excess Credit can be carried forward to the next return period. In case of excess un utilised tax credit at the year end, the same will be carried forward in the subsequent year.

H. Registration: [section – 21]

On crossing of limit of Rs.5.00 lacs as mentioned in Para – A section 3, one has to apply for Registration within 30 days of crossing limit of turnover.

One may apply voluntarily u/s. 22 of the Act even before crossing 5.00 lacs turnover. But in this case you have to pay cash of Rs. 25000/- as advance VAT through challan.

Business Address proof and identity proof as well as domicile proof of owner need to be attached with application.

Govt. fixed Rs. 10000 + 10000 deposit for Vat and CST application.

I. Invoices and Debit & Credit note [section – 60, 61]

In the Gujarat Vat System, all transactions of sales and purchases have been categorized as Tax Invoice Sales or purchase and Retail Invoice Sales or Purchases.

All RDs have to maintain minimum two set of Invoices:

1. Tax Invoice and 2. Retail Invoice

Both must be consecutively numbered and dated mechanically. Hand written bill No. and dating is not allowed.

Excisable units can use single bill book for issue of tax invoice as well as retail invoice.

1. Tax Invoice: [Must be and only issued under following case]

A very very important documents of VAT System.

When a Registered Dealer sells taxable goods to another RD within Gujarat, tax invoice is required to be issued by selling dealer in the name of purchasing dealer.

If all above conditions are satisfied then and then only tax invoice must be issued. In rest of the case Retail invoice is to be issued.

Tax invoice must shows the name and address with TIN No. of purchasing dealer and must contains rate of Vat and amount of Vat covered by the invoice. If tax is not shown separately, the purchasing dealer can not get ITC.

2. Retail Invoice: [can be Issued under following cases]

1. Sales of Exempted goods
2. Sales of goods in the course of inter-state trade or commerce
3. Export of goods out of the India
4. Sales to Un Registered dealer
5. For Job or Labour Invoice [one can use third type of invoice for this as VAT Act is silent]
6. For Branch transfer or Consignment Sales.
7. A selling dealer who has opted for and holds a valid permission to pay lump-sum tax is required to issue only a retail invoice.
8. In such other case as notified by Govt.

Contravention of any of the provisions relating to invoices shall attract a penalty up to 10 % of value of transactions covered by invoice.

J. Returns & Payment of VAT/CST (Periodicity) [section – 29, 30]

- I. **Quarterly Return: All local traders** who are not manufacturer, irrespective of turnover and amount of tax paid, are required to file return on quarterly basis and pay tax quarterly. But if tax payable in any year exceeds Rs.60000/- then dealer has pay tax monthly and return quarterly.
- II. **Quarterly Return:** All other traders or manufacturers required to file quarterly return, if tax payable in year does not exceed Rs. 60000/-.
- III. **Quarterly Return:** Dealers who have opted lump sum scheme(Except NLD).
- IV. **Monthly Return:** All other traders or manufacturers required to file monthly return, if tax payable in year exceed Rs. 60000/- and pay tax also on monthly basis.
- V. **Monthly Return:** Irrespective of turnover or tax payable following category of dealers have to file return on monthly basis and pay tax also on monthly basis:
 - a. Importer
 - b. Exporter
 - c. NLD
 - d. Dealer dealing in commodities referred in Schedule – III
 - e. New Registered dealer for first 12 moths
 - f. Developer of SEZ or has industry in SEZ
 - g. Eligible for Refund U/s. 40 or Remission U/s.41

- VI. **Half Yearly Return:** A Society manufacturing Sugar or Khandsari.
- VII. **Annual Return:** All RD shall file an annual return within 90 days of closure of financial year in form 205, or 202 for lump sum scheme. Annual Return is to be prepared with due care and caution, as it is not mere a return but is also a self assessment memorandum. This should cover all transitions of sales and purchase, even if not included in quarterly or monthly return due to any mistake. This should tally with your final books of accounts. It is not just an aggregation of twelve month returns.
- Surplus tax payable in annual return can be paid with this return without any interest and penalty.
- If Annual return shows refund, then it can be taken as tax credit brought forwarded in current period. Great confidence is required for this, or other way is to ask the dept. to make assessment and let them to decide the refund.(C/F)
- VIII. **Revised Return :** a revised return can be filed within 30 days from the end of limit of filing of original return.

Non filing of return will attract penalty of Rs.100/- for per day subject maximum penalty for quarterly dealer is Rs.2000/- and for monthly dealer is Rs.10000/- per return. Continuation default can lead to suspension or cancellation of RC, bank Attachment etc.

K. e>Returns and forms [section – 29]

- e-filing of Return made compulsory for all w.e.f. 01.10.2014.
 - website : www.commercialtax.gujarat.gov.in
 - Login with TIN no. and password as you want
 - Form 201, 201A, 201B and 201C, for VAT return
 - Form 3(b) along with appendix I & II for CST return
- Need to be uploaded in pre-programmed excel format converted in CSV format as provided in website.
- Tax shown in return as payable by the dealer shall be paid through challan – No. 207 within 22 days of end of tax period and counter receipt of such payment shall be furnished along with return.
 - E payment shall be made compulsory if vat payment exceeds Rs.10/- lacs in the year.

@ Time limit for uploading e returns :

Monthly Dealer with Tax paid less than or equal to Rs.5000/- in current tax period under Vat / CST	60 days after end of month.
Monthly Dealer with Tax paid more than Rs.5000/- in current tax period under Vat / CST	70 days after end of month.
All Quarterly Dealer	75 days after end of quarter.

L. VAT Audit [section – 63]

Every dealer whose total turnover is 1.00 crore or more and contains taxable turnover of Rs.20 lacs or more has to get his account verified and audited by specified authority within nine months from the end of the financial year and submit a copy of report to Commissioner of VAT within one month of receipt of such report.

Specified authority includes 1. CA, 2. ICWA, 3. Legal or Tax Practitioner as listed by Commissioner u/s. 81.

Penalty up to 10000/- can be imposed if above requirement is not complied with.

M. Movement of Goods and Check-Posts [section – 68]

- Every movement of all goods to other state shall be accompanied with Form No. 402 completed in all respect.
- Every movement of specified goods to other state shall be accompanied with Form No. 402 completed in all respect **obtained and downloaded from website.**
- Every movement of all goods from other state into the Gujarat shall be accompanied with Form No. 403 completed in all respect.
- Every movement of specified goods from other state into the Gujarat shall be accompanied with Form No. 403 completed in all respect **obtained and downloaded from website.**

Specified Goods includes motorcar, taxi, van, two wheeler, cement, marble or granite Kota stone, Naphtha, LDO, HDO, tea, iron and steel, nylon yarn plywood, and sheets etc.

The above form 402,403 need to be accompanied with the movement of the all taxable goods by dealer whose turnover is more than Rs.50. crores.

Penalty for non compliance of above is 150% of tax payable on the goods involved, apart from normal tax and interest. Your goods may be seized, if officer in charge of check-post seem fraud.

N. Prescribed Forms (only important forms are listed)

- 101, 101A, 101B, 101C, 101D, 101E : Set for Registration Application
- 103, : For cancellation registration
- 106, : Declaration of manager of the business
- 107, : For Bank Accounts information
- 201, : Monthly / Quarterly Return
- 201A,201B: List of Tax Invoice sales and purchase appended to form - 201,
- 201C : Stock Statement appended to form - 201,
- 202, A,B,C: Quarterly / Annual Return for lump Sum dealers and appendix
- 205, 205A : Annual Return and its Appendix
- 207, : Challan for payment of VAT
- 402 : for movement of goods from Gujarat to other state.
- 403 : for movement of goods from other state to Gujarat.
- 601 : Application for enrolment as Tax Practitioner u/s. 81 (c)
- 603 : Authorization u/s. 81 to Authorised Representatives etc.
- 604 : Authorization u/s. 81 to relative or employee

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