



॥ सरस्वती नः सुभगा मयस्करत् ॥

**Uttar Pradesh Rajarshi Tandon Open  
University, Prayagraj**

**MASTER OF COMMERCE**

**M.COM.– 401**

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**GOODS AND SERVICES TAX**

**U.P.RAJARSHI TANDON OPEN UNIVERSITY  
PRAYAGRAJ**

# ODISHA STATE OPEN UNIVERSITY, SAMBALPUR

Program Name: **Bachelor of Commerce (B. Com)**

Program Code: **BCO**

Course Name: **GST and Indirect Taxes**

Course Code: **BCO-08**

Semester: **IV**

Credit: **6**

Block No. **1 to 4**

Unit No. **1 to 16**

Pages: **1 to 187**

This study material has been developed by Odisha State Open University as per the State Model Syllabus for Under Graduate Course in Commerce (Bachelor of Commerce Examinations) under Choice Based Credit System (CBCS).

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## COURSE WRITERS

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**Mr. Sanjib Kumar Das (MBA)**

Ex-Chief Manager (Finance & Accounts) MMTC

Limited (A Govt. of India Enterprise)

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## EDITORIAL COMMITTEE

---

**Dr. Pooja Bai Kewat**

Academic Consultant (Commerce), OSOU

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## MATERIAL PRODUCTION

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## M.Com.-401: GST AND INDIRECT TAXES

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### **Introduction to Goods and Services Tax**

**Unit-1: Introduction to GST**

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# UNIT-1 INTRODUCTION TO GST

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## Structure

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## 1.0 LEARNING OBJECTIVES

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After reading this unit you will be able to know

- Explain the concept of GST and the need for GST in India.
- Explain the constitutional provisions pertaining to levy of various taxes
- The significant amendments made by constitution (101st Amendment) Act 2016.
- About the structure of GST

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## 1.1 INTRODUCTION

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Before delving into different aspects of the Goods and Services Tax, it's important to understand what a tax is in the first phase. The mere mention of the word can make us feel nervous because taxing a person or an organisation is not something that is easily reciprocated. However, taxes must be paid to finance various government spending initiatives. The word tax is derived from the Latin word "taxo" which means "I estimate." This evaluation by the government or a local body assists the administration in designing strategies for the citizens' welfare. A tax is a government-imposed levy or financial charge on a person or an entity in order to raise funds for public works. Therefore, it has rightly been said that finance is the fuel that runs the state machine. We will all have to pay taxes to the local government, regardless of where we live in the country. State taxes, central government taxes, direct taxes, indirect taxes, and so

on are all examples of taxes. The forms of taxes payable in India can be divided into two groups for ease of understanding: Direct taxes and Indirect taxes. Income tax and wealth tax are examples of direct taxes that are paid directly to the government by the taxpayer. Indirect tax is a form of tax that is not imposed directly on taxpayers, as the name implies. This tax is often imposed on goods and services, resulting in higher prices.

Service tax, federal excise and customs duty, securities and transaction tax (STT), entertainment tax, stamp duty, and value added tax are all examples of indirect taxes in India. Indirect taxes, on the other hand, are consumption-based taxes that are applied to products or services as they are purchased and sold, as opposed to direct taxes. In the subsequent units, we'll go through the buying and selling processes as they relate to the imposition of GST.

Following independence, the Goods and Services Tax (GST) was described as a game-changing indirect tax reform that would eliminate inter-state trade barriers caused by multiple indirect taxes levied by the union and state governments. Goods and Services Tax is an indirect tax in India that has replaced a number of indirect taxes such as central excise duty, additional excise duty, services tax, surcharge and cess, and central sales tax imposed by the central government, as well as VAT, Entertainment tax, Entry tax, Luxury Tax, and Consumption Tax imposed by state governments.

The 'One Country, One Tax' Act was passed by Parliament on March 29, 2017 and went into effect on July 1, 2017. This is, in effect, a multi-stage, destination-based tax that is applied to all value additions. GST was implemented to make the country's single domestic indirect tax system clear, detailed, and understandable. It is a tax that is collected on the supply of goods and services.

France was the first country in the world to implement GST in 1954. In the 62 years since its inception, over 160 countries around the world have implemented GST. Although the single-model GST is popular, Canada and Brazil have a dual-model GST for convenience. India, too, has introduced a dual GST, with the centre and the states imposing taxes at the same time.

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## **1.2 GENESIS OR ORIGIN OF GST IN INDIA**

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- The Kelkar Task Force proposed the implementation of GST in India in 2004.
- The initiative was carried forward in 2007 when Shri P. Chidambaram, the then-Union Finance Minister, declared during the presentation of the central budget for 2007-08 that India was considering introducing GST.
- The Constitution (122nd Amendment) Bill was introduced by the NDA government in 2014.
- On September 8, 2016, it received presidential assent and became the Constitution (101st Amendment) Act, 2016, paving the way for the implementation of GST in

India.

- The Central Goods and Services Tax Bill, 2017, the Integrated Goods and Services Tax Bill, 2017, the Union Territory Goods and Services Tax Bill, 2017, and the Goods and Services Tax (Compensation to States) Bill, 2017 were introduced in March 2017 and passed in the Lok Sabha, receiving President's Assent on April 12, 2017. State GST laws were subsequently passed by the respective state governments.
- The Goods and Services Tax (GST) was introduced across India on July 1, 2017.

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### **1.3 CONSTITUTIONAL AMENDMENT FOR GST**

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Constitution (101<sup>st</sup> amendment) Act, 2016 was enacted on 8.09.2016 for the following significant amendments.

- (a) Parliament and state governments have concurrent (simultaneous) authority to enact laws imposing taxes on goods and services.
- (b) Except for alcoholic beverages for human consumption, GST would be charged on all supplies of products and services.
- (c) Parliament has exclusive authority to enact legislation relating to the goods and services tax on interstate (state-to-state) supplies.
- (d) In the course of inter-State trade and commerce, Parliament shall create principles for deciding the place of supply and when supply occurs.
- (e) According to the clarification to Articles 269A of the Indian Constitution, the import of goods and services is considered a supply that occurs in the course of inter-State trade and commerce.
- (f) The following goods will be subject to a Central Excise Duty on production and a Sales Tax on sales in their respective states.
  - Petroleum crude
  - High speed diesel
  - Motor spirit (commonly known as petrol)
  - Natural gas
  - Aviation turbine fuel
  - Tobacco and tobacco products
- (g) Article 279A of the Indian Constitution empowers the president to appoint a Goods and Service Tax Council (GST Council) chaired by the Union Finance Minister to make recommendations on the GST (Article 279A)
  - GST rate
  - Valuation and other fundamental rules
  - Exemption
  - Future changes
  - Return
  - Registration

#### **Legislative Framework**

- The Central Goods and Service Tax Act, 2017 imposes CGST on intra-State



supply of goods and services.

- The State Goods and Service Tax Act of 2017 is one of thirty-one acts that enable states to impose SGST on intra-state supplies of goods and services.
- One is the Union Territory Goods and Services Tax Act of 2017, which imposes UTGST on intra-Territory procurement of goods and services in five union territories without state legislatures. (Andaman & Nicobar Islands, Lakshadweep, Dadra & Nagar Haveli, Daman & Diu, Chandigarh)
- One for levying IGST under the Integrated Goods and Service Tax Act of 2017; and one for levying GST Compensation Cess under the Goods and Services Tax (Compensation to States) Act of 2017.

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## **1.4 STRUCTURE OF GOODS AND SERVICES TAX (GST)**

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1. GST is a tax levied on the supply of goods and services in India (including Jammu and Kashmir). It is a single tax that applies to the supply of products and services from the producer to the end user. A set-off from the output tax is available under GST credit for taxes paid at previous points.
2. GST is destination based consumption tax. Benefit of tax will accrue to the consuming state.
3. The federal government and the states would levy a tax on all goods and services at the same time. The Centre can now levy a tax on intra-state sales of goods, and states can levy a tax on services.
  - (1) **Intra-State supply of goods and services-**
    - CGST- Payable to Central Government
    - SGST/ UTGST- Payable to State Government/ Union Territory (as applicable) where they are consumed
  - (2) **Inter-States Supply of goods and services**
    - IGST - Payable to Central Government
4. The Centre will levy and administer CGST and IGST while respective States/ UTs will levy and administer SGST/UTGST.
5. Import will be treated as inter-States supply and IGST will be chargeable along with basic Customs duty.
6. However, GST Export will be treated as Zero rated supplies and no IGST is payable.
7. GST concentrations are 0.5 percent, three percent, five percent, twelve percent, eighteen percent, and twenty-eight percent. A compensation cess would also be levied on pan masala, gas, aerated water, and automobiles (Sin cess). On GST, there is no Education Cess or Krishi Kalyan Cess for Swachh Bharat or Krishi Kalyan.
8. GST would be based on the transaction value of the products and services supplied. (There are some exceptions)
9. Under GST, any supplier who has made a taxable supply is required to register with the government.
10. A registered individual can take credit (deduction) for input tax paid against output

tax (if any), subject to the following conditions:

- **Utilisation of IGST** : First utilize for the payment of IGST then the balance may be utilized towards payment of CGST and SGST/UTGST
  - **Utilisation of CGST**: First utilize for the payment of CGST then the balance may be utilised towards payment of IGST.
  - **Utilisation of SGST/UTGST**: First utilize for the payment of SGST/UTGST then the balance may be utilised towards payment of IGST.
11. In the case of inter-state supplies, the GST regime allows for a smooth (non-obstructive) credit flow, which was not possible prior to the implementation of the GST. CST charged by the customer is not eligible for credit. The seamless credit will flow as follows under the GST regime:
- The exporting state's inter-state supplier is required to offset the IGST payable with available credit in IGST, CGST, and SGST/UTGST. based on his inter-state supply
  - In an inter-state supply, the buyer of the importing state may deduct the IGST charged on the transaction from the output tax due. But that's one break from taking credit for anything.
  - The exporting state transfers to the center the SGST/UTGST credit that was used to pay the IGST.
  - The IGST credit used in the payment of SGST/UTGST is transferred to the importing state by the Centre.
12. A popular portal or website is required that can serve as a clearing house, verify claims, and notify the appropriate government about the funds transfer. This is made possible by a good IT infrastructure. As a result, the government has set up a shared GST Electronic Platform ([www.gst.gov.in](http://www.gst.gov.in)), a website operated by the Goods and Services Network (GSTN) for taxpayers, as well as a common IT infrastructure for the Central and State governments. GSTN mainly provides taxpayers with three programs.
- Facilitating Registration.
  - Forwarding the returns to Central and states authorities
  - Computation and settlement of IGST
  - Matching of tax payment details with banking network
  - Providing analysis of taxpayers' profile.

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## 1.5 NEED OF GST IN INDIA

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Imposing multiple taxes on goods and services will result in a high-cost, inefficient tax system that is susceptible to revenue disclosures and shirking. The need for GST in the Indian tax system would add value at each point and set rates at the state and national levels. The implementation of GST would increase tax performance, boost economic growth, and unite the entire country into a single market. Our current taxation system is very complicated and confusing; there is a risk of corruption, which contributes to mistrust on government; there are hidden taxes for exports, but no charge for importing goods/services from one state to another. The rates of value added tax vary from state

to state. States have been found to frequently cut these rates in order to lure investors. The effect is a reduction of income for both the federal and state governments. On the other hand, the Goods and Services Tax (GST) introduces uniform tax laws to all of India's states. The taxes will be split between the federal and state governments according to a predetermined formula. Since there will be no extra state-levied tax, it will be far easier to deliver services and products equally throughout the world. Due to disagreements among several states over key aspects of the new tax law, the GST rollout has missed many deadlines.

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## 1.6 MERITS AND DEMERITS OF GST

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The GST is a win-win situation for the nation as a whole. It benefits all stakeholders in the industry, the government, and the customers. Its implementation targets to reduce the cost of products and services, making them more internationally competitive. The following are some of the major GST benefits:

- (a) **Creation of unified national market:** The main purpose of GST is to make India a single market with common tax rates and compliances (procedures) while also removing economic barriers to create a uniform national economy.
- (b) **Mitigation of ill effects of cascading:** GST has consolidated most of the central and state indirect taxes into a single tax. The abolition of "tax on tax" helps the industry.
- (c) **Boost to 'Make-in-India' initiative:** GST will give the government of India's "Make in India" initiative a big boost by making products and services manufactured in India competitive in both the domestic and international markets.
- (d) **Increase in government revenue:** GST is expected to increase the revenue of the Government by expanding the tax base and improving the taxpayer.

### Disadvantages of GST

- Increased costs due to software purchase that can assist in GST filing process leads to higher operational cost for many businesses.
- GST will mean an increase in operational costs
- GST came into effect in the middle of the financial year
- Adapting to a complete online taxation system
- SMEs will have a higher tax burden

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## 1.7 CONSTITUTIONAL PROVISIONS IN INDIA BEFORE GST

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The Constitution of India is the base and root of all legislative powers in India. Parliament, like state legislatures, derives its authority to legislate from the Constitution alone. So any statute must adhere to the Constitutional provisions. Customs duty (entry 83 of the Union List), central excise duty (entry 84 of the Union

List), and service tax were the most important sources of indirect tax revenue for the Union prior to the implementation of GST (entry 97 of Union List). The Constitution (Eighty-eighth Amendment) Act, 2003 inserted entry 92C in the Union List of the Seventh Schedule of the Constitution for the levy of taxes on services, but it was not notified. So, before GST came into effect, service tax was imposed under the residual entry of the Union List, i.e. entry 97.

By virtue of entries 92A and 92B, the Union imposed a tax known as the Central Sales Tax (CST) on inter-state sales and purchases of goods as well as inter-state consignments of goods. According to the Central Sales Tax Act of 1956, which was enacted under Article 269 of the Constitution, CST is allocated to the state of origin.

On the state side, sales and purchase taxes, excise duties on alcoholic liquors, opium and drugs, taxes on luxuries, entertainments, amusements, betting and gambling, octroi or entry tax, and energy tax were the most important sources of revenue. Though the CST was implemented by the Union, it was also a major source of revenue.

The constitution of India provides for taxation only by authority of law.

As a result, according to Article 265 of the Indian Constitution, no tax can be imposed or collected unless it is approved by the statute. Similarly, an executive order cannot impose a levy. It is worth noting that the Supreme Court of India held in the case of *Chhotabhai vs Union of India* that a tax-imposition law must be a legal law that is not prohibited by any clause of the constitution. This subject is divided into three broad categories by Schedule VII.-

- Union List (Only Central Government has power of legislation)
- State List (Only State Government has power of legislation)
- Concurrent List (Both Central and State Governments can pass legislation)

According to Article 246(1) of the Indian Constitution, Parliament has exclusive legislative powers over any of the matters mentioned in List I of the Constitution's Seventh Schedule (i.e Union list). Article 246(3) states that the State Government has exclusive authority to make laws for the State in any matter included in List II of the Constitution's Seventh Schedule (i.e. State List).

Parliament has exclusive legislative authority over matters listed in the Union List, while the State Government has exclusive legislative authority over matters listed in the State List. The Constitution's Seventh Schedule contains yet another item, List III (also known as the concurrent list). Both the Central Government and State Governments have the authority to legislate in relation to the items on List III. In the case of Union Territories, the Union Government has the authority to enact laws governing any of the entries in all three lists.

Criminal law and procedure, Trust and Guardians, Civil Processes, economic and social planning, trade unions, charitable organizations etc. and other elements are

included in List III of the Seventh Schedule (i.e. Concurrent list).

In the event of a dispute between state and federal legislation relating to entries in the concurrent list, the law enacted by the federal government takes precedence.

There is one exception to this rule: if a state law includes a clause that is incompatible with an earlier law passed by Parliament, the state law takes precedence if it has obtained presidential assent. Even in such situations, Parliament has the power to enact new legislation as well as amend, repeal, or modify existing legislation.

Consumer goods were largely outside the net during the post-independence period, as central excise duty was imposed on a few commodities that were in the nature of raw materials and intermediate inputs. The Taxation Enquiry Commission (1953-54) under the chairmanship of Dr. John Mathai proposed the first set of reforms. The Commission recommended that sales taxes be used exclusively by states as a source of revenue, with Union intervention allowed only in the case of interstate sales.

The Constitution (Sixth Amendment) Act of 1956 gave the Union the authority to levy taxes on the sale and purchase of goods in interstate trade and commerce. Most manufactured goods were subject to central excise duty by the mid-1970s. Central excise duty was imposed on both units and value, known as special duty and ad valorem duty, respectively. With no offsetting of taxes paid on inputs, the number of rates was excessive, resulting in substantial cascading and classification disputes.

The Indirect Taxation Enquiry Committee, chaired by Shri L K Jha proposed, among other things, converting particular rates to ad valorem rates, rate consolidation, and a value added tax input tax credit mechanism at the manufacturing level (MANWATH). The Jha Committee's recommendation to move to a value-added tax in manufacturing was partly adopted in 1986. This was known as adjusted value added tax (MVAT) (MODVAT). In principle, duty was payable on value addition, but at first, it was limited to a few select inputs and manufactured goods with a one-to-one correlation between the two for input tax credit eligibility. The comprehensive coverage of MODVAT was achieved by 1996-97.

The New Economic Policy of 1991 ushered in the next wave of indirect tax reform. In 1991, Prof. Raja J Chelliah was nominated as the Chairman of the Tax Reforms Committee. The Committee suggested broadening the tax base by taxing services and eliminating exemptions, consolidating and lowering rates, and extending MODVAT to all inputs, including capital goods. It was proposed that if full benefits were to be obtained from tax reforms, it would have to be accompanied by a reform of tax administration.

Many of the Chelliah Committee's recommendations were adopted. Tax rates were merged into three rates in 1999-2000, with extra rates on a few luxury items. Three rates were merged into a single rate called Central Value Added Tax in 2000-01. (CENVAT). Only a few items were subject to a special excise tax.

The Union adopted service taxation in 1994, but it only covered three services: general insurance, telecommunications, and stockbroking. As time went on, more and more services were added to the mix. More and more services were brought under the tax net over the next decade. The tax rate on three services was 5% in 1994, but it gradually increased until it reached 15% in 2017. (Including cess). Prior to 2012, services were taxed using a "positive list" system. This method was prone to tax evasion'. In the 2012 budget, a negative list strategy was used, with 17 services being exempt from taxes and all others being taxed. In 2004, the input tax credit scheme for CENVAT and Service Tax was merged to permit cross utilization of credits across these taxes.

Sales tax had been levied in States since independence until state-level VAT was enacted in the first half of the first decade of this century. There were a number of serious flaws in the sales tax system. It was collected in an uncoordinated manner by states, resulting in different sales tax rates on different goods in different states. Some states had sales tax rates of more than ten percent, and different states had different rates for the same commodity. The Central Sales Tax was imposed on interstate sales. Credit was not permitted in the importing state because this tax was appropriated by the exporting state.

This resulted in tax exportation from richer to poorer states, as well as tax cascading. Surprisingly, states have had taxation authority over services since the beginning. Advertisements, luxuries, entertainments, amusements, betting, and gambling were all taxed by the states.

In 1994, the National Institute of Public Finance and Policy, led by Dr. Amaresh Bagchi, published a report titled "Reform of Domestic Trade Taxes in India" on reforming indirect taxes, especially state sales taxes.

This report laid the groundwork for states to enforce VAT. Some of the key recommendations included: replacing sales tax with VAT by moving to a multistage taxation system; allowing input tax credits for all inputs, including machinery and equipment; harmonization and rationalization of tax rates across States with two or three rates within specified bands; pruning of exemptions and concessions except for a basic threshold limit and items like unproceed income, modernization of tax administration, computerization of operations and simplification of forms and procedures.

For the first time in 1995, the Union Finance Minister convened a meeting of Chief Ministers to discuss the transition from the sales tax system to the VAT regime. A standing Committee of State Finance Ministers was created in November 1999 as a result of a meeting of the Union Finance Minister and Chief Ministers to deliberate on the design of VAT, which was later renamed the Empowered Committee of State Finance Ministers (EC). Haryana was the first state to implement VAT in 2003. In 2005, the majority of states introduced VAT. Uttar Pradesh was the last state to implement VAT on January 1, 2008.

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## 1.8 INTERNATIONAL PERSPECTIVES ON GST

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The terms VAT and GST are synonymous since the latter denotes the implementation of CENVAT, which minimized cascading costs by extending credit coverage to all inputs, including capital goods. Later on, the CENVAT scheme allowed service credit, and the basket of inputs, capital goods, and input services could be used to pay both central excise duty and service tax. Similarly, in the United States, the implementation of VAT abolished the cascading effect by allowing set-offs for tax paid on inputs as well as tax paid on previous transactions, which was an improvement over the previous sales tax system.

In the year 2000, the then-Prime Minister of Canada introduced the GST definition and established a committee to create a GST model for the country.

However, both the CENVAT and the state VAT are incomplete. CENVAT is incomplete since it has not yet been expanded to include the chain of value addition in distributive trade below the stage of development. Similarly, the CENVAT load on goods has not yet been eliminated from the State-level VAT, and the cascading impact of that portion of the tax burden has not been alleviated. Furthermore, with the abolition of the cascading impact of service tax, there has been no convergence of VAT on products with tax on services at the state level.

Because of its cascading form, CST was another source of distortion. It also went against one of the fundamental rules of consumption taxation, which states that the tax should be collected in the jurisdiction where the consumption happens. Despite the EC's efforts to harmonize VAT regimes, the national market was fragmented, with too many barriers to free movement of products imposed by procedural criteria under VAT and CST.

The Central Government had taxation powers over products in the constitutional system, but they were limited to the stages of manufacturing and development, while States had taxation powers over the selling and purchasing of goods. The Centre had the authority to tax services, and the States had the authority to tax such services as stated in Article 366, clause (29A). This type of taxing power division provided a grey area that resulted in legal disputes. It's difficult to describe what constitutes a good or service since, in today's dynamic manufacturing environment, a commodity is typically a combination of products and services.

By 2005, India had completed the transition to value added taxation at both the national and state levels. As a result, the integration of Central VAT and State VAT was an unavoidable result of the reform process. The Indian Constitution envisions a federal nature of authority that is conferred on both the Union and the States. As a natural result, the unification of the taxation system necessitated the imposition and collection of a dual GST by the Union and the States.

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## 1.9 GST: A HISTORICAL PERSPECTIVE

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In 2004, the Kelkar Task Force on Fiscal Responsibility and Budget Management (FRBM) proposed that a comprehensive tax on all goods and services be introduced to replace the Central and State level VATs. It was suggested that all indirect taxes, except customs duty, be replaced with a value added tax on all goods and services, with full set off at all stages of development.

By extending credit coverage to all inputs, including capital goods, CENVAT alleviated a large amount of cascading burden. Later on, the CENVAT scheme allowed service credit, and the basket of inputs, capital goods, and input services could be used to pay both central excise duty and service tax. Similarly, in the United States, the implementation of VAT abolished the cascading effect by allowing set-offs for tax paid on inputs as well as tax paid on previous transactions, which was an improvement over the previous sales tax system.

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## 1.10 LET US SUM UP

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The Goods and Services Tax (GST) is a value-added tax that applies to all types of goods and services. It is obtained on value added at each point of the sales process and bought across state lines in the supply chain. It will put together all existing taxes on goods and services imposed by the central and state governments in India, such as excise duty, service tax, state VAT/Sales tax, entry tax/octroi, state excise duty, countervailing custom duty, luxury tax, tax on consumption/sale of energy, entertainment tax, and so on. GST is a single tax on goods and services that aims to replace the existing multiple tax structure used by the Centre and States. GST is a multi-tiered sales tax that applies to a wide variety of goods and services. It is a sales tax, and the ultimate expense of the tax is paid by the customers who purchase the products or services. The fundamental idea is that the GST will have a clear structure and will tax all goods and services at the same rate. It is intended to be easy and applicable throughout the world. GST is a consumption tax on goods and services that includes an extensive and continuous chain of benefits from the manufacturer to the service provider to the retailer. It is basically a value-added tax, with a tax credit system enabling a supplier to set-off at each stage.

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## 1.11 KEYWORDS

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- **GST:** Goods and Services Tax is an indirect tax used in India on the supply of goods and services.
- **CGST:** It means Central Goods and Service Tax. CGST is a part of Goods and Services Tax. It is covered under Central Goods and Service Tax Act 2016. Taxes collected under Central Goods and Service tax will be the revenue for the central Government.



- **SGSG:** It means State Goods and Service Tax, one of the three categories under Goods and Service Tax (CGST, IGST and SGST) with a concept of one tax one nation.
- **CENVAT:** CENVAT means Central Value Added Tax. CENVAT credit is a credit in respect of central excise on inputs purchased for the manufacture or duty paid in relation to the manufacture of the final product.
- **CST:** Central Sales Tax is a form of indirect tax imposed only on goods sold from one state to another state, which particularly takes into account that the buyer and the seller needs to be in two different states.
- **IGST:** Integrated Goods and Service Tax. IGST falls under Integrated Goods and Service Tax Act 2016. Revenue collected from IGST will be divided between Central Government and State Government as per the rates specified by the government.
- **VAT:** A value-added tax, known in some countries as a goods and services tax, is a type of tax that is assessed incrementally. It is levied on the price of a product or service at each stage of production, distribution or sale to the end consumer.
- **UTGST :** Union Territory GST is only applicable when any goods or services or both are consumed in the given five regions of India that includes Andaman and Nicobar Islands, Dadra & Nagar Haveli, Chandigarh, Lakshadweep, and Daman & Diu called as Union Territories of India.

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## 1.12 FURTHER READINGS

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman’s Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikash Publishing House Pvt. Ltd. New Delhi.

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## 1.13 MODEL QUESTIONS

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- Q1:** What is Goods and Service Tax (GST)? Discuss about its need.
- Q2:** What are the benefits which the country will accrue from GST?
- Q3:** How a particular transaction of goods and services would be taxed simultaneously under Central GST (CGST) and State GST (SGST)?
- Q4:** Write a comparative note on CGST and SGST.
- Q5:** Explain the structure of GST.

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## **UNIT-2 SALIENT FEATURES OF GST**

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### **Structure**

- 2.0 Learning Objectives
- 2.1 Introduction
- 2.2 Objectives of GST
- 2.3 Scope of Supply in GST
- 2.4 Salient Features of GST
- 2.5 Centre-State Financial Relationship
- 2.6 The Constitution (122 Amendment) Bill
- 2.7 Principles of subsuming taxes under GST
- 2.8 Let us Sum Up
- 2.9 Keywords
- 2.10 Further Readings
- 2.11 Model Questions

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### **2.0 LEARNING OBJECTIVES**

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After studying the unit, you will be able to know

- The Scope and objectives of GST
- Constitutional amendments required for the introduction of GST
- Principles of subsuming taxes under GST in India

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### **2.1 INTRODUCTION**

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GST is a national indirect tax that will be imposed on the selling, products, and use of goods and services. It's a single tax that applies to the sale of products from a producer to a buyer. Only the value addition at each point is subject to GST. There is a single indirect tax. The GST was enforced as single, unified tax reform.

- System of Input Tax Credits The input tax credit is one of the most well-known GST features in India.
- Composition Scheme for GST. Four-tier tax structure for SMEs with annual revenues of up to Rs. The GST has a four-tiered tax structure: 5%, 12%, 18%, and 28%.

GST is proposed to be a national indirect tax levy on the production, selling, and use of goods and services. Simply stated, a goods and services tax is a tax on goods and services that is levied at each point of sale or service provision.

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### **2.2 OBJECTIVES OF GST**

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The Goods and Service Tax (GST) is a national tax levy on the production, selling, and use of goods and services that allows no distinction between goods and services to levy tax. It would largely replace all indirect taxes imposed by the Indian central

and state governments on goods and services.

The objectives of GST are as follows:

- **To eliminate the cascading effect on indirect taxes on Single Transaction:** The primary aim of GST is to eradicate the tax cascade effect. The levy of tax on tax is known as the cascading impact of taxes. GST would be paid only on the net value-added part of the transaction, not on the entire value, so the taxpayer would be entitled to an input tax credit.
- **To Subsume All the Indirect Taxes At the Centre and State Level:** Except for a few minor indirect taxes, GST has absorbed all significant indirect taxes imposed by the federal and state governments. As a result, the taxpayer and retailer do not have to pay several indirect taxes under various rules.
- **To Reduce the Tax Evasion and Corruption:** GST will help to minimize tax avoidance and corruption in the tax administration. There will be less of a risk of claiming fake input tax credits under the GST scheme because it involves matching invoices between the recipient and the suppliers. An input tax credit can only be sought if the tax has been paid to the government by the licensed supplier. To ensure that taxes are properly charged to the government, each invoice will be matched and checked one by one.
- **To Increase Productivity:** GST will aid in increasing the competitiveness and efficiency of businesses. There were several technical limitations and impractical procedures regarding the assertion of input tax credit under the previous tax regime. In a few states, there was also an entry tax on products entering the territory. Entry tax has been absorbed into the GST system. The elimination of checkpoints would also reduce the number of checks at state borders. These elements can aid in increasing efficiency.
- **To Increase Tax Compliance:** In comparison to the previous tax system, GST enforcement is estimated to be higher. Since a variety of tax laws have been merged, the taxpayer would be required to comply primarily with GST law, which includes filing returns and registering. There is no need to file multiple returns or seek multiple registrations to stay in compliance.
- **To increase the tax to GDP Ratio and the Revenue Surplus:** The GST will boost the tax-to-GDP ratio, which is estimated to hit 11.9 per cent by 2019-20. The higher the tax-to-GDP ratio, the higher the tax receipts would be, indicating the countries improved economic structure. More tax enforcement and a larger tax base will result in higher tax revenue for the government, and the aim of GST is for the government to have a revenue surplus.
- **To bring more People under the Tax Net:** GST contributes to the broadening of the tax base and the inclusion of a significant number of citizens into the tax system. There were several exemptions and registration rules for various forms of taxes under the previous regime. There is now a single threshold below which registration is no longer needed. The tax net will be expanded to include more taxpayers, thereby raising the tax base and revenue for the government.
- **To Achieve the Policy of one Nation one Tax:** The GST removes many indirect taxes that existed under the previous administration. In most cases,

there is a common and neutral levy, so there are no variations in tax rates from one state to the next. In this way, the GST law has accomplished the policy of a single tax for the entire country.

- **To Provide a Seamless Credit of Input Taxes:** Previously, cross-sectional credit for input was not permitted. Also, the former tax regime imposed several limitations and conditions. To use the cross-sectional credit of input taxes in GST, much simpler guidelines have been set down. For example, a trader who previously could not claim credit for service tax paid on services is now able to claim credit for both goods and services. The seamless credit system will ensure that supply taxes are charged to the degree of value additions and net liability, preventing double taxation.

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### 2.3 SCOPE OF SUPPLY IN GST

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The procurement of products or services, or both, is a taxable occurrence under GST. Various taxable activities, such as manufacture, selling, rendering of a service, purchase, entry into a state's territory, and so on, have been eliminated in favour of a single taxable event, supply. Except for taxes on the supply of alcoholic beverages for human consumption, the constitution defines "Goods and Services Levy" as any tax on the supply of goods, services, or both.

The GST would be imposed on intra-state supplies by both the federal and state governments at the same time. The Parliament, on the other hand, would have exclusive authority to pass legislation relating to the imposition of the Goods and Services Tax on interstate supplies.

The word "supply" has been described broadly in the Act. The following six criteria, which can be used to describe a transaction as a supply, can be used to explain the definition and scope of supply under GST.

- Supply of goods or services. Supply of anything other than goods or services does not attract GST
- Supply should be made for a consideration
- Supply should be made in the course or furtherance of business
- Supply should be made by a taxable person
- Supply should be a taxable supply
- Supply should be made within the taxable territory

Although these six parameters determine supply, there are a few exceptions to the necessity of supply being made for consideration and in the course of business. Except in a few cases where a transaction is considered to be a supply even without consideration, any transaction involving the supply of products or services without consideration is not a supply. Furthermore, whether or not in the course or furtherance of industry, the importation of commodities for consideration is treated as supply.

#### ***Supply of Goods or Services or Both***

In the GST Law, both goods and services are specified. Securities are not used in either the definition of products or the definition of services. Money is not included in the concept of products or services, but activities involving the use of money or its transfer from one form, currency, or denomination to another form, currency, or denomination for which a separate consideration is paid are included in services.

A few operations are mentioned in Schedule II of the CGST Act, 2017 as being treated as either a supply of goods or a supply of services. Any transfer of title in goods, for example, is a supply of goods, while any transfer of right in goods without the transfer of title is a service.

Further Schedule III to the CGST Act, 2017 spells out activities that shall be treated as either supply of goods or supply of services or outside the scope of GST. This includes:

- An employee's services to his or her employer in the course of or in connection with his or her work.
- Funeral, funeral, cremation, or mortuary care, as well as transportation of the deceased.
- Selling off land and buildings where the entire consideration has been earned after the completion certificate has been given or the building has been occupied for the first time.

While actionable claims are included in the definition of goods, Schedule III states that actionable claims that are not lottery, betting, or gambling are neither goods nor services.

### ***Supply for Consideration***

In the CGST Act, 2017, the term "consideration" is specified explicitly. It can be monetary or non-monetary. Subsidies from the federal government or state governments are not counted as compensation. It makes no difference if the payment is made by the receiver or someone else.

A deposit provided in return for the supply of goods, services, or both is not considered payment for the supply unless the supplier uses the deposit as consideration for the supply.

Furthermore, as goods or services are exchanged, the same operation is both a supply and a consideration. A haircut is a supply of services by the barber as he cuts hair in exchange for a painting. It's a payment for the painting you've got.

There are several exceptions to the provision of Consideration as a precondition for a supply to be referred to as a supply under GST. According to the schedule to the CGST Act, 2017, the following operations will be considered as a supply even if they are performed without consideration:

- Permanent transfer or disposition of business properties for which an input tax credit has been claimed.

- When made in the course or furtherance of business, a supply of goods or services, or both, between related or distinct persons as described in Section 25: Gifts from an employer to an employee worth less than fifty thousand rupees in a financial year are not considered a supply of goods or services or both.
- Supply of goods— (a) by a principal to his agent, with the agent agreeing to supply the goods on the principal's behalf; or (b) by an agent to his principal, with the agent agreeing to obtain the goods on the principal's behalf.
- Import of services from a related individual or any of his other establishments outside India in the course or furtherance of business by a taxable person.

### ***Supply in the Course or Furtherance of Business***

GST is a tax that only applies to commercial transactions. As a result, only supplies made in the course or furtherance of business count as GST supplies. As a consequence, any supplies made by an entity in his capacity are excluded from GST unless they fall under the Act's scope of the company. Even if it is a vocation, selling products or providing services is considered a supply under GST. As a result, even though a well-known politician paints paintings for charity and sells them once in a while, the sale will be considered a supply.

However, there is one exception to this 'Course or Furtherance of Business' rule i.e., import of services for consideration.

### ***Supply by a Taxable Person***

A taxable individual must make a supply that is subject to GST. As a consequence, a supply between two non-taxable persons does not count as a GST supply. A "taxable person" is someone who is registered or is required to be registered under section 22 or 24 of the Internal Revenue Code. As a result, even if a person is not licensed but is required to be, he or she is a taxable person. Similarly, a person who is not required to be registered but has voluntarily registered and obtained registration is a taxable person.

It should be noted that GST is a state-centric system in India. As a result, an individual who makes supplies in multiple states must register separately in each state. Furthermore, if a person has multiple business verticals, he or she can register in more than one state. For GST, a person who has obtained or is expected to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory, is regarded as a different person for each such registration. As a result, a supply between these entities is a GST supply.

### ***Taxable Supply***

A supply must be taxable to be subject to GST. The term "taxable supply" has been defined broadly to include any supply of goods, services, or both that is subject to taxation under the Act. Exemptions can be granted for specific products or services, as well as a specific group of people or businesses that provide them.

### ***Supply in the Taxable Territory***

The place of supply, except Jammu and Kashmir, must be in India for a supply to be

subject to GST. Sections 10, 11, 12, and 13 of the IGST Act 2017 specify the place of supply of any goods or services.

### ***Inter/Intra State Supply***

If a supply is regarded as an Intra State or an Inter-State supply is determined by the position of the supplier and the location of the supply. The essence of the supply must be determined to determine whether integrated tax or Central plus State tax must be charged. The phrase "inter-state supply of goods" refers to a supply of goods where the source and the purchaser are situated in separate States or Union territories. Intra-State supply of products refers to where the supplier's position and the place of supply are all within the same State or Union territory. Imports, as well as supplies from and to SEZs, are called interstate supplies.

### ***Composite/Mixed Supply***

A composite supply is one made by a taxable individual to a recipient that consists of two or more supplies of products or services, or some combination of them that are naturally packaged and supplied in tandem in the ordinary course of business, one of which is a principal supply. For example, a flight from Mumbai to Delhi can include food service onboard, free insurance, and access to an airport lounge. In this situation, passenger transportation is the most important component of the composite supply and is regarded as the primary supply, while all other supplies are considered ancillary.

The GST Law lays down the tax liability on a composite or mixed supply in the following manner.

- A composite supply that consists of two or more supplies, one of which is a principal supply, is called a supply of that principal supply.
- A mixed supply, which consists of two or more goods, is treated as a supply of the supply with the highest tax rate.

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## **2.4 SALIENT FEATURES OF GST**

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1. The tax is imposed on the production and selling of products, as well as the provision of services, according to the current definition. However, GST would apply to the provision of goods or services.
2. The GST would have a dual impact, with the Centre and States levying it on a similar tax base at the same time. The GST imposed by the Centre on intra-State supplies of goods and/or services will be known as Central GST (CGST), while the GST imposed by the States will be known as State GST (SGST).
3. All commodities other than alcoholic drinks for human consumption and five petroleum products, namely petroleum crude, motor spirit (petrol), high-speed diesel, natural gas, and aviation turbine fuel, will be subject to the GST. It would apply to all programmes, except a few that would be mentioned.
4. Tobacco and tobacco goods will be subject to GST, and the Centre will be able to charge Central Excise Duty on them.
5. The GST will replace the following taxes currently levied and collected by the Centre:

- Central Excise Duty
  - Duties of Excise (Medicinal and Toilet Preparations)
  - Additional Duties of Excise (Goods of Special Importance)
  - Additional Duties of Excise (Textiles and Textile Products)
  - Additional Duties of Customs (commonly known as CVD)
  - Special Additional Duty of Customs (SAD)
  - Service Tax
6. State taxes that would be subsumed under the GST are:
- State VAT
  - Central Sales Tax
  - Luxury Tax
  - Entry Tax in lieu of octroi (ETILO)
  - Entertainment Tax (not levied by local bodies)
  - Taxes on advertisements
  - Purchase Tax
  - Taxes on Lotteries, Betting and Gambling
  - State cesses and surcharges insofar as they relate to supply of goods and services

\*ETILO is a small tax that is difficult to comply with and causes substantial economic damage. It splits the Indian common market and functions like a tariff on products imported from the rest of the country into a local/municipal sector.

7. On inter-State procurement of goods and services, the Centre will tax and raise an Integrated GST (IGST). The accounts between the Centre and the States will be settled regularly to ensure that the SGST part of the IGST is transferred to the state where the goods or services are ultimately consumed.
8. Taxpayers would be entitled to claim credit for taxes paid on inputs (input tax credit) and add it to the payment of production tax. However, no CGST input tax credit can be applied to the payment of SGST, and vice versa. The IGST credit will be allowed to be used to pay the IGST, CGST, and SGST in that order.
9. Under the GST regime, the Harmonised System of Nomenclature (HSN) code will be used to identify products. Taxpayers with a turnover of more than Rs. 1.5 crores but less than Rs. 5 crores should use a two-digit code, whereas those with a turnover of more than Rs. 5 crores should use a four-digit code.
10. Exports are called zero-rated availability. Export products are exempt from taxation, but exporters can claim credit for input taxes related to the supply.
11. Imports of goods and services will be classified as inter-State supplies and subject to the IGST in addition to any relevant customs duties.
12. To the greatest degree possible, the rules, legislation, and procedures for levying and collecting CGST and SGST would be in sync.

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## **2.5 CENTRAL AND STATE FINANCIAL RELATIONSHIP**

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The Constitution (One Hundred and Twenty-second Amendment) Bill, 2014 (“Bill”) aims to implement the goods and services tax (“GST”) by granting the Union and state



governments reciprocal taxing powers overall transactions involving the supply of goods, services, or both. It would allow the Union to levy tax on the selling of products that had previously been the province of the states, and the states would be able to levy tax on services that had previously been mainly the province of the Union government. The implementation of the GST in this manner would certainly be the most thorough reorganization of India's indirect taxation system.

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## **2.6 THE CONSTITUTION (122 AMENDMENT) GST BILL 2014**

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### **Highlights of the Bill**

- The bill amends the Constitution to provide for the implementation of a goods and services levy (GST).
- The GST would be enacted by both the federal and state legislatures at the same time. Only the central government has the authority to levy an integrated GST (IGST) on interstate supplies of goods and services, as well as imports.
- GST exemption has been granted for alcohol intended for human consumption. Five petroleum products will be subject to GST at a later date.
- The GST Council would make recommendations on tax rates, additional tax periods, supply principles, and special arrangements for some nations, among other items. The Union Finance Minister, Union Minister of State for Revenue, and state Finance Ministers will make up the GST Council.
- The bill grants the government the authority to charge an additional tax of up to 1% on goods that are exported between states for a term of two years or more. This tax would be levied on the states that supply the goods.
- Up to a five-year term, Parliament may provide compensation to states for any revenue loss caused by the implementation of GST.

### **Key Issues and Analysis**

- By combining all indirect taxes into one levy, an optimal GST regime aims to establish a harmonised system of taxation. It aims to resolve issues with the existing indirect tax system by expanding the tax base, removing tax cascading, rising enforcement, and reducing economic distortions created by tax differences between states.
- The rules of this bill fall short of an optimal GST system. Deferring the imposition of GST on five petroleum products could result in a tax cascade.
- The additional 1% tax on goods shipped across state lines dilutes the aim of establishing a unified national market for goods and services. The cost of interstate trade of a good would be higher than intra-state trade, with retail customers bearing the brunt of the cost. Furthermore, tax cascading will proceed.
- The bill requires the federal government to tax and raise GST on interstate trade and commerce. Instead, some experts suggest using a changed bank model for interstate transactions to reduce tax enforcement and administrative burdens.

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## **2.7 PRINCIPLES OF SUBSUMING TAXES UNDER GST**

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### **2.7.1 Basic Principle for subsumption of Taxes**

To begin, it is necessary to refer to the concepts outlined in the Empowered Committee of State Finance Ministers' "First Discussion Paper on Goods and Services Tax" in India, which was published in 2009.

- (i) Subsumed taxes or levies should mainly be of the form of indirect taxes, either on the supply of goods or on the supply of services.
- (ii) Subsumed taxes or levies should be part of the transaction chain, which begins with the importation, production, or provision of products or services on one end and ends with the consumption of goods and services on the other.
- (iii) The subsumption should result in the free flow of tax credit in intra and inter-State levels.
- (iv) GST does not include taxes, levies, or fees that are not explicitly related to the procurement of goods and services.
- (v) Revenue fairness for both the Union and the States individually would need to be attempted.”

The above principles were decided upon by the Task Force established for the 13th Finance Commission Report on Goods and Services Tax. It would be fitting to list the admitted facts that would assist in explaining why and how taxes would be subsumed in GST to explain the concept of tax subsumption:

- GST will grant both the state and the federal government the right to levy taxes on the entire supply chain at the same time. As a result, all indirect taxes currently imposed by the states and the federal government, wherever they are levied in the supply chain of goods and services and whatever form, will be incorporated into GST.
- Both the supply of goods and the supply of services will be subject to GST. Both state and federal taxes on the procurement of products and services, from import/manufacture/production of goods or provision of services on one end to consumption on the other, will be combined into the new levy.
- Only the taxes imposed by the federal and state governments on the supply of goods and services will be included in the GST. Thus, all taxes imposed by local governments, as well as taxes levied by the federal government and the state government, other than taxes on goods and services, will be excluded from the GST.
- With the introduction of GST, both the state and the federal government will lose current revenues. As a result, revenue parity and equality between the states and the federal government for tax allocation must be retained.
- As previously mentioned, there should be no cascading effect of taxes charged, and tax subsumption should result in a free flow of tax credit in interstate and intrastate trade.

### **2.7.2 Taxes to be subsumed in Goods and Services Tax**

The above para lays down the basic theory behind the subsumption of taxes in GST. Various Indirect Taxes Levied by Centre and the State which are proposed to be subsumed in GST are as follows:

## ● **Central Indirect Taxes and Levies to be subsumed**

- Central Excise Duty,
- Additional Excise Duties,
- Excise Duty levied under the Medicinal and Toilet Preparations (Excise Duties) Act, 1955,
- Service Tax,
- Additional Customs Duty is commonly known as Countervailing Duty,
- Special Additional Duty of Customs, and
- Central Surcharges and Cess, so far as they relate to the supply of goods and services.

## ● **State Indirect Taxes and Levies to be merged**

- State Value Added Tax/Sales Tax,
- Entertainment Tax (other than the tax levied by the local bodies),
- Central Sales Tax (levied by the Centre and collected by the States),
- Octroi and Entry tax,
- Purchase Tax,
- Luxury tax,
- Taxes on lottery,
- betting and gambling; and
- State cess and surcharges in so far as they relate to supply of goods and services.

The above taxes are directly related to the purchase of goods and services, and they fall through the supply chain from the point of raw material procurement to the end customer's consumption of goods and services. Many of these taxes are currently imposed by the state or the federal government.

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## **2.8 LET US SUM UP**

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The Goods and Services Tax (GST) is a destination-based tax. Its key aim is to merge all indirect tax levies into a single tax, except customs (excluding SAD), to replace multiple tax levies, resolve the shortcomings of the current indirect tax system, and boost tax administration performance. The Goods and Services Tax, or GST, is a major indirect tax reform in India that integrates the central and state governments' major indirect taxes. It is a broad tax that applies to the production, selling, and consumption of goods and services. The GST is a value-added consumption tax imposed at the point of origin. At each transactional stage of the supply chain or operation, it is "collected on value-added products and services." Several countries have already introduced GST-based VAT systems. The GST was implemented in India on July 1, 2017.

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## **2.9 KEYWORDS**

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- **ITC:** Input Tax Credit or ITC is the tax that a business pays on a purchase and that it can use to reduce its tax liability when it makes a sale. In other words, businesses can reduce their tax liability by claiming credit to the extent of GST

paid on purchases.

- **SME:** Small and medium-sized enterprises or small and medium-sized businesses are businesses whose personnel numbers fall below certain limits. The abbreviation "SME" is used by international organizations such as the World Bank, the European Union, the United Nations and the World Trade Organization.
- **Luxury Tax:** A luxury tax is a sales tax or surcharge levied only on certain products or services that are deemed non-essential or accessible only to the super-wealthy.
- **Entry Tax:** Entry Tax is a tax on the movement of goods from one state to another imposed by the state governments in India. It is levied by the recipient state to protect its tax base. The tax was introduced on 1 September 2000.
- **Finance Commission:** The Finance Commissions are commissions periodically constituted by the President of India under Article 280 of the Indian Constitution to define the financial relations between the central government of India and the individual state governments.
- **Tax Subsumed:** The single GST subsumed several taxes and levies, which included central excise duty, services tax, additional customs duty, surcharges, state-level value-added tax and Octroi. Other levies which were applicable on inter-state transportation of goods have also been done away with within the GST regime.

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## 2.10 FURTHER READINGS

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman's Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikas Publishing House Pvt. Ltd. New Delhi.

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## 2.11 MODEL QUESTIONS

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**Q1:** Write the meaning of GST. What are the objectives of GST?

**Q2:** Discuss the scope of supply in GST

**Q3:** What are the salient features of GST?

**Q4:** Briefly narrate the highlights of the constitution GST Bill 2014

**Q5:** What are the principles of subsuming taxes under GST?

**Q6:** Write short notes on the followings:

- Luxury Tax
- SME
- Tax Subsumed
- ETILO

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## **UNIT-3 DUAL GST**

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### **Structure**

- 3.0 Learning Objectives
- 3.1 Introduction: Dual Model of GST
- 3.2 Benefits of Dual GST
- 3.3 Pre GST Regime and Post GST Regime
- 3.4 Keywords
- 3.5 Further Readings
- 3.6 Model Questions

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### **3.0 LEARNING OBJECTIVES**

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After studying the unit, you will be able to know

- Dual Model of GST
- The difference between VAT And GST

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### **3.1 INTRODUCTION: DUAL MODEL OF GST**

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GST Platform with two models due to its peculiar federal existence, India has adopted a dual GST model. The dual model entails the central and state governments levying taxes on a similar basis at the same time. Any intrastate transaction is subject to the SGST (i.e. transaction within the state). The CGST stands for Central Goods and Services Levy. Any intra-state transaction is subject to the CGST. The UTGST will be levied on the supply of goods and services in each of India's union territories. Any interstate transaction (i.e., a transaction between two states) and imports are subject to IGST.

#### **Features of the Dual GST Structure**

- The GST, or Goods and Service Tax, is made up of two parts: one levied by the federal government (known as the Central GST or CGST) and another collected by state governments (referred to as State GST or SGST)
- All transactions involving products and services are subject to both the CGST and the SGST.
- Both the CGST and the SGST are billed to the Central and State governments' respective accounts.
- The CSGT and SGST are handled separately, which ensures that taxes paid against the CGST may be used as an Input Tax Credit (or ITC)
- Except for inter-state procurement of goods and services, there is no cross-utilization of the Input Tax Credit between the CGST and the SGST.
- Both the Central and State governments are to prevent credit accumulation based on GST refunds, except in the case of exports, input tax at a higher rate than production tax, and the procurement of capital goods, among other things.
- Both CGST and SGST have a standardized collection protocol outlined in their respective legislation.
- Regarding gross annual turnover, the composition or compounding scheme for GST has an upper limit and a floor tax rate.

- As a taxpayer, you must send periodic returns to both the CGST and SGST authorities in a standard format.
- Each taxpayer is allotted a 14-15 digit PAN-linked taxpayer identification number

### 3.2 Benefits of Dual GST

The Dual GST framework is a clear and straightforward tax system with predetermined CGST and SGST rates. The benefits of having a dual GST structure include –

- The number of taxes imposed by the federal and state governments is being reduced.
- A reduction in the effective tax rate for various goods
- Elimination of the current tax cascading impact
- Simplified tax enforcement reduces the taxpayer's transaction costs.
- Tax revenues increased as a result of a wider tax base and stronger enforcement

### 3.3 PRE-GST REGIME AND GST REGIME

Parameter	VAT	GST
<b>Structure</b>	Customs duty/central excise duty, central sales tax on goods and services, surcharges, and cesses were also included in the old taxation scheme. State VAT, WCT, amusement tax, luxury tax, gambling, betting, and lottery tax, sales tax deducted at source, and surcharges and cesses were among the state taxes.	Except for motor spirit, petroleum, natural gas, and high-speed diesel, all central and state taxes will be merged under GST, and a single tax will be imposed on all goods and services.
<b>Basis of Levy</b>	The tax would be imposed at the point where goods are made or sold, or where services are provided, under the VAT system	GST would be charged at the point of consumption, similar to a destination-based levy
<b>Registration</b>	The registration of VAT is decentralised between state and central authorities.	There will be uniform e-registration under GST, based on the entity's PAN.
<b>Validation</b>	The framework will partially verify the returns under VAT, and complete verification will be subject to state or central authority evaluations.	Validation will take place on the framework under GST, and accuracy tests on input credit tax payments and utilisation will be conducted.
<b>Filing of Returns and Collection of Tax</b>	Service tax and central excise were uniform in the previous case, but VAT differed from state to state	The GST procedure is standardised, and the deadlines for collecting or depositing tax and filing returns are all the same

<b>Service Tax</b>	Under the Finance Act, the centre charges service tax on a list of facilities on a provision/payment basis	Depending on the laws regulating Place of Supply, the State GST subsumes service tax.
<b>State VAT</b>	Under <u>VAT</u> , all commodities apart from those exempt are taxed.	Under <u>VAT</u> , all commodities apart from those exempt are taxed.
<b>Excise Duty</b>	Excise duty will be imposed up until the point of manufacture under VAT.	The excise duty will be replaced by the Central GST, and the tax will be imposed up to the retail level under GST.
<b>Basic Customs Duty</b>	Under VAT, the centre charges tax on imports under a separate act.	No change.
<b>Special Additional Duty</b>	Under Vat, the centre charges tax on imports separately.	Under GST, this duty is subsumed by State GST.
<b>Entry Tax</b>	Certain states charge an entry tax for inter-state transactions that are detained as imports in the local region under the VAT.	Under the GST, there will be no entry tax, but an additional 1% tax will be imposed on the interstate supply of those goods.
<b>Central Sales Tax</b>	When it comes to inter-state transactions involving C-Forms, CST is paid at a reduced rate of 2% under VAT. Otherwise, the entire rate applies, which varies from 5% to 14.5 per cent.	Under GST, the Integrated GST subsumes CST.
<b>Tax on Export of Commodities and Services</b>	Under VAT, this tax is exempt.	No change.
<b>Tax on Inter-State Transfer of Commodities to Agent or Branch</b>	Under VAT, this tax is exempt against Form F.	Under GST, this tax is levied but dealers will have access to full credit.
<b>Cross Set-Off of Levy</b>	Under VAT, set-off of service tax and excise duty is permitted.	Under GST, set-off between State GST and Central GST is not allowed.
<b>Tax on Transfer of Commodities to Agent or Branch</b>	This tax is usually exempt under VAT, but its applicability is contingent on state procedures.	This tax may be imposed under GST unless the transferor's and transferee's TINs are the same.
<b>Disallowance of credit on certain items</b>	There are a few non-creditable goods and services, as well as CENVAT laws, in the VAT system.	There will be no such disallowance under GST unless the GST Council expressly permits it.
<b>Disallowance of inputs or input</b>	Under VAT, this is not permitted.	Unless the GST Council finalises a list of products

<b>services utilized in exempted commodities or services</b>		that come under the Negative List, there will be no such disallowance under GST.
<b>Cascading Effect</b>	There is a credit available under VAT between service tax and excise duty, but there is no set-off against VAT on excise duty.	Credit is available under GST for the entire amount of taxes paid up to the retailer.
<b>Threshold limits for levy of tax</b>	The central excise threshold is Rs.1.5 crore, while the VAT threshold varies from Rs.5 lakh to Rs.20 lakh depending on the state. The service tax threshold is Rs.10 lakh	According to the GST Council's recommendations, the State GST would range from Rs.10 lakh to Rs.20 lakh.
<b>Levy of tax on NGOs and government bodies</b>	Certain government departments, non-profit organisations, and public sector undertakings may be subject to VAT.	No changes.
<b>Exemptions</b>	Certain regions, such as the Northeast, would be eligible for VAT exemptions.	There will be no such exemptions under GST, and the GST Council can provide an Investment Refund Scheme for specific zones.

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### 3.4 KEYWORDS

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- **Cascade Effect:** A cascade effect is an inevitable and sometimes unforeseen chain of events due to an act affecting a system.
- **Dual GST:** The Dual GST is believed to be a straightforward tax of one or two rates for the Central Goods and Services Tax (CGST) and the State Goods and Services Tax (SGST). Via effective legislation, both the Centre and the States in India have been given the authority to levy and collect taxes.

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### 3.5 FURTHER READINGS

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman's Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikas Publishing House Pvt. Ltd. New Delhi.

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### 3.6 MODEL QUESTIONS

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- Q1. Write a note on the Dual Model of GST.
- Q2. Differentiate between VAT & GST.



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## UNIT-4      INDIRECT TAX

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### Structure

- 4.0 Learning Objectives
- 4.1 Introduction
- 4.2 Feature of Indirect Tax
- 4.3 Types of Indirect Tax
- 4.4 Advantages & Disadvantages of Indirect Tax
- 4.5 Direct Tax VS Indirect Tax
- 4.6 Let us Sum up
- 4.7 Keywords
- 4.8 Further Readings
- 4.9 Model Questions

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### 4.0 LEARNING OBJECTIVES

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After studying the unit, you will be able to know

- The Features and Types of Indirect Taxes
- The Advantages and Disadvantages of Indirect Taxes

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### 4.1 INTRODUCTION

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Taxes that can be passed on to another agency or person are known as indirect taxes. Typically, they are levied on a producer or retailer, who then passes the tax on to the customer. The excise tax on tobacco and alcohol is the most prominent example of an indirect tax. VAT (Value Added Tax) is another example of an indirect tax. An indirect tax is imposed on the occurrence of an event rather than its observable outcomes. It is a tax that is typically transferred from the payer to the ultimate purchaser of the taxable products. Normally, it resembles customs and excise taxes, as well as income taxes.

Indirect tax is a form of tax in which the incidence and effect of taxes are not borne by the same individual. The government collects it from a third party, such as a retailer or a manufacturer. The buyer of the goods and services pays the final tax rate. To put it another way, indirect taxes are those that can be passed from one citizen to another. It is not levied directly on the taxpayer's wages, but rather on the costs they incur. Sales tax, entertainment tax, excise duty, and other indirect taxes are examples.

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### 4.2 FEATURE OF INDIRECT TAX

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- **Payment and Tax Load** - Indirect taxes are paid by the service provider and passed on to the final customer.
- **Liability of Tax** – In this situation, the seller or service provider pays indirect taxes, which are then passed on to the final customer.
- **Nature** – Indirect taxes were originally designed to be regressive. However, since the implementation of GST, they have been even more progressive.

- **Evasion** - Since indirect taxes are imposed directly on goods and services, they are difficult to avoid.
- **Investment and saving** - Since they demotivate customers and promote savings, most indirect taxes are mainly growth-oriented.
- **Social Coverage** - Since the indirect tax is imposed on anyone who buys goods or services, it has a much wider scope.

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### 4.3 TYPES OF INDIRECT TAXES

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There are 7 main types of indirect taxes in India. However, after the implementation of GST, these taxes are streamlined into one singular tax to reduce hassles of compliance.

- 4.3.1 **Service Tax:** A tax levied on an entity's services and paid by the beneficiary of those services. The Central Government is responsible for collecting and depositing service tax, which is collected and deposited by the central government.
- 4.3.2 **Excise duty:** In India, a tax is imposed on products that are produced or processed there. It's a manufacturing tax that's charged by the maker, who then recoups the cost from his customers.
- 4.3.3 **Value Added Tax:** This levy, also known as VAT, is imposed in India on the selling of movable goods. VAT, which is imposed by the respective state governments on intra-state purchases, and Central Sales Tax, which is levied by the federal government on inter-state sales, are levied on products sold directly to consumers.
- 4.3.4 **Customs Duty:** Import taxes are imposed on goods that are brought into India. It can also apply to goods being shipped out of India in certain cases.
- 4.3.5 **Stamp Duty:** A tax imposed on the sale of immovable property within the state's borders. The State Government levies it, and the prices vary. It can also be used on any legal document.
- 4.3.6 **Entertainment tax:** This tax is imposed on all financial transactions related to entertainment and is only levied by the respective state governments. Video games, movie shows, theme parks, arcades, sporting events, and so on are all examples.
- 4.3.7 **Securities Transaction Tax:** A tax imposed when shares are traded on the Indian Stock Exchange.

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### 4.4 ADVANTAGES AND DISADVANTAGES OF INDIRECT TAXES

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#### Advantages

- 4.4.1 **The poor can contribute:** Many direct taxes are mostly withheld from the countries less economically prosperous population. Indirect taxes, on the other hand, enable the government to reach out to the poorest members of society.
- 4.4.2 **Equitable:** Indirect taxes on goods and services used by only the elite are often raised on the upper crust of society. Another example of fair taxation is the luxury tax.
- 4.4.3 **Convenient:** Indirect tax is generally imposed in small quantities and is

only charged at the time of purchase. It's also factored into the overall cost of a product or service. When products are sold and bought, indirect taxes are automatically collected. It also necessitates little effort on the part of the government to obtain.

- 4.4.4 **Broad-based:** Indirect taxes are evenly distributed across a large spectrum of products and services. As a result, the taxpayer is not exposed to a high degree of direct taxation, which could harm their economic and social lives.

### Disadvantages

- 4.4.5 **Regressive:** Since there are several different types of indirect taxes, some of them may help to close the gap between the rich and the poor, while others explicitly target subsistence products. The salt tax, for example, is imposed on everyone fairly. As a result, both the wealthy and the poor must pay the same price. This penalty, however, would have a greater effect on the poor than on the affluent.
- 4.4.6 **Raises prices unduly:** Indirect taxation may be a cumulative method. On a point-based transaction scheme, each middleman is likely to levy their service tax, causing the commodity's price to rise.

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## 4.5 DIRECT TAX VS INDIRECT TAX

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Context	Direct Tax	Indirect Tax
Imposed on	Income and profits	All the goods and services
Who pays	Individuals and businesses	End-consumers
How much	Depends on income and profits	Same for everyone
Transferability	Not transferable	Transferable
Tax Evasion	Possible	Not possible
Nature	Progressive	Regressive
Collections	Complex	Convenient
Common examples	Income tax and securities transaction tax	GST, excise duty, and VAT

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## 4.6 LET US SUM UP

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An indirect tax is collected by an intermediary and passed on to the government rather than being paid directly to the government. Indirect taxes are levied on goods and services in the form of goods and services tax based on production, import, selling, or

purchase of products or provision of services (GST). An intermediary, such as a producer, broker, or service provider, receives an indirect tax from the customer. The intermediary files a tax return and sends the tax proceeds along with it to the government. The final economic burden of the tax is borne by the buyer, who pays more for the product. Direct taxes, on the other hand, are levied on people and raised by the government directly from those who are subjected to them. In indirect taxation, the duty to pay taxes differs from one consumer to the next since these taxes are imposed by the government on goods and services rather than on an individual's wages, benefit, or revenue. These fees can be passed on from one taxpayer to the next. This is in contrast to direct taxes, which are paid by the individual who is taxed.

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#### 4.7 KEYWORDS

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- **VAT:** A value-added tax (VAT) is a consumption tax placed on a product whenever value is added at each stage of the supply chain, from production to the point of sale.
- **Excise Duty:** Excise duty is a tax levied on products manufactured within the country, as opposed to custom duty, which is imposed on goods imported from abroad. GST has now absorbed a host of indirect taxes, including excise duty, as readers should be aware.

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#### 4.8 FURTHER READINGS

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman's Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikas Publishing House Pvt. Ltd. New Delhi.

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#### 4.9 MODEL QUESTIONS

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- Q1:** Discuss the salient features of Indirect Tax.
- Q2:** Write the difference between Direct Tax and Indirect Tax.
- Q3:** What are the advantages and disadvantages of Indirect Tax?

## **Block- 2**

### **GST Acts: Structure And Terminology**

**Unit-5: Structure of GST**

**Unit-6: CGST and SGST Act**

**Unit-7: GST Levy of and Exemption of Tax**

**Unit-8: Computation of Tax Liability**

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## UNIT-5 STRUCTURE OF GST

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### Structure

- 5.1 Structure of GST
- 5.2 GST Tax Rates
- 5.3 Further Readings
- 5.4 Model Questions

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### 5.1 STRUCTURE OF GST

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There are four categories of indirect taxes under GST:

1. Central Goods and Services Tax (CGST).
2. State Goods and Services Tax (SGST) & Union Territory Goods and Services Tax (UTGST).
3. Integrated Goods and Services Tax (IGST).

**1 Central Goods and Services Tax (CGST)** GST levied by the Centre on intra-State supply of goods or services or both is called CGST. It is levied under Central Goods and Services Tax (CGST) Act, 2017 which makes provisions for the levy and collection of tax on intra-State supply of goods or services or both by the Central Government. The Act is divided into 21 chapters which deal with matters connected with the levy, collection and administration of GST. As regards the levy and collection of the tax, Section 9 of the Act reads as follows: “

(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

(2) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

(3) The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(4) The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

(5) The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services: Provided

that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax: Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.”

**2 State Goods and Services Tax (SGST)** SGST, short for State Goods and Service Tax, is one of the three main categories of Goods and Service Tax, i.e. (CGST, IGST, and SGST) and carries a concept of one tax one nation. SGST falls under the State Goods and Service Tax Act 2016.

GST levied by the States on intra-State supply of goods or services or both under their respective SGST Acts is called SGST. The two union territories with the legislature are Delhi and Puducherry. This type of union territory has an elected legislature and government.

The supplies under SGST do not include alcohol for human consumption. Furthermore, this levied tax comes under the State Goods and Services Tax (SGST) Act, 2017 and is governed by the same. This kind of tax is levied on the transaction value of the goods or services supplied as per section 15 of the SGST Act.

The transaction value is actually the price that is paid or payable for the said supply of goods or services. In a nutshell, as the name implies this tax is received by the State in which the goods or services are consumed and not by the state in which the goods are being manufactured.

### **Features of SGST**

- (a) SGST is levied and collected by the states on all goods and services supplied for consideration.
- (b) The tax collected is deposited to the accounts of the respective state.
- (c) Each state has its separate SGST act under its state Goods and Service Tax Department. However, the basic features of the GST law for all the states like the charges, valuation, taxable event, measure, classification, etc would remain the same across the respective act of each state.
- (d) SGST is not applicable to the exempted goods and services as they do not come under the influence of GST. Furthermore, SGST is also not applicable where the aggregate annual turnover is less than the prescribed limit.

### **Applicability**

The SGST/UTGST and other tax components like IGST and CGST applicability under GST depend on the supply nature of a given transaction. Talking about transactions, there can be two types of supply, viz. Intra-State Supply and Inter-State Supply.

An example of CGST and SGST

Let's suppose Ayan is a dealer in Gurgaon who sold goods to Mahesh in Bangalore worth Rs. 20,000. The GST rate is 18% inclusive of the CGST rate of 9% and SGST

rate of 9%. In such a case, the dealer collects Rs. 3600 of which Rs. 1800 will go to the Central Government and Rs. 1800 will be deposited to the Haryana Government.

### 3 Intra-State Supply

Intra-State Supply is referred to any supply where the supplier and the place of supply reside in the same State or Union Territory. In such a case of supply of goods and services, a seller must collect both CGST and SGST. Once both the taxes are collected, the CGST part gets deposited with the Central Government. And the SGST gets deposited with the respective State Government.

Let's understand this with an example: Gunjan Enterprises, a manufacturer in Rajasthan, supplies goods to Madhur Traders, a dealer in Rajasthan. Goods worth Rs 2,00,000 are supplied by Gunjan Enterprises after adding GST @ 18%. Since it is an intra-state supply, GST gets deposited to both Central and State Governments. But the total GST amounting to Rs 36,000 gets deposited equally into separate heads. This means Rs 18,000 gets deposited into the CGST account. And another Rs 18,000 gets deposited into the SGST part.

#### Inter-State Supply

Well, Inter-State Supply happens in the of supply where the location of the supplier and the place of supply falls in these:

Furthermore, any supply taking place in a taxable territory, and which is not an Intra-State supply is also referred to as an Inter-State supply. The below-given are also treated as Inter-State supplies:

- Supplies to or by Special Economic Zone (SEZs)
- Goods or services imported to India
- Services or goods exported outside India
- Supply of goods or services to international tourists
- Hence, only IGST is levied and collected on the Inter-state supply of goods or services by the Central Government.

For instance, Satya Ltd, a manufacturer in MP, manufactures and supplies goods to Bhatia Traders, a dealer in Punjab. Goods worth Rs 1,00,000 are supplied by Satya Ltd after adding GST @ 18%. As it is a type of inter-state supply, GST gets deposited only to the Central Government. Therefore, the entire GST of Rs 18,000 gets deposited into the CGST head only.

The details will be discussed in next chapter.

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## 5.2 GST TAX RATES

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### GST Tax Rates in India for Common Items

<b>Tax slab</b>	<b>Products</b>
NI	All live animals other than horses, meat, certain dairy products like fresh milk, pasteurised milk, curd, buttermilk, cream; eggs, natural honey, fresh vegetables and fruits, coconuts, cereals like rice, maize, barley, flour, sweets, etc.



<b>Tax slab</b>	<b>Products</b>
5%	Other household necessities such as frozen meat and vegetables, edible oil, butter, milk powder, skimmed milk, coffee, tea, groundnuts, soya beans, bread, drugs, etc.
12%	This includes computers and processed food like cheese, refined sugar, spices, instant foods, packaged fruit juices, nuts, spices, etc.
18%	Certain packaged foods like condensed milk, cornflakes, pastries; toiletries like hair oil, toothpaste and soaps; and capital goods and industrial intermediaries are covered here.
28%	Aerated waters containing sugar; luxury items such as premium cars, and small cars, consumer electronics like AC and refrigerators, cigarettes, high-end motorcycles are included in this slab.

### **Types of Exemptions:**

Under the GST Act, the exemption should be in public interest by way of issue of notification, on the recommendation from the Council or by way of special orders mentioning the reasons

**Absolute exemption:** The supply of the specific good is exempted, irrespective of who the supplier is or whether it is intra- or inter-state.

**Ex:** Transmission or distribution of electricity by an electricity transmission or distribution utility, Services by Reserve Bank of India, services by veterinary clinics

**Conditional Exemption:** The exemption is subject to certain terms and conditions under the GST Act. For example, the services by a hotel, inn or guest house with a tariff of a unit of accommodation less than Rs. 1000/- per day

**Conditional or partial exemption:** Intra-state supplies of goods or services offered by a registered person to an unregistered person are exempted from tax under the reverse charge mechanism. This is applicable only if the aggregate value of the goods or services received by a registered person from all or any of the suppliers does not exceed Rs. 5000/- in a day.

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## **5.3 FURTHER READINGS**

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman’s Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikas Publishing House Pvt. Ltd. New Delhi.

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## **5.4 MODEL QUESTIONS**

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- Q1.** Write a note on the structure of GST.
- Q2.** Discuss the different slab rates of GST.

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## UNIT-6 CGST AND SGST ACT

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### Structure

- 6.0 Learning Objectives
- 6.1 Introduction
- 6.2 Central Goods and Service Tax
  - 6.2.1 Objectives of GST Act 2017
  - 6.2.2 Salient features of CGST Act 2017
- 6.3 State Goods & Services Tax
  - 6.3.1 Applicability of SGST
  - 6.3.2 Features of SGST
- 6.4 Difference between CGST, SGST & IGST
- 6.5 Integrated Goods & Services Tax
  - 6.5.1 Origin & Commencement of IGST Act
  - 6.5.2 Salient Features of IGST Act 2017
- 6.6 Let us sum up
- 6.7 Key Words
- 6.8 Further Readings
- 6.9 Model Questions

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### 6.0 LEARNING OBJECTIVES

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After studying this unit, you will be able to know:

- The basic difference between CGST, SGST, IGST
- The objectives and salient features of Central Goods and Service Tax
- Origin & Commencement of SGST Act
- Salient features of IGST 2017

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### 6.1 INTRODUCTION

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The Goods and Services Tax (GST) is a destination-based indirect tax, which means the end-users must pay tax on the goods and services they buy or they consume. The tax is collected by the state that consumes the goods or services, not by the state that manufactures them. To determine whether GST applies, we must first determine whether the transaction is intrastate (within the same state) or interstate (between states). The retailer may apply CGST and SGST if the products are supplied within the same state. Similarly, if the supply is made between two states, the supplier is required to charge IGST.

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### 6.2 CENTRAL GOODS AND SERVICES TAX (CGST)

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#### Meaning:

Central Goods and Service Tax is the full name of the CGST under GST legislation. It's known as the CGST Act of 2017. The CGST Act was passed to provide for the

levy and collection of tax on intra-state supplies of goods or services by the Central Government, as well as matters related to or incidental to those supplies.

### **Origin and Commencement of CGST Act**

- 6.2.1 The CGST Act applies to the entire country of India, except the states of Jammu and Kashmir.
- 6.2.2 Due to the Constitution's special powers on taxes, Jammu and Kashmir would have to approve the levy of GST in its State assembly.
- 6.2.3 The CGST Act will take effect on a date that the Central Government will announce in the Official Gazette, i.e. on the appointed date. As may be notified, different provisions may become effective on different dates.

#### **6.2.1 Objective of CGST Act 2017**

Under prior taxation legislation, the Central Government used to levy taxes on the manufacture of certain goods (Central Excise duty), the provision of certain services (service tax), and inter-state sales of goods (Central Sales tax).

State governments levied value-added taxes on retail sales, as well as entry taxes, luxury taxes, and purchase taxes on goods entering the state, among other things. As a result, the same supply chain is subjected to different taxes.

#### **Difficulties faced under former taxation laws shall be listed as below:**

- Because taxes levied by the federal government cannot be offset against taxes levied by state governments, there is a cascade of taxes.
- Certain taxes imposed by state governments cannot be used to offset the payment of other taxes imposed by them;
- The country's wide range of Value Added Tax Laws, each with its own set of tax rates and tax procedures, divides the country into distinct economic spheres.
- Tariff and non-tariff barriers, such as octroi, entry taxes, checkpoints, and so on, obstruct the free flow of trade in the world. Furthermore, the large number of taxes imposes a high cost of compliance on taxpayers in terms of the number of returns, payments, and so on.

Due to the above challenges, all of the aforementioned taxes have been merged into a single tax known as the goods and services tax, which will be levied on supplies that include goods and services at every stage of the supply chain, beginning with manufacturing or import and ending with retail.

So any tax imposed by the Central Government or State Governments on the supply of goods or services has been converted to goods and services tax, which is a dual levy in which the Central Government imposes and collects tax in the form of central goods and services tax (CGST Act 2017) and the State Government levy and collect tax in the form of state goods and services tax (SGST Act 2017).

## 6.2.2 Salient Features of CGST Act 2017:

The features of the Central Goods and Services Tax Act, 2017, are as follows:

- To impose a tax on all intra-State supplies of goods or services or both; to extend the scope of the input tax credit by allowing it to be claimed for taxes paid on supplies of goods or services, or both, used or intended to be used in the course or furtherance of business; and to impose an obligation on electronic commerce operators.
- To collect tax at the point of sale at a rate of not more than 1% of the transaction's value;
- To impose an obligation on electronic commerce operators to collect tax at source.
- To provide for the conduct of an audit of registered persons to verify compliance with the provisions of the Act.
- To establish the Goods and Services Tax Appellate Tribunal by the Central Government.
- To hear appeals against the orders passed by the Appellate Authority;
- To provide for the recovery of tax arrears through various methods, including detention and sale of goods, movable and immovable property of defaulting taxable persons;
- To provide for powers of inspection, search, seizure, and arrest for officers;
- To include provisions for penalties for violating the proposed legislation's provisions;
- To include an anti-profiteering clause to ensure that businesses pass on the benefits of lower tax rates on goods and services to customers, or both and
- To provide for elaborate transitional provisions for a smooth transition of existing taxpayers to goods and services tax regime.

## 6.2.3 Taxonomy of CGST Law

- The 2017 CGST Act includes 174 sections divided into 21 chapters and three schedules dealing with supplies without consideration, the classification of activities as goods or services, and activities that are neither goods nor services. The following are the schedules:
  - Schedule I. Activities that are to be handled as supply, even if they are done without thought
  - Schedule II: Activities that should be classified as either a supply of goods or a supply of services
  - Activities or transactions that are neither a supply of goods nor a supply of services are included in Schedule III.

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## 6.3 STATE GOODS AND SERVICE TAX (SGST)

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State Goods and Services Tax (SGST) is the full name of the tax. SGST is a component of GST, just like CGST and IGST. The State Goods and Service Tax Act of 2017 is the legislation that governs SGST. As a result, after the SGST was implemented, all other indirect taxes levied by the state government under the previous taxation system were absorbed into the SGST. Furthermore, the SGST leaves all tax revenue in the

hands of state governments.

### **What is SGST?**

In India, SGST is one of the tax components of GST. State Goods and Service Tax is now included in the SGST Act. It is one of three categories of the Goods and Service Tax (CGST, IGST, and SGST), all of which are based on the principle of "one tax, one country." The State Goods and Service Tax Act of 2017 governs the SGST.

When the SGST is implemented, the current state taxes of State Sales Tax, VAT, Luxury Tax, Entertainment Tax (unless levied by local governments), Taxes on lottery, betting, and gambling, Entry tax not instead of Octroi, State Cesses and Surcharges about the supply of goods and services, and so on, will be merged into a single tax called SGST.

All the tax proceeds collected under the head SGST are for the State Government.

#### **6.3.1 Applicability of GST**

To know whether the supply of goods or services or both attracts SGST, we need to know if the supply is intrastate or interstate. Intra-state supply is a type of supply in which the supplier and recipient are both located in the same state. The provider must collect both CGST and SGST in this type of supply. The CGST amount is deposited with the federal government, while the SGST amount is submitted to the state government. Inter-State supply is a type of supply in which the supplier's location and the recipient's location are in different states. Also, any supply made to SEZ units or EOU is considered an Inter-State supply.

In the case of inter-state supply, the supplier needs to collect IGST. This IGST collected by the supplier is submitted to the Central Government.

#### **6.3.2 Features of SGST:**

- The states levy and collect SGST on all goods and services provided for consideration.
- The collected tax is deposited into the state's bank account.
- The State Goods and Service Tax Department of each state have its SGST act. The basic features of the GST law for all states, such as charges, valuation, taxable event, measure, classification, and so on, would remain consistent throughout each state's act.
- Exempted goods and services are not subject to the SGST because they are not subject to GST. Furthermore, where the total annual turnover is less than the prescribed limit, SGST is not applicable.

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## **6.4 DIFFERENCE BETWEEN CGST, SGST & IGST**

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**Key differences between CGST and SGST:**

<b>Parameters</b>	<b>CGST</b>	<b>SGST</b>	<b>IGST</b>
Full-Form	Central Goods and Services Tax	State Goods and Services Tax	Integrated Goods and Services Tax
Supply	Intra-State	Intra-State	Inter-State
Levied by	Central Government	State Government	Central Government
Collected by	Central Government	State Government	Central Government
ITC Utilization	(i) CGST (ii) IGST	(i) SGST (ii) IGST	(i) IGST (ii) In any proportion towards CGST and SGST
Applicability of composition scheme	Applicable	Applicable	Not Applicable
Registration Criteria	Any taxpayer whose aggregate turnover exceeds 40 Lakh INR (20 Lakh INR in special states) do not need to obtain registration.	Any taxpayer whose aggregate turnover exceeds 40 Lakh INR (20 Lakh INR in special states) do not need to obtain registration.	Every taxpayer who is carrying out inter-state supply needs to obtain registration irrespective of turnover prescribed.

### **SGST Example**

Let us see how the different components under GST work in India. Assuming the GST rate applicable to the product by 18%.

<b>Sales From</b>	<b>Sales To</b>	<b>Amount of Sale</b>	<b>Type of Tax</b>	<b>GST Amount</b>
Delhi	Delhi	2,00,000 INR	CGST+SGST (18,000+18,000)	36,000 INR

Delhi	UP	2,00,000 INR	IGST	36,000 INR
Andaman & Nicobar	Andaman & Nicobar	2,00,000 INR	CGST+UTGST (18,000+18,000)	36,000 INR
Andaman & Nicobar	Delhi	2,00,000 INR	IGST	36,000 INR
UP	Lakshadweep	2,00,000 INR	IGST	36,000 INR

### **What determines whether CGST, GST on IGST is applicable for a supply?**

To determine if a taxable transaction is subject to the Central Goods and Services Tax (CGST), State Goods and Services Tax (SGST), or Integrated Goods and Services Tax (IGST), one must first determine if the transaction is intrastate or interstate.

6.4.1 Intra-State supply of goods or services occurs when the supplier's location and the place of supply, i.e., the buyer's location, are both in the same state. A seller must obtain both CGST and SGST from the buyer in a transaction involving supply within the state. The State GST is deposited with the State Government, while the Central GST is deposited with the Central Government.

6.4.2 When the supplier and the place of supply are in different states, this is referred to as inter-state supply. The transaction is often believed to be Inter-State when goods or services are exported or imported, or when goods or services are supplied to or by an SEZ unit. A seller must collect IGST from the buyer in a transaction involving supply between two states or outside the state.

### **Case study to understand CGST, SGST and IGST**

For Rs. 10,000, an Indore merchant is selling a printer to a Bhopal trader. A 14 per cent CGST and a 14 per cent SGST will be applied to this transaction. The trader in Bhopal will be required to charge Rs. 1,400 in CGST and Rs. 1400 in SGST, with the funds going to the Central and State Government accounts, respectively.

In this case, the merchant from Bhopal is supplying the printer to his Bengaluru shop. Because this is an interstate transaction, the Bhopal shopkeeper will levy a 28 per cent IGST, or Rs. 2800, on the product's basic value (Rs. 10,000), and deposit the IGST into the government account.

The State Goods and Service Tax (SGST) is one of the three major types of Goods and Service Tax (CGST, IGST, and SGST), and it is based on the principle of "one tax, one country." The State Goods and Service Tax Act of 2016 governs the SGST. Alcohol for human consumption is not included in the SGST supplies. Furthermore, this imposed tax is governed by the State Goods and Services Tax (SGST) Act, 2017. As per section 15 of the SGST Act, this tax is levied on the transaction value of the goods or services delivered.

The transaction value is the price paid or payable for the supply of goods or services in question. In a nutshell, this tax is collected by the state in which the goods or services are consumed, rather than the state in which the goods are produced, as the name implies.

### **Why GST?**

6.4.3 Several indirect taxes were levied by both the state and the federal government before the introduction of GST on July 1, 2017.

6.4.4 The centre levied a Central State Tax (CST) on goods sold within state lines.

6.4.5 Different states used to have their own set of rules and regulations, which was a major issue.

6.4.6 There were also some extra taxes, such as the entertainment tax, the local tax, and the octroi.

All of these disparate taxes resulted in a lack of tax uniformity, which became a significant impediment to intra-country trade. It also resulted in the federal and state governments combining their taxes, which often had different tax rates.

### **An example of CGST and SGST**

Assume Ayan is a distributor in Gurgaon who sold 20,000 rupees worth of merchandise to Mahesh in Bangalore. The GST rate is 18 per cent, which includes the CGST rate of 9% and the SGST rate of 9%. In this case, the dealer receives Rs. 3600, of which Rs. 1800 goes to the Central Government and Rs. 1800 goes to the Haryana Government.

### **Where SGST is Applicable?**

The application of SGST/UTGST and other GST tax components such as IGST and CGST is determined by the supply nature of a transaction. There are two kinds of supply when it comes to transactions: intra-state supply and inter-state supply.

#### **Intra-State Supply**

Any supply where the provider and the place of supply are both located in the same State or Union Territory is referred to as intra-state supply. A manufacturer must collect both CGST and SGST in such a case of the supply of goods and services. The CGST portion is deposited with the Central Government after all taxes have been collected. The SGST is then deposited with the state government in question.

**Let's look at another example:** Madhur Traders, a Rajasthan-based distributor,



receives products from Gunjan Enterprises, a Rajasthan-based manufacturer. Gunjan Enterprises supplies goods worth Rs 2, 00,000 after adding 18 per cent GST. GST is deposited to both the Central and State Governments because it is an intra-state supply. However, the total GST of Rs 36,000 is divided equally between the two heads. This translates to a deposit of Rs 18,000 into the CGST account. An additional Rs 18,000 is deposited into the SGST section.

### Inter-State Supply

Well, Inter-State Supply happens in the supply where the location of the supplier and the place of supply falls in these:

- 6.4.7 Two different States
- 6.4.8 2 Different Union Territories
- 6.4.9 A-State and a Union Territory

Also, any supply that occurs in a taxable territory that is not an Intra-State supply is referred to as an Inter-State supply. The following items are also considered inter-state supplies:

- 6.4.10 Merchandise to or from Special Economic Zones (SEZs)
- 6.4.11 Imported goods and services from India
- 6.4.12 Outside of India, services or products are exported.
- 6.4.13 Supplying foreign visitors with goods or services
- 6.4.14 As a result, the Central Government only levies and collects IGST on interstatesupplies of goods or services.

Satya Ltd, a manufacturer in MP, for example, produces and delivers products to Bhatia Traders, a Punjab-based dealer. Satya Ltd supplies goods worth Rs 1, 00,000 after adding 18 per cent GST. GST is only deposited to the Central Government because it is a type of inter-state supply. As a result, the entire GST of Rs 18,000 is deposited solely under the CGST head.

### SGST, CGST and IGST rates of some daily use items

ITEMS	SGST	CGST	IGST
Tea, coffee (except instant), spices, edible oil, and sugar are all items that are used daily. This GST slab also includes charcoal, essential medicines, and Indian sweets.	2.50%	2.50%	5%
Processed food and computers	6%	6%	12%
Hair oil, body soaps and toothpaste, capital goods, and industrial intermediaries.	9%	9%	18%

Consumer durables such as air conditioners and refrigerators, cigarette packs, aerated drinks, and high-end motorcycles are examples of luxury products.	14%	14%	28%
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### How frequently are SGST rates revised?

Since the implementation of the Goods and Services Tax, the GST rates have been revised several times (GST). The most recent rate change took effect on March 14, 2020, at the 39th GST Council Meeting. Several GST Council Meetings have taken place to rate changes that were implemented later. By visiting the official website, <https://cbic-gst.gov.in/>, you will stay up to date on all kinds of GST and rate changes.

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## 6.5 INTEGRATED GOODS AND SERVICE TAX (IGST)

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The IGST full form under GST law is Integrated Goods and Service Tax. It is called the IGST Act of 2017.

The IGST Model's scope gives meaning to the GST Act, which includes IGST as one of its components. The IGST Act specifies that the Centre will levy IGST (CGST plus SGST) on all inter-State taxable goods and services transactions, with appropriate provisions for consignment or stock transfer of goods and services.

After adjusting the available credit of IGST, CGST, and SGST on his purchases, the seller making supply outside the state would pay IGST on value addition and the exporting state will send the credit for SGST used in IGST payment to the Centre.

The importing dealer, on the other hand, would claim IGST credit when settling his output tax liability in his state. The Centre will then transfer the IGST credit used in SGST payment to the importing State.

The relevant data will also be sent to the Central Agency, which will act as a clearinghouse, check the claims, and notify the respective governments so that the funds can be transferred.

### What is IGST?

"Integrated Goods and Services Tax" (IGST) means the tax levied under this Act on the supply of any goods and/or services in the course of inter-State trade or commerce and for this purpose.

<b>Finer point 1</b>	A supply of goods and/or services made during the importation of goods and/or services into India's territory is considered to be a supply of goods and/or services made during inter-State trading or commerce.
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<b>Finer point 2</b>	The export of goods and/or services is considered a supply of goods and/or services in the course of interstate trade or commerce.
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The Integrated Goods and Services Tax (IGST) is a tax levied under the IGST Act on the supply of any goods and/or services in the course of interstate trade or commerce (IGST). Imported goods and services will be subject to the Integrated GST. Any supply of goods or services made in the course of importing goods or services into Indian Territory is called an interstate trading or commerce supply and is subject to the IGST. For transactions that look-alike of import transactions and export of goods and services, shall be deemed to be supplied in the course of inter-state trade or commerce. Interstate trade or commerce will, therefore include:

- Supplies made in the course of – Inter-state trade or commerce
- Import into Indian territory (deemed to be inter-state)
- Export (deemed to be inter-state)

Inter-state transactions, as well as import and export transactions (deemed to be inter-state transactions), relating to the supply of goods and/or services, will be subject to Integrated GST.

### **6.5.1 Origin and commencement of IGST Act**

The Integrated Goods and Services Tax Act, 2017 (IGST) is a law passed to tax, collect, and administer the IGST in India. This Act would apply to the entire country of India, including the state of Jammu and Kashmir. And it will take effect on a date that the Central Government will announce via a notification.

### **6.5.2 Salient features of IGST Act 2017**

- Inter-State transactions continue to be processed through an uninterrupted ITC chain.
- There is no requirement for the interstate seller or buyer to pay tax upfront, nor there is a significant blockage of funds.
- There will be no refund of taxes paid in the exporting state because the ITC will have been used up when paying the tax.
- Model of self-monitoring
- Streamlining is limited to interstate distributors, and both the federal and state governments should be able to streamline their procedures quickly.
- Dealers making interstate supplies will be e-registered, and correspondence with them will be done via email, resulting in a significant increase in compliance.
- The IGST Model can take ‘Business to Business as well as ‘Business to Consumer’ transactions into an account.

### **Taxonomy of IGST**

The IGST Act comprises the following 11 Chapters, 33 Sections and 8 Definitions.

### **IGST Example**

Mr X, a trader registered in Bangalore, sold goods to Mr Y, a registered trader in Chennai, for Rs. 10 Lakhs and further Mr Y sold these goods to Mr Z, a registered retailer from Jaipur, for Rs. 11 Lakhs.

<p>First transaction between Mr X and Mr Y</p>	<ul style="list-style-type: none"> <li>· Mr X will collect IGST at the CGST + SGST rate on Rs. 10 Lakhs.</li> <li>· As we all know that CGST SGST and IGST full form expands to Central GST/ State GST and Integrated GST respectively.</li> <li>· Mr Y will get the credit which he can use for further payment of his GST.</li> </ul>
<p>Second transaction between Mr Y and Mr Z</p>	<ul style="list-style-type: none"> <li>· Mr Y will collect IGST at the CGST + SGST rate of Rs. 11 Lakhs.</li> <li>· Mr Z will get the credit which he can use for further payment of his GST.</li> </ul>
<p>Who pockets the taxes here? [Note: Key point to remember: GST is a consumption-based tax.]</p>	<ul style="list-style-type: none"> <li>· Tamil Nadu will get the SGST on Rs. 10 Lakhs from Karnataka on the first transaction between Mr X and Mr Y.</li> <li>· Tamil Nadu will also be collecting tax on the second transaction between Mr Y and Mr Z on the number of Rs. 11 Lakhs which it will further transfer to the Central Government (CGST) and the Rajasthan government (SGST).</li> </ul>

Interstate trade will undoubtedly benefit because transactions between states will not be taxed twice. This is in contrast to previous tax rules, which required you to pay tax in Chennai and then again in the state where you eventually sold the goods. This reduces the tax burden on merchants, allowing them to increase their inter-state trade.

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## 6.6 LET US SUM UP

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The goods and services tax (GST) is a reformative financial taxation scheme enacted in the Indian constitution for incorporating all business units into the database of tax-paying organizations on an equal footing. The goods and services tax (GST) is in place to replace all indirect taxes. We'll go over all of the aspects of taxes and GST in this section. The CGST, SGST, and IGST are the three main components of taxation. For the uninitiated, a short explanation of what each of these components means and what role they play in the GST taxation economy. The GST bill has been passed, and the new rules will include CGST, SGST, and IGST. The Central Government will levy CGST and IGST, while the State Government will levy SGST.

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## 6.7 KEYWORDS

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**GST:** GST (Goods and Services Tax) is a destination-based, indirect, multi-stage

consumption tax that will replace almost all existing Central and State taxes, including but not limited to CENVAT, Octroi, Sales Tax, and Excise Duty. From July 1, 2017, GST replaced all existing direct and indirect federal and state taxes.

**GSTIN:** GSTIN, i.e. In the GST regime, a business's legal and special identity with the government of India is its GST Identification Number. GSTIN is a 15-character alphanumeric PAN-based unique number that is assigned to each state.

**CGST, SGST and IGST:** GST consists of three major taxes – Central GST, i.e. CGST, State GST i.e. SGST and Integrated GST i.e. IGST.

The different taxes would enable the taxpayers to take a credit against each other, enhancing ease and transparency in the taxation cycle.

6.7.1 **CGST:** Central GST [CGST] is the GST, to be levied by the Centre, on intra-state businesses.

6.7.2 **SGST:** State GST [SGST] is the GST, to be levied by the State, on intra-state businesses.

6.7.3 **IGST:** Integrated GST [IGST] is the GST, to be levied by the Centre, on inter-state businesses and imports.

**Reverse Charge:** Reverse Charge is a mechanism and supervisory arrangement that is used to track and improve tax coverage, compliance, synchronization, and tractability in unorganized, partially organized, and fully organized industries.

In most cases, the purchaser of goods or services is responsible for paying GST. The liability may, however, be transferred to the recipient in certain circumstances, such as imports and other notified supplies, under the reverse charge mechanism. Reverse charge means that the recipient of goods or services bears the tax liability rather than the supplier, but only for certain types of supply.

**Mixed Supply:** A mixed supply is any arrangement of goods or services made by a GST payer for a single price that combines two or more individual supplies of goods or services. The mixed supply's components are not organically bundled, but it is a deliberate fusion from a company standpoint.

A mixed supply could be a gifting set consisting of a pen, a tie, a wallet and a key ring.

**Composite Supply:** A composite supply is an organic combination of two or more individual goods and services, or any other natural arrangement of goods and services made for a single price by a GST payer.

A composite supply is further broken into two parts:

6.7.4 **Principal Supply:** The major and the foremost element in the Composite Supply of goods or services.

6.7.5 **Dependent Supply:** This is the dependent element and rests on the Principal Supply.

A composite supply might be a breakfast package combined with a hotel stay, which would be considered a natural mix. The stay package is the Principal Supply in this regard, while the breakfast is a Composite Supply.

**Continuous Supply:** A continuous supply is one in which goods and/or services are delivered at regular intervals [fortnightly / monthly] and payments are made in the same way.

A composite supply could be the services provided by a telecom operator.

**ITC:** The credit manufacturers earn for paying input taxes on inputs used in the manufacturing of goods is known as the input tax credit [ITC]. Similarly, if a dealer purchases goods for resale, he is entitled to an input tax credit.

To avoid double taxation on items used as inputs to produce other items, the manufacturer of the next item may claim credit for taxes paid on the inputs while paying tax on the output. If the tax on inputs is higher than the tax on outputs, the difference can be refunded.

Input Tax Credit is not a one-size-fits-all solution for PAN India; it varies by state and does not apply to composite taxpayers.

**GSTR:** GSTR, i.e. A GST Return is a document that captures the details of a taxpayer's income and is required to be filed with the authorities to determine his tax liability. There are eleven different types of GST returns, ranging from GSTR-1 to GSTR-11, that capture and cater to various types of taxpayers.

A **GST** primarily includes:

- 6.7.6 Sales data
- 6.7.7 Purchase data
- 6.7.8 Output GST [Derived from Sales]
- 6.7.9 Input Tax Credit [ GST paid on purchases]

**GST Compliance Rating:** GST Compliance Rating is a numerical value and a score between [0 -10] assigned by the government to all taxpayers, indicating whether or not they are GST compliant. The rating is given to all GSTIN and GSTIN holders based on several factors, including, but not limited to, your return filing habits, the accuracy of your fed data, and so on.

Though the actual rating format is still to be announced, however, it should be similar to having a 0-10 scale, where zero accounts for the lowest score and 10 denotes a cent per cent compliance.

The rating will be a key factor in obtaining the ITC and keeping it flowing smoothly. If the ITC does not arrive on time, it would hurt working capital. If manufacturers do not comply, the rating will affect legitimate buyers' ability to obtain input tax credits.

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## 6.8 FURTHER READINGS

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.

- GST Manual: Taxman's Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikash Publishing House Pvt. Ltd. New Delhi.
- [www.tallysolutions.com](http://www.tallysolutions.com)
- [www.mastersindia.co](http://www.mastersindia.co)

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## 6.9 MODEL QUESTIONS

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**Q1:** Write the difference between SGST, IGST and CGST

**Q2:** Discuss the salient feature of the IGST Act 2017

**Q3:** Write a brief note on Input Tax Credit.

**Q4:** What are the areas where SGST is applicable?

**Q5:** What determines whether CGST, GST or IGST is applicable for a supply?

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# UNIT-7 GST LEVY AND EXEMPTION OF TAX

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## Structure

7.0 Learning Objectives

7.1 Introduction

7.2 Levy & Collection of GST under the CGST Act (Sec 09)

7.3 Levy & Collection of GST under the IGST Act (Sec 05)

7.4 Levy & Collection of GST under UTGST (Sec 07)

7.5 Exemption from GST Purview

7.6 Meaning & Scope of Supply under GST

7.7 Taxable person under GST

7.8 GST registration by types of the taxable person

7.9 Time, Place and Value of Supply

7.10 Let us Sum up

7.11 Key Words

7.12 Further Readings

7.13 Model Questions

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## 7.0 LEARNING OBJECTIVES

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After completing this unit, you will be able to know:

- The levy and collection of GST under the CGST, IGST & UTGST Act
- Meaning & Scope of supply under GST
- Time, Place and Value of Supply
- GST registration procedure by a taxable person

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## 7.1 INTRODUCTION

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One of the most significant post-independence tax reforms has been the Goods and Services Tax. GST is a ground-breaking indirect tax reform that will eliminate interstate trade barriers to create a common national market. Multiple indirect taxes levied by the federal and state governments have been included by GST. The Indian Constitution gives the government the authority to levy any tax. Article 265 of the Indian Constitution states that no tax can be levied or collected unless it is authorized by law. The charging section of any Taxing Law is required for the levy (imposition) and collection (payment) of taxes. A taxable event, or the point in time when the tax will be levied, is the very foundation for the charging of tax in any taxing statute. Previously, each indirect tax had its own set of taxable events (for example, manufacturing in the case of Excise Duty, provision of services in the case of Service Tax, sale of goods in the case of VAT/CST, and so on). The supply of goods or services, or both, is a taxable event under the GST regime.



To levy GST, Section 9 of the CGST Act/SGST Act and Section 5 of the IGST Act are the Charging Sections. All intra-state deliveries of goods and/or services will be subject to CGST and SGST, while all inter-state supplies of goods and/or services will be subject to IGST.

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## **7.2 LEVY AND COLLECTION OF GST UNDER CGST ACT (SECTION 9)**

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### **1. Levy of central goods and service tax [Section 9(1)]:**

Except for the supply of alcoholic liquor for human consumption, the central goods and services tax (CGST) is levied under the CGST Act on all intra-State supplies of goods, services, or both. It shall be levied at such rates, not exceeding 20%, as the Government may inform in response to the Council's recommendations, and collected in the manner prescribed, and shall be paid by the taxable person. [Under the SGST/UTGST] similar rates are required.

### **2. Central tax on petroleum products to be levied from the date to be notified [Section 9(2)]:**

The central tax on petroleum crude, high-speed diesel, motor spirit (commonly known as gasoline), natural gas, and aviation turbine fuel will take effect as soon as the Government notifies the Council of its recommendations.

### **3. Tax payable on reverse charge basis [Section 9(3)]:**

The Government may, on the Council's recommendation, define categories of supply of goods or services or both, for which the tax is paid on a reverse charge basis by the recipient of such goods or services or both, by notification. Also, all of the provisions of this Act apply to such recipients as if he were the person responsible for paying the tax on the supply of such goods or services, or both.

### **4. Tax payable on the reverse charge if the supplies are made to a registered person by an unregistered person [Section 9(4)]:**

All provisions of this Act apply to such a recipient as if he is the person liable for paying the tax about the supply of taxable goods or services or both by a non-registered supplier to a registered person. [Section 9(4) has been postponed until 31. .2018]

### **5. Tax payable on intra-State supplies by the electronic commerce operator on notified services [Section 9(5)]**

As per section 2(45) of the CGST Act, 2017, “electronic commerce operator” means any person who owns, operates or manages a digital or electronic facility or platform for electronic commerce. Further, “electronic commerce” means the supply of goods or services or both, including digital products over digital or electronic networks.

Thus, Electronic Commerce Operators (ECOs) such as Flip kart, Uber, and Make my Trip display goods and services on their electronic portals that are provided by someone else to the consumer. These portals allow customers to purchase such goods

and services. When a customer places an order for a product or service, the actual supplier fulfils the order and delivers the product or service to the customer. The ECO collects the product/service price/consideration from the customer and passes it on to the real supplier after deducting the ECO's commission.

On the Council's recommendation, the Government may, by notification, identify categories of services for which the electronic commerce operator (ECO) is responsible for paying the tax on intra-State supplies if such services are provided through it.

Also, all of the provisions of this Act apply to such electronic commerce operator (ECO) as if he were the supplier responsible for paying the tax on the services provided.

Where an electronic commerce operator (ECO) does not have a physical presence in the taxable territory, any person who represents such an ECO in the taxable territory for any purpose is liable to pay tax.

When an ECO does not have a physical presence in the taxable territory and also does not have a representative in the taxable territory, the ECO must nominate a person in the taxable territory to pay tax on his behalf, and that person will be liable to pay tax. The Government vide Notification No. 17/2017 CT (R) dated 28.06.2017 has notified the following categories of services supplied through ECO for this purpose—

1. Services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab and motorcycle;
2. Services involving the provision of lodging in hotels, guest houses, clubs, campgrounds, or other commercial establishments intended for residential or lodging purposes, except where the person delivering such service through an electronic commerce operator is required to register under section 22(1) of the CGST Act.

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### **7.3 LEVY AND COLLECTION OF GST UNDER IGST ACT. (SECTION 5)**

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The provisions of section 5 of the IGST Act are similar to those of section 9 of the CGST Act, with the following exceptions:

1. The term CGST has been replaced by IGST under the IGST Act
2. The IGST Act mandates the imposition of an integrated tax on all interstate supplies and goods imported into India.
3. According to section 5(1) of the IGST Act, the maximum rate is 40% (i.e. 20% CGST + 20% UTGST).

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### **7.4 LEVY AND COLLECTION OF GST UNDER UTGST Act. (Section 7)**

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The provisions under section 7 of the UTGST Act and section 9 of the CGST Act are

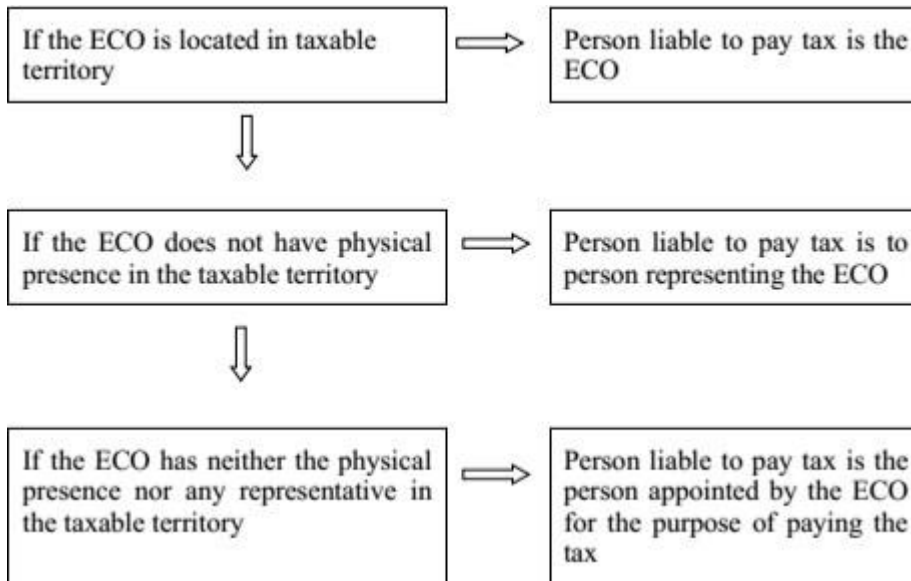
similar except the word CGST has been replaced by the word UTGST under the

7.4.1 UTGST Act.

7.4.2 Under UTGST Act, a tax called UT tax is levied on all intra-State supplies,

7.4.3 The maximum rate of 7(1) of the UTGST Act is 20%.

### Taxability of ECO for specified services



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## 7.5 EXEMPTION FROM GST PURVIEW: (Source: Aditya Birla Capital)

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It's just as important to understand what is taxed under the Goods and Services Tax as it is to understand the list of exemptions. There are a few exemptions under GST, just like with all other taxes, where goods and services are exempt from taxation. The following is a list of examples of Goods and Services Tax exemptions.

### Exempted Goods:

- 7.5.1 **Food:** Fruits and vegetables, cereals, meat and fish, potatoes and other edible tubers and roots, tender coconut, tea leaves, jaggery, coffee beans, ginger, turmeric, milk, curd, etc.
- 7.5.2 **Raw materials:** Silk waste, raw silk, raw jute fibre, unprocessed wool, handloom fabrics, cotton for khadi yarn, khadi, charcoal, and firewood.
- 7.5.3 **Tools/Instruments:** Shovels, spades, agricultural tools, handmade musical instruments, hearing aids, and tools used by physically challenged individuals.
- 7.5.4 **Miscellaneous:** Contraceptives, semen, human blood, vaccines, organic manure, earthen pots, beehives, live animals (except horses), maps, books, journals, newspapers, non-judicial stamps, kites, and pooja props.

*Note: The above list of exempted goods is listed under GST rules but may be*

*subject to change as the council suggests. Also, the above mentioned are examples of a few exempted goods, and more goods qualify for Nil GST.*

### **Exempted Services**

- 7.5.5 Agriculture-related services, such as harvesting, farming, supply, packaging, warehousing, renting or lease of equipment, are all GST-free.
- 7.5.6 Individuals are transported using public transportation, metered taxis, auto-rickshaws, metros, and other modes of transportation.
- 7.5.7 Transportation of agricultural products and commodities outside of India
- 7.5.8 Transportation of goods for which the gross cost is less than Rs 150
- 7.5.9 GST is not charged on services offered by the Reserve Bank of India or any international diplomatic mission in India.
- 7.5.10 The United Nations is one of the organizations that provide services to diplomats.
- 7.5.11 Certain healthcare and educational services, such as mid-day meal catering, services supplied by a veterinarian, clinic, or paramedics, are also GST-free. Ambulance and charity services are also included in the list.

### ***Some of the other exemptions of services under GST Include:***

- 7.5.12 Services provided by tour guides to foreign tourists.
- 7.5.13 Library services
- 7.5.14 Services for conducting religious ceremonies
- 7.5.15 Distribution of electricity
- 7.5.16 Services by authorized sports organizations

**Note:** *The above list is a few examples of services exempted from GST, and more services qualify for nil GST. The above list is also subject to the time change as per the rules of the GST council.*

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## **7.6 MEANING AND SCOPE OF SUPPLY UNDER GST**

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The supply of goods or services, or both, is a taxable event under GST. Various taxable events, such as manufacturing, sale, rendering of service, purchase, entry into a state's territory, and so on, have been eliminated in favour of a single taxable event, supply. Any tax on the supply of goods, services, or both, except taxes on the supply of alcoholic liquor for human consumption, is defined as a "goods and services tax" in the constitution.

The GST would be imposed on intra-state supplies by both the federal and state governments at the same time. However, only the Parliament has the authority to enact legislation relating to the imposition of a goods and services tax on interstate commerce.

The term "supply" has been defined broadly in the Act. The following six parameters can be used to describe a transaction as a supply to understand the meaning and scope of supply under GST.

- 7.6.1 Supply of goods or services. Supply of anything other than goods or services does not attract GST.
- 7.6.2 Supply should be made for a consideration
- 7.6.3 Supply should be made in the course or furtherance of business
- 7.6.4 Supply should be made by a taxable person
- 7.6.5 Supply should be a taxable supply
- 7.6.6 While these six parameters define the notion of supply, there are a few exceptions to the requirement that supplies be made for consideration and in the course of business. Except in a few cases where a transaction is considered to be a supply even without consideration, any transaction involving the supply of goods or services without consideration is not a supply. Further importation of services for a fee, whether or not in the course or furtherance of business, is considered a supply.

### **Supply of goods or services or both**

In the GST Law, all goods and services are specified. Securities are not included in either the definition of goods or the definition of services. Money is excluded from both the definition of goods and the definition of services; however, operations involving the use of money or its conversion from one form, currency, or denomination to another form, currency, or denomination for which a separate consideration is charged are included in services.

A few operations are listed in Schedule II of the CGST Act, 2017 as being handled as either a supply of goods or a supply of services. Any transfer of title in goods, for example, is a supply of goods, whereas any transfer of right in goods without the transfer of title is a service.

**Further Schedule III to the CGST Act, 2017** spells out activities that shall be treated as neither supply of goods nor supply of services or in other words, outside the scope of GST. A few important notes are: –

- 7.6.7 An employee's services to his or her employer in the course of or in connection with his or her jobs.
- 7.6.8 Funeral, burial, cremation, or mortuary services, as well as transportation of the dead.
- 7.6.9 Sale of land and building where the full consideration is received after the completion certificate is issued or the building is occupied for the first time.

Actionable claims are included in the definition of goods, however, schedule III provides that actionable claims other than lottery, betting and gambling shall be neither

goods nor services.

### **Supply for consideration**

In the CGST Act of 2017, the term "consideration" is defined explicitly. It can be monetary or non-monetary. Subsidies from the federal government or state governments are not counted as compensation. It makes no difference if the payment is made by the recipient or someone else.

A deposit is given in consideration for the supply of goods or services, or both are not considered payment unless the purchaser uses the deposit as consideration for the supply.

Furthermore, when goods or services are exchanged, the same activity is both a supply and consideration. Hair cut is a supply of services from the barber when he cuts hair in exchange for a portrait. It's a payment for the painting you've received.

However, the requirement of 'Consideration' as a precondition for a supply to be called a supply under GST has some exceptions. The operations listed below will be considered as a supply under the CGST Act, 2017, even though they are performed without payment.

- 7.6.10 Permanent transfer or disposition of company assets for which an input tax credit has been claimed.
- 7.6.11 When made in the course or furtherance of business, a supply of goods or services, or both, between related or distinct persons as defined in section 25
- 7.6.12 Gifts from an employer to an employee worth less than fifty thousand rupees in a financial year are not considered a supply of goods or services or both.
- 7.6.13 Supply of goods— (a) by a principal to his agent, with the agent agreeing to supply the goods on the principal's behalf; or (b) by an agent to his principal, with the agent agreeing to receive the goods on the principal's behalf.
- 7.6.14 Import of services by a taxable person from a related person or any of his other establishments outside India, in the course or furtherance of business.

### **Supply in the Course or Furtherance of Business**

GST is a tax that only applies to commercial transactions. As a result, only supplies made in the course or furtherance of the company qualify as GST supplies. As a result, any supplies made by an individual in his capacity are not subject to GST unless they fall within the Act's definition of a company. The CBEC explained in a press release dated July 13, 2017, that an individual's sale of old gold jewellery to a jeweller does not constitute supply because it cannot be said to be in the course or furtherance of the individual's business. Even if it is a vocation, selling products or providing services is considered a supply under GST. There is one exception to the 'Course or Furtherance of Business' rule, which is the importation of services for consideration.

## **Supply by a taxable Person**

A taxable person must make a supply that is subject to GST. As a result, a supply between two non-taxable individuals does not qualify as a GST supply. A person who is registered or liable to be registered under section 22 or section 24 is referred to as a "taxable person." As a result, even if a person is not registered but is required to be, he or she is a taxable person. Similarly, a person who is not required to be registered but has voluntarily registered and obtained registration is a taxable person.

It should be observed that GST is a state-centric system in India. As a result, a person who makes supplies in multiple states must register in each state separately. Furthermore, if a person has multiple business verticals, he or she may register in more than one state. For GST, a person who has obtained or is required to obtain more than one registration, whether in one State or Union territory or more than one State or Union territory, is treated as a separate person for each such registration. As a result, a supply between these organizations is a supply under GST.

## **Taxable supply**

A supply must be taxable to be subject to GST. The term "taxable supply" has been interpreted broadly to include any supply of goods, services, or both that is subject to taxation under the Act. Exemptions may be granted to specific goods or services, as well as to a specific group of people or businesses who supply them.

## **Supply in the taxable territory**

The place of supply, except for Jammu and Kashmir, must be in India for a supply to be subject to GST. Sections 10, 11, 12, and 13 of the IGST Act 2017 specify the place of supply of any goods or services.

## **Inter/Intra State supply**

Whether a supply is handled as an Intra State supply or an Inter-State supply is determined by the location of the supplier and the location of the supply. The nature of the supply must be determined to determine whether integrated tax or Central plus State tax must be paid. The term "inter-state supply of goods" refers to a supply of goods where the supplier and the recipient are located in different states or union territories. Intra-State supply of goods refers to when the supplier's location and the place of supply are both within the same State or Union territory. Imports and supplies to and from SEZs are considered interstate supplies.

## **Composite/Mixed supply**

A composite supply is one made by a taxable person to a recipient that consists of two or more supplies of goods or services or any combination of them that are naturally bundled and delivered in tandem in the ordinary course of business, one of which is a principal supply. For example, a ticket from Mumbai to Delhi may include food service onboard, free insurance, and access to an airport lounge. In this case, passenger transportation is the most important component of the composite supply and is regarded as the primary supply, while all other supplies are considered ancillary.

The GST Law lays down the tax liability on a composite or mixed supply in the following manner.

- Composite Supply comprising two or more supplies one of which is a principal supply shall be treated as supply of such principal supply.
- Mixed Supply comprising two or more supplies shall be treated as supply of that particular supply which attracts the highest rate of tax.

Under the GST Act, a taxable person is a person who conducts business in India and is registered or required to be registered under the GST Act. A taxable person is someone who engages in economic activity, such as trade and commerce.

Individuals, HUFs, companies, firms, LLPs, an AOP/ BOI, any corporation or Government company, body corporate incorporated under the laws of a foreign country, co-operative societies, local authorities, governments, trusts, and artificial juridical persons are all included under the term "person."

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## 7.7 TAXABLE PERSON UNDER GST

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### *Who is Liable to get registered under GST?*

GST registration is mandatory for-

- 7.7.1 Any business whose turnover in a financial year exceeds Rs 20 lakhs (Rs 10lakhs for North Eastern and hill states).

**Note:** If your turnover is the supply of only exempted goods/services which are exempt under GST, this clause does not apply.

- 7.7.2 Every person who is already registered under a previous law (such as Excise, VAT, or Service Tax), must also register under GST.
- 7.7.3 When a registered company is transferred to someone else or merges, the transferee is required to take registration with effect from the date of transfer.
- 7.7.4 Anyone who facilitates the interstate flow of goods is a casual taxable person (see below)
- 7.7.5 A taxpayer who is not a resident of the United States (see below)
- 7.7.6 Those who pay tax under the reverse charge mechanism are agents of a supplier.
- 7.7.7 Distributor of input services (see below)
- 7.7.8 An E-commerce operator or aggregator\* is a person who sells through an e-commerce aggregator.
- 7.7.9 Person supplying online information & database access/retrieval services from a place outside India to a person in India, other than a registered taxable person



**\*\*Latest Updates:**

*Update as of 27th June 2020*

*The deadline for completion or compliance has been extended to August 31, 2020, in cases where the deadline falls between March 20th and August 30th 2020. However, it does not apply to situations where a person wishes to register for GST under the CGST Act's sections 25 (Normal registration) and 27 (Registration as a casual taxable person/non-resident taxable person).*

*Update as of 3rd April 2020*

*The deadline for completion or compliance has been extended to June 30, 2020, in cases where the deadline falls between March 20th and June 29th 2020. It excludes situations where a person may register for GST under the CGST Act's sections 25 (Normal registration) and 27 (Registration as a casual taxable person/non-resident taxable person).*

*As per the 23rd, GST Council Meet on 10th November 2017*

*Service providers providing services on e-commerce platforms are exempted from registration if their annual turnover is below 20lakhs (10 lakhs for Special states. 20 lakhs for J&K)*

*As per the 22nd GST Council meeting of 6th October 2017*

*Service providers providing inter-state services are exempted from registration if their annual turnover is below 20lakhs (10 lakhs for Special states. 20 lakhs for J&K)*

*Notification No. 7/2017 – Integrated Tax dated 14th September 2017*

*Job workers making the inter-state supply of services to a registered person are exempted from registration if their turnover is below 20lakhs (10 lakhs for Special states)*

***Who is a Casual Taxable Person under GST?***

A person who supplies goods and/or services on an as-needed basis in a GST-applicable territory but does not have a fixed place of business. According to GST, such a person would be considered a casual taxable person. A person with a place of business in Bangalore who provides taxable consultancy services in Pune where he has no place of business is considered a casual taxable person in Pune.

***Who is a Non-resident Taxable person under GST?***

When a non-resident occasionally supplies goods/services in a territory where GST applies but does not have a fixed place of business in India. As per GST, he will be treated as a non-resident taxable person. It is similar to the above except the non-resident has no place of business in India.

***Who is an Input Service Distributor?***

An 'Input Service Distributor' is an office of a goods/services supplier that receives tax invoices on receipt of input services and issues tax invoices to distribute the CGST/SGST/IGST credit paid on the said services to your branch with the same PAN.

(It must be a taxable goods/services provider with the same PAN as the above-mentioned office.)

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## **7.8 GST REGISTRATION BY TYPE OF TAXABLE PERSON**

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- Within thirty days of becoming liable to registration in each state, a person must apply for registration in the state in which he is liable.
- Non-residents and casual workers should apply at least five days before their first day of work.
- Because the GST registration number will be based on the PAN, having a PAN will be a requirement for obtaining registration.
- Because GST registration will be done on a state-by-state basis, the assessee must obtain separate registrations for each state.
- The assessee has the option of obtaining a separate registration in the same State for each of the "company verticals."

### **Special registration for the casual taxable person and non-resident taxable person (section 24)**

- A non-resident taxable person or a casual taxable person must apply for registration at least five days before the start of business. Section 24 of the GST Act contains special provisions for non-residents and casual taxable persons.
- Temporary registration for a non-resident taxable person can be obtained for 90 days (extendable for additional 90 days).
- A person who obtains registration under Section 24 is obliged to make a GST advance deposit (based on his estimated tax liability)

### **Collecting GST**

Only a registered taxable person can collect GST. The taxable person must prominently indicate the GST amount on tax invoices.

### **Returns**

A typical taxpayer would be required to file three monthly and one annual tax returns. Separate returns must be filed by a taxpayer registered under the composition scheme, an Input Service Distributor, and a person liable to deduct or collect tax (TDS/TCS).

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## **7.9 TIME, PLACE & VALUE OF SUPPLY**

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There are three kinds of taxes that can be charged in a GST invoice. In the case of an intrastate transaction, SGST and CGST are applied, and in the case of an interstate transaction, IGST is applied. However, determining whether a transaction is interstate or intrastate is a difficult task.

Consider an online training session with participants from all over the world. Consider

hotel services, where the receiver may have an office in another state and is only visiting the hotel for a short time, or merchandise sold on a train trip that passes through several states.

The IGST Act establishes certain rules that determine whether a transaction is interstate or intrastate to help address some of these issues. The place of supply rules is the name for these rules. There are three key concepts to remember.

### ***Why are time, place and value of supply important?***

*The point in time where goods/services are considered supplied is referred to as the time of supply. Knowing the 'time' assists the seller in determining the tax payment due date.*

*The location of supply is necessary for determining whether IGST or CGST/SGST should be applied to the invoice.*

*Because GST is calculated on the sale price, the value of the supply is critical. If the value is wrongly computed, the amount of GST charged will be incorrect as well.*

### **Time of Supply:**

The point in time where goods/services are considered supplied is referred to as the time of supply. Knowing the 'time' assists the seller in determining the tax payment due date. At the time of supply, CGST/SGST or IGST must be paid. Goods and services each have their basis for determining when they will be delivered. Let's take a closer look at them.

### **A. Time of Supply of Goods**

Time of supply of goods is the earliest of:

- Date of issue of invoice
- Last date on which invoice should have been issued
- Date of receipt of advance/ payment\*.

### **For example:**

Mr X sold goods to Mr Y worth Rs 1, 00,000. The invoice was issued on 15th January. The payment was received on 31st January. The goods were supplied on 20th January.

\*Note: GST does not apply to advances under GST. GST in Advance is payable at the time of issue of the invoice. Notification No. 66/2017 – Central Tax issued on 15.11.2017

Let us analyze and arrive at the time of supply in this case.

Time of supply is earliest of –

- Date of issue of invoice = **15th January**
- Last date on which invoice should have been issued = 20th January

Thus the time of supply is 15th January.

What will happen if, in the same example an advance of Rs 50,000 is received by Mr X on 1st January?

The time of supply for the advance of Rs 50,000 will be 1st January (since the date of receipt of advance is before the invoice is issued). For the balance of Rs 50,000, the time of supply will be 15th January.

## **B. Time of Supply for Services**

Time of supply of services is earliest of:

- Date of issue of invoice
- Date of receipt of advance/ payment.
- Date of provision of services (if the invoice is not issued within the prescribed period)

Let us understand this using an **example**:

On January 1st, Mr A provides Mr B with services worth Rs 20000. The invoice was sent out on January 20th, and payment was returned on February 1st. In this case, we must first determine whether the invoice was issued within the specified time frame. The deadline is 30 days from the date of supply, which is January 31st. The invoice was sent out on January 20th. This indicates that the invoice was sent out within a specified time frame.

The time of supply will be earliest of –

- Date of issue of invoice = **20th January**
- Date of payment = 1st February

This means that the time of supply of services will be 20th January.

## **C. Time of Supply under Reverse Charge**

In case of reverse charge the time of supply for service receiver is earliest of:

- Date of payment\*
- 30 days from date of issue of invoice for goods (60 days for services)

\*w.e.f. 15.11.2017 'Date of Payment' is not applicable for goods and applies only to services. Notification No. 66/2017 – Central Tax

### **For example:**

M/s ABC Pvt. Ltd undertook service of a director Mr X worth Rs. 50,000 on 15th January. The invoice was raised on 1st February. M/s ABC Pvt Ltd made the payment on 1st May.

The time of supply, in this case, will be earliest of –

- Date of payment = 1st May
- 60 days from date of the date of invoice = **2nd April**

Thus, the time of supply of services is 2nd April.

## **2. Place of supply**

It is very important to understand the term 'place of supply' for determining the right tax to be charged on the invoice.

Here is an **example**:

<b>Location of Service Receiver</b>	<b>Place of supply</b>	<b>Nature of Supply</b>	<b>GST Applicable</b>
Maharashtra	Maharashtra	Intra-state	CGST + SGST
Maharashtra	Kerala	Inter-state	IGST

### **A. Place of Supply of Goods**

In most cases, the place of supply is the same as the place where the goods are shipped. As a result, the place where goods are supplied is also the place where ownership of goods changes.

What happens if goods don't move? The location of goods at the time of delivery to the recipient is the place of supply in this case.

For instance, in the case of supermarket sales, the source of supply is the supermarket itself.

In situations where goods are assembled and installed, the location where the installation is done will be the place of supply.

A supplier in Kolkata, for example, sends equipment to a customer in Delhi. The equipment has been installed in the recipient's factory in Kanpur. Kanpur will be the supplier of equipment in this case.

### **B. Place of Supply for Services**

In most cases, the location of the service recipient is the location of the service provider. When services are supplied to an unregistered dealer and their location is unavailable, the service provider's location will be the place of service provision. For the following services, special provisions have been made to ascertain the location of the supply.

- Services related to immovable property
- Restaurant services
- Admission to events
- Transportation of goods and passengers
- Telecom services
- Banking, Financial and Insurance Services.

In the case of services related to immovable property, the location of the property is the place of provision of services.

*Example 1: Mr Anil from Delhi, for example, helps Mr Ajay with interior design services (Mumbai). Ooty is the location of the property. In this case, the place of supply would be Ooty, Tamil Nadu, where the immovable property is located.*

*Example 2: From Bangalore to Hampi, a registered taxpayer provides passenger transportation services. The passengers are not GST registered. In this case, where will the supply come from? The place of supply is the location from which the departure takes place, in this case, Bangalore.*

### **3. Value of Supply of Goods or Services**

The value of supply is the amount of money a seller would like to receive in exchange for the goods and services delivered. The amount collected by the seller from the buyer is the supply value. However, if the parties are connected and a fair value cannot be charged, or if the transaction is barter or exchange, the GST law mandates that the transactional value be the value on which GST is charged. This is the value at which unrelated parties can transact in the normal course of business. Even though the full amount of GST has not been paid, it ensures that it is properly charged and collected.

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## **7.10 LET US SUM UP**

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**Section 8:** Central/State Goods and Services Tax Levy and Collection On the recommendation of the Council, a tax called the Central/State Goods and Services Tax (CGST/SGST) shall be levied on all intra-State supplies of goods and/or services on the value determined under section 15, at such rates as the Central/State Government may notify in this regard, but not exceeding fourteen per cent, and collected in such manner as may be prescribed.

**Section 9.** Composition levy: Despite anything in the Act to the contrary, on the recommendation of the Council, the proper officer of the Central or State Government may, subject to such conditions and restrictions as may be prescribed, permit a registered taxable person whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, to engage in certain activities.

**Section 10.** Taxable person: Taxable Person means a person who is registered or liable to be registered under Schedule V of this Act.

**Section 11.** Power to grant exemption from tax: Where an exemption in respect of any goods and/or services from the whole of the tax leviable thereon have been granted absolutely, the taxable person providing such goods and/or services shall not pay the tax on such goods and/or services.

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## 7.11 KEYWORDS

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- **GST:** A tax that customers have to bear when they buy any goods or services, such as food, clothes, items of daily needs, transportation etc.
- **Reverse Charge:** In the case of notified categories of supply, reverse charge means that the recipient of the goods or services bears the tax liability rather than the supplier of the goods or services. This means that instead of paying the GST to the supplier, the receiver would have to pay it directly to the government.
- **UTGST:** UTGST is only applicable when any goods or services or both are consumed in the given five regions of India that includes Andaman & Nicobar Islands, Dadra & Nagar Haveli, Chandigarh, Lakshadweep, and Daman & Diu called as Union territories of India.
- **Taxable Supply:** The taxable supply refers to the sale of taxable goods or the delivery of taxable services. The importation of taxable goods can also be referred to as the taxable supply.
- **Input Service Distributor:** Input Service Distributor (ISD) means an office of the supplier of goods or services or both which receives tax invoices towards receipt of input services and issues a prescribed document to distribute the credit of central tax (CGST), State tax (SGST)/ Union territory tax (UTGST) or integrated tax.

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## 7.12 FURTHER READINGS

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman’s Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikash Publishing House Pvt. Ltd. New Delhi
- [www.clear-tax.in](http://www.clear-tax.in)
- [www.incometaxmanagement.com](http://www.incometaxmanagement.com)

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## 7.13 MODEL QUESTIONS

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- Q1:** Write the meaning and scope of supply under GST.
- Q2:** What is the GST registration procedure by a taxable person?
- Q3:** Write a brief note on the Levy of central goods and service tax.
- Q4:** Discuss the goods and services which are exempted under GST.
- Q5:** Who Is Liable to Get Registered Under GST?
- Q6:** Why time, place and value of supply is important under GST?

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# UNIT-8 COMPUTATION OF TAX LIABILITY

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## Structure

### 8.0 Learning Objectives

#### 8.1 Introduction

#### 8.2 GST Composition Scheme

#### 8.3 Input Tax Credit

##### 8.3.1 What is an input tax credit?

##### 8.3.2 How to claim input credit

##### 8.3.3 How the input credit works

#### 8.4 Procedure relating to levy, collection and exemption of IGST

##### 8.4.1 Levy of IGST under section 5 of IGST Act

##### 8.4.2 IGST Exemption categories under GST law

#### 8.5 Payment of Tax, TCS & TDS

#### 8.6 Let us sum up

#### 8.7 Key Words

#### 8.8 Further Readings

#### 8.9 Model Questions

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## 8.0 LEARNING OBJECTIVES

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After studying this unit, you will be able to know:

- About the GST Composition Scheme
- How to claim the input tax credit and how the input tax credit works under GST
- The Procedure relating to levy, collection and exemption of IGST
- TDS and TCS under GST

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## 8.1 INTRODUCTION

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The primary goal of implementing the GST was to eliminate taxation on taxation, or double taxation, which occurs at the manufacturing and consumption levels. Every registered person must calculate his monthly tax liability by subtracting the Input Tax Credit (ITC) from the Outward Tax Liability. If there is an outstanding tax liability, it must be paid to the government. On the GST portal, there will also be an Electronic Cash Ledger.

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## 8.2 GST COMPOSITION SCHEME

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The Composition Scheme is a simple and straightforward GST scheme for taxpayers. Small taxpayers can avoid time-consuming GST paperwork by paying GST at a fixed rate of turnover. Any taxpayer with a turnover of less than Rs. 1.5 crore will participate in this scheme.



**\*CBIC has notified the increase to the threshold limit from Rs 1.0 Crore to Rs. 1.5 Crores.**

### **1. Who can opt for the Composition Scheme?**

A taxpayer whose turnover is below Rs 1.5 crore\* can opt for the Composition Scheme. In the case of North-Eastern states and Himachal Pradesh, the limit is now Rs 75\* lakh.

A composition dealer may also provide services up to ten per cent of turnover or Rs.5 lakhs, whichever is higher, according to the CGST (Amendment) Act, 2018. This amendment shall take effect on February 1st, 2019. Furthermore, at its 32nd meeting, the GST Council recommended raising this limit for service providers on January 10, 2019.\*

Turnover of all businesses registered with the same PAN should be taken into consideration to calculate turnover.

**\*CBIC has notified the increase to the threshold limit from Rs 1.0 Crore to Rs. 1.5 Crores.**

To file GSTR-4 (Annual Return) on the GST portal, an Excel-based offline tool is now available. The GSTR-4 (Annual Return) filing option is now available on the GST portal. The deadline to file GSTR-4 (Annual Return) has been extended from July 15, 2020, to August 31, 2020.

- The deadline to opt into the composition scheme in form CMP-02 for the fiscal year 2020-21 has been extended until June 30, 2020. It applies to both taxpayers who are registered under section 10 of the CGST Act and taxpayers who choose the scheme announced in CGST (Rate) notification no. 2/2019 dated March 7, 2019.
- As a result, the deadline for submitting Form ITC-03 has been extended to July 31, 2020.
- By July 7, 2020, dealers will submit their challan-cum-statement in form CMP-08 for the January-March 2020 quarter.
- The deadline for composition distributors to file GSTR-4 annual returns for FY 2019-20 has been extended to July 15, 2020.

Service providers can opt into the Composition Tax Scheme, according to the 32nd GST Council Meeting held on January 10, 2019, and the government has set the threshold turnover for service providers at Rs. 50 lakhs to be eligible for this scheme.

### **2. Who cannot opt for the Composition Scheme?**

- Ice cream, pan masala, or tobacco manufacturer
- A person who makes inter-state supplies
- A casual taxable person or non-resident taxable person
- Any firm which supplies goods through an e-commerce platform.

### **3. What are the conditions for availing of the Composition Scheme?**

- A dealer who chooses the composition scheme is not eligible for an Input Tax Credit.
- The distributor is unable to sell goods that are not subject to GST, such as alcohol.
- Transactions under the Reverse Charge Mechanism require the taxpayer to pay tax at regular rates.
- If a taxable person operates several companies (such as textiles, electronic accessories, groceries, and so on) under the same PAN, they must either register all of them individually or opt-out of the scheme.
- Every notice or signboard prominently displayed at the taxpayer's place of business must include the words "composition taxable person."
- Every bill of supply issued by the taxpayer must include the words "composition taxable person."
- A manufacturer or trader can now provide services up to ten per cent of turnover or Rs.5 lakhs, whichever is higher, under the CGST (Amendment) Act, 2018. This change will take effect on February 1st, 2019.

### **4. How can a taxpayer opt for a composition scheme?**

A taxpayer must file GST CMP-02 with the government to opt for a composition scheme. By logging into the GST Portal, we can do this online. A dealer who wishes to participate in a Composition Scheme should provide this notice at the start of each fiscal year.

### **5. How Should a Composition Dealer raise a bill?**

A tax invoice cannot be issued by a composition distributor. This is because a composition dealer is unable to charge tax to their clients. They must pay tax from their funds. As a result, the dealer is required to issue a Bill of Supply. At the top of the Bill of Supply, the dealer may write "composition taxable person, not eligible to collect tax on supplies."

### **6. What are the GST rates for a composition dealer?**

The following chart explains the rate of tax on turnover applicable for composition dealers:

Composition Scheme - Applicable GST Rates			
Type of Business	CGST	SGST	Total
Manufacturer and Traders (Goods)	0.5%	0.5%	1.0%
Restaurants not serving alcohol	2.5%	2.5%	5.0%
Other service Providers*	3.0%	3.0%	6.0%

\*The 32nd GST Council meeting proposed for the inclusion of Service Providers under the Composition Scheme, with the above-mentioned rates of tax. However, a notification is yet to be issued in this regard.

(Source: ClearTax.in)

As per notification dated 01.01.2018, turnover in the case of traders has been defined as 'Turnover of taxable supplies of goods.'

### 7. How should GST payment be made by a composition dealer?

GST Payment has to be made out of pocket for the supplies made.

The GST payment to be made by a composition dealer comprises of the following:

- GST on supplies made.
- Tax on reverse charge
- Tax on purchase from an unregistered dealer\*

\*With effect from 1st February 2019, only on the specified categories of goods and services, as well as the notified class of registered persons, but this has yet to be notified. As a result, until then, it is not relevant.

### 8. What are the returns to be filed by a composition dealer?

A distributor must pay tax in a quarterly statement CMP-08 by the 18th of the month following the quarter's end. From FY 2019-20 onwards, a return in form GSTR-4 must be filed annually by the 30th of April of the following fiscal year. GSTR-9A is an annual return that must be filed by December 31st of the following fiscal year. For fiscal years 2017-18 and 2019-20, it was waived.

Also, note that a dealer registered under the composition scheme is not required to maintain detailed records.

### 9. What are the advantages of the Composition Scheme?

The following are the advantages of registering under the composition scheme:

- Lesser compliance (returns, maintaining books of record, issuance of invoices)
- Tax liability is limited
- High liquidity as taxes are at a lower rate

## 10. What are the disadvantages of the Composition Scheme?

Let us now see the disadvantages of registering under the GST composition scheme:

- A company with a restricted geographic scope. The dealer is prohibited from transacting across state lines, and composition dealers are not eligible for an input tax credit.
- Under GST, non-taxable goods such as alcohol and goods bought through an e-commerce portal will be inaccessible to the taxpayer.

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## 8.3 INPUT TAX CREDIT

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There has already been enough said about how important a reform GST would be. However, if there is one feature of this new tax that stands out, it is the GST input credit mechanism. The CBIC has announced that taxpayers can claim an input tax credit in the GSTR-3B return from February to August 2020, without having to follow the GSTR-2A rule that limits provisional ITC claims to 10% of the eligible ITC. Taxpayers must adjust ITC cumulatively starting in February 2020 when filing the GSTR-3B for September 2020.

The CBIC has revised the extent of provisional input tax credit claims from 20% to 10%.

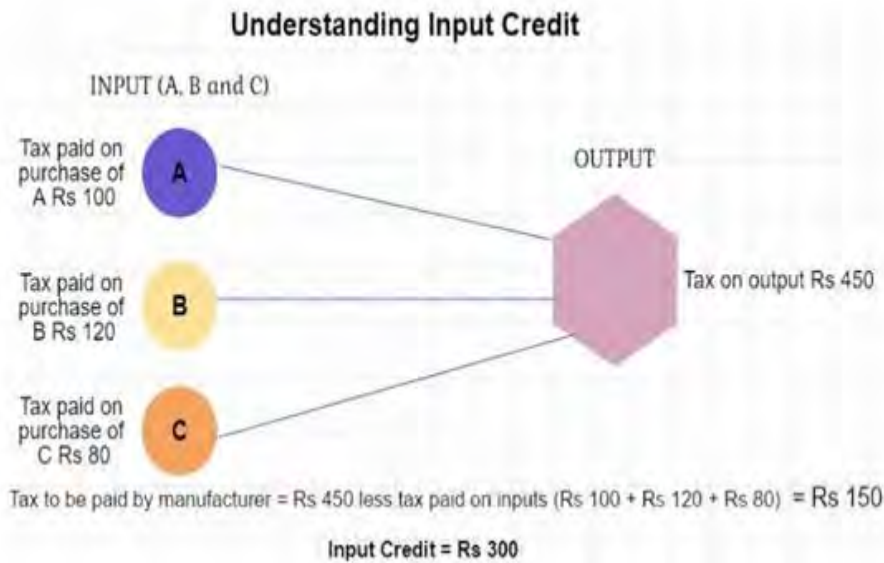
The CBIC has announced that a registered person's input tax credit in respect of invoices or debit notes will be limited to 20% of the eligible credit available in respect of invoices or debit notes based on details uploaded by suppliers.

### 8.3.1 What is input credit?

Input Tax Credit or ITC is the tax that a business pays on a purchase and that it can use to reduce its tax liability when it makes a sale. In other words, businesses can reduce their tax liability by claiming credit to the extent of GST paid on purchases. Input credit means at the time of paying tax on output, you can reduce the tax you have already paid on inputs.

Say, you are a manufacturer –

- Tax payable on output (FINAL PRODUCT) is Rs 450
- Tax paid on input (PURCHASES) is Rs 300
- You can claim INPUT CREDIT of Rs 300 and you only need to deposit Rs 150 in taxes.



*(Source:  
ClearTax.in)*

### **Input Credit in GST**

If you are subject to the GST Act, you can use the Input Credit Mechanism. If you're a GST-registered manufacturer, supplier, agent, e-commerce operator, aggregator, or any of the other people listed here, you can claim INPUT CREDIT for the tax you paid on your purchases.

#### **8.3.2 How to claim input credit under GST?**

To claim input credit under GST –

- You must have a **tax invoice (of purchase) or debit note** issued by a registered dealer

**Note:** Credit will be available against the tax invoice upon receipt of the last lot or instalment when goods are received in lots or instalments.

- You should have **received the goods/services**

**Note:** If a recipient fails to pay the value of a service or the tax on it within three months of receiving an invoice and has already received an input credit based on the invoice, the credit will be applied to his output tax liability, along with interest.

- The **tax charged on your purchases** has been **deposited/paid** to the government by the supplier in cash or via claiming input credit
- **The supplier has filed GST returns**

Input credit is only allowed if your supplier has deposited the tax he collected from you, which is possibly the most ground-breaking GST reform. As a result, before you can claim input credit, it must be matched and validated.

**Therefore, to allow you to claim input credit on Purchases all your suppliers must be GST compliant as well.**

### There's more you should know about input credit –

- It is possible to have unclaimed input credit. Due to the tax on purchases being higher than the sale tax. In such a case, you are allowed to carry forward or claim a refund.

If the tax on inputs > tax on output → carry forward input tax or claim refund

If tax on output > tax on inputs → pay balance

No interest is paid on input tax balance by the government

- Purchase invoices less than one year are not eligible for the input tax credit. The year begins with the date of the tax invoice.
- Input credit can be claimed on both goods and services (except those on the exempted/negative list) since GST is levied on both goods and services.
- Capital goods are eligible for an input tax credit.
- Personal use of goods and services are exempt from input tax.
- After the filing of a GST return for September following the end of the financial year to which such invoice relates, or the filing of the applicable annual return, whichever comes first, no input tax credit will be allowed.

### 8.3.3 How INPUT CREDIT works under GST



(Image Source: Cleartax.in)

Suppose there is a seller Mr A and he sells his goods to Mr B. Here Mr B i.e. the buyer will be eligible to claim the credit on purchases based on the invoices. Let's understand how:



(Image Source: ClearTax.in)

- Step 1:** In GSTR 1, Mr A will upload the details of all tax invoices that have been released.
- Step 2:** The specifics of Mr B's sales will auto-populate/appear in GSTR 2A, and the same data will be pulled when Mr B files GSTR 2. (i.e details of inward supply).
- Step 3:** Mr B will then approve the details that the purchase was made and reported properly by the seller, and the tax on purchases will be credited to Mr B's "Electronic Credit Ledger," which he can then apply against future output tax liability and receive the refund.
- CGST: CGST ITC availed against CGST but cannot be used to pay SGST liability
  - SGST: SGST ITC availed against SGST but cannot be used to pay CGST liability
  - CGST and SGST ITC cannot be used to pay each other

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## 8.4 PROCEDURE RELATING TO LEVY, COLLECTION AND EXEMPTION OF IGST:

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### What is Integrated Goods and Services Tax (IGST)?

IGST, which will be governed by the IGST Act, is a tax levied on all inter-state supplies of goods and/or services under the GST. In all cases of import into India and export from India, the IGST may apply to any supply of goods and/or services.

**Note:** Under IGST,

- Exports would be zero-rated.
- Tax will be shared between the Central and State Government.

### An example for IGST:

Consider that a businessman Rajesh from Maharashtra had sold goods to Anand from Gujarat worth Rs. 1, 00,000. The GST rate is 18% comprising 18% IGST. In such a case, the dealer has to charge Rs. 18,000 as IGST. This IGST will go to the Centre.



(Image Source: cleartax.in)

#### 8.4.1 LEVY OF IGST under Section 5 of IGST Act.

The IGST may apply to interstate supplies of goods and/or services. Under the IGST Act, an Integrated Goods and Services Tax (IGST) equal to CGST and SGST is levied and collected on interstate supplies of goods and/or services.

**Levy of the IGST tax specified under section 5 of the IGST Act, which envisages that:**

8.4.1.1 **Applicability:** IGST will be levied on all inter-state supplies of goods and/or services;

For example, D Ltd. supplier of machinery located in Delhi supplies the machinery to M Ltd. in Mumbai. Such Supply is interstate and will be subject to IGST.

8.4.1.2 **Valuation:** At *ad valorem basis* on the value as determined under sec. 15 of the CGST Act.

8.4.1.3 **Prescribed rates:** Rates of the tax will be notified by the Centre and State Government based on the principle specified by the GST Council.

8.4.1.4 **IGST on imported goods:** The integrated tax on goods imported into India shall be:

Valued, levied and collected by the provisions of section 3 of the Customs Tariff Act, 1975,



- 8.4.1.4.1 At the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.
- 8.4.1.5 **Rate limited to 40%:** The rates so notified shall, however, not exceed 40% in any case.
- 8.4.1.6 **Non-applicability:** GST will not apply to alcoholic liquor for human consumption.
- 8.4.1.7 **IGST on petroleum products:** The five petroleum products, namely petroleum Crude, High-speed diesel, Motor Spirit (Petrol), Natural Gas, and Aviation Turbine Fuel, will be subject to GST beginning on the date notified by the government based on the council's recommendation.
- 8.4.1.8 **IGST in reverse charge:** The Centre/States Governments (on the advice of the council) will notify categories of goods and services for which the recipient would be liable to pay GST on a reverse charge basis. This act's provisions shall extend mutatis mutandis to such a person.
- 8.4.1.9 **IGST on purchase from unregistered supplier:** The IGST about the supply of taxable goods or services or both by a non-registered supplier to a registered person shall be paid on a reverse charge basis by such person as the recipient, and all the provisions of this Act shall apply to such recipient as if he were the person responsible for paying the tax about such supply of goods or services or both.
- 8.4.1.10 **IGST levy on e-commerce operator:** On the recommendation of the GST Council, the government will also notify the category of e-commerce operators for payment of IGST on services provided through them, and all provisions of this Act will apply to them as if they were the person liable for payment of tax under this Act. If an e-commerce operator does not have a physical presence in India, any person acting on behalf of such an e-commerce operator in India is liable to pay tax. Even though no one is representing an e-commerce operator in India, the e-commerce operator must appoint someone in the taxable territory to pay taxes and comply with other regulations.

### **Levy of IGST**

IGST levies and collects taxes, while Integrated GST levies and collects taxes. Levy and Collection of Tax Under IGST, Section 4 of Chapter III of the Model IGST Act provide for the levy and collection of tax (IGST). Section 4 of the IGST Act

corresponds to section 6 of the CST Act, 1956, which deals with the liability to tax on interstate sales. Now it's your turn. Check out the “Levy and Collection of Tax Under IGST” section below for more information. (Integrated GST)”

### **Inter-State Goods and Service Tax (IGST)**

All deliveries of goods and/or services in the course of interstate trade or commerce will be subject to the IGST. The IGST will also apply to goods and services imported from outside the country, as stated in the Constitutional Amendment Act of 2016.

The VAT credit balance, as well as the Cenvat Credit balance, can be carried forward from the previous regime. Furthermore, where duty-paying documents are available, the duty and tax paid on closing stock will be available as credit for previously exempted goods/services that may not have been claimed as set-off. For those who do not have duty-paying papers, a lower deemed credit is available.

### **Levy and Collection**

Except for the supply of alcoholic liquor for human consumption, a tax called the integrated goods and services tax shall be levied on all inter-State supplies of goods or services or both, subject to the provisions of sub-section (2), on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent, as may be notified by the Government.

The integrated tax on goods imported into India shall be levied and collected by section 3 of the Customs Tariff Act, 1975, on the value as determined under the said Act at the point where customs duties are imposed on the said goods under section 12 of the Customs Act, 1962.

The integrated tax on petroleum crude, high-speed diesel, motor spirit (commonly known as gasoline), natural gas, and aviation turbine fuel will be imposed with effect from the date that the Government may notify based on the Council's recommendations.

#### **8.4.2 IGST exemption categories under GST Law**

- Exemption on goods imported by Diplomatic missions
- Exemption on import by the Inspection team of OPCW as per terms
- Import of pedagogic materials exempted from IGST
- Temporary import of scientific equipment is exempted
- Exemption to specified goods imported for display or use at specified event
- Import by the charitable organization as a gift is exempted from IGST
- No IGST for the Importation of Commercial Samples and Advertising material
- Import of containers of durable nature for re-export are exempted from IGST
- Exemption on paper money, wool apparels from Indian Red Cross as gifts
- IGST exemption on items specified under notification 151/94
- Import of Printed materials and items specified under Notfn 130/2010
- Exemption on specified goods under Notification 10/2014;

- Exempted specified goods imported by the Vice President of India under Notfn 106/58;
- Exempted food articles imported by a foreigner with a CIF value of Rs.1 lakh.
- Imports of defence and internal security forces are exempt from the IGST.
- Articles of foreign origin are exempted from duty for repairs and subsequent export.
- [Click here](#) for more information on the exemption on the import of research equipment to institutions.
- Import goods on a returnable basis that are used for display are exempt from IGST.
- When ministers receive donations, they are exempt from IGST, and when an Indian team receives challenge cups, medals, or prizes, no IGST is due.
- As per Notification 43/96, re-imports are exempt from IGST.
- When the Defense Forces receive challenge medals, cups, or awards, no IGST is due.
- Under Notfn 271/58, the Army, Navy, or Air Force are exempt from IGST on tour articles.
- The IGST exemption on re-import of goods not produced in India is specified in Notfn 174/66.
- Exemption from IGST on re-import of Indian goods, as outlined by notification 158/95
- Re-imported goods that are specified in Notification 241/82 are exempt from IGST. Exemption from IGST on re-import of goods exported under Notfn 94/96 schemes
- As per Notification 134/94, imports of repairs, reconditioning, and reengineering are exempt from IGST
- Exemption of IGST on import of artworks, antiques etc. for exhibition, Notification 26/2011
- IGST exemption on re-import of unclaimed postal articles
- IGST exempted to engine and parts of aircraft as per Notification 117/61
- Re-import of food, drink and catering cabin equipment as per Notification 26/62
- IGST exemptions for passenger luggage and residence transfers IGST exemptions for imports by SEZ units IGST concessional rate of 5% including domestic supplies
- Government museums benefited from the IGST exemption on exhibition objects.
- There is no IGST on mail imports worth less than Rs 1000 CIF.
- There is no IGST payable on a dead person's personal and household effects.
- On scientific and technological instruments, apparatus, and accessories, there is no IGST to pay.
- There is no IGST owed on the movement of aircraft, helicopters, and other similar vehicles.
- Goods imported for testing in specified test centres are exempt from the IGST.
- There is no IGST on re-exporting film equipment from another country.

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## 8.5 PAYMENT OF TAX, TCS, TDS

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Four basic questions can explain the basic application of TDS as provided under GST law:

### **Q1: Who is liable to deduct TDS under GST?**

Following people are responsible for deducting tax-:

- A department or establishment of the Central or State Government, or
- The local authority, or
- Governmental agencies, or
- Such persons or category of persons as may be notified, by the Central or a State Government on the recommendations of the Council.

For example: If the Finance Department, Government of India, enters into a contract with Reliance then the department would be liable to deduct TDS.

### **Q2: What is the rate of TDS to be deducted under GST?**

The max rate of TDS is 2% under GST, to be notified by CBIC.

### **Q3: Is there any limit for deducting TDS under?**

If the total value of supply under a contract exceeds Rs 2.5 lakhs then the person/entity would be liable to deduct TDS.

### **Q4: Time limit for payment of TDS?**

The deductor would be liable to make the payment of TDS by the 10th day of the next month.

**For example**, the X department of Central Government deducts TDS @2% from Yon 5 August 2017 then it is liable to make payment by 10 September 2017.

### **Impact of TDS on Government civil contractors**

Every year, the Indian government distributes more than 10,000 civil contracts throughout the country. National highway construction/repair contracts typically cost more than Rs 100 crores. Big construction companies buy these contracts, which are then subcontracted to smaller firms, who are then subcontracted to yet another small company. Due to GST, and in particular the TDS liability, this loop will have issues. The government will have to deduct TDS from the contractor, ensuring that the contractor and all other subcontractors pay their taxes. Many small civil/labour contractors are currently not in compliance with tax laws. It would be mandatory for them to register for GST and comply with all tax obligations.

**For example**, The government awarded ABC a Rs 10 lakh contract to repair an 800-meter road. ABC subcontracts work to XYZ, who then subcontracts it to DEF, a

modest civil/labour contractor.

DEF would not have registered under service tax/VAT previously, but he will now be required to register under GST to claim the ITC credit.

The intention of including the TDS clause in the GST is to ensure that the unorganized construction sector pays its fair share of taxes.

### **TCS compliance for the e-commerce sector**

For all e-commerce aggregators, a clause has been inserted into the GST legislation. Under the GST law, e-commerce aggregators are responsible for deducting and depositing tax at a rate of 1% from each transaction. Any dealers/traders selling goods/services online will be paid after a 1% tax was deducted. It's a big change that'll cost online aggregators like Flipkart, Snapdeal, and Amazon a lot of money in terms of compliance and administration. They'd have to deposit the tax by the 10th of the following month

All the traders/dealers selling goods/services online would need to get registered under GST even if their turnover is less than 20 Lakhs for claiming the tax deducted by E-Commerce operators.

### **For example:**

Mr Vinay Dua is an entrepreneur who sells ready-to-wear clothing on Amazon India. He gets a Rs 10,000 order, tax and commission included. A commission of Rs 200 is charged by Amazon. As a result, Amazon will have to deduct 1% tax (TCS) from the total, which includes the money paid as a commission (Rs. 200) and GST (Rs. 1800 when GST is 18%). As a result, Amazon will deduct tax for Rs 100. (1 per cent of Rs. 10000).

### **TDS and TCS under GST**

The TDS rule would aid in achieving transparency in government contract activities and tax compliance. To adopt the TCS rule inserted under GST, online sellers such as Amazon, flip kart, Snap deal, and others would need to make changes to their online payment process and administration/finance department.

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## **8.6 LET US SUM UP**

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GST is payable by the supplier of goods or services in general. However, in certain circumstances, such as imports and other notified supplies, the recipient may be held liable under the reverse charge mechanism. Furthermore, in some notified cases of intra-state service supply, the onus of paying GST may be placed on the e-commerce operators who provide the services. E-commerce operators must collect tax (TCS) on the net value [i.e. aggregate value of taxable supplies of goods and/or services excluding such value of services on which the operator is made liable to pay GST under

Section 51(1) (d)] and Government Departments must deduct tax (TDS) on payments to vendors exceeding a specified limit [2.5 lakh under one contract as per S.51 (1)(d)]. Liability to pay happens when goods are supplied, as explained in Section 12, and when services are supplied, as explained in Section 13. The earliest of the three events, namely receiving payment, issuing an invoice, or completing the supply, determines the time. In the preceding sections, various scenarios and tax implications have been discussed.

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## 8.7 KEYWORDS

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- **Input Tax Credit:** Input tax credit (ITC) is the tax paid by the buyer on the purchase of goods or services. Such tax which is paid at the purchase when reduced from liability payable on outward supplies is known as an input tax credit.
- **PAN:** A permanent account number (PAN) is a ten-character alphanumeric identifier, issued in the form of a laminated "PAN card", by the Indian Income Tax Department, to any "person" who applies for it or to whom the department allots the number without an application.
- **TDS:** Tax deduction at source is a means of collecting tax on income, dividends or asset sales, by requiring the payer to deduct tax due before paying the balance to the payee.
- **TCS:** Tax collected at source (TCS) is the tax payable by a seller which he collects from the buyer at the time of sale. Section 206C of the Income-tax act governs the goods on which the seller has to collect tax from the purchasers
- **CBIC:** The Central Board of Indirect Taxes and Customs is the nodal national agency responsible for administering Customs, GST, Central Excise, Service Tax & Narcotics in India
- **GSTR:** A monthly or quarterly return that should be filed by every registered dealer. It contains details of all outward supplies i.e sales.

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## 8.8 FURTHER READINGS

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman's Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikash Publishing House Pvt. Ltd. New Delhi.
- [www.cleartax.in](http://www.cleartax.in)

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## 8.9 MODEL QUESTIONS

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- Q1:** What are the advantages and disadvantages of the GST composition scheme?
- Q2:** How to claim input credit under GST?
- Q3:** What is the difference between TDS and TCS?
- Q4:** Give a brief note on the input tax credit.
- Q5:** What are the IGST exemption categories under GST Law?

## **Block- 3**

### **Registration, Returns and Assessment**

**Unit-9: GST Registration**

**Unit-10: GST Invoice**

**Unit-11: GST Returns and Refunds**

**Unit-12: GST Assessment**

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# UNIT-9 GST REGISTRATION

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## Structure

- 9.0 Learning Objectives
- 9.1 Introduction
- 9.2 Advantages of Registration
- 9.3 Essentials for Registration
- 9.4 Persons not liable for GST Registration
- 9.5 Types of Registration
  - 9.5.1 Compulsory Registration
  - 9.5.2 Voluntary Registration
  - 9.5.3 Deemed Registration
- 9.6 Procedure of Registration
- 9.7 Let us Sum up
- 9.8 Keywords
- 9.9 Further Readings
- 9.10 Model Questions

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## 9.0 LEARNING OBJECTIVES

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After studying this unit, you will be able to know

- The benefits of registration
- Prerequisites conditions for registration
- Different types of registration
- When does the liability to register arises under GST
- Concept of Aggregate turnover for registration
- Criteria for Exemption from Registration under GST

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## 9.1 INTRODUCTION

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Registration is an essential aspect of the tax system because it establishes the identity of the taxpayer. A taxable person is identified as anyone who does business in India and is either registered or required to be registered under the GST Act. Someone who participates in economic activity, such as trade and commerce, is a taxable citizen.

In this sense, individuals, HUFs, businesses, corporations, LLPs, an AOP/ BOI, any organisation or Government Company, a body corporate organised under the laws of a foreign country, co-operative societies, municipal councils, estates, trusts, and artificial juridical persons are all called persons.

### Who is liable to tax under GST?

- 9.1.1 Any business with a yearly turnover of more than Rs 20 lakhs is qualifying (Rs10 lakhs for North Eastern and hill states).



- 9.1.2 Anyone who has previously registered under a different law (such as excise, VAT, or service tax) must now register under GST.
- 9.1.3 When a registered company is sold to someone else or merges, the transferee is expected to register with the new company as of the transition date.
- 9.1.4 Anyone in charge of the interstate transportation of goods
- 9.1.5 A taxpayer who pays his or her taxes daily
- 9.1.6 A taxpayer who is not a United States citizen
- 9.1.7 Retail agents are those who work for a store.
- 9.1.8 Those who are charged in the opposite direction.
- 9.1.9 input services distributor
- 9.1.10 E-commerce operator or aggregator
- 9.1.11 Other than a registered taxable citizen, a person who provides online information and database access or retrieval services to a person in India from a location outside India.

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## 9.2 ADVANTAGES OF REGISTRATION

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- **Recognition as a legal supplier:** An individual may only be legally recognised as a supplier of products or services, or both, after registering with the GST authorities.
- **Legal Authorization to collect tax:** An individual may only legally collect taxes from his clients after registering under the GST rule. Collecting tax without first registering under the GST law is illegal.
- **Legal authorization to pass credit to his buyer:** After registering, a supplier may reimburse his buyer or receipt for taxes paid on products or services rendered.
- **Legal authorization to claim input tax credit:** The registered supplier gets both advantages on registration,
  - He can himself claim ITC
  - He can pass on ITC to his recipient also
- **Seamless flow ITC at National Level:** Both producers and recipients of products and services may benefit from a continuous flow of input tax credits by registering (who are all concerned with the supply chain). This chain of ITC passing will continue until an unregistered individual joins the chain and disrupts the flow.

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## 9.3 ESSENTIALS FOR REGISTRATION

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1. **Registration is PAN based:** Section 25(6) & 25 (7) of CGST Act prescribes that the registration shall be granted only to a taxpayer having a valid PAN (Permanent Account Number) issued under the Income Tax Act 1961. Two exceptions to this
  - a. Non-Resident Taxable Person
  - b. For persons who are registered to deduct TDS under section 51.
2. **State Wise or UT wise Registration:**

- **One registration per state:** Registration should be taken state wise, there is no centralized registration under GST.
  - **Separate registration for different business verticals within a state or UT:** A business vertical is a distinct component of an organisation that is engaged in the procurement of individual products or services or a collection of similar goods or services and is subject to risks and returns that are different from those of the other business verticals.
3. **More than one registration:** Section 25 (4) states that if two units of the same company each have their registration, they must be considered as separate entities. The transaction between them is treated as if it took place between two separate parties. Both units would be expected to comply with all regulations, such as filing returns and keeping separate books of accounts.
  4. **GST Identification Number (GSTIN):** The supplier is given a 15-digit GST identification number during GST registration, and the applicant is given a certificate of registration that contains this GSTIN on the GSTN common portal.  
**Characters of GSTIN**
    - First 2 Characters - The State / UT Code
    - Next 10 Characters - PAN or Tax deduction / Collection Number
    - Next 23 Characters - Entity Code
    - Last 1 - One Checksum Character
  5. **The effective date of registration:** The effective date of registration shall be the date on which the person becomes liable for registration if the application for registration is submitted within thirty days of the date on which the person becomes liable for registration. The effective date of registration is the date of grant for registration if the application for registration is submitted after thirty days from the date the individual becomes liable to registration.
  6. **Validity of Registration:** There is no time limit for registering for GST. As a result, a GST registration will remain in effect until it is revoked, surrendered, or suspended. Only GST registration for non-resident taxable persons and casual taxable persons has a validity period set by the authorities when the certificate is issued.
  7. **Unique Identity Number:** Any specialised agency of the United Nations Organization, as well as any multilateral financial institution or organisation as specified by the United Nations Act 1947, foreign consulates or embassies, and any other individual notified by the commissioner, must obtain a UIN from the GSTN portal.
  8. **Suo moto registration by the proper registration:** When a proper officer discovers that a person liable to registration under the CGST Act has failed to apply for such registration as a result of any survey, enquiry, inspection, search, or other proceedings under the Act, the officer may register the said person temporarily and issue an order in the prescribed form. Such a person can either
    - Submit an application for registration in the prescribed form within 90 days from the date of grant of temporary registration or
    - File an appeal against such temporary registration
  9. **Supply of Territorial Water:** - state has its border, which is determined by the

amount of land it occupies. According to an international agreement, territorial water up to 12 nautical miles from a country's baseline is considered that country's territorial water. Section 2(56) of the GST description of India specifies that it also includes areas protected by territorial water. However, Maharashtra, Goa, Karnataka, and Kerala have the baseline.

**10. Registration is tax specific:** GST registration is not tax-specific, which means that a single registration is required for all taxes, including CGST, SGST, UTGST, and cases.

**11. Deemed Registration:** If an application for registration has not been denied under the CGST Act, registration or UIN granted under any SGST Act / UTGST Act is considered to be registration or UIN granted under the CGST Act. Rejection of an application for registration / UIN under the SGST Act / UTGST Act is also considered a rejection of an application for registration under the CGST Act.

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#### **9.4 PERSONS NOT LIABLE FOR GST REGISTRATION (Section 23)**

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(1) The following persons shall not be liable to registration, namely:

- a) **Any individual** who is solely engaged in the business of providing products or services, or both, that are not subject to tax or are entirely exempt from tax under this Act or the Integrated Goods and Services Tax Act.;
- b) **An agriculturist**, to the extent of supply of produce out of cultivation of land.

(2) The Government may determine the group of persons who may be exempted from obtaining registration under this Act by notification, based on the Council's recommendations.

**A. The person making exempted supplies**

**B. Agriculturist-** As per section 2(7), agriculturist means an individual or HUF who undertakes cultivation of land:

- By own Labour, or
- By the Labour of family
- Hired Labour under personal control or the personal supervision of any member of the family, or servants on wages payable in cash or kind.

Thus, an agriculturist is not liable for registration only to the extent of supply of produce out of cultivation of land

**C. Persons notified to be exempted (Sec 23 (2))**

**D. Persons making Nontaxable / Non-GST supplies of Goods & Services**

**E. Activities that are neither Supply of Goods non Services**

**These include:**

- Services by an employee
- Services by any court or tribunal
- Functions and duties of - MPs. MLAs, Members of Panchayats, Municipalities and other local authorities.

- The person holding any constitutional post
- Person as a chairman or a member or a director in a body

**F. Total Tax is Reverse Charge**

Persons that are only engaged in making supplies of taxable goods or services, or both, the overall tax on which is liable to be paid on a reverse charge basis by the purchaser of such goods or services, or both, are not required to register.

**G. Casual Taxable Persons (CTP) making taxable supplies of handicraft goods**

**H. Persons making inter-state taxable supplies of handicraft goods**

**I. Job Workers engaged in making the interstate supply of services to a registered person**

**J. Persons making interstate supplies of taxable services whose aggregate turnover does not exceed 20 /10 lacs :**

Persons who render inter-state taxable service supplies and whose aggregate turnover computed on an all-India basis does not exceed twenty lac rupees in a financial year are excluded from GST registration. However, in the case of interstate suppliers of taxable services from “The Special Category States” other than Jammu & Kashmir, the cap of 20 lac will be reduced to 10 lac.

**Exclusively engaged in Exempt Supplies** - The word "unique" refers to investing in only certain supplies that are excluded. As a result, if a supplier provides both exempt and taxable products and/or services, this rule does not apply, and he is required to register under section 22. Exempt supplies will be included in determining whether aggregate turnover has surpassed the exemption threshold under section 22 for attracting registration, even if the value of the supplies is minimal.

Issues with non-operational profits being included in the threshold cap- You've probably read the recent AAR ruling that bank interest, interest on PPF deposits, and personal loans and advances are all included in the net turnover for GST registration.

**The applicant is seeking an advance ruling in respect of the following question**

Whether interest earned in the form of a PPF, ON PERSONAL LOANS AND ADVANCES TO FAMILY/FRIENDS and also on saving bank deposits will be taken into account when calculating the Rs 20 lakh threshold cap for GST registration.

According to AAR, the amount of exempted interest income received by extending deposits in PPF and Bank Savings accounts, as well as loans and advances provided to his family/friends, must be added to the value of the taxable supply i.e. “Renting of immovable property” to calculate the Rs.20.00 Lakh threshold limit for obtaining registration under GST law.

- The applicant is not engaged in any business. His taxable Income includes – Rent receipts Rs 9, 84,000 and Interest received on PPF, SAVING ACCOUNT, Loan and advances given Rs 1,02,8000. Rent receipts below threshold limit ...

- As he is only engaged in supplying services, the threshold exemption limit applies to him of Rs 20 lacs. However, he is not engaged in any company, and interest receipts are not a supply, so they are not subject to GST. Also, as per Section 7 OF THE CGST ACT –Scope of Supply –Receipts must be in the course of business, receipts must be in the course of business.
- How can interest earned by the claimant be considered income from a personal investment for the threshold limit?
- Furthermore, the CGST AMENDMENT ACT 2018 clarified that the increased exemption cap would not apply to interest on deposits, loans, or advances.

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## 9.5 TYPES OF REGISTRATION

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### 9.5.1 COMPULSORY REGISTRATION

Certain categories of persons are required to register under GST under section 24 of the CGST Act 2017, even if their aggregate turnover is below the defined exemption limit and they are excluded from GST registration under section 22(1) – Section 24(1) of the CGST and SGST Acts.

Regardless of the aggregate turnover, the following groups of persons shall be required to register under this Act, notwithstanding anything contained in sub-section (1) of section 22.

#### 1. Persons making any inter-State taxable supply:-

Regardless of turnover, anyone making an interstate taxable supply of products is required to register under GST. And when making interstate supplies, you are exempt from having to register for GST.

- (a) A person making the inter-state supply of services is not required to register under GST if his aggregate turnover is less than Rs 20/10 lakhs. Notification No. 10/2017-IT dated 13-10-17)
- (b) If the total amount of all their supplies on an all-India basis is less than Rs 20 lakhs/10 lakhs per annum, persons engaged in the supply of handicraft goods making inter-state supplies are excluded from GST registration.
- (c) Even if he allows inter-State supplies to the registered individual, a job working with a turnover of less than 20/10 lakhs are excluded from registration. Jewelers, goldsmiths' and silversmiths' wares and other articles made on a job work basis are not eligible for this exemption – (Notice No. 7/2017-IT, dated 14 September 2017, as amended on 29 January 2019)

#### 2. Casual taxable persons making taxable supply

A casual taxable individual is expected to obtain compulsory registration under section 24 of the CGST Act 2017, regardless of their aggregate turnover in the previous year. Persons engaged in the supply of "Handicraft products" are excluded from the law. A casual taxable person who makes taxable supplies of handicraft products is excluded from obtaining registration if his or her total turnover, measured on an all-India basis,

does not exceed 20 lakhs rupees.

A casual taxable person is defined as a person who, in the course or furtherance of business, sometimes engages in transactions involving the supply of goods or services, or both, in a State or a Union territory where he has no fixed place of business, whether as principal, agent, or in some other capacity.

### **3. Persons who are required to pay tax under reverse charge**

An individual who is required to pay tax under the reverse charge system must complete compulsory registration to apply tax under the reverse charge system.

The key thing to remember is that Section 24 only overrides Section 22, so anybody who is specifically in business under Section 23, i.e., anyone who is engaged exclusively in the business of selling products or services that are not subject to tax or are entirely exempt from tax, is not required to register.

To discharge his duty liability under reverse charge, a person engaged exclusively in the manufacture of exempted products receiving GTA services will need to register under the CGST Act. (*Jalaram Feeds, In re [2019] (AAR – MAHARASHTRA)*)

In the case of mandatory RCM, the service recipient is required to pay tax, and all requirements of the GST law extend to him as if he were the person responsible for payment. As a result, the provisions of section 24 have been added to include mandatory registration in such situations.

### **Electronic Commerce Operator**

Section 52 allows an electronic commerce operator to collect tax at the point of sale. [With effect from 1-2-2019, the terms 'required to collect' were added by the CGST (Amendment) Act, 2018.] As a result, only when an e-commerce operator is asked to collect tax at source under section 52 of the CGST Act does he need to register. Persons who supply goods or services, or both, through an electronic commerce operator required to collect tax at source under section 52; [Under section 9(5) of the CGST Act, the government may inform e-commerce operators who will be liable to pay the entire GST]

Persons who are service providers and provide services through e-commerce operators, on the other hand, are not required to register under GST if their annual turnover is less than Rs 20 lakhs (Rs 10 lakhs in defined States) – 15-11-2017, Notice No. 65/2017-CT. This relaxation does not apply to goods manufacturers.

### **4. Non-resident taxable persons making taxable supply**

Non-residents who make some kind of taxable supply in the taxable territory are required to register.

According to section 2(77) of the CGST Act 2017, a "non-resident taxable person" is anyone who occasionally engages in transactions involving the supply of goods or

services or both, whether as a principal, agent, or in some other capacity, but does not have a permanent business or residence in India.

**5. Persons who are required to deduct tax under section 51, whether or not separately registered under this Act**

An individual who is required to deduct TDS from the authorities as notified by a department or establishment of the Central Government or a State Government; or a local authority; or Governmental agencies; or such persons or categories of persons as the Government may notify is required to register under GST.

**6. Persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise**

Any individual who works as an agent or otherwise makes taxable supplies is required to register under GST under section 24 of the CGST Act 2017. This means that any agent who makes taxable supplies must register under GST immediately. The term "agent" is described in section 2(5) of the CGST Act 2017 as "any person, including a factor, broker, commission agent, Croatia, del-credere agent, auctioneer, or any other mercantile agent, by whatever name called," who carries on the business of supplying or receiving goods or services on behalf of another."

**7. Input Service Distributor, whether or not separately registered under this Act**

Input service distributors must register for GST as a condition of doing business. According to section 2(61) of the CGST Act 2017, an "Input Service Distributor" is an office of a supplier of products or services or both that receives tax invoices issued under section 31 for the reception of input services and issues a specified document to transmit the credit of central tax, state tax, integrated tax, or Union territory tax paid on the said services to a supplier of taxable services.

**8. Every person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered person**

According to the above clause, if a person provides online information and database access or retrieval from outside India, that person must register for GST, regardless of the previous year's turnover. If Netflix, for example, offers services outside of India, it must register and pay taxes as required by law.

**9. On the Council's recommendations, the Government can inform other people or groups of people.**

**9.5.2 Voluntary Registration**

Self-registration by dealers to be included in the GST process is known as voluntary registration. It applies to those that do not fall under the registration parameters and are not eligible to register for GST. With effect from April 1, 2020, the upcoming GST will require registrations to be stringent and compliant with the rules and regulations

and has also announced that business units with a turnover less than 20 lakh (10 lakh for NE states) and Rs. 40 lakhs for small and medium enterprises will avoid GST registrations. This time, the laws and regulations are a little different because the government is requesting voluntary registrations. This means that taxpayers with a turnover of less than 20 lakh rupees can also apply for GST.

It is also stated in the provision that all of the rules and regulations imposed by the GST rule-book will apply to all voluntary registrants in the same way that they would to a regular taxpayer, and they will be required to strictly adhere to the requirements imposed on all taxpayers.

The obvious rule that any taxpayer is aware of is that the registration threshold cap is 20 lakh and that if their company does not meet that threshold, they do not need registrations. However, as experts speculate, voluntary registrations provide some positive opportunities for such dealers. While a small spare parts business unit might not be violating the cap, if he sells his products to a large dealer who is subject to GST and maintains records accordingly, the registrations would be on the opportunistic side. Because of this, the input tax credit and invoice matching principle have been swept, requiring all dealers and business units to be registered under the GST to claim the tax credit. It is now a necessity for different business units to deal with members of the group who are GST-registered. In this case, the spare part dealer will be persuaded to voluntarily register under the GST. This registration would also benefit the dealers he works with.

### **Should you opt for Voluntary Registration?**

You need to ask a few questions to yourself before making this decision-

- Who are your sellers?
- Who are your end-customers or buyers?
- How many resources do you have?

Now while answering these question you can find the following tips beneficial

- If the buyer and seller are both licenced, you should register yourself; otherwise, the Income Tax Credit chain would be broken.
- If you are certain that your end-customers are unregistered, then registering yourself would be counterproductive.
- If you want to expand your company, you can use a composition scheme. You would benefit from lower taxes, fewer compliances to manage, and easy bank loans.

SMEs have to do all the calculations and research before opting for voluntary registration under GST.

### **Is a Voluntary Registration Permanent?**

If an individual has issued voluntary registration for his business but does not conduct business within six months of the date of registration, one of the following will cancel the registration: –



- A proper authority/ officer OR
- On request of the concerned person himself OR
- On a request or application filed by the person's legal heirs, in case of death of such person

It should be noted that a person who has voluntarily registered would only be eligible for revocation of registration if the one-year period from the date of registration has passed.

### **Benefits of Voluntary Registration under GST**

The compositions scheme has several flaws, and it is believed that these flaws can be addressed well under voluntary registrations, based on expert advice. As discussed below, there are several advantages of voluntarily registering.

- For obvious reasons, licensed dealers may provide their communities with the benefit of the input tax credit by issuing tax invoices that can then be used to claim the credit. This will be a significant factor in the business unit's ability to grow its customer base.
- Voluntary registration provides ITC while voluntary registrants are eligible for an input tax credit on all sales and services. Ultimately, the profitability point would be determined by the market margins.
- Interstate registrations are simplified because GST registrants are free to perform interstate transactions with fewer constraints, making business units more understandable and enabling them to meet a broader consumer base around the world. Small and medium-sized businesses (SMEs) will also benefit from the change, as they will be able to open online stores and begin trading with other states on the go.
- GST registration will improve trading group enforcement because the ranking based on compliance will be beneficial to compliance-conscious business units, and they will be able to increase their client base as a result of their successful presence in the market. As for information, the enforcement ranking would be focused on timely return filings and tax payments.

### **Disadvantages of Voluntary Registration**

All these points will certainly pull business units to go for a voluntary registration but there are some disadvantages for the same cause:

- Businesses that have registered for GST would need to set aside extra funds for capital liquidity and compliance.
- Another downside will be the increased number of returns. Under the GST, there will be three returns per month, totaling 37 returns per year. There are three GST forms: GSTR-1, GSTR-2, and GSTR-3, which must be filled out correctly and on time every month. To calculate the tax liability, the forms are dependent on the sales purchase and the ITC input tax credit. It is important to remember that enforcement must be maintained, and any failure to file these forms will result in a penalty as well as the denial of an input tax credit.

- As voluntary registration is often regarded as a regular registration with tax liability, tax liability would be added to the business unit's compliance. The threshold cap of 20 lakh applies to all states of service combined.
- After the registration, all those business units that operate in different states for their trading activities will be in demand for multiple registrations. The GST is a destination-based tax, which ensures that returns must be filed in each state where the business unit extends. The input tax credit will only be available if the dealer is licensed in any of the states where it operates, and all of this identification will increase the business's enforcement costs.
- The registration rulebook includes penalty clauses, and any business unit that is licensed under the GST is expected to obey and comply with all of the GST's rules and regulations. The failure to comply would result in a penalty.

### 9.5.3 Deemed Registration

Section 26 states that a grant of registration or a Unique Identity Number under a State Act or a Union Territory GST Act is considered to be a grant of registration or a Unique Identity Number under this Act if the application for registration or a Unique Identity Number is not denied under this Act within the time limit stated in Section 25. (1).

If the proper officer fails to take any action, -

- The application for grant of registration shall be deemed to have been accepted within three working days from the date of submission of the application; or within seven working days from the date of receipt of the clarification, records, or documents furnished by the applicant.

In ‘West Bengal Lottery Stockiest Syndicate Private Limited v. Union of India’ – **2019 (5) TMI 1396 - KERALA HIGH COURT** the petitioner applied for registration under the Act and KGST Act. The petitioner uploaded the application on 16.01.2019. The petitioner received a notice on 31.01.2019 seeking additional information for registration stating the following reasons-

- The director's bank records and documentation showing ownership of the company premises are not uploaded;
- The application is for lottery service registration, but the documents attached are to demonstrate that the petitioner is allowed to deal with lottery services under various provisions of law under which lottery service authorization is sought.

The petitioner was given until February 8, 2019, to reply. The Registering Authority issued an order rejecting the petitioner's application, claiming that the petitioner's response was not sufficient and that the application did not comply with the Act's requirements.

The petitioner challenged the said order in the High Court through this writ petition. The petitioner submitted the following before the High Court-

- The applicant is entitled to deemed registration if the officer fails to take action within three working days of receiving the application.

- The application cannot be denied based on reasons that are not covered by the GST Act and Rules. However, under various legislative requirements, the Registering Authority was required to produce authorization to deal with lottery services.
- Within the time limit for additional information, no correspondence from the Registering Authority has been obtained.
- There are various modes of communication listed under section 169, so the Department could have communicated through the email address given in the application.

The Department submitted the following before the High Court-

- They sent out comments on the 18th of January 2019 pointing out the shortcomings.
- As a result, the petitioner would not benefit from the deeming clause.
- The technological snag is totally beyond the Department's grasp, and all they can do is take action. Legal fiction on deeming could not emerge until measures have been taken.

The Department also produced documentary evidence on a technical snag.

The High Court stated that the officer in charge must act quickly to complete the registration process. To ensure the above, a three-day time limit for granting registration has been set. In this situation, the officer in charge tried to warn the applicant of the application's flaws, but due to a technical snag, the details could not be transmitted to the applicant.

Since it establishes legal fiction, the deeming clause must be strictly interpreted. Even if the officer took action within three days, the claimant cannot benefit from the deeming clause because he or she did not obtain such correspondence. The deeming clause does not specify that if the correspondence is not received by the claimant within three days, deeming will apply. The petitioner could not profit from deeming registration, the High Court ruled.

The Department's justification listed in point no. 2 of the notice was reversed by the High Court. The applicant must also include all other necessary materials, such as showing ownership of the company via any documentation that may be needed, as well as any other information that may be required under the Act. The High Court instructed the Department to review the case and make a new judgement in compliance with the Act and rules on the petitioner's submission of the application. The petitioner's ability to file a new application would not be hampered by the previous denial, according to the High Court.

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## **9.6 PROCEDURE OF REGISTRATION**

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Any supplier is required to register under Section 22 of the Central Goods and Services

Tax Act, 2017 ('Act' for short). This section specifies the taxable supply threshold for registration purposes. Section 23 includes a list of individuals who are not required to register under the Act. Section 24 of the Act establishes a registry of individuals who are expected to register under the Act.

Section 25 of the Act provides the procedure for registration under the Act by the supplier who is liable to be registered under the Act. The procedure of registration is as discussed below-

- 9.6.1 Any person who is required to be registered must apply for registration in each State or Union territory in which he is required to be registered within 30 days of becoming so required.
- 9.6.2 Such an individual must declare his Permanent Account Number, mobile number, e-mail address, State or Union territory in Part A of FORM GST REG-01 on the popular portal before applying for registration.
- 9.6.3 The Permanent Account Number will be checked online via the common portal using the Central Board of Direct Taxes' database.
- 9.6.4 A one-time password sent to the declared mobile number will be used to verify the number.
- 9.6.5 A separate one-time password sent to the declared email address will be used to validate the address.
- 9.6.6 A temporary reference number will be produced and transmitted to the applicant on the said mobile number and email address following successful verification of the Permanent Account Number, mobile number, and email address.
- 9.6.7 The applicant shall electronically send an application in Part B of FORM GSTREG-01, duly signed or checked via electronic verification code, along with the documents listed in the said Form, to the common portal using the reference number created under sub-rule (3).
- 9.6.8 On receipt of an application, an acknowledgement shall be issued electronically to the applicant in FORM GST REG-02.
- 9.6.9 The application shall be forwarded to the proper officer who shall examine the application and the accompanying documents and if the same is found to be in order, approve the grant of registration to the applicant within three working days from the date of submission of the application.
- 9.6.10 If the proper officer finds any information or document required to be furnished in the application to be deficient, or if the proper officer requires any clarification about any information provided in the application or documents furnished therewith, he may issue an electronic notice to the applicant in FORM GST REG-03 within 3 working days from the date of receipt.

- 9.6.11 If the proper officer is happy with the applicant's clarification, details, or documents, he can grant the applicant registration within 7 working days of receiving such clarification, information, or documents.
- 9.6.12 If the applicant does not respond to the notice or the proper officer is not satisfied with the explanation, details, or documentation provided, he will refuse the application and notify the applicant electronically in FORM GST REG-05 for reasons to be reported in writing.
- 9.6.13 A certificate of registration in FORM GST REG-06 showing the principal place of business and additional place or places of business shall be made available to the applicant on the common portal once the application for grant of registration has been authorised, and a Goods and Services Tax Identification Number shall be assigned.

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## 9.7 LET US SUM UP

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Registration is the most basic prerequisite of any tax system for identifying taxpayers and ensuring tax compliance in the economy. The registration of any business entity under the GST Law entails obtaining a unique number from the relevant tax authorities to collect taxes on behalf of the government and claim Input Tax Credit for taxes paid on inbound supplies. An individual who is not registered cannot collect tax from his customers or claim an input tax credit for the tax he has paid. A taxpayer can benefit from registration in the following ways: He has legal standing as a provider of products or services. He may claim an input tax credit for taxes paid and use it to pay taxes owed on the supply of products or services. At the national level, seamless distribution of Input Tax Credit from manufacturers to recipients.

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## 9.8 KEYWORDS

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- **Tax Liability:** The total amount of tax debt owed by an individual, corporation, or other entity to a taxing authority like the Internal Revenue Service (IRS)
- **GSTIN:** ST is a 15-digit number that has replaced the Tax Identification Number (TIN) that business entities were allotted while registering under a state's Value Added Tax law
- **UIN:** A UIN or Unique Identification Number is a GST Exempt class under the GST regime for specified persons/organisations such as foreign diplomatic missions and embassies, who do not carry any outward transaction and thus are entitled to the refund of the tax paid on inward supplies.
- **PPF:** Public Provident Fund (PPF) is one of the most popular long-term saving schemes which focuses on inducing small savings like investments and accrue returns on the same.
- **Agriculturist:** Someone concerned with the science or art or business of

cultivating the soil.

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## 9.9 FURTHER READINGS

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman's Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikas Publishing House Pvt. Ltd. New Delhi.
- [idtc-icai.s3.amazonaws.com](http://idtc-icai.s3.amazonaws.com)
- [taxguru.in](http://taxguru.in)

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## 9.10 MODEL QUESTION

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- Q1:** Who is a taxable person? How is it different from a Registered Person?
- Q2:** Who is liable for registration under GST?
- Q3:** What is compulsory registration? How is it different from Voluntary Registration?
- Q4:** Write a short note on Exemption from Registration.
- Q5:** Discuss the provisions for compulsory registration.
- Q6:** When is registration exemption under GST?
- Q7:** State the period within which registration needs to be obtained in each of the independent cases.
- a) Casual taxable person
  - b) The person making interstate taxable supply
- Q8:** What is the validity period of the registration certificate issued to a casual taxable person and a nonresident taxable person?
- Q9:** What could be the liabilities (in so far as registration is concerned) on the transfer of a business?

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# UNIT-10 GST INVOICE

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## Structure

- 10.0 Learning Objectives
- 10.1 Introduction
- 10.2 Classification of Goods & Services
- 10.3 Tax Income & other such instruments in GST
  - 10.3.1 Basic features of a Tax Invoice
  - 10.3.2 Contents of an Invoice
- 10.4 Preparation of Invoice for different transactions
- 10.5 Debit Note & Credit Note
- 10.6 Information required in a GST Invoice
- 10.7 Accounts & Other Records
- 10.8 Let us sum up
- 10.9 Key Words
- 10.10 Further Readings
- 10.11 Model Questions

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## 10.0 LEARNING OBJECTIVES

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After studying this unit, you will be able to know

- Different returns forms used under GST
- Benefits of filing returns
- Regular returns for a normal taxable registered Person
- Returns to be filed by other persons
- Matching of credit under GST

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## 10.1 INTRODUCTION

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Invoice or "Tax Invoice" is described in section 2(66) of the CGST Act 2017. In simple terms, an invoice is a document sent to the addressee that specifies the type of the taxable supply made as well as the amount of the taxable supply, among other things. It shows how much the individual issuing the invoice can expect to obtain from the person to whom the invoice is sent. It is usually provided after the goods or services have been delivered. The CGST Act's section 31 governs the issuing of invoices for the provision of goods or services. It explains the different circumstances in which an invoice must be given. It also includes provisions for issuing amended invoices, preparing documents for advance receipt, and so on.

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## 10.2 CLASSIFICATION OF GOODS AND SERVICES

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As international transactions and products exchange became more prevalent, the need for proper documentation and identification of these goods emerged, which had to be achieved through a structured framework that was practised by any country

participating in international trade. HSN and SAC codes rose as a result of this.

**HSN** stands for **Harmonized System of Nomenclature**, and it's a system for categorizing products. The World Customs Organization (WCO) established it, and it is now considered the universal standard for naming products. This 6-digit universal code can be used to identify over 5,000 different items and is often used for tax purposes. This code, which is used in over 200 countries around the world, classifies over 98 per cent of all products available.

### **Understanding how HSN is used in India**

India has been a member of the World Customs Organization (WCO) since 1971, and since 1986, it has used 6-digit HSN codes to identify products for Customs and Central Excise. Customs and Central Excise later added two more digits to HSN codes to boost differentiation.

With the introduction of GST in India, HSN is now being used under a 3-tiered system. This includes the following:

10.2.1 HSN is not needed for businesses with a turnover of less than Rs 1.5 crore.

10.2.2 Businesses with a revenue of more than Rs 1.5 crore but less than Rs 5 crore are required to use two-digit HSN codes.

10.2.3 Businesses with a revenue of more than Rs 5 crore are allowed to use 4-digit HSN codes.

10.2.4 Importers and exporters must use an HSN code that is eight digits long.

HSN codes are used in the sense of GST to make it a globally applicable levy. HSN codes are divided into 21 parts, each of which contains 99 chapters, 1,244 headings, and 5,224 subheadings.

Each section number is subdivided into chapters, which are further subdivided into headings and subheadings. The sections and chapters define the product, while the headings and subheadings provide much more information.

### **For clarity, let's look at this HSN-62.13.90**

The first two digits (62) are used to denote apparel or clothing in this situation (but not knitted or crocheted clothing). Handkerchiefs are represented by the next two digits (13) in the sequence. Finally, (90) suggests that these handkerchiefs are made of various textiles or materials. As a result, this code refers to handkerchiefs made of textile materials.

There are two additional phases in India. The overall code would be 62.13.90.10 if the handkerchiefs were made of man-made textiles, with the 10 referring to man-made textiles. The code would be 62.13.90.90 if the goods were made of silk or silk waste, with the 90 referring to the silk or silk waste.

### **Servicing Accounting Code: SAC**

The Servicing Accounting Code (SAC) is a classification system for services rather



than products. India has introduced a Service Accounting Code (SAC) for all of its services, similar to the International HSN Codes. The GST would replace the service tax, which currently applies to all types of services at a 15% national rate, with certain exceptions. Since GST covers both goods and services, a fair classification for services is also required. Under the GST regime, SAC will remain unchanged. All services usually start with the number 99, which distinguishes the code as a SAC rather than an HSN. Let's take a look at this SAC- 99.82.13 for clarification. The number 99 stands for all services in general. This is classified as legal services by 82, and legal documents for patents by 13.

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## 10.3 TAX INVOICE AND OTHER SUCH INSTRUMENTS IN GST

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The CGST Act provides for the issuance of invoices for the provision of goods and services in section 31. The Act's section 31 specifies the different conditions in which an invoice must be given. It also contains provisions for issuing reinvested invoices and preparing records for advance receipts, among other items.

### Basic features of a tax invoice:

- 10.3.1 Any taxable person who provides goods or services, or both, must issue a tax invoice.
- 10.3.2 The tax invoice must provide the information stated in rule 1. The tax invoice must be a specific serial number in one or more services, including alphabets, numerical, and special characters such as hyphens, dashes, and slashes.
- 10.3.3 The tax invoices of taxable persons with turnover above prescribed limits should contain HSN Code or products or Accounting Code of services.
- 10.3.4 The export invoice should have a straightforward endorsement with all of the relevant information.
- 10.3.5 A consolidated invoice may be released at the end of the day if the value of each invoice is less than Rs 200.
- 10.3.6 In the case of products, the tax invoice must be in triplicate and marked.
- 10.3.7 The tax invoice for supply services must be given within 30 days of the service being rendered. An NBFC or FI invoice may be given within 45 days in the case of a banking firm.
- 10.3.8 **Duplicate for Services:** A tax invoice for services must be duplicated with the appropriate labelling.
- 10.3.9 **Special Cases:** A banking corporation, a financial institution, a non-bank financial institution, or a telecom operator that provides service to their branch in another state may issue invoices every quarter.
- 10.3.10 In the case of excluded products or services, or where tax is charged under the composition scheme, the supplier should issue a bill of supply with specific information instead of a tax invoice.
- 10.3.11 **Receipt Vouchers:** When the advance is obtained, a Receipt voucher should be provided with the information stated in rule 5 of the Invoice law.

At that point, GST is due, but he is unable to demand input tax credits because he has not earned goods or services, or both.

**10.3.12 Invoice of ISD:** Invoice of input service distributors shall contain details as specified in rule 7 of invoice Rules.

**10.3.13 Delivery Challan:** When the advance is obtained, a Receipt voucher should be provided with the information stated in rule 5 of the Invoice law. At that point, GST is due, but he is unable to demand input tax credits because he has not earned goods or services, or both.

**10.3.14 Goods in SKD:** If goods are being shipped in a semi-knocked-down state, a full invoice must be given before the first consignment is sent, followed by delivery challans for subsequent consignments. For the last consignment, an original copy of the invoice must be sent.

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## **10.4 PREPARATION OF INVOICE FOR DIFFERENT TRANSACTIONS**

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### **A. Tax Invoice in respect of Goods**

**Section 31 (1)** A tax invoice must be provided by a licensed individual who provides taxable products. The invoice must be given before or at the time the items are removed for delivery to the receiver. The invoice must be given when the items are made available to the buyer, even though the supply does not require the movement of goods. In the context of products, "removal" refers to the supplier's dispatch of the goods for distribution or the recipient's selection of the goods. According to section 31 (1), the Central/State Government can determine the categories of products and/or supplies for which the tax invoice shall be issued by notification, based on the GST Council's recommendation.

### **B. Tax Invoice in respect of services**

A registered taxable individual supplying taxable services shall issue a tax invoice, showing the definition, value, tax paid thereon, and any other details as may be prescribed, before or after the provision of service but within a prescribed duration.

#### **The time limit for issuing a tax invoice for services**

In the case of a taxable supply of services, the invoice must be given within thirty days of the date of the supply of service. A banking company or a financial institution, also known as an NBFC, will issue an invoice within 45 days of the date of service delivery. Making taxable supplies of services between distinct persons as specified in Section 25, an insurer/banking company/financial institution, including a non-banking financial institution/telecom operator, or any other class of supplier of services as may be notified by the Government, may issue the invoice before or at the time of recording the same in books of account or before the end of the quarter.

For Example – On June 1, 2020, a banking corporation offers services to its branch. The bank may issue the tax invoice at the time of recording the said supply in books of accounts (for example, on July 26, 2020) or before September 30, 2020. (the expiry of the quarter )

### **C. Receipt Voucher (or any other document) for advance payment**

A GST receipt voucher is a commercial document that serves as proof of payment in advance for the provision of products or services. When a customer makes an advance payment, GST-registered businesses must issue a GST receipt. Section 31 (3) (d) of the GST Act states that upon receipt of an advance, the registered individual must issue a receipt voucher or some other document containing the information needed.

### **D. Issue of Invoice in case of Reverse Charge**

If the individual supplying the goods or services is not licensed, the tax will be charged on a reverse charge basis by the receiver under section 9 (4) of the GST Act (excluding the IGST Act) and section 5(4) of the IGST Act. In this case, the invoice is prepared on the date of receipt of materials by the purchaser of Goods and Services.

### **E. Invoice for a continuous supply of goods**

“Continuous supply of goods” refers to a supply of goods that are delivered, or agreed to be provided, continuously or regularly under a contract, whether or not by the use of a wire, cable, pipeline, or another conduit, and for which the provider invoices the buyer on a daily or periodic basis, which requires supplies that are notified as being a continuous supply of goods.

### **F. Invoice of continuous supply of services**

“Continuous supply of services” refers to a supply of services that are delivered, or agreed to be provided, on a continuous or ongoing basis, under a contract, over more than three months with periodic payment obligations, which requires a supply that is notified as being a continuous supply of services.

In the case of a continuous supply of goods, the invoice must be given before or at the same time as any of the subsequent statements or payments are made. Similarly, if services are provided regularly, an invoice must be given.

- Where the payment due date is ascertainable from the contract, the invoice must be given on or before the due date of payment; where the payment due date is not ascertainable from the contract, the invoice must be issued before or at the time when the provider of service collects payment; and where payment is related to the completion of a case, the invoice should be issued on or before the due date of payment.

### **G. Invoice of ceasing of contract**

Section 31 (6) states that if a contract's supply ceases before the contract's completion, the invoice must be prepared at the time the supply ceases. The invoice must be given if the supply is interrupted until it is terminated.

### **H. Invoice for Goods sent on approval**

In the case of products sent on acceptance or return, the invoice must be given before or at the time it is understood that the supply has occurred, or six months later, whichever comes first.

## **I. No Invoice and Consolidated Invoice**

**A registered person may not issue a Tax Invoice if:**

- Value of goods and services both supplied is less than Rs 200/-
- The recipient is unregistered.
- The recipient does not require such an invoice

Instead, such registered persons are allowed to issue a consolidated tax invoice for such supplies at the end of each day for all such supplies. Small taxpayers, such as small retailers, who perform a large number of small transactions with unregistered customers for up to Rs 200 per transaction, do not need to issue an invoice for each transaction. They will submit a single unified invoice for all transactions completed during the day at the end of each day. They can, however, issue an invoice if the customer requests one.

## **J. Revised Tax Invoice**

A taxable individual can issue a revised invoice concerning any invoice he has previously provided. A taxable individual must issue a supplementary tax invoice if a deficiency is discovered in a tax invoice already issued by a taxable person. It is mandatory to issue a revised invoice for billing from the date of GST implementation before registered dealers receive a formal GST ID number. The tax invoice must comply with GST regulations and must be released within 30 days of obtaining the original registration certificate.

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## **10.5 DEBIT NOTE AND CREDIT NOTE**

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Because of the return scheme, debit and credit notes are an inevitable part of doing a company. It is also important for companies to understand how to account for them in GST.

### **What is Debit Note?**

A debit note in GST is a document issued by the supplier in the following cases:

- 10.5.1 **Increase in Taxable Value** -A debit note must be given to the purchaser when a supplier is required to raise the taxable value of a supply.
- 10.5.2 **Increase in GST charged in invoice** - When a supplier has to raise the cost or amount of GST paid on an invoice, he or she must send the receiver a debit note.

### **What is a Credit Note?**

A credit note in GST is a document issued by the supplier in the following cases:

- 10.5.3 **Supplies are returned or found to be deficient by the recipient** - The supplier should issue a Credit Note when products supplied are returned by the recipient of goods/services supplied are found to be defective by the

recipient. The credit note aims to reduce the value of the original supply.

10.5.4 **Decrease in taxable value** - When a supplier has to reduce the taxable value of a supply, he or she must give the recipient a credit note.

10.5.5 **Decrease in GST charged in invoice** - When a supplier has to reduce the cost amount of GST paid on an invoice, he or she must send the receiver a creditnote.

### **Debit Note and Credit Note Details**

As per the prescribed debit note format and credit note format, the following are the details that need to be captured:

10.5.6 The document's nature must be explicitly defined, such as "revised invoice" or "supplementary invoice."

10.5.7 Supplier's name, address, and GSTIN

10.5.8 A serial number consisting solely of alphabets and/or numerals, as well as special characters such as the hyphen "-" or the slash "/", that is unique for each financial year.

10.5.9 Date of the document's issuance

10.5.10 If the recipient is registered, including their name, address, and GSTIN/UniqueID number.

10.5.11 If the recipient is not registered, include the recipient's name, address, and delivery address, as well as the state name and code.

10.5.12 Original tax invoice or bill of supply serial number and date

10.5.13 The amount of tax credited or debited to the recipient, as well as the taxable value of the goods or services, the rate of tax, and the amount of tax credited or debited to the recipient

10.5.14 The supplier's or his registered representative's signature or digital signature

### **Furnishing details of Debit and Credit Note in GST**

Details of debit and credit notes in GST, need to be furnished in the normal tax cycle.

#### **• Debit Note in GST**

Debit note information should be recorded in Form GSTR-1 for the month in which the debit note was given. The recipient will be given these details in Form GSTR-2A, after which the recipient must accept the information and send Form GSTR-2.

Please keep in mind that a recipient will issue a debit note if the goods they purchased are returned, damaged in transit, the taxable value shown on the invoice is higher than the actual, or the tax paid is higher than the actual. However, only debit notes provided by a supplier will be considered for revisions in invoice values under GST. For the subsequent effect on input tax credit on the supply, the recipient must consider the same.

- **Credit Note in GST**

Suppliers must submit Form GSTR-1 with the details of credit notes issued in a given month. This information will be sent to the recipient of the supply in Form GSTR-2A, which the recipient must approve and send in Form GSTR-2. It's worth remembering that a supplier can only use a credit note to mitigate his tax obligation if the recipient of the supply acknowledges the credit note information in Form GSTR-2. The recipient's input tax credit will be reversed to the degree of the credit note, and the supplier's tax liability will be reduced in proportion.

Please bear in mind that a credit note may be issued by the purchaser of a supply in some situations, such as when the taxable value displayed on an invoice for an inward supply is less than the actual value, or when the tax paid for an inward supply is less than the actual tax. In these cases, however, modifications to invoice values will only be taken into account if a supplier sends a corresponding debit notice for the supply. The supplier must provide the specifics of a debit note that has been given, and the receiver must approve it. As a result, the supplier's tax obligation and the recipient's input tax credit will be adjusted accordingly.

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## **10.6 INFORMATION REQUIRED IN A GST INVOICE**

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The tax invoice issued must mention information under the following 16 headings:

- 10.6.1 Name, address and GSTIN of the supplier
- 10.6.2 Tax invoice number (it must be generated consecutively and each tax invoice will have a unique number for that financial year)
- 10.6.3 Date of issue
- 10.6.4 If the buyer (recipient) is registered then the name, address and GSTIN of the recipient
- 10.6.5 If the recipient is not registered and the value is more than Rs. 50,000 then the invoice should carry:
  - i. Name and address of the recipient
  - ii. Address of delivery
  - iii. State name and state code
- 10.6.6 HSN code of goods or accounting code of services\*\*
- 10.6.7 Description of the goods/services
- 10.6.8 Quantity of goods (number) and unit (metre, kg etc.)
- 10.6.9 The total value of the supply of goods/services
- 10.6.10 The taxable value of supply after adjusting any discount
- 10.6.11 The applicable rate of GST (Rates of CGST, SGST, IGST, UTGST and cess mentioned)
- 10.6.12 Amount of tax (With the breakup of amounts of CGST, SGST, IGST, UTGST and cess)
- 10.6.13 Place of supply and name of destination state for inter-state sales
- 10.6.14 Delivery address if it is different from the place of supply
- 10.6.15 Whether GST is payable on the reverse charge basis
- 10.6.16 Signature of the supplier

A typical tax invoice with all the 16 mandatory fields under GST will look like this:



TAX INVOICE				CLR 000009	23/04/2017	RS. 12,334.89								
<b>Vijaya Traders Private Limited</b> GSTIN: 04ARCPD987431Z5				S/1, Penthouse D1, 6th Floor, Rich Homes Apartment, Richmond Road, Bengaluru, Karnataka 560025										
<b>Billing Details</b> Kantech Solutions Private Limited Ground Floor, Building 2A, 23 & 24 AMR Tech Park Internal Rd Hongasandra,, Bengaluru, Karnataka 560068				<b>Shipping Details</b> Kantech Solutions Private Limited Ground Floor, Building 2A, 23 & 24 AMR Tech Park Internal Rd Hongasandra,, Bengaluru, Karnataka 560068										
		Invoice Date	Payment Terms	Due Date										
		23/04/2017	On Receipt	23/04/2017										
S.No	Item Description	HSN	Qty.	Unit	Rate Per Item	Total	Discount	Taxable Value	CGST	SGST	IGST			
									Rate	Amt.	Rate	Amt.	Rate	Amt.
1	Bathing soap	34011110	10	pcs	Rs.20	Rs.200	-	Rs.200	9%	Rs.18	9%	Rs.18	-	-
2	Shampoo	34011111	8	pcs	Rs.50	Rs.400	-	Rs.400	9%	Rs.36	9%	Rs.36	-	-
<b>TOTAL</b>						Rs.600	-	Rs.600	Rs.54	Rs.54	-	-	-	-
Total invoice value (In figure)									Rs.708					
Total invoice value (In Words)									Rupees seven hundred and eight only					
Amount of Tax subject to Reverse Charges									Rs.54	Rs.54	-	-	-	
<b>Terms &amp; Conditions</b>				<b>Customer Notes</b>				<b>Attachement</b>						
1. The shipping cost needs to be beared by the seller 2. The seller is not responsible for any damage that happens during the transit				This order is shipped through blue dart courier				1. Shipping_receipt.pdf						
								For Vijay Traders Pvt Ltd						

Image  
cleartax.in)

Source:

### Tax Invoices Format for Exports

In the case of exports, the invoice must also include a statement indicating that GST has been received. In such instances, the following text should be used:

- “Supply Meant For Export on Payment Of IGST”

– if IGST has been paid on the exports

- **“Supply Meant For Export Under Bond or Letter of Undertaking Without Payment of IGST”**

– if IGST has not been paid

In export invoices, the following details related to the buyer are mandatory:

- Name and address of the buyer
- Delivery address
- Destination country
- Number and date of application for the removal of goods for export

### **Reasons for Not Issuing a Tax Invoice**

A registered person may **not** issue a tax invoice when:

1. the recipient is **not a registered person AND**
2. the recipient does **not require such an invoice**

At the end of each day, the registered individual shall give a consolidated tax invoice for such supplies in respect of all such supplies.

*In all other cases, the registered person **MUST** issue a tax invoice. Failure to do so is an offence under the GST Act and will attract a penalty.*

### **Raising Copies of Invoice**

The GST Law requires businesses to keep copies of all of their invoices. The details of this are furnished below.

### **Invoices for Supply of Goods**

The invoice must be prepared in **triplicate**. They will be marked as:

1. Original Copy for the use of the recipient
2. Duplicate Copy for the use of the transporter
3. Triplicate Copy for the use of the supplier

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## **10.7 ACCOUNTS AND OTHER RECORDS**

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Every registered person is required to keep and maintain all records at his principal place of business.

### **Who must maintain accounts under GST?**

It is the responsibility of the following persons to maintain specified records-

- 10.7.1 The owner
- 10.7.2 The operator of warehouse or godown or any other place used for storage of goods
- 10.7.3 Every transporter

A chartered accountant or a cost accountant will audit the accounts of any registered



individual whose turnover during a financial year exceeds the specified limit (2 crores).

### **What records must be maintained under GST?**

Every registered person must maintain records of:

- 10.7.4 Production or manufacture of goods
- 10.7.5 Inward and outward supply of goods or services or both
- 10.7.6 Stock of goods
- 10.7.7 Input tax credit availed
- 10.7.8 Output tax payable and paid and
- 10.7.9 Other particulars as may be prescribed

Please read our article for a list of records to be maintained under GST.

### **What are the accounts which must be maintained under GST?**

In our article, we have listed the various accounts to be maintained that businesses need to keep under GST.

For example, under GST, a trader has to maintain the following a/cs (apart from accounts like purchase, sales, stock)

- 10.7.10 Input CGST a/c
- 10.7.11 Output CGST a/c
- 10.7.12 Input SGST a/c
- 10.7.13 Output SGST a/c
- 10.7.14 Input IGST a/c
- 10.7.15 Output IGST a/c
- 10.7.16 Electronic Cash Ledger (to be maintained on Government GST portal to pay GST)

## **2. Accounting entries under GST**

Facing some teething issues, GST can bring clarity to many aspects of the industry, including accounting and bookkeeping.

While the number of accounts tends to be higher under GST, once you go through the accounting entries, you'll note that record-keeping is much simpler. One of the most important benefits a trader can enjoy is the right to subtract his input tax on services from his output tax on revenue.

Read about the accounting treatment of different transactions under GST, including how to report and transfer entries for interstate sales of products, how to record the use of input tax credit and more.

## **3. Electronic Cash and Credit Ledger**

Every registered taxpayer will have 3 ledgers under GST which will be generated automatically at the time of registration and will be maintained electronically.

- **Electronic Cash Ledger:** This ledger can be used as a digital wallet. The taxpayer would be required to deposit his cash ledger (add money

to the wallet). The funds will be used to complete the transaction.

- **Electronic Credit Ledger:** The IGST, CGST, and SGST input tax credits on sales will be expressed herein in three groups. The balance of this account will only be available to the taxpayer for tax payment (not for interest, penalty etc.)
- **E-Liability Ledger:** This ledger would reveal a taxpayer's overall tax obligation after netting off for a given month. This ledger will be automatically filled in.

#### **4. Period for Retention of Accounts under GST**

Any registered taxable individual is required by the GST Act to keep their accounts books and records for at least 72 months (6 years). The duration will begin on the last day of that year's Annual Return filing.

The annual return must be filed by the 31st of December of the following year.

##### **For example:**

For the year 2017-2018, the due date of filing the annual return is 31.12.2018. The books & records of 2017-2018 must be maintained for 6 years, i.e., 31.12.2023

If the taxpayer is involved in any litigation before a court (First Appellate) or is under investigation, he must keep the books for one year after the order of the proceedings/appeal is issued.

#### **5. Consequences of Not Maintaining Proper Records**

If a taxpayer fails to keep proper records for products or services, the proper officer will handle the unaccounted goods or services as if they were supplied by the taxpayer. The tax responsibility on such unaccounted products will be determined by the officer. The taxable person would be responsible for paying the tax obligation as well as the penalty.

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### **10.8 LET US SUM UP**

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A GST invoice is a bill or receipt for goods sent or services provided to a customer by a vendor or service provider. It specifies the services/products, as well as the total amount owed. Until CGST and SGST are applied, a GST invoice may be used to calculate the price of a good or service. The amount of taxes paid on goods or services that a person purchases from the seller or supplier is also seen on a GST invoice bill. If the items were purchased on credit, the customer creates a debit note in case they are returned. Although it is made by the seller at the time of a credit sale to remind the buyer of the existing outstanding debt, it is made by the buyer at the time of a cash sale. A credit note is a commercial document produced by a supplier to notify the consumer that the customer has been given credit. The following are common reasons for such credit:

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### **10.9 KEYWORDS**

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- **HSN:** HSN stands for “Harmonized System of Nomenclature”. In India, the HSN Code has 8-digit uniform codes that classify more than 5000 products and is

accepted worldwide.

- **WCO:** The WCO plays an important role in promoting international customs co-operation and addressing new challenges for customs and trade.
- **SAC:** The SAC Code means Services Accounting Code under which services fall under GST are classified.
- **NBFC:** A non-banking financial institution or non-bank financial company is a financial institution that does not have a full banking licence or is not supervised by a national or international banking regulatory agency.
- **UIN:** Unique Identification Number (UIN) is a special type of GST registration for foreign diplomatic missions and embassies that are not liable to pay
- **Reverse Charge:** Reverse Charge means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply.
- **Debit Note:** A debit note' or debit memorandum is a commercial document issued by a buyer to a seller as a means of formally requesting a credit note
- **Credit Note:** A credit note or credit memo is a commercial document issued by a seller to a buyer.
- **Credit Ledger:** The electronic credit ledger reflects the amount of Input Tax Credit available to the taxpayer. Thus, every claim of the input tax credit of the registered taxpayer eligible for claiming such credit is credited to this ledger.

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## 10.10 FURTHER READINGS

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman's Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikas Publishing House Pvt. Ltd. New Delhi.
- [www.clear-tax.in](http://www.clear-tax.in)
- [www.tallysolutions.com](http://www.tallysolutions.com)
- [www.idtc-icai.s3.amazonaws.com](http://www.idtc-icai.s3.amazonaws.com)

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## 10.11 MODEL QUESTIONS

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**Q 01:** What is the information's required in a GST Invoice?

**Q 02:** Discuss the features of the tax invoice.

**Q 03:** Define a tax invoice and explain the contents of the tax invoice u/s 31 of the GST Act.

**Q 04:** Discuss the invoices for different transactions under GST

**Q 05:** When can the credit note be issued by suppliers of goods and services? Also, explain the benefits of credit notes.

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# UNIT-11 GST RETURNS AND REFUNDS

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## Structure

- 11.0 Learning Objectives
- 11.1 Introduction
- 11.2 Benefit / Purpose of Filing Return
- 11.3 Details of all the returns to be filed under the GST Law
- 11.4 Types of GST Returns
- 11.5 Input Tax Credit
  - 11.5.1 How to Calculate ITC
  - 11.5.2 How to Claim ITC
  - 11.5.3 How ITC works under GST
  - 11.5.4 How to utilise ITC
  - 11.5.5 Documents & forms required to claim ITC
- 11.6 Matching, Reversal & Reclaim of Input Tax Credit
- 11.7 GST Refund
  - 11.7.1 How to Calculate Refund
  - 11.7.2 How to Claim Refund
  - 11.7.3 Refund of Input Tax Credit
- 11.8 Let us Sum up
- 11.9 Key Words
- 11.10 Further Readings
- 11.11 Model Questions

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## 11.0 LEARNING OBJECTIVES

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After studying this unit, you will be able to know

- Different forms used under GST
- Benefits of filing Returns
- Regular returns for a normal taxable registered
- Returns to be filled by other persons
- Matching of credit under GST

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## 11.1 INTRODUCTION

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A return is a document that a taxpayer must file with the tax administrative authorities following the law. A daily taxpayer would be expected to file three monthly returns and one annual return under the GST rule. A taxpayer registered under the composition scheme, a taxpayer registered as an Input Service Distributor, and an individual liable to deduct or collect tax (TDS/ TCS) all have their returns. Any business unit with an annual turnover of more than 20 Lacs must file a GST return. Taxpayers must also review the various eligibility requirements for various slabs. Every year, all taxpayers,

ranging from producers and suppliers to retailers and customers, must file GST returns. In the digital age, the government is pushing for innovation and automation and has begun offering e-filing or online filing of GST returns through a single GST platform. The returns can be submitted electronically using Goods and Service Tax Network's applications and software (GSTN). The government's groundbreaking facilities automate the filing procedure and auto-fill the data in GSTR forms.

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## **11.2 BENEFITS / PURPOSES OF FILING RETURN**

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Every registered person has to file a return under GST. GST is payable by a taxable person based on self-assessment of tax liability.

The tax is expected to be charged on the supply of goods or services at the prescribed prices, according to section 9 of the CGST Act. The tax is paid by the goods or service provider. The rules and formats for the Goods and Services Tax returns have been issued by the government. The tax payable by the taxable person will be calculated by the GST common portal using the details provided by the taxable person in his returns. Filing of returns serves the following purposes:

- 11.2.1 Details about the taxable person's company must be submitted to the government.
- 11.2.2 Serves as the foundation for calculating the taxable person's tax liability
- 11.2.3 Allows the government to check the accuracy of tax payments based on the returns submitted.
- 11.2.4 Ensures that the GST administration is transparent.
- 11.2.5 Allows the taxable individual to file returns more conveniently, namely electronically.
- 11.2.6 Provides a forum for matching the input tax credit (ITC) available to the taxable individual based on supplier and recipient returns. As a result, the ITC will be available to the taxpayer on a conditional basis based on his returns.
- 11.2.7 A monthly return is considered to be an application for an eligible refund under some specific provisions.

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## **11.3 DETAILS OF ALL RETURNS TO BE FILED UNDER THE GST LAW**

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GST returns must be submitted digitally electronically via a popular platform operated by GSTN, a non-government, private limited company formed by the federal and state governments with the specific mission of developing the IT infrastructure and services needed to enforce the Goods and Services Tax (GST).

### **Who is a Regular Taxpayer Under GST?**

Regular taxpayers under GST are individuals who own and operate a company in a state or territory that involves the provision of goods and services. The standard taxpayer must currently file two forms, GSTR-1 and GSTR-3B, in which GSTR-1

accounts for outward supplies and GSTR-3B accounts for summarised information of outward supplies and inward supplies plus payment of an amount of tax data, both of which must be filed on or before the 20th of the following month.

### **What is GST Return Form 1?**

This is the first GST return form that any taxpayer must submit for a given tax period on the 11th of the following month. The taxpayers' outward supplies are reported on the GSTR-1 form. The GSTR-1 has 13 subheads and is critical because it aids in credit matching and potential tax credit flow. Taxpayers with a turnover of fewer than 1.5 crores must file GSTR-1 quarterly, while those with a turnover of more than 1.5 crores must file monthly returns, according to the GST council's latest announcement.

### **How to File GST Return Form 1?**

As discussed, there are 13 different parts under the GST Form 1, which need to be filled properly by taxpayers with details related to the outward supply of goods & services.

In GST Form 1, taxpayers must fill out parts 1 to 3 with information such as their GSTIN, name, and gross turnover for the previous financial year. Moving on to part 4 of the GST Form 1, taxpayers must detail all taxable supplies made by the company in three separate sections 4(A), 4(B), and 4(C) (C). Part 5 of the GST return form 1 must be filled out for outward inter-state supplies, while part 6 of the GST return form 1 must be filled out for zero-rated supplies and all considered exports.

Part 7 requires taxpayers to fill out the information about taxable supplies to unregistered persons, while part 8 requires information about nil-rated, exempted, and non-GST outward supplies. Parts 9 and 10 of the GST Form 1 enable taxpayers to provide details on any changes made to taxable outward supplies to an unregistered person during the current and previous tax periods, respectively.

Taxpayers must fill out part 11 under 11A & 11B subsections with all details of advance earned and adjusted for the current/given tax era. Parts 12 and 13 of GSTR 1 require taxpayers to fill out an HSN-by-HSN review of all taxable supplies and documents issued during the tax period.

### **What is GST Return Form 2?**

The GST return form 2 collects all information about inbound supplies and provides it to the buyer and recipient of goods and services. Any taxpayer must file the GSTR-2 by the 15th of the following month for a given tax period. Under GSTR-2, there are 13 heads to fill out carefully since the information will be reflected in the seller forms, and it must fit the information given by the seller.

### **What is GST Return Form 3B?**

This GST return consists of summarised information of outbound and inbound materials, as well as payment of a tax number, and it must be filed on or before the

20th of the following month. The taxpayer receives information about providing the input tax credit and the amount of tax payable by filing GSTR-3B.

### **How to File GST Return Form 3B?**

As previously stated, all registered taxpayers are required to file GST Return Form 3B, which is a consolidated monthly return form. The GST council recently streamlined the GSTR-3B Form filing process for taxpayers who do not have any business and must file null returns. The GST Return Form 3B can be completed in seven simple steps.

The taxpayer must fill out details of all outward and inward supplies liable to reverse the change in step 1, while step 2 allows the taxpayer to fill out details of all outward and inward supplies liable to reverse the change. In phase 3, taxpayers must also fill out the information about interstate supplies rendered to composition taxable individuals, unregistered persons, and UIN holders. At phase 4, taxpayers have access to the ITC qualifying box, which includes all of the input tax credit claims from the taxes charged. Step 5 includes the submission of information about the nature of supplies, inter-state supplies, intra-state supplies, and estimates.

Step-6 is the most critical step for taxpayers when filing GST return 3B Form since it needs information such as integrated tax, central tax, and state/UT tax cess from them. In the final stage, taxpayers must have TDS/TCS credit information in a proper format.

### **What is GST Return Form 9?**

This segment includes details on the taxpayer's annual GST tax payment. GSTR-9 is a tally of all taxes collected, and it must be filed by the 31st of December of the following fiscal year for a given tax period. It includes all of the GSTR-3 data for the previous 12 months. Taxpayers must provide information on inbound or outbound supplies, tax paid under different heads such as CGST, IGST, and SGST, and complete turnover with audit details to file GST return GSTR-9.

### **How to File GST Return Form 9?**

As previously mentioned, GSTR 9 is an annual GST return form that regular taxpayers must file by the 31st of December of each financial year. A penalty of INR 200 per day may be imposed if GSTR 9 is not filed on time. The GSTR 9 filing process can be completed in six sections, with no revision option available on the GST portal. The deadline for the financial year 2017-18 has been extended by the Government of India to November 30th.

Part 1 requires the taxpayer to fill out three separate parts under four tables with basic information. The basic information includes the taxpayer's GST IN, legal name, and company name. Part two requires taxpayers to fill out details of inbound supplies under subsections 4A to 4N, while details of outbound suppliers must be filled out under subsections 5A to 5N.

Furthermore, part three of the GST 9 return form allows taxpayers to fill out ITC data

for the financial year under subsections 6A to 6O. The details of tax paid as declared in returns for the previous financial year must be filed in part four. Part five requires taxpayers to fill in specifics of transactions from a previous fiscal year, while part six requires taxpayers to fill in other essential information, such as the total amount of refunds claimed, sanctioned, denied, and so on, in 15A to 15G subsections.

**Note** Filing of form GSTR-9 for those taxpayers who (are required to file the said return but) have aggregate turnover up to Rs. 2 crores made optional for the said tax periods for FY 2017-18 and FY 2018-19 by GST Council 37th meeting.

### **What is GST Annual Audit Return Form 9C?**

The GSTR 9C Annual Audit form is needed for all taxpayers with a yearly turnover of more than 2 crores. The form must be submitted on or before the 31st of December of each fiscal year. The GSTR 9C form is also followed by an audit certification and a reconciliation document detailing all tax obligations and payments for the fiscal year. For taxpayers with a turnover of more than 2 crores, filing the GST return 9C form, as well as the reconciliation statement and audit certification, is needed.

### **How to File GST Return Form 9C?**

To escape a penalty of INR 200 per day, all taxpayers must file GSTR 9C annual audit return form. According to the CBIC, the latest amended due date for GSTR 9C for qualifying taxpayers is November 30, 2019. The taxpayers must correctly complete the five steps to file the GSTR 9C annual return form.

In step one, the taxpayer must fill out the form with basic information such as their GSTIN number. The taxpayers must include reconciliation reports of turnover declared in the audited annual financial statement (5A to 5R subsection) and taxes charged for parts two and three (9A to 9R subsection).

Also, under 12A to 12F subsections, taxpayers must fill out the ITC reconciliation information in phase four. Move five involves correctly filling out the auditor's findings on the additional responsibility placed on taxpayers as a result of non-reconciliation.

### **Who is a Composition Taxpayer Under GST?**

To help small and medium businesses, the government has created a composition system, in which registered businesses must file GSTR-4 once a year and GST CMP 08 once every quarter for payment deposition, rather than multiple GST returns in a month like usual businesses. A condition for registering under the scheme is that the registering companies' revenue does not surpass INR 1.5 crore.

### **What is GST Return Form 4?**

It's for the creators of compositions (who are registered under the composition scheme). The form is submitted once a year for a specific fiscal year. On the 18th day of the year, the taxpayer reports details on sales and transactions made in an annual



report and pays tax using the GST CMP 08 form under the composition scheme.

### **How to File GST Return Form 4?**

To escape penalties (INR 50 per day) and interest (18%) due to late/non-payment, all registered taxpayers under the composition scheme must file the GSTR 4 form annually. The GST 4 return form is divided into 13 parts, but not all of them must be completed.

From part 1 to part 3, taxpayers must have basic information such as their legal name, GSTIN, and so on. Taxpayer's must-have details for taxable inward supplies and changes made to them in parts 4 and 5, respectively. Similarly, taxpayers can fill out sections 6 and 7 of the form with information about taxable outward supplies and any improvements made to them.

Qualified taxpayers must complete part 8 of the consolidated statement of advances paid/Advance adjusted. Taxpayers must fill out parts 9, 10, 11, and 12 with information about the tax credit earned, charged, TDS interest, and refund claimed from the electronic cash ledger.

### **What is GST Annual Return Form 9A?**

The GSTR 9A form is an annual GST return form for all composition scheme dealers with annual turnover under the goods and service tax scheme of less than 1 crore. The GSTR 9A for composition scheme dealers contains all of the annual GST information for transactions involving CGST, SGST, and IGST. For composition scheme taxpayers, the GSTR 9A form includes all of the tax paid and liability information for the specific financial year.

**Note:** "The GST Council raised the annual turnover cap for composition scheme taxpayers to 1.50 crores, effective April 1, 2019. Composition scheme taxpayers were previously required to file returns annually and pay tax quarterly."

### **How to File GST Annual Return Form 9A?**

To escape a penalty of Rs. 200 per day for late payment, all registered composition taxpayers must file the GSTR 9A form on or before December 31st for the current year. Due to technical issues with the portal, the CBIC department has extended the due date for FY 2017-18 until November 30th. The GST 9A return filing procedure is divided into 17 sections and is divided into five portions.

Part one requires taxpayers to fill in basic information such as GSTIN, trade name, and so on, while part two requires information on taxable outward and inward supplies. Part three requires taxpayers to apply details of tax paid as declared in returns for the specified financial year.

Furthermore, taxpayers must include details of transactions for the previous fiscal year as declared in returns from April to September of the current fiscal year or up to the date of filing an annual report for the previous fiscal year, whichever is earlier, in part

four. Other important information, such as total return claimed, denied, pending, late fee payable, and so on, must be given in part five. Find out what you need to know about the GSTR 9A annual form and how to file it online.

**Note:** The GST Council waived the requirement to file the GSTR 9A Form for the period (FY 2017-18 and FY 2018-19) in its 37th meeting, providing relief to taxpayers.

### **Who is a Non-resident Taxpayer Under GST?**

Under the GST regime, a non-resident taxpayer is anyone or a company that does not own a business in India but supplies goods and services to the country for a limited time. Many of these non-resident taxpayers must use the GSTR-5 form to file their tax returns.

### **What is GSTR 5 Return Form?**

A non-resident taxpayer provides information in GSTR-5 for transactions and sales made in India, whether online or offline. GSTR-5 also offers information on available tax credits, taxes charged, and remaining stocks for NRIs. For a specified tax year, the form must be submitted by the non-resident taxpayer by the 20th of the following month.

### **How to File GST Return Form 5?**

To escape the penalty (INR 50/day) and interest (18 per cent) due to late/no payment, all registered non-resident taxpayers/foreigners must file the GST Return Form 5 on or before the 20th of the following month for a specific tax period or seven days before the registration validity period, whichever is earlier.

Non-resident taxpayers must fill out essential tax information in 12 separate tables to file the GSTR 5 Form. Tables 1 and 2 require taxpayers to include basic information such as their legal name, GSTIN, and so on. Taxpayers must fill out details for manufactured products, changes to imported goods (if any), and B2B outward suppliers from table 3 to table 5.

Non-resident taxpayers must provide information about B2B inward suppliers, supplies to an unregistered individual, and B2B and B2C interstate supply modifications (if any) on tables 6 through 8. The taxpayer must have information about gross payable liability, total paid taxes, and interest and late fees payable/paid in tables 9 to 12.

### **GSTR 5A GST for Non-Resident OIDAR Service Providers**

GSTR 5A is required for non-resident OIDAR service providers. The OIDAR services group encompasses all companies that use the internet as a means of conducting business. This form of the company must file GSTR 5A and must file a tax return in the same manner as other business units. The 20th of each month is the deadline for filing GSTR 5A. GSTR 5A licenced individuals must file a tax return and obtain a GSTIN.

## **Who is the Input Service Distributor Under GST?**

An input service distributor is a division of a product and/or service provider that collects tax invoices from other suppliers in return for input services and/or goods and issues a specified document to allocate the GST credit to its units. Input tax distributors must file their GST returns using GSTR-6.

## **What is GSTR 6 Return Form?**

ISD files the GSTR-6 for each tax year on the 13th of the following month. It comprises all data about inward supplies rendered to the registered taxpayer. It also provides details about the input tax credit that is distributed among the ISD organisations.

## **How to File GST Return Form 6?**

Late filing of the GST Return Form 6 by licenced input service distributors (ISD) would result in a penalty of INR 50 per day and interest of 18 per cent. The GSTR 6 Form has 11 separate sections/tables that the ISD must complete correctly. Tables 1 and 2 require the ISD to enter basic information such as GSTIN, taxpayer name, and so on.

In table 3 to table 5, ISD must provide information for the input credit earned, eligible/ineligible ITC for the specified tax period, and available credit under CGST, SGST, and IGST. Any improvements made to table 3 must also be noted in table 6.

The ISD must separately list details for ITC reclaim/mismatch, ITC delivery, ITC redistribution (if the distribution is incorrect), late fee payable, and refunds in tables 7 to 11.

## **Who is a TDS Taxpayer Under GST?**

TDS taxpayers are individuals or entities who are allowed to subtract TDS from payments made to licenced vendors or companies for goods or services purchased from them. Any TDS taxpayer must use the GSTR-7 form to file their taxes.

## **What is GST Return Form 7?**

For a given tax period, every tax deductor must file the GSTR-7 form on the 10th of the following month. It includes information on TDS rendered under the IGST, CGST, and SGST, as well as information on the supplier and the source where tax is deducted.

## **How to File GST Return Form 7?**

To escape 18 per cent interest on the payable tax and a penalty of INR 50 per day, every registered TDS taxpayer must file the GSTR 7 on time (with a maximum cap of INR 5000). The GST Return Form 7 filing process is straightforward, and it consists of eight separate tables/sections that must be filled out with the necessary information.

Tables 1 and 2 enable taxpayers to include basic information such as the trade name, legal name of the deductor, and so on.

TDS payers must also fill out table 3 to table 8 separately with details on tax deducted

at source, TDS amendments, TDS deducted & charged, interest & late fee, returns claimed from electronic cash ledger (ECL), and debit entries in ECL.

### **Who is a TCS Taxpayer (E-commerce Operator) Under GST?**

E-commerce operators are online businesses that are licenced under the Model GST law and provide a forum for the exchange of products and services between vendors and customers. They should file the GSTR-8 form on the Indian government's GST portal for TCS taxes.

### **What is GSTR 8 Form?**

For the tax collected at source information, an e-commerce operator provides the form of data. For tax collection at source, e-commerce operators must be licenced under the GST regime. Any e-commerce operator must file it by the 10th of the following month for a specified tax period. All details of supplies made to a registered or unregistered individual, as well as tax paid and payable information, must be filed through an e-commerce portal.

### **How to File GST Return Form 8?**

If registered TCS taxpayers/e-commerce companies fail to file the GST 8 return Form by the due date, i.e., the 10th of the following month, they may be subject to a penalty of INR 50 per day (CGST + SGST) plus 18 per cent interest on the GST tax due. Under GSTR-8, there are nine separate parts/tables that TCS taxpayers must fill out correctly. Tables 1 and 2 require basic information such as GSTIN.

Also, table 3 to table 9 must be filled out separately for vendors through an e-commerce platform, any supply amendments, TDS interest information, TDS interest payable/paid, reimbursement requests, and debit entries in the cash ledger for TCS/interest payment.

### **For Final Return (If Registration of Business has Cancelled) – GSTR-10**

**GSTR-10:** It is issued by the registered taxpayer in a specific case, such as when the GST registration is cancelled or surrendered. The reason for the GST cancellation may be anything from the voluntary closure of a company to a government order. The taxpayer must file the final return form with the specifics of tax charged, payable, and input tax credit information within three months of the cancellation order.

**How to File GST Return Form 10?-** Only taxpayers whose registration has been cancelled or voluntarily surrendered must submit the GST-10 Form. When filing the GST 10 return Form, information such as the GSTIN, legal name, company name, and address is auto-populated.

The registered person must also manually provide the following information: ARN, UID, date of cancellation order, details of closing stock, and the effective date of surrender.

## **Who is a UIN Holder Under GST?**

The UIN status is granted to specialised agencies of the United Nations or organisations registered under the United Nations Act 1947, multilateral financial institutions, and individuals who are granted the status of UIN on the commissioner's consent.

## **What is GSTR-11 Form?**

When UIN holders (those who are licenced under the GST regime and have a unique identification number) buy items during the month, they must fill out the GSTR-11. UIN holders will get a refund for the taxes they paid on purchases made in India by filing GSTR-11 for inward supplies. For a specified tax year, UIN holders must file the GSTR-11 by the 28th of the following month.

## **How to File GST Return Form 11?**

Holders of a UIN, such as a UN agency, must file the GSTR-11 Form on time to escape a penalty of INR 50 per day beginning from the due date, as well as a 10% interest on payable taxes. The GST 11 return form is divided into four parts/tables.

Taxpayers must fill out basic information such as their UIN, name, and address in tables 1 and 2. Taxpayers must fill out table 3 with information about inbound supplies, while table 4 should be filled out with data about the refund number. After providing all of this material, taxpayers must verify their authenticity by electronically signing the form on the GST portal.

## **Late Fees for not Filing GST Return on Time**

When the GST returns are not filed on time by the taxpayers, a late fee along with interest is imposed on him.

## **Late Fees for Annual Return Filing**

- INR 200 / day (INR 100 under CGST, SGST and IGST (if relevant) each).
- The maximum amount of late fee cannot be more than 0.25% of the taxpayer's turnover in the state.

## **Late fee for Monthly/Quarterly GST Return Filing**

- INR 50/ day (INR 25 under CGST + Rs. 25 under SGST)
- The maximum amount of late fee cannot be more than INR 5,000.
- No late fee applicable on IGST

## **Interest Applicable on Defaulter**

- Interest @ 18% is applicable on the defaulter.
- Interest is computed by the taxpayer on the amount of tax due for the payment.
- Interest is computed for the period from the day just after the due date of return filing to the date when tax is paid.

A GST Return is a document that contains all information about GST invoices, payments, and receipts for a given time. A taxpayer is required to report all transactions relating to the business's income, which would be used by the authorities to determine the amount of tax due. On the GSTN's official site, business owners can file GST online. While filing GST returns, the registered dealer requires the following details for the concerned period.

- Total sales.
- Total purchases.
- Output GST (GST paid by customers.)
- ITC or Input Tax Credit (GST paid by the business for purchases.)

If filed, a licensed dealer can check the status of their GST Return filing online and make any required adjustments. Before you begin the GST return filing process, you must also understand and pick the appropriate form. Under the GST regime, there are 11 different forms of returns, each with its objective and deadline. If you are reporting reports of outward supplies of taxable items, for example, you must file GSTR-1 by the 10th of every month. Choose the required GST form and file GST online by the due date once you have this information and your GST number.

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#### **11.4 TYPES OF GST RETURNS**

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<b>S.No</b>	<b>Return</b>	<b>Particulars</b>
1.	<b>GSTR 1</b>	Carries details of taxable goods or services, or both as well as that of outward supplies.
2.	<b>GSTR 2</b>	Carries details of inward supplies related to taxable goods and/or services, along with ITC claims.
3.	<b>GSTR 3</b>	Includes details of monthly returns based on finalised detail related to inward and outward supplies. It also includes details of total tax payable.
4.	<b>GSTR 4</b>	Carries details related to Quarterly Return filing, specifically for compounded tax liabilities of specific individuals.
5.	<b>GSTR 5</b>	Includes details of GST return filing for non-resident foreign individuals.

6.	<b>GSTR 6</b>	Serves as the form for Input Service Distributors to file returns.
7.	<b>GSTR 7</b>	Serves as the form facilitates Return filing for authorities initiating TDS.
8.	<b>GSTR 8</b>	Carries supply details for e-commerce operators along with the tax amount collected as per sub-section 52.
9.	<b>GSTR 9</b>	Serves as the form to file Annual Returns.
10.	<b>GSTR 9A</b>	Includes details to file Annual Returns relative to Compounding taxable individuals registered u/s 10.

### Steps to File GST Return Online

- 11.4.1 Make sure you're GST-registered and have your 15-digit GST identification number, which is calculated using your state code and PAN. If you do not already have this number, you must first register online to receive it.
- 11.4.2 Next, visit the GST portal.
- 11.4.3 Click on the 'Services' button.
- 11.4.4 Click on 'Returns dashboard' and then, from the drop-down menu, fill in the financial year and the return filing period.
- 11.4.5 Now select the return you want to file and click on 'Prepare online'.
- 11.4.6 Enter all the required values including the amount and late fee, if applicable.
- 11.4.7 If you've completed all of the fields, press 'Save,' and a progress message will appear on your computer.
- 11.4.8 Now click on 'Submit' at the bottom of the page to file the return.
- 11.4.9 Scroll down and press the 'Payment of tax' tile until the status of your return changes to 'Submitted.' Then, click on 'Check balance' to see your cash and credit balances, so you know how much tax you owe for each minor head. To clear your debts, you must first decide the amount of credit you want to use from the credit that is already available. Then, to make the invoice, click on 'Offset liability.' When a confirmation message appears, select 'OK.'
- 11.4.10 Finally, pick an approved signatory from the drop-down list and check the box against the declaration. After that, click on either 'File form with DSC' or 'File form with EVC,' and then 'Proceed.' Make a payment for your GST in the following step.

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## 11.5 INPUT TAX CREDIT

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sThe term "input tax credit" refers to subtracting taxes paid on inputs from taxes due on production. The GST paid on any supply of services or products to a taxable

individual is known as Input Tax. The definition is not entirely new; it existed before the introduction of the GST indirect tax regime (service tax, VAT and excise duty). Its use has now been broadened as a result of the GST. Input tax credits for Central Sales Tax, Entry Tax, Luxury Tax, and other taxes were previously unavailable.

Manufacturers and service providers were also unable to claim the Central Excise tax. Cross-crediting of VAT against service tax/excise or vice versa was not permitted before the introduction of the GST. However, since these taxes will be combined into one, there will be no limitation on setting off this input tax credit under GST. The requirements for claiming Input Tax Credit under GST are a key aspect of every business's tax liability settlement. Input Tax Credits do not apply to all forms of inputs, and each state or nation may have its own set of laws. A dealer who has purchased products to resell may be eligible for an input tax credit.

The cornerstone of GST is the tax credit, which is a significant source of concern for registered persons. This is generally consistent with the pre-GST era. These guidelines are very strict and precise in their application. Take, for example, the case of a maker. The final product is subject to a tax of INR 450. INR 300 is the amount of sales tax that has been paid. The INR 300 input credit you argue is offset by INR 150 in final taxes.

What is the time limit to avail GST ITC?

A registered taxable individual may assert ITC in a particular way and within a certain time frame. The table below describes the various scenarios in which inputs can be stated for semi-finished, stock or finished products.

<b>Situation</b>	<b>ITC claims a day for semi-furnished goods/stock/finished goods (held on a preceding day)</b>
If a person has applied for registration or is liable to register or is granted registration	Day from when he is liable to pay taxes
When a person takes voluntary registration	Registration day
When a taxable registered person stops paying taxes in a composition levy scheme	Day from when he is liable to pay tax normally u/s 7.

The input tax credit can only be claimed for the above-mentioned circumstances if it is claimed within one year of the tax invoice date of issue for the supply.

For any other cases, ITC must be claimed earlier of the following-



- Furnishing of annual return or
- Due date of filing the monthly return (GSTR-3) for the next financial year's September month.

**Example-** For the invoice dated 10/11/2017, ITC must be availed earlier of the following dates –

- The due date for September 2018 return – 20th October 2018
- Annual return filed (assumed) – 10th November 2018
- Thus till 20th October 2018, ITC must be availed.

### **11.5.1 How to calculate Input Tax Credit?**

Let's consider an example of how to calculate Input Tax Credit:

Assume you own a business. The service or good you sell is subject to an 18% levy. Throughout your business, you use input services or products. The tax you owe (of 18%) will be offset by the taxes you already paid on the purchase of these inputs. Manufacturers only charge taxes on the value-added, not on the overall commodity value.

Consider the case of a steel utensil maker who makes spoons, bowls, and other utensils. Assume the manufacturer purchased INR 500 worth of raw steel and INR 100 worth of other raw materials to make a pressure cooker. Assume that the steel-related GST is 18 per cent. Assume that the GST he received was equal to 28% of the cost of such raw materials.

As a result, the producer spent Rs. 28 on other raw materials and Rs. 90 on raw steel as inputs. As a result, the producer paid INR 118 in total input tax. After estimating the cost of making a steel pressure cooker from raw materials and factoring in a fair profit, he decided to sell the pressure cooker to a distributor for INR 800 + GST. Assume that the steel utensil is subject to an 18% GST. It will now be taxed at INR 144. As a result, the pressure cooker will be invoiced for INR 944 by the seller.

As a result, the producer receives INR 144 as GST from the dealer on each sale. During the purchasing of his input raw materials, the producer paid INR 118 in GST. As a result, the producer can now claim a credit of INR 118 for GST paid on inputs and deposit the difference of INR 26 with the government out of the INR 144 in GST.

The Input Tax Credit is available at all levels of the supply chain; manufacturers and distributors owe GST and can demand the credit.

### **11.5.2 How to claim Input Tax Credit (ITC)?**

The following conditions have to be met to be entitled to Input Tax Credit under the GST scheme:

1. You must be a taxable person who is registered with the IRS.
2. Input Tax Credit can only be claimed if the goods and services obtained are used for business purposes.
3. Input Tax Credits are taxable and can be claimed on exports/zero-rated supplies.

4. If the constitution of a licenced taxable person changes as a result of a merger, sale, or transfer of a company, the unused Input Tax Credit is transferred to the combined, sold, or transferred business.
5. As per the model GST rule, one may provisionally credit the Input Tax Credit in his Electronic Credit Ledger on the popular portal.
6. To receive the Input Tax Credit, you'll need supporting documents such as a debit note, a tax invoice, and a supplementary invoice.
7. An Input Tax Credit may be obtained if goods and services are received.
8. The Input Tax must be paid using an electronic credit/cash ledger.
9. You must file all GST returns, including GST-1, 2, 3, 6, and 7.

### 11.5.3 How Input Tax Works Under GST

Suppose Mr A is a seller. He sells goods to Mr B. The buyer Mr B is now eligible to claim the purchase credit using his purchase invoices.

#### This is how it works:

- Uploads all of his tax invoices in GSTR-1 format.
- Mr A's information is automatically filled or mirrored in GSTR-2A.
- When Mr B files his GSTR-2 returns, which are nothing more than the particulars of his purchase, the same information will be mirrored.
- The particulars of these are then approved and acknowledged by Mr B, and consequently, the sales tax is applied to Mr B's 'Electronic Credit'. He will use this to change it later for future production tax liability and obtain a refund.

### 11.5.4 How to utilize the Input tax credit?

In GST we have three types of taxes CGST, IGST, and SGST/UTGST.

For the inter-state supply of goods/ services, IGST is charged.

For the intra-state supply of goods/services, CGST and SGST/UTGST are charged.

While making payment for the above taxes, the input tax credit will be allowed in the following manner:

Credit	1st to be utilized for payment of	Balance if any
CGST	CGST	IGST
IGST	IGST	CGST and then SGST/UTGST
SGST/UTGST	SGST/UTGST	IGST

### 11.5.5 Documents and forms required to claim Input Tax Credit?

Each applicant will require the following documents to claim Input Tax Credit under GST:

- According to the GST rule, the supplier received an invoice for the supply of services and products or both.
- If the tax payable or taxable value listed in the invoice is less than the tax

payable or taxable value on those products, the supplier will issue a debit note to the receiver.

- Invoice of entry.
- According to the GST invoice regulations, the ISD (Input Service Distributor) must issue a credit note or invoice.
- In certain cases, an invoice is given in place of a tax invoice, equivalent to a bill of supply. If the sum is less than INR 200, or if the reverse charges are imposed by the GST statute.
- A supplier issued a bill of supply for goods and services or both as per the GST invoice rules.

When filing the GSTR-2 form, the above documents should be prepared by the GST invoice regulations. Failure to submit these forms could result in the request being rejected or resubmitted. Input Tax Credit cannot be claimed for taxes paid on goods and services or both due to any fraud or order for the demand raised, suppression of evidence, or willful misstatement. The input tax credit is supposed to minimize the total taxes paid on the commodity since it will be available to the seller at each point. As a consequence, if the input credit mechanism works well, final consumers can benefit from lower costs.

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## **11.6 MATCHING, REVERSAL AND RECLAIM OF INPUT TAX CREDIT**

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### **1. ITC Mismatch for Issue of Scrutiny Notices**

Issues related to the unavailability of Input Tax Credit (ITC) are some of the major concerns for several taxpayers in India. The basic meaning of mismatched ITC can be understood as:

- The difference between the credit amounts reported on Forms GSTR 3B and GSTR 2A is
- Disparities between GSTR 1 and GSTR 3B forms
- There is a difference between the amount of claimed provisional credit and the amount of claimable real credit (usually arises during transition stages)

Any of these mismatches which are noticed in returns will lead to the issuance of scrutiny notices by officers to taxpayers.

### **2. Where Do Officers Communicate the Differences Noticed in Returns?**

- Discrepancies in filed returns discovered by an approved officer will be communicated to the respective taxpayer via Form GST ASMT-10. This form will contain the following information:
- Observations of the officer
- Time allotted for the taxpayer to clarify his or her stance in response to the notice
- The incorrect tax sum and the explanation for the discrepancy (optional)

### **3. What Actions Can Receivers of Notices Take?**

Upon receiving the notice, taxpayers can accept the notice or reject the notice:

- **Accepting the Notice:** The taxpayer must respond to the notice in Form GST AMT-11 within 30 days of receiving it, or within the time frame specified in the notice (whichever is earlier). The government may communicate its acceptance of this response in Form GST AMT-12.
- **Rejecting the Notice:** If the taxpayer does not respond to the notice, it would be assumed that the taxpayer has given no excuse or reason. The government will proceed against the taxpayer in compliance with the legislation to recover the mismatched sum of ITC. For claiming the ITC incorrectly, the taxpayer can be paid an interest rate of 18%.

#### 4. Discrepancy Rectification and ITC Reversal

Any discrepancy which arises in returns may be rectified in the following manner:

- **The excess claim of ITC concerning supplier's declaration OR Supplier has not declared outward supply:** If there is a difference between the ITC argument and the supplier's declaration in returns, the receiver and the supplier will be informed. When the supplier receives the communication, he or she must correct the inconsistency in legitimate returns. If the supplier does not correct the error, the excess ITC asserted will be applied to the recipient's output tax liability the following month.
- **Duplication of ITC claim by recipient:** In the case that an ITC argument is duplicated, the receiver will be informed. If the problem isn't fixed, the previously claimed ITC will be applied to the recipient's output tax liability for the month in which the duplication was discovered. In the event of additions, the receiver would be required to pay interest of up to 18% on the sum applied to the output tax liability from the date the ITC was claimed to the date the additions in returns were made.

#### 5. ITC Reclaim

ITC reclaim refers to reclaiming ITC that had previously been reversed due to an inconsistency in the ITC declared by the supplier in his returns, ITC claimed duplication or GST rules. Only if the invoice and/or debit note information is declared in the returns for the time in which the supplier found the discrepancy (omission or incorrect entries), or when the officer communicated the discrepancy to the supplier, can the supplier make an ITC argument.

Any interest paid on previously claimed mismatched ITC will be refunded to the recipient's Electronic Cash Ledger. However, if an ITC claim is duplicated, no refund will be provided because it is against GST regulations.

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### 11.7 GST REFUND

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If the GST charged exceeds the GST liability, the case of requesting a GST refund typically occurs. To prevent misunderstanding, the method of requesting a refund under GST is standardised. The procedure is performed online, and time limits have

been defined.

Refunds are available in a variety of instances. Here are a few of them: Excessive tax payment is made as a result of a mistake or omission.

- Due to the production being tax-exempt or nil-rated, the dealer exports (including considered export) goods/services to demand a reimbursement or refund ITC accumulation.
- Taxes charged on sales made by embassies or UN bodies are refunded.
- International Tourists Get a Tax Refund
- Provisional evaluation is now complete.

### 11.7.1 How to Calculate GST Refund:

Let's take a simple case of excess tax payment made.

Mr B owes Rs 50000 in GST for September. Mr B, on the other hand, made a GST payment of Rs 5 lakh by mistake.

Mr B has now made an excess GST payment of Rs. 4.5 lakh, which he can demand as a refund. The refund must be claimed within two years of the payment date.

A refund application must be made within two years of the applicable date. Every case has a different relevant date.

Here are the relevant dates for some cases –

Reason for claiming GST Refund	Relevant Date
Excess payment of GST	Date of payment
Export or deemed export of goods or services	Date of dispatch/loading/passing the frontier
ITC accumulates as output is tax-exempt or nil-rated	Last date of the financial year to which the credit belongs
Finalization of provisional assessment	The date on which tax is adjusted

### 11.7.2 How to Claim GST Refund

The refund application has to be made in Form RFD-01 (to be certified by a Chartered Accountant or a cost accountant) within 2 years from the “relevant date.” This relevant date is different for different scenarios.

- When goods are shipped by air or sea, the applicable date is the date on which the ship or aircraft departs from India.
- If goods are transported by land vehicle, the applicable date is the date on which the goods cross the country's land border.
- When goods are shipped by post, the relevant date is the date the goods are

dispatched from the Post Office.

- If the supply contains services and they are finished before payment is received, the payment collection date is the appropriate date.
- Similarly, when services are made after an advance has been issued, the applicable date is the invoice date.
- The correct date for a refund claim for an excess input tax credit that has not been used is the end of the financial year for which the refund claim is being issued.
- Where goods are supplied for deemed exports, such as supply to an SEZ or 100 per cent EOU, the applicable date is the date on which the return for such deemed exports is filed.
- Where a refund is due to an order entered in the appellant's favour, the appropriate date is the date of the order.
- If tax was paid after a provisional assessment and a refund is now due, the correct date is the date when the tax was changed.

It is crucial to note these important dates because failure to file refund applications within the defined time frame which result in credit blockage.

Following the submission of the application, an acknowledgement in Form RFD-02 will be auto-generated for future reference and sent via email and SMS. If the system discovers any errors in the refund application, the taxpayer will be sent Form RFD-03 to correct his application.

There is also certain documentation that must be submitted with the electronic refund application. If the refund sum is less than Rs. 5 lakhs, the taxpayer must sign a document stating that the refund amount has not been used by or transferred to any other individual. If the amount in question exceeds Rs. 5 lakhs, a record proving that the amount was paid by the taxpayer must be attached in addition to the declaration above.

When a United Nations body, a Consulate, or a foreign embassy files a refund claim, the application for a refund must be submitted within 90 days of the end of the quarter in which the goods or services were procured. Form RFD-10 should be used to submit the document.

Note: If the refund sum is less than Rs. 1,000/-, there would be no refund.

- **Scrutiny of the refund application**

A refund application will take about 30 days to process, according to industry standards. If a refund application crosses a certain threshold, it will be subjected to an audit. If the same qualifies for a refund, an order will be issued to that effect, or the amount will be transferred to the Consumer Welfare Fund if it meets the criteria of "unjustly enriching" the taxpayer. A Chartered Accountant may be required to certify the above declaration.

- **Refund Order**

An authorised officer may issue a provisional refund order in Form RFD-04 for a sum equal to 90% of the refund claim when a taxpayer requests a refund of funds resulting from exports of goods or services. If a taxpayer qualifies for a provisional refund, the following conditions must be met:

- Has a GST enforcement rating of more than 5 out of 10 and has never been prosecuted for evading taxes over Rs. 250 lakhs over 5 years.
- Regarding refunds, no appeal or investigation is pending.

If the authorised officer believes the documents comply with the law, he can issue a final order to that effect.

The government is required to keep a cash ledger for the benefit of the taxpayer. It will be updated regularly with the figures that have been listed or declared in the returns. If the credit does not fit the ledger, the credit would be denied. In the case of income tax, it's identical to Form 26AS, where the number of TDS and TCS corresponds to the Form.

In all such cases, the refund request must be processed within 60 days of the date of submission. If the refund is found to be correct, the approved officer will issue a final order in Form RFD-05 within 60 days of the application date. If the officer fails to issue an order during the 60-day limit, the taxpayer will be charged interest at the rate of 6% per year for the time between the expiration of the 60 days and the issuance of the refund.

When the refund has to be adjusted against the taxable amount, then Form RFD-06 shall be passed.

Other forms that are important for refund claims:

- RFD-07: this is a show-cause notice for a complete rejection of a refund application
- RFD-08: Payment advice
- RFD-09: In the case of delayed payments, this is an order for interest on late payments.

### **11.7.3 Refund of Input Tax Credit**

There are 3 cases against which a refund claim can be made concerning the input tax credit. All the above scenarios covered refund emanating from certain specified transactions.

- If the products or services being supplied are zero-rated or GST-exempt, the input tax credit is left unused.
- When the input goods or services are taxed at a higher rate than the output goods or services, the accrued input tax credit can be taken as a refund.
- In the case of a partial reverse fee, the input tax credit cannot be used to cover

the production tax entirely.

Furthermore, when: Input emerges from GST paid on goods exported out of India that were taxable to excise duty, no refund against unutilized input tax credit can be issued. The advantage of duty disadvantage on excise duty has already been claimed by the supplier.

The method is exhaustive in and of itself, and if followed correctly, receiving a refund can be an easy and painless operation. It will transform the long-winded refund mechanism and improve the manufacturing or export industries. Those refunds, which used to take years to process, can now be obtained in as little as 60 days. This initiative was made possible by the GSTN's powerful IT system and foresight.

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## 11.8 LET US SUM UP

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A GST return is a document that includes all of the information regarding your sales, transactions, sales tax (output tax), and purchases tax (input tax) (input tax). You must pay the tax penalty that results from filing GST returns (money that you owe the government).

Under GST, a registered dealer has to file GST returns that include:

- Purchases
- Sales
- Output GST (On sales)
- Input tax credit (GST paid on purchases)

The tax charged by the consumer on the purchase of products or services is known as the input tax credit (ITC). The input tax credit is a tax charged at the time of procurement that is deducted from the debt owed on outward supplies. In other words, an input tax credit reduces the amount of output tax due on sales.

An individual is liable for a GST refund if he sells products at a lower tax rate and pays at a higher tax rate. When taxpayers pay more GST (Goods and Service Tax) than they owe under some circumstances, they can demand a GST refund via a simplified GST process.

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## 11.9 KEYWORDS

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- **Input Tax Credit:** The tax paid by the buyer on the purchase of goods or services. Such tax which is paid at the purchase when reduced from liability payable on outward supplies is known as input tax credit
- **Tax Collected at Source:** The tax payable by a seller which he collects from the buyer at the time of sale. Section 206C of the Income-tax act governs the goods on which the seller has to collect tax from the purchasers.



- **GSTN:** A nonprofit non-government company, which will provide shared IT infrastructure and service to both central and state governments including taxpayers and other stakeholders.
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### **11.10 FURTHER READINGS**

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
  - GST Manual: Taxman’s Publication Ltd., New Delhi.
  - GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
  - Mishra, Padhi and Bera – Text Books on GST & Practice, Vikas Publishing House Pvt. Ltd. New Delhi.
  - [www.profitbooks.net](http://www.profitbooks.net)
  - [taxguru.in](http://taxguru.in)
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### **11.11 MODEL QUESTIONS**

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**Q1:** Discuss the eligibility and the conditions for claiming ITC under GST.

**Q2:** Explain the manner of appointment of credit of inputs and input services using imaginary figures.

**Q3:** Write the procedure of claiming a GST refund.

**Q4:** Discuss the situations when a refund may arise under GST.

**Q5:** When can a person apply for a refund of taxes under GST?

**Q6:** Explain the various forms used for filing return under GST.

**Q7:** Write short notes on

- a) GSTR - 1 Form
- b) GSTR -2 Form
- c) GSTR -3B Form

**Q8:** What are the benefits or purpose of filing returns?

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## UNIT-12 GST ASSESSMENT

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### Structure

- 12.0 Learning Objectives
- 12.1 GST Penalties & Offences
- 12.2 Assessment & Audit under GST
- 12.3 Let us Sum up
- 12.4 Key Words
- 12.5 Further Readings
- 12.6 Model Questions

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### 12.0 LEARNING OBJECTIVES

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After studying this unit, you will be able to know

- Different forms used under GST
- Benefits of filing Returns
- Regular returns for a normal taxable registered
- Returns to be filled by other persons
- Matching of credit under GST

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### 12.1 GST PENALTIES AND OFFENCES

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The GST Act of 2017 established a single tax regime across India and established a legal structure to ensure that both large and small businesses adhere to the Act's requirements. 21 different offences have been mentioned as part of the legal structure for the GST Act's enforcement, as well as the relevant penalties under the GST Act. The main GST penalties and offences as established by the GST Act, as well as the appeals process for contesting orders issued by an appellate authority, will be discussed in the sections below.

#### **Offences under the GST Act**

Under the GST regime, 21 different crimes can result in fines, according to the GST Act. Of course, there are certain offences that, while not on the registry, are subject to GST fines that are determined on a case-by-case basis. The following is the list along with key details of these 21 GST offences:

#### **GST Offences related to Invoicing and Documentation**

- Issuing a false/incorrect invoice or failing to issue an invoice for goods/services that have been provided Issuing a GST invoice without providing goods/services
- Use of a GSTIN from a different GST registered person/entity to issue an invoice/document

- Transporting taxable goods without proper/adequate paperwork is prohibited.
- Failure to keep appropriate documents/records in compliance with the GST Act's requirements

### **GST Offences related to Fraudulent Intent**

- False information is given at the time of GST registration or at a later time
- Getting a GST refund by providing false details
- Falsification of documents/records or giving false information to avoid paying taxes
- Not registering for GST even though it is mandated by the GST Act
- Tampering with or disposing of goods attached, confiscated, or detained under the GST Act
- Knowingly supplying, transporting, or storing any goods that may be subject to GST confiscation.

### **GST Offences related to Tax Evasion**

- Tax evasion occurs as a result of underreporting/suppression of turnover.
- Failure to pay tax to the government within three months of the due date after receiving it from the recipient of goods or services
- Failure to pay tax to the government within three months of the due date, even though the tax was received in violation of the GST Act's provisions.
- Taking or using an Input Tax Credit (ITC) without receiving or providing products or services
- Failure to deduct tax, deducting less tax than is owed to the government, or failing to pay the tax owed to the government (Tax liability under subsection 2 of Section 52 of GST Act)
- Failure to deduct tax, deducting less tax than is owed to the government, or failing to pay the tax owed to the government (Tax liability under subsection 3 of Section 52 of GST Act)
- Taking/using input tax credit in violation of the GST Act's Section 20 and its sub-sections

### **GST Offences related to Obstruction**

- obstructing or stopping an officer from carrying out his or her duties in compliance with the GST Act
- Destruction or tampering with records or other tangible proof
- Providing false documents or failing to comply with a request for documents or information made by a GST Act-authorized officer

### **Minor Breach and Major Breach under the GST Act**

A minor violation is described as a situation in which the amount of tax involved is less than Rs. 5,000, according to current GST Penalties laws. A minor violation can also involve easily correctable reporting errors or omissions. Minor infractions are not subject to serious GST penalties under current rules, and the tax authorities can only issue a warning without imposing a monetary penalty if they so choose.

If the amount of tax involved reaches Rs. 5,000, the situation is regarded as a significant violation under the GST Act, and penalties under the GST Act, including prison terms, can be imposed based on the amount of tax involved. The minor vs. major violation provision is intended to assist companies, particularly those with small turnovers, such as SME, by ensuring that genuine errors are not penalized.

### **GST Penalties under the GST Act**

Fines for GST Penalties arising from a violation of the GST Act, 2017 vary depending on several factors, including the seriousness of the violation. The following are the applicable penalties under the act for some key offences:

<b>Type of GST Offence</b>	<b>Applicable GST Penalty Amount</b>
Delayed filing of GST Returns	Rs. 200 per day (Rs. 100 per day under CGST and an additional Rs. 100 per day under SGST) up to a maximum of Rs. 5000. Late fee not applicable to IGST unpaid by delayed filing
Not filing <u>GST Returns</u>	Higher amount among – Rs. 10,000 or 10% of the tax due under GST
Committing Fraud	Higher amount among – Rs. 10,000 or 100% of the tax due under GST (may include jail term for fraud cases of higher value)
Aiding and Abetting Fraud	Rs. 25,000 irrespective of whether the offender is GST registered or not
Charging wrong <u>GST rates</u> (a higher rate than actual)	Higher amount among – Rs. 10,000 or 100% of the tax amount due (applicable only if excess tax is not submitted with the government)
Not issuing an invoice	Higher amount among – Rs. 10,000 or 100% of the tax amount due
Not <u>Registering Under GST</u> (even though required to by law)	Higher amount among – Rs. 10,000 or 100% of the tax amount due
<b>Issuing incorrect invoice</b>	<b>Rs. 25,000</b>

### **GST Penalties for High-Value Frauds**

Under the GST Act, high-value frauds arise when the unpaid tax sum reaches Rs. 100 lakhs or more. While the monetary penalty under GST is 10% of the unpaid tax sum (as long as it is more than Rs. 10,000), high-value frauds can also result in a prison term. Following are the jail sentences as specified by the GST Act in addition to GST penalties:

- Jail term not exceeding 1 year if the tax amount involved is between Rs.

100 lakhs to less than Rs. 200 lakhs.

- Jail term not exceeding 3 years if the tax amount involved is between Rs. 200 lakhs to less than Rs. 500 lakhs.
- Jail term not exceeding 5 years if the tax amount involved is Rs. 500 lakhs or higher.

### **Penalty for Aiding and Abetting GST Fraud**

If a registered individual or organisation commits GST fraud with the assistance of another person (whether registered or unregistered), the GST penalty extends to all parties involved. This liability under the GST Act is currently set at Rs. 25,000, regardless of whether all parties are GST registered or not. The following are some key actions that constitute aiding and abetting GST fraud:

- Assisting any GST-registered entity or person in committing fraud
- Purchase/receipt of products and/or services when aware that it is in breach of the GST Act
- Failure to account for or substantiate every invoice that appears on the company's books
- Issuing invoices that do not comply with GST regulations
- Failure to appear in front of tax authorities after being called to a GST hearing

### **Offences without GST Penalties**

There are no GST penalties in the case of such offences, but these GST offences can result in interest at a prescribed rate (18 per cent annually) on the amount of tax owed. The following are some main cases where there is no GST penalty.

- There is no GST penalty if you charge the wrong GST, such as CGST/SGST instead of IGST. The licenced company or individual must pay the correct GST and receive a refund for any GST that was wrongly charged.
- There is no penalty under the GST Act for incorrectly filing GST returns, but the tax sum deficit is subject to interest at the rate of 18 per cent per annum.
- There are no fines for late invoice payments. However, any input tax credit received instead of such invoices is subject to reversal if the invoice is not paid within 6 months.
- There is no penalty under the GST Act for charging the incorrect GST rate (lower than the real rate), but the registered business/person must pay interest at an annual rate of 18 per cent on the tax shortfall.

### **Appeals Process under the GST Act**

There is an appeals process in place if a GST registered person/entity is dissatisfied with any GST penalties related to an order/decision made by a tax authority/official acting as an adjudicating authority under the GST Act. Regardless of the type of offence or the GST fines (monetary or otherwise) that apply in the case of the particular offence, the appeals process under the GST Act works in the same way. The following are the different levels of appeal available:

#### **First Appellate Authority**

The first appellate authority is the first court of appeal open to those seeking relief from an adjudicating authority's decision.

**Appellate Tribunal-** The GST Appellate Tribunal was established as a quasi-judicial body to mediate disputes and hear appeals against orders of the first appellate authority.

### **Appeal to High Court**

For those who disagree with an appellate tribunal's decision, state high courts are the next level of appeal.

### **Appeal to Supreme Court**

The Supreme Court of India, which is India's highest court, is the final court of appeal for any GST fines or other tax orders. Under current GST rules, the Supreme Court's decision on any GST sanctions, prison terms, or fines is final.

## **Offences & Penalties**

### **Offences**

There are 21 offences under GST. We have mentioned a few here. For the entire list of 21 offences please go to our main article on offences.

The major offences under GST are:

- Even though it is mandated by statute, not registering for GST. (For a list of those who are required to register under GST, see our article.)
- Providing products or services without issuing an invoice, or issuing a fake invoice
- The use of another bonafide taxpayer's GSTIN by a taxable individual to issue invoices.
- False information is given when registering for GST
- False financial statements, papers, or archives, as well as fake tax returns, are used to circumvent taxes.
- Obtaining refunds by deception
- Sales are being suppressed on purpose to avoid paying taxes.
- And if a taxpayer is disqualified, they can select the composition system.

### **Penalty**

If all of the crimes are committed, a penalty under GST must be charged. The legal principles that these penalties are founded on are also stated in the statute.

### **For late filing**

Late filing incurs a penalty known as a late charge. According to the Act, the late fee is Rs. 100 per day. As a consequence, it's 100 under the CGST and 100 under the SGST. The total cost per day will be Rs. 200. The upper limit is Rs. 5,000. If you file your IGST late, you will not be charged a penalty.

In addition to the late charge, interest at the rate of 18 per cent a year must be charged. The taxpayer must determine the tax to be paid. From the next day of filing to the date of payment, the period will be determined.

\*Subject to changes announced via Notifications. Check out for updates here

**For not filing** If you don't file a GST return, you won't be able to file any subsequent returns. **If the GSTR-2 return for August is not filed, the GSTR-3 return for September and subsequent returns for September will be rejected. As a result, late GST return filing will have a cascading impact, resulting in heavy fines and penalties.**

For the 21 offences with no intention of fraud or tax evasion

A person who fails to pay tax or makes late payments is subject to a penalty of 10% of the tax owed, with a minimum of Rs. 10,000.

Consider this: if tax is not paid or if a payment is made in error, a minimum penalty of Rs 10,000 must be paid. The overall penalty is equivalent to 10% of the unpaid tax.

For the 21 offences with the intention of fraud or tax evasion

A criminal must pay a penalty equal to the amount of tax evaded/short deducted, i.e. a 100% penalty, with a minimum of Rs. 10,000.

A criminal must pay a penalty equal to the amount of tax evaded/short deducted, i.e. a 100% penalty, with a minimum of Rs. 10,000.

Additional penalties as follows-

<b>Tax amount involved</b>	<b>100-200 lakhs</b>	<b>200-500 lakhs</b>	<b>Above 500 lakhs</b>
<b>Jail term</b>	<b>Up to 1 year</b>	<b>Up to 3 years</b>	<b>Up to 5 year</b>
<b>Fine</b>	<b>In all three cases</b>		

### **Inspection under GST**

The Joint Commissioner of SGST/CGST (or a higher officer) may have reason to believe that an individual suppressed any transaction or claimed excessive input tax credit, among other things, to evade tax. The Joint Commissioner will then (in writing) permit any other CGST/SGST officer to inspect the alleged evader's place of business.

### **Search & Seizure under GST**

The Joint Commissioner of SGST/CGST can order for a search. He will order a search based on results of inspection (or other reason) if he has *reasons to believe* –

- Several items could be seized.
- Any papers, books, or other items that have been hidden. These products can come in handy during court proceedings.

Such incriminating goods and documents can be seized.

### **Goods in Transit**

The person in charge of a vehicle carrying goods exceeding Rs. 50,000 is required to carry the following documents:

- Invoice or bill of supply or delivery challan
- Copy of e-way bill (hard copy or via RFID)

The proper officer has the right to seize and inspect goods and documents in transit. If the items, relevant records, and the vehicle transporting them violate the GST Act, they will be confiscated. Only after payment of the tax and penalty will the goods be released.

Before seizing the items, the tax officer must propose the alternative of paying a fine rather than seizing them.

### **Compounding of Offences under GST**

Compounding crimes is a quick way to avoid going to court. When the accused is charged with a crime in a criminal court, he or she must appear before the Judge via an advocate at each hearing. This is both costly and time-consuming.

Compounding eliminates the need for the accused to testify in person and allows them to be released after paying a compounding fee that cannot exceed the maximum fine allowed under GST.

Compounding will help you save both time and money. Compounding under GST is not available in cases where the amount exceeds one crore rupees.

### **Prosecution under GST**

The prosecutor is pursuing civil action against someone in connection with a criminal charge. An individual who commits an offence with the intent to defraud is subject to an indictment under the GST, i.e., criminal charges.

A few examples of these offences are-

1. Issuing an invoice without providing any products or services, thus obtaining input credit or a refund by deception
2. Obtaining a CGST/SGST refund by deceit
3. False financial statements, papers, or archives, as well as fake tax returns, are used to avoid paying taxes.
4. Under the GST, assisting another individual in committing fraud is prohibited.

### **Arrest under GST**

Any approved CGST/SGST officer may arrest an individual if the Commissioner of CGST/SGST believes he has committed a particular offence ([click here for the list of offences for which one can be arrested](#)).

The person who has been arrested will be told of the reason for his detention. In the event of a cognizable offence, he will appear before the judge within 24 hours. (Cognizable crimes are those for which the police may arrest a person without an arrest warrant.) Murder, theft, and counterfeiting are examples of serious crimes.

### **Appeals**

An individual who is dissatisfied with a decision or order made against him under the GST may file an appeal.



The First Appellate Authority hears the first appeal against an adjudicating authority's decision.

If the taxpayer is dissatisfied with the First Appellate Authority's decision, he or she can appeal to the National Appellate Tribunal, the High Court, and finally the Supreme Court.

A taxpayer can request an advance ruling under GST to avoid the lengthy process of appeal and litigation. Before beginning the proposed activity, the taxpayer seeks guidance from the GST authorities on GST care.

### **How to Approach the GST Revisional Authority**

In India, the Goods and Service Tax (GST) is a relatively new law. Although it has regulations for an entire indirect tax system ranging from taxation to asset seizure for compliance, it is not enforced in its entirety. The GST framework is being phased in, and with the appointment of a Revisional Authority, it is now on par with its direct tax counterpart. We will discuss the following matters about this topic:

- What is GST revisional authority?
- Who can approach the GST revisional authority?
- When can one approach the GST revisional authority?
- Who has the power to revise the decisions/orders?
- When is the revisional authority not able to exercise its power?
- Time limit to approach the GST Revisional Authority

#### **1. What is GST revisional authority?**

A Revisional Authority is a person who has the authority to request and review the records of any proceedings undertaken by a subordinate officer, as well as to perform any further investigation he sees fit. In the interest of revenue, the Revisional Authority may amend the original order, i.e., it can issue an order overruling the order of such officer.

#### **2. Who can approach the GST revisional authority?**

The Revisional Authority has the authority to determine whether or not to act in any given case. Either the Commissioner of State Taxes or the Commissioner of Union Territory Taxes has the authority to recommend that the Revisional Authority exercise its powers. The taxpayer will not be able to contact the GST Revisional Authority; instead, he will only be granted the opportunity to be heard if an order is issued against him.

#### **3. When can one approach the GST revisional authority?**

The GST Revisional Authority can only use his powers if he believes a decision or order issued by a subordinate officer is incorrect and detrimental to revenue and:

- Is illegal; or
- Is improper; or
- Certain material facts have not been taken into account

As a result, one can only approach the Revisional Authority if they have reason to

assume that a subordinate officer has issued an order that is incorrect in the sense that it is detrimental to revenue.

#### **4. Who has the power to revise the decisions/orders?**

The persons with the authority to revise the decisions/orders are as follows:

For decisions or orders passed by	Authorised Revisional Authority
Additional or Joint Commissioner	Principal Commissioner or Commissioner
Deputy Commissioner or Assistant Commissioner or Superintendent	Additional or Joint Commissioner

#### **5. When is the revisional authority not able to exercise its power?**

**The Revisional Authority cannot exercise its power in the following cases:**

- When an Appellate Authority, Appellate Tribunal, High Court, or Supreme Court has heard an appeal of the applicable order. The Revisional Authority, on the other hand, will make an order on any point that was not addressed in the appeal before one year from the date of the order.
- If necessary, the Commissioner has six months from the date of the order to direct his subordinate officer to file an appeal with the Appellate Authority. The Revisional Authority will not be able to exercise its authority until the six-month period has passed. However, within three years of the date of the appeal's order, the Revisional Authority will issue an order on any point that was not raised in the appeal.
- Where more than three years have passed since the passing of the order/decision sought to be revised.
- The relevant order has already been taken for revision in the past.
- The Revisional Authority has already passed an order.

#### **6. Time limit to approach the GST Revisional Authority**

When more than three years have elapsed since the date of the order/decision, the Revisional Authority cannot take up the case. Furthermore, the time limit for the Revisional Authority to pass an order in respect of any point not raised and subject to an appeal before the Appellate Authority, Appellate Tribunal, High Court, or Supreme Court is one year from the date of such order. As a result, the Revisional Authority must be notified within this period.

Where the decision/order sought to be amended includes a question on which the Appellate Tribunal or the High Court has rendered a decision in another proceeding and an appeal to the High Court or the Supreme Court against such Appellate Tribunal or High Court decision is pending, the following time expended shall not be taken into account:

- Between the date of the Appellate Tribunal's decision and the date of the High Court's decision; or between the date of the High Court's decision and the date of the Supreme Court's decision
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## 12.2 ASSESSMENT AND AUDIT UNDER GST

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- **Self-Assessment under GST (Section 59)-**

Every Registered person shall self-assess the taxes payable on supplies made during the tax period and file the return of each tax period as per section 39 of the CGST Act.

- **Provisional Assessment under GST (Section 60)-**

If a registered person cannot locate the Assessable Value on which tax must be measured or the applicable amount, the registered person may send a request to the proper officer to pay the tax using Provisional Assessment. The proper officer may issue an order specifying the rate and value on which tax must be paid on a provisional basis within 90 days of receiving the application and necessary documents.

The registered individual must execute the bond and provide surety or protection in the form of a bank guarantee that does not exceed 25% of the amount protected under the bond to benefit from Provisional Assessment. (Amount includes any IGST, SGST, CGST, UTGST, or Cess due in connection with the transaction.)

The proper officer must issue the final assessment order within six months of the date of the Provisional Assessment order. By recording the reason in writing, the Joint or Additional Commissioner may extend the date of the final assessment order by a maximum of another 6 months. The Commissioner may, however, extend the deadline for another four years.

After making all of the settlements stated in the final assessment order, the registered individual can apply for the release of protection. After ensuring that the registered individual has completed all of the settlements specified in the final assessment order, the proper officer may release the protection within 7 working days of receiving the application.

- **Scrutiny of Returns under GST (Section 61):**

When a return filed by a registered individual is chosen for review, the proper officer examines the returns using the details or data available to him, and if there is a difference between the return and the available information, the registered person will be notified of the discrepancy and allowed to explain it.

If no reasonable clarification is received within 30 days of the date of contact of the discrepancies, effective action will be taken against the registered person as per Section 65, 66, 67 and the dues or penalty if any will be determined as per Section 65, 66, 67 and the dues or penalty will be determined as per Section 65, 66, 67 and the dues or penalty will be determined as per Section 65, 66, 67 and the dues or penalty will be determined as per Section 65 if any as per Section 73, 74.

- **Assessment of Non-filers of Returns and Unregistered person under GST (Section 62 and 63):**

If a registered person fails to file returns by the specified sections and rules, or a taxable person fails to obtain registration or has their registration cancelled and is liable to tax, the proper officer assesses the tax liability to the best of his judgement and issues an order of best judgement assessment within 5 years of the date of the Annual Return of the taxable person. Before issuing the best judgement assessment order, the registered person must be allowed to be heard, and the registered person must file a reply within 15 days of receiving the notice of best judgement assessment.

- **Assessment in Special Cases under GST (Section 64):**

If the proper officer has proof that there are any anomalies in the tax liability, he can determine the tax liability in the interest of the revenue with the approval of the Joint Commissioner or Addl. Commissioners.

If the taxable person on whose behalf the tax obligation is levied is unknown, the person in charge is responsible for paying the assessed tax and all other dues.

- **Audit by Tax Authorities under GST (Section 65):**

The Commissioner, or any other officer designated by him by general or special order, may audit a registered individual for the period specified in the order. The audit must be performed at the registered person's place of business, and the registered person must obtain a copy of the order at least 15 days before the audit date.

Within three months of the audit's start date, the proper officer must conclude the audit. With the Commissioner's approval, the audit duration may be extended for a maximum of 6 months. Within 30 days of the completion of the audit, the proper officer must report all results and the reasons for them.

Any default that has been deducted during the audit shall be treated according to Section 73 or 74.

- **Special Audits (Section 66):**

If the Assistant Commissioner discovers any deficiencies during a Scrutiny, Enquiry, Inquiry, or another proceeding, he can, with the prior approval of the Commissioner, order the registered individual to have his books of accounts reviewed and audited by a CA or CMA nominated by the Commissioner.

The audit must be completed and a report sent to the Assistant Commissioner within 90 days of the date of the order. On the request of a registered individual, CA, or CMA, the audit duration may be extended for another 90 days.

Before moving against the registered person using material collected during the audit, the registered person must be allowed to be heard.

- **Form Number and Description used under Assessment and Audit:**

FORM NO.	Description

GST ASMT 01	Application for Provisional Assessment
GST ASMT 02	Additional Documents or Details demand by Proper officer against ASMT 01
GST ASMT 03	Reply file against ASMT 02
GST ASMT 04	Order Pass to Allow for Provisional Assessment
GST ASMT 05	For execute the bond and furnish the security through bank guarantee
GST ASMT 06	Calling of Information by the proper officer for Final Assessment
GST ASMT 07	Final Assessment Order
GST ASMT 08	Application for release of security from the proper officer
GST ASMT 09	Order pass for releasing of security
GST ASMT 10	Notice of discrepancies occurred at the time of Scrutiny of Returns
GST ASMT 11	Reply against ASMT 10
GST ASMT 12	Intimation by the proper officer against reply filed in ASMT 11
GST ASMT 13	Order of Assessment as per Section 62
GST ASMT 14	Notice for making the best judgment Assessment
GST ASMT 15	Order of Best Judgment Assessment after giving the opportunity of being heard
GST ASMT 16	Order of Summary Assessment made under Section 64
GST ASMT 17	Application for Withdrawal of the summary Assessment
GST ASMT 18	The order passed against ASMT 18
GST ADT-01	Notice to the registered person for intimating about Audit.
GST ADT-02	Inform the findings of the Audit by the proper officer to the registered person
GST ADT-03	Notice about special audit to the registered person
GST ADT-04	Inform the findings of the Audit by the proper officer to the registered person

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### 12.3 LET US SUM UP

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The main GST penalties and offences as established by the GST Act, as well as the appeals process for contesting orders issued by an appellate authority. There is an appeals process in place if a GST registered person/entity is dissatisfied with any GST penalties related to an order/decision made by a tax authority/official acting as an adjudicating authority under the GST Act.

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### 12.4 KEYWORDS

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- **GST Revisional Authority:** Revisional Authority” means an authority appointed or authorised for revision of decision or orders as referred to in section 108. Those caught **evading** taxes are generally subject to criminal charges and substantial penalties.
- **Tax Evasion:** An illegal activity in which a person or entity deliberately avoids paying a true tax liability.

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### 12.5 FURTHER READINGS

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman’s Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikas Publishing House Pvt. Ltd. New Delhi.
- [www.profitbooks.net](http://www.profitbooks.net)
- [taxguru.in](http://taxguru.in)

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### 12.6 MODEL QUESTIONS

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**Q1:** Discuss the penalties and offences under GST.

**Q2:** Write the search and seizure under GST.

## **Block- 4**

### **GST Council and Regulatory Framework**

**Unit-13: GST Council**

**Unit-14: Role of CBEC**

**Unit-15: GST and Technology**

**Unit-16: National Anti-Profitteering Authority in GST and Compliance Rating**

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## UNIT-13 GST COUNCIL

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### Structure

- 13.0 Learning Objectives
- 13.1 Introduction
- 13.2 GST Council Meeting
- 13.3 Role of GST Council
- 13.4 Functions of GST Council
- 13.5 Let us Sum up
- 13.6 Key Words
- 13.7 Further Readings
- 13.8 Model Questions

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### 13.0 LEARNING OBJECTIVES

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After studying this unit you should be able to know

- GST Council and its role in implementing GST in India
- Meeting of GST Council
- Role, functions, and powers of GST Council

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### 13.1 INTRODUCTION

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The GST council, the main decision-making body tasked with making all critical GST decisions, will include representatives from the federal government, as well as all state governments and UTs with legislatures.

#### **History of GST Council:**

A constitutional bill to enact GST was introduced in parliament and approved by the Rajya Sabha on August 3, 2016, and the Lok Sabha on August 8, 2016. This was approved by more than 15 states, and the President then gave his assent to "The Constitution" (one hundred and first amendment)

On the 8th of September 2016, the “Act of 2016” was passed. The GST council was to be established by the president within 60 days of the commencement of Article 279 A, according to article 279 A (1) of the amendment institution. On the 10th of September 2016, the notification to put Article 279 A into force with effect from the 12th of September 2016 was issued. Since then, the GST council has been established as a statutory body to decide on GST-related matters.

Under Article 279A of the Constitution, a GST Council has been established, consisting of the Union Finance Minister (who will serve as the Council's chairman), the Minister of Revenue, and the State Finance or Taxation Ministers, to make recommendations to the Union and the States on the GST.



- Taxes, cesses, and surcharges imposed by the Union, States, and local governments that may be included in the GST;
- The products and services that may be subject to the GST or may be excluded from it;
- Model GST Laws, Levy Principles, IGST Apportionment Principles, and Place of Supply Principles;
- The annual turnover rate below which goods and services are excluded from GST;
- The prices include GST bands and floor rates;
- Any special rate or rates for a limited time to collect extra funds in the event of a natural disaster or calamity;
- Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh, and Uttarakhand; and any other matter relating to the GST that the Council may decide.

The Goods and Services Tax Council constituted under Article 279A of the Constitution is defined as "Council" in Section 2(36) of the Central Goods and Services Taxes Act, 2017.

The GST Council's mechanism will ensure GST harmonisation between the Centre and the States, as well as among the States.

Now, since various GST provisions need to be adopted based on the recommendations of the GST Council, which is a body composed of the Centre and States represented by their Finance Ministers, the Centre and States cannot take opposing positions when enacting GST laws.

### **Nature of GST Council**

Since it performs both legislative and administrative duties as delegated by Parliament, the GST Council would be a quasi-legislative –cum – administrative body.

### **Decisions of GST Council**

Any decision of the GST Council must be made at a meeting by a majority of not less than 3/4th of the weighted votes of the Members present and voting, according to the Constitution (One Hundred and First Amendment) Act of 2016.

### **Voting:**

The vote of the Central Government shall be worth 1/3 of the total votes cast, and the votes of all state governments together shall be worth 2/3 of the total votes cast in that meeting.

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## **13.2 GST COUNCIL MEETING**

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- **The quorum of GST Council Meeting:** A proper meeting of the members of the GST Council requires that at least half of the total number of members be present.
- **Decision by Majority:** Any decision taken during the meeting should receive at least a 75% majority of the weighted votes of the members present and voting. There is a principle in "article 279A" that splits the total weighted vote cast between the federal and state governments.
- **Weightage to Center to State:** 279th post there is a concept that splits the overall

weighted vote cast between the federal and state governments.

- The vote of the Central Government would be weighted at one-third of all votes cast.
  - The votes of the State Government will be weighted at two-thirds of all votes cast in the conference.
- **The decision of Meeting not to be declared invalid:** Any act, decision, or proceeding shall not be deemed null because of a deficiency that existed at the time of the GST Council's creation. i.e.
    - if there is any vacancy remained in the Council
    - if there is any defect in the constitution of the Council
    - if there is any defect in the appointment of a person as a member of the Council
    - if there is any procedural non-compliance.

### **Dispute Mechanism**

According to the Constitution (One Hundred and First Amendment) Act of 2016, the GST Council must provide a mechanism to resolve any disputes.

Between the Government of India and one or more States, or between the Government of India and one or more State(s) on one side and one or more other States on the other; or between two or more States, arising out of the Council's recommendations or implementation thereof.

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## **13.3 ROLE OF GST COUNCIL**

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The GST Council will be in charge of tax collections, which currently total more than Rs.13 trillion. Also, the Council is establishing itself as a forum for members from 32 states and union territories to discuss topics other than indirect taxation, which has sparked the concept of a new horizontal federal structure.

The GST Council, according to Article 279A of the amended Constitution, is a joint forum of the Centre and the States, consisting of the following members: -

Union Finance Minister:	Chairperson
The Union Minister of State, in-charge of Revenue, Min. of Finance:	Member
The Minister In-charge of Finance or	Members

Taxation or any other Minister nominated by each State Government	
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- 13.3.1 The Union, States, and local governments levy fees, cesses, and surcharges that may be included in the goods and services tax;
- 13.3.2 The categories of goods and services that may be subject to or excluded from the goods and services tax;
- 13.3.3 The principles of levy, apportionment of Integrated Goods and Services Tax, and the principles that control the place of supply are all covered in the Model Goods and Services Tax Laws.
- 13.3.4 The annual turnover rate at which goods and services are excluded from the GST;
- 13.3.5 The rates, which include goods and services tax floor rates and band
- 13.3.6 Any special rate or rates for a limited time to collect extra funds in the event of a natural disaster or calamity.
- 13.3.7 Special provisions for the states of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh, and Uttarakhand;
- 13.3.8 The date on which GST will be levied on petroleum crude, high-speed diesel, motor spirit (petrol), natural gas, and aviation turbine fuel.

The GST Council process will ensure harmonisation on various aspects of GST between the Centre and the States, as well as between the States themselves. The Constitution (One Hundred and First Amendment) Act, 2016, states that the GST Council will be motivated by the need for a harmonised GST system and the establishment of a harmonised national market for goods and services in carrying out its various functions.

Any decision of the GST Council must be made by a majority of not less than 3/4th of the weighted votes of the Members present and voting, according to the Constitution (One Hundred and First Amendment) Act, 2016. The votes of the Central Government will count for 1/3 of the total votes cast, while the votes of all the State Governments will count for 2/3 of the total votes cast in that meeting. In the meeting of the GST Council, a quorum of half of the total number of members is needed.

On 12th September 2016 the Union Cabinet under the Chairmanship of the Hon'ble Prime Minister approved setting up of GST Council and creation of its Secretariat as follows:

- 13.3.9 GST Council, as specified by Article 279A of the amended Constitution; GST Council Secretariat, with headquarters in New Delhi; Secretary (Revenue) as the GST Council's Ex-officio Secretary; GST Council Secretariat, with headquarters in New Delhi; GST Council Secretariat, with headquarters in New Delhi; GST Council Secretariat, with headquarters in New Delhi; GST Council Secretariat, with headquarters in New Delhi; GST Council Secretariat, with headquarters in New Delhi.

## Delhi; GST Council

13.3.10 The Chairperson of the Central Board of Excise and Customs (CBEC) will be a permanent invitee (non-voting) to all GST Council meetings.

13.3.11 In the GST Council Secretariat, there is one role of Additional Secretary to the GST Council.

13.3.12 Secretariat of the GST Council Commissioners (at the level of Joint Secretary to the Government of India).

The Cabinet has agreed to set aside sufficient funds to cover the GST Council Secretariat's recurrent and non-recurring costs, which would be borne by the federal government. Officers on deputation from both the Central and State Governments will work in the GST Council Secretariat.

### **Powers and Functions**

The GST Council must be formed by the President within 60 days of the commencement of Article 279A, according to Article 279A of the Constitution. On the 10th of September, 2016, a notification was released to put Article 279A into force with effect from the 12th of September, 2016.

The GST Council is the primary decision-making body in charge of finalising the GST design. The Council's job is to make suggestions to the Union and the States. The Constitution (one hundred and first amendment) Act, 2016 states that the GST Council will be motivated by the need for a harmonised GST system and the establishment of a harmonised national market for goods and services in carrying out its various functions.

A decision is made by a three-fourths majority in the GST Council, with the Centre holding one-third of the vote and the states having the remaining two-thirds.

The GSTC has been notified with effect from 12th September 2016. GSTC is being assisted by a Secretariat.

- a) The Central Government would have the weightage of  $\frac{1}{3}$ rd of the total vote cast and
- b) The State Government would have a weightage of  $\frac{2}{3}$  rd of the total votes

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## **13.4 FUNCTIONS OF GST COUNCIL**

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The GST Council has played a key role in putting all states on the same page and achieving consensus on several complex issues where there were differing viewpoints. GST Council is one of the key support of the constitution, duly formed to carry out various functions for the GST rollout, including making recommendations to the union and states on the following issues.

Taxes ceases and surcharges levied by the centre, states and local bodies may be subsumed in the GST.

13.4.1 Goods and services that may be subject to GST or may be excluded from GST

13.4.2 Model GST legislation, levy principles, IGST appointment, and supply location principles

13.4.3 GST exemption threshold for products and services with a turnover below a certain amount.

13.4.4 Rates, including GST bands and floor rates

13.4.5 Special rates to help you collect extra funds in the event of a natural disaster.

13.4.6 Arunachal Pradesh, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Himachal Pradesh, Uttarakhand, and other states have special provisions.

As per Article 279A (4), the Council will make recommendations to the Union and the States on important issues related to GST, like

13.4.7 The goods and services that may or may not be subject to GST

13.4.8 Services that may be subjected to or excluded from GST are governed by these principles.

13.4.9 Limits of Threshold

13.4.10 GST rates, including floor rates with bands, special rates for collecting additional funds during natural disasters/disasters, and RNR rates

13.4.11 Special provisions, for example, for some nations.

13.4.12 Provisions for Transition

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## 13.5 LET US SUM UP

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- GST Council – Constitution (Article 279A of the Constitution)
- Chairperson – Union FM
- Vice-Chairperson - to be chosen amongst the Ministers of State Government
- Members - MOS (Finance) and all Ministers of Finance / Taxation of each State
- Quorum is 50% of total members
- Decision by 75% majority
- States - 2/3 weightage and Centre - 1/3 weightage
- Council to make recommendations on everything related to GST including laws, rules and rates etc.

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## 13.6 KEYWORDS

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- **GSTC:** Goods & Services Tax Council is a constitutional body for making recommendations to the Union and State Government on issues related to Goods and Service Tax.

- **Quorum:** A quorum is a minimum number of members of a deliberative assembly (a body that uses parliamentary procedure, such as a legislature) necessary to conduct the business of that group.
- **Turnover:** Turnover can mean the rate at which inventory or assets of a business “turn over” a.k.a sell or exceed their useful life. But turnover in accounting is how much a business makes in sales during a period.

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### 13.7 FURTHER READINGS

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman’s Publication Ltd., New Delhi. Suggested Books:
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikas Publishing House Pvt. Ltd. New Delhi.
- [www.lawbaba.in](http://www.lawbaba.in)
- [www.egstax.in](http://www.egstax.in)
- [www.gstcouncil.gov.in](http://www.gstcouncil.gov.in)
- [taxguru.in](http://taxguru.in)

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### 13.8 MODEL QUESTIONS

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- Q1:** Discuss the functions of the GST Council.
- Q2:** Write a short note on the GST Council Meeting.
- Q3:** What is the role of a GST Council?
- Q4:** Explain the meeting and decision making of a GST Council.

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## UNIT-14 ROLE OF CBEC

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### Structure

- 14.0 Learning Objectives
- 14.1 Introduction
- 14.2 Role of CBEC
- 14.3 Let us Sum up
- 14.4 Key Words
- 14.5 Further Readings
- 14.6 Model Questions

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### 14.0 LEARNING OBJECTIVES

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After studying this unit, you will be able to know:

- The role and functions of CBEC

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### 14.1 INTRODUCTION

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“The Central Board of Excise and Customs (CBEC) is a division of the Department of Revenue in India's Ministry of Finance. It is responsible for the formulation of policy on the levy and collection of Customs and Central Excise taxes, the prevention of smuggling, and the regulation of Customs, Central Excise, and Narcotics matters within the CBEC's jurisdiction. Custom Houses, Central Excise Commissionerates, and the Central Revenues Control Laboratory report to the Board, which is the administrative authority for its subordinate organisations.”

CBEC has been renamed as **CBIC: Central Board of Indirect Taxes and Customs**

The CBEC is actively involved in the drafting of GST legislation and procedures, especially the CGST and IGST laws, which will be the sole domain of the government. In this section, the CEBC has trained itself to meet the formidable implementation challenges. The number of taxpayers has increased dramatically. CBEC's current IT infrastructure has been appropriately scaled to accommodate such vast amounts of data.

14.1.1 **Saksham Project under CBEC:** Workflow applications such as ACES (Automated) Central Excise and Service Tax) will involve reengineering based on the legal requirements and procedure of GST. The name of the CBEC's GSTIT project is "SAKSHAM," with a total project value of Rs 2256 crores.

14.1.2 **Training to Officers of CBEC:** For smooth and efficient implementation of

GST, it was also felt that the organisational framework and human resource deployment needed to be reviewed. After careful deliberation and study, a working group submitted a report that was approved by the government and has since been implemented.

Human resource expansion will be needed to manage a broad GST taxpayer base spread across the world. Capacity building for departmental officers, especially in the fields of accounting and information technology, must be prioritised. Under the direction of NACIN, a massive four-tier training curriculum has been implemented. More than 60,000 officers of the CBEC and commercial tax officers of state governments will be trained on GST law and procedures as part of this training programme. Officers from the Comptroller of the Auditor General's office are now taking part in this training programme and receiving training.

It is anticipated that a significant reform like GST will be popularised and familiarised among trade and industry, which are key stakeholders in the reform's effective implementation.

- 14.1.3 **Administration of CGST and IGST Law:** CBEC would be responsible for the administration of the CGST and IGST Law.
- 14.1.4 **Administration of Excise Duty:** Furthermore, the BCEC will continue to administer the excise duty system for the levy and collection of Central Excise duty on five petroleum products and tobacco products.
- 14.1.5 **Levy & Collection of Custom Duties:** CBEC will also continue to be in charge of customs duties levy and collection.
- 14.1.6 **Enquiry on Anti - Profiteering cases:** CBEC's Director General of Safeguards has been tasked with conducting a thorough investigation into anti-profiteering cases and making a recommendation to the National Anti- Profiteering Authority.
- 14.1.7 **Instrumental in monitoring GST implementation challenges:** The CBEC has played a key role in the GST implementation. It had established a feedback and action space, which monitored the taxpayer's GST implementation issues and served as a direct link between the taxpayer and the government.

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## 14.2 ROLE OF CBIC

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The Central Board of Indirect Taxes and Customs (CBIC) is India's nodal national agency in charge of Customs, GST, Central Excise, Service Tax, and Narcotics. The Customs and Central Excise Department was created in 1855 by the then-British



Governor-General of India to administer Indian customs laws and collect import duties and land revenue. It is one of India's oldest government agencies.

The Department of Revenue, Ministry of Finance, Government of India, is in charge of Customs and Central Excise / GST. The agency is staffed by ministerial staff who are selected through SSC matric level, SSC higher secondary, and SSC combined graduate level exams, as well as officers from the rank of inspectors who are selected through SSC combined graduate level exams and IRS officers who are selected through a civil service exam who begin their careers as Assistant Commissioners/Directors in the field and rise to the post of Chief Commissioners within 20–25 years.

The Central Board of Excise and Customs (CBEC) is a division of the Department of Revenue in India's Ministry of Finance. It is responsible for the formulation of policy on the levy and collection of Customs and Central Excise taxes, the prevention of smuggling, and the regulation of Customs, Central Excise, and Narcotics matters within the CBEC's jurisdiction. Custom Houses, Central Excise Commissionerates, and the Central Revenues Control Laboratory report to the Board, which is the administrative authority for its subordinate organisations.”

### **Functions of the Directorates-General/ Directorates/Commissionerates**

#### **(i) Various Commissionerates:**

The executive functions delegated by the Board are carried out by the Commissionerates of Customs and Central Excise, which are located throughout the country. 61 commissionerates are primarily responsible for Central Excise. There are four major Customs Houses (in Mumbai, Chennai, Calcutta, and Cochin), as well as 20 customs commissionerates located at international airports and other locations. There are 25 Appellate Commissionerates, which are located in major cities and other industrially significant areas.

The Narcotics Department is another significant subordinate office of the Board, headed by a Commissioner with headquarters in Gwalior and responsible for opium production, procurement, and prevention work. Furthermore, the Chief Controller of Factories, based in Gwalior, is in charge of the two Government opium and alkaloid factories in Ghazipur and Neemuch.

#### **(ii) Directorate General of Inspection and Audit, Customs and Central Excise :**

- To investigate how the Customs, Central Excise, and Narcotics Departments operate throughout the world.
- Via inspection and audit, as well as the establishment of procedures for smooth operation, suggest steps for improving its performance and rectification of significant flaws.
- To act as a key federal agency advising the Ministry of Finance and the CBEC on technical and administrative matters relating to the departments of Central

## Excise, Customs, and Narcotics.

(iii) **Directorate General of Revenue Intelligence:** It is responsible for researching and disseminating intelligence against smuggling, identifying organised groups of smugglers and areas vulnerable to smuggling, targeting intelligence against them, and their immobilisation, as well as liaison with intelligence and enforcement agencies in India and abroad for intelligence collection and in-depth investigation of smuggling.

(iv) **Directorate General of Anti-Evasion:** Investigation of cases of evasion of Central Excise duties, collection, collation, and dissemination of intelligence relating to evasion of Central Excise duties, studying of price structure, marketing patterns, and classification of commodities vulnerable to evasion of Central Excise duties, coordinating action with agencies such as Income-tax, etc. in cases involving evasion of Central Excise duties,

### (v) **National Academy of Customs, Excise and Narcotics**

- To provide direct hires with instruction and to Organise refresher courses for departmental officers.
- To assist in the formulation of training policies and their implementation by developing schemes and syllabi of studies for the training of direct recruits and departmental officers, as well as to assist in the implementation of policies approved by the CBEC.
- Under the auspices of UNDP, Organise study tours for Customs and Excise Officers from neighbouring countries.

(vi) **Directorate of Organisation and Management Services Customs and Central Excise:** To oversee functions such as process studies, job assessment, and staffing, as well as management services such as manpower preparation, for the customs and Central Excise and Narcotics Departments.

### (vii) **Directorate of Statistics & Intelligence**

- To collect and consolidate data and statistics relating to the realisation of indirect tax revenue, and to advise the Ministry and the CBEC on budget forecasting.
- To collect data for the compilation of statistical bulletins and yearbooks on indirect taxes, including sales, arrears, seizures, court cases, and so on.

### (viii) **Directorate of Preventive Operations**

- Inspect, analyse, and determine the efficacy of anti-smuggling personnel operating in Collectorates and vulnerable areas.
- Track, organise, and assess the advancement of adjudications, convictions, and reward to informers/officers in various Collectorates, as well as the disposition of seized goods in prosecution proceedings.
- To prepare and assess the need for anti-smuggling preparation, equipment, vehicles, vessels, communications, and other services in various Collectorates, as well as to determine their operational effectiveness, and to deal with

acquisition, procurement, acquisitions, maintenance, and reallocation issues.

**(ix) Directorate of Publicity and Public Relations**

- Statutory and departmental manuals are prepared, revised, and published.
- Consolidation of CBEC guidance in technical and administrative Customs and Central Excise matters.
- A collection of relevant indirect tax judgments handed down by the High Courts and the Supreme Court.
- Correction lists, etc. are used to keep all departmental manuals up to date.
- Using brochures, posters, hoardings, radio, TV, and the press to educate the public about indirect taxes

**(x) Central Revenues Control Laboratory:** Analyze a sample of goods and provide technical guidance to the CBEC and its field formations about whether or not different goods are dutiable.

**(xi) Directorate of Systems:** Acquisition of hardware, production and maintenance of software, training of staff, and control of expenditure budgets on computerisation at the central and field levels are all aspects of the implementation of Customs and Central Excise Computerisation Projects.

**(xii) Directorate of Valuation:** The main functions assigned to this Directorate are -

- To support and advise the Board on the application and oversight of the WTO Customs Valuation Agreement.
- Building a comprehensive valuation database for internationally traded goods based on past precedents, published price information, or price obtained from other authentic sources, and disseminating the price information continuously to all Customs formations, for on-line viewing, and as a means of assisting day-to-day assessment to detect and prevent undervaluation as al
- Monitoring valuation practises at various Customs formations and bringing significant and evolving pricing trends to the attention of the Board, as well as suggesting corrective policy or other steps, were needed.
- Maintaining contact with other Customs Administrations' valuation directorates and Customs Officers stationed abroad.
- To research international market dynamics for critical goods, as well as pricing practises of transnational firms (e.g. transfer pricing) and Indian projects with foreign partners, and to assist in the development of a mechanism to tackle expected undervaluation and valuation fraud.

**(xiii) Directorate General of Vigilance:** It maintains vigilance cases against Customs and Central Excise officers. It also keeps a close eye on officials who are suspected of being dishonest. Maintain close contact with the Central Bureau of Investigation, local Directorates of Revenue Intelligence, and Commissionerate Vigilance Branches to ensure that vigilance and anti-corruption programmes are enforced in all Customs and

Central Excise Commissionerates, as well as the Narcotics Department.

(xiv) **Directorate General of Service Tax:** Service Tax was first imposed on three services in 1994, but the scope of the levy has since been greatly expanded, with a total of 27 services now included in the Service Tax net. Because of the increased workload as a result of the expanded coverage, a Directorate General of Service Tax has been established in Mumbai. The main functions assigned to this Directorate are to -

- Monitor the collection and assessment of service tax,
- Study the implementation of Service Tax in the field and suggest measures to increase revenue collection;
- To undertake the study of law and procedures,
- To form a database, and
- To inspect the Service Tax Cells in the Commissionerates

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### 14.3 LET US SUM UP

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The Central Board of Indirect Taxes and Customs (formerly the Central Board of Excise and Customs) is a division of the Ministry of Finance's Department of Revenue. It is responsible for the formulation of policy regarding the levy and collection of Customs, Central Excise duty, Central Goods and Services Tax, and IGST, as well as the prevention of smuggling and administration of matters relating to Customs, Central Excise, Central Goods and Services Tax, IGST, and Narcotics to the degree that they fall under CIBC's jurisdiction. Custom Houses, Central Excise and Central GST Commissionerates, and the Central Revenues Control Laboratories are all part of the Board's administrative structure.

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### 14.4 KEYWORDS

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- **CBIC:** Customs, GST, Central Excise, Service Tax, and Narcotics are all administered by the Central Board of Indirect Taxes and Customs, which is India's nodal national agency.
- **Excise Duty:** Excise duty is a tax levied on products manufactured within the country, as opposed to custom duty, which is imposed on goods imported from abroad.
- **Service Tax:** Service tax is a tax levied by the government on service providers on certain service transactions, but is borne by the customers.
- **Comptroller of Auditor General:** The Constitutional Authority in India is the Comptroller and Auditor General (CAG), which was created under Article 148 of the Indian Constitution. He has the authority to audit the Government of India's and state governments' receipts and expenditures, as well as those of autonomous bodies and companies that are heavily funded by the government.
- **CGST:** CGST is a tax charged on intrastate supply of goods and services by the central government and is governed by the CGST Act, 2017.

- **IGST:** The tax imposed under the IGST Act on the supply of any products and/or services in the course of inter-state trade or commerce is known as the Integrated Goods and Services Tax (IGST). The Integrated GST would also apply to products and services imported into India.
- **UNDP:** The United Nations Development Programme is the sustainable development network of the United Nations. It encourages countries to cooperate on technological and investment issues, advocates for reform, and connects countries to information, expertise, and tools to help people improve their lives.

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## 14.5 FURTHER READINGS

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman’s Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikas Publishing House Pvt. Ltd. New Delhi.
- [www.servicetax.gov.in](http://www.servicetax.gov.in)
- [www.dea.gov.in](http://www.dea.gov.in)

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## 14.6 MODEL QUESTIONS

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- Q1:** What are the functions of the Directorate General?
- Q2:** Give a brief introduction to CBIC.
- Q3:** What is the role of CBIC?
- Q4:** Write short notes on the following
- 14.6.1 Director-General of Revenue Intelligence
  - 14.6.2 CESTAT
  - 14.6.3 Director-General of Vigilance

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# UNIT-15 GST AND TECHNOLOGY

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## Structure

- 15.0 Learning Objectives
- 15.1 Introduction
- 15.2 GST Network
- 15.3 Silent Features of GSTN
- 15.4 GST Ecosystem: The IT Backbone of GST
- 15.5 GST Suvidha Providers
- 15.6 Let us Sum up
- 15.7 Key Words
- 15.8 Further Readings
- 15.9 Model Questions

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## 15.0 LEARNING OBJECTIVES

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After completing this unit you should be clear about the following concepts

- The GST - Ecosystem
- GSTN
- ASP's and GSP's
- Role of GSTN

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## 15.1 INTRODUCTION

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The government has issued guidelines to use data analytics to track down errant taxpayers, and technology has made this possible. To meet the challenges of this new age, trade and industry must adapt to develop and be better prepared to enforce new regulatory requirements when they arise.

Since we are in the modern age, adopting technology would affect companies' top and bottom lines. Adoption of technology for the GST In addition to automation, compliances provide for a review of the business process. Let's look at some of the main areas that will help digitalization be more successful in light of the GST changes.

### **E-Invoice**

The invoice reference number (IRN) can be produced using the APIs or by uploading the invoice in the Jason format to the invoice Registration Portal (IRP). If the number of invoices issued is limited, the Jason upload is a viable option; however, for organisations that need to issue a large number of invoices, the API model is preferred because it reduces manual interference and saves time. Most organisations generate e-waybills using APIs, and with the introduction of e-invoices, this will need to be changed, as the e-invoice will be required to update the Part A of the e-waybills.

The APIs for the e-invoice are open, and selected taxpayers have access to the sandbox; instead, taxpayers may access them via GSPs. Though it will be required as of April

1, 2020, an impact review on existing structures must be conducted and implemented accordingly. The IRN developed by the IRP must be entered into existing ERP systems. Since the implementation varies by ERP, it is best to contact the OEMs directly or through their partners.

### **Input Tax Credit**

The government has implemented matching for claiming the input tax credit as part of anti-tax evasion initiatives. In the current returns, taxpayers can only claim an input tax credit if their suppliers' data is expressed in GSTR-2A, and they must align their purchase register with the GSTR-2A. Manual matching is possible, but it is time-consuming and prone to mistakes, and users must review previous months' GSTR-2As to see if suppliers filed GSTR-1s for previous periods. Taxpayers may use various tools offered by various IT companies such as Logo Infosoft, Tax Genie, and others to make the process more efficient and error-free. If users have taken input tax credit in error, it must be reversed with an interest of 24%, or it must be reversed due to a notice given by the department under Sections 73 or 74 of the CGST Act 2017, then a penalty will be imposed, which is another expense to the business and drains the time and efforts of the taxation teams.

### **New Returns**

The new GST returns will be implemented on April 1, 2020, and only minor changes to the data to be uploaded will be needed. Except for B2C transactions, all transactions in the new return format require documentation of HSN codes. Apart from the other updates, the current return filing data extract utility must be changed to endorse the same. Only when the recipient approves the invoices will input tax credit (ITC) be claimed; this is difficult to do at the end of the month, because the tax individual may not be aware of the details of the transactions. It can be tackled by getting a flag for credit availing at the invoice level or the GRN/ MRN level.

Automation aids in claiming the credit as required by statute, as well as maximising the use of working capital while remaining GST compliant. A decision must be made whether to change existing software, buy or create new tools, or outsource the entire process of report filing, matching, and follow-up with suppliers that have not filed returns to external partners.

Technological intervention can aid GST compliance by increasing organisational productivity and aiding in the re-engineering of business processes to align with regulatory requirements. Taxpayers can opt for a CAPEX model or use cloud-based solutions under the S-a-a-S model, which will enable them to make better use of their limited working capital. Organizations must make an informed decision by including users from IT, Finance, Supply Chain, Taxation, and Purchase departments, as well as guidance from Internal and Statutory Auditors. Both of the above modifications must be discussed at the same time since they are interconnected.

If the return filing utility does not have a requirement to exclude certain transactions,

the Anx-1 can be modified twice as a result of the e-invoice API. Alternatively, when the data is uploaded, it will display an error message for duplicate information, forcing users to spend more time cleaning the data. As we race against the clock, businesses must begin operating in the direction that produces the most effective outcomes in terms of enforcement and tax obligations.

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## **15.2 GST NETWORK**

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The GSTN (Goods and Service Tax Network) is a private, non-profit organisation. It will oversee the GST portal's entire IT structure, which serves as the central database for all things GST. The government will use this platform to monitor any financial transaction, and taxpayers will be able to access all services – from registration to filing taxes to storing all tax information.

### **Structure of GSTN**

The GSTN is 51 per cent owned by private investors and the rest is owned by the government. The GSTN's approved capital is 10 crore (US\$1.6 million), with 49 per cent of the shares held by the Central and State governments and the remaining shares held by private banks.

A non-recurring grant of Rs. 315 crores have also been approved for the GSTN. In September 2015, Infosys was awarded the contract to build this massive technical backend.

Mr Navin Kumar, an Indian Administrative Service (IAS) officer from the 1975 batch who has held several senior roles with the Bihar government and the Central government, chairs the GSTN.

<b>Shareholder</b>	<b>Shareholding (%)</b>
Central Government	24.5 %
State Governments & EC	24.5%
HDFC	10 %
HDFC Bank	10 %
ICICI Bank	10 %
NSE Strategic Investment Co	10 %
LIC Housing Finance Ltd	11 %
<b>TOTAL</b>	<b>100</b>



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## 15.3 SALIENT FEATURES OF GSTN

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GSTN is a complicated IT project. It will create a common and shared IT infrastructure between the Centre and the States, as well as a standardized interface for taxpayers.

### 1. Trusted National Information Utility

The GSTN is a trusted National Information Utility (NIU) providing a reliable, efficient and robust IT backbone for the smooth functioning of GST in India.

### 2. Handles Complex Transactions

The Goods and Services Tax (GST) is a destination-based tax. Given the sheer volume of transactions across India, adjusting the IGST (for inter-state trade) at the government level (Centre & various states) would be extremely difficult. Only when there is a strong IT infrastructure and service backbone that collects, processes, and shares information will a rapid resolution mechanism between the States and the Centre be feasible.

### 3. All Information Will Be Secure

Since it is important to keep all taxpayers' information confidential and safe, the government would have strategic influence over the GSTN. The composition of the Board, the processes of Special Resolution and Shareholders Agreement, and arrangements between the GSTN and other state governments will all be under the jurisdiction of the federal government. Furthermore, the Government's shareholding is much greater than that of any single private institution, with a 49 per cent stake.

### 4. Expenses Will Be Shared

The usage fees will be charged in equal parts by the Central Government and the State Governments on behalf of all users (i.e. 50:50). The state's share would then be distributed.

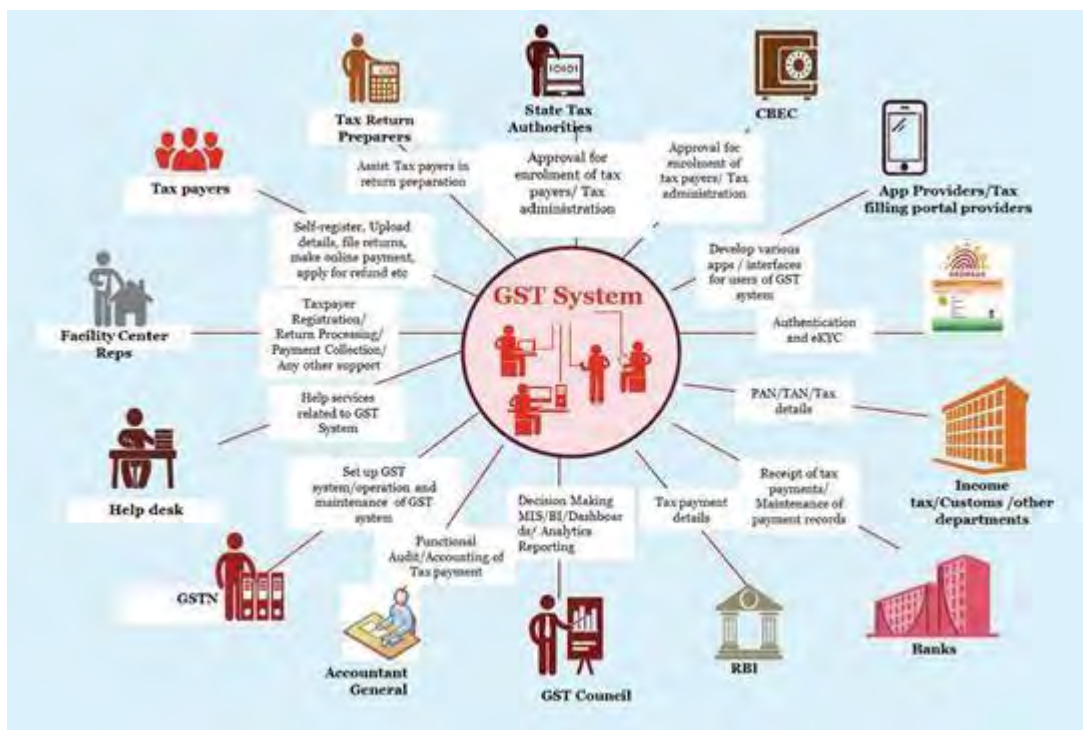
Volume of Expenses	Type of Expenses
Minimum Expenses	IT system designed by Infosys
2nd Part	Fraud Analytics Tools, security audit and other security functions(will be outsourced based on tender)
3rd Part	Operating expenses such as salary, rent, office expenses, internal IT facilities

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## 15.4 GST ECOSYSTEM: THE IT BACKBONE OF GST

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All-State/UT Commercial Tax Departments, Central Tax Authorities, Taxpayers, Banks, and other stakeholders will be linked by a common GST framework. All stakeholders are included in the eco-system, including taxpayers, tax professionals, tax officials, GST portals, banks, and accounting authorities. The GST ecosystem is depicted in the diagram below.



(Image Source: <https://gstindiaguide.com/>)

### Participants of the GST Ecosystem

The central and state governments, taxpayers, and IT network providers, such as GSTN, CBEC (Central Board of Excise & Customs), and state tax departments, have all worked together to make GST a success. Other stakeholders include central and state tax authorities, the RBI, the Banks, tax professionals (tax return preparers, chartered accountants, tax activists, STPs, and so on), and financial services providers such as ERP companies and tax accounting software providers, and so on. All of these are combined to form the GST - Eco System.

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## 15.5 GST SUVIDHA PROVIDERS OR GSP'S & ASP'S (APPLICATION SERVICE PROVIDERS)

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The goods and services tax is based on IT platforms, and supporting tools such as GST Suvidha Provider (GSP) and Application Service Providers (ASP) would be critical to the tax regime's success. These two crucial components of the GST network will serve as core platforms for storing all tax data.

### What is GSP?

GST Suvidha Provider is abbreviated as GSP. It allows users or taxpayers to carry out GST requirements through an online portal via GSP. A GSP is a tool that allows a taxpayer to use the web site to comply with the GST law's provisions. The Government has officially approved GSP. Individuals or taxpayers may use GSP to file their returns. GSPs are managed by the government and follow the terms of the Memorandum of Understanding. GSTN (a government agency) and GSP have signed an agreement. Users or taxpayers file their taxes electronically using GSP and ASP. Users or taxpayers fill out the necessary information in GSP and ASP, and returns are measured automatically. It also focuses on extracting the taxpayer's information and translating it into GST Returns. These GST Returns are then filed on the taxpayer's behalf with GSTN using GSP.

Currently, the GSPs are in a **non-functional** mode as the taxpayers are opting to file GST return filing directly on the GSTN portal and not through any other medium including GSP & ASP.

### **GSTN (Goods and Services Tax Network)**

GSTN was founded by a private company that was given official government approval. The state and federal governments jointly own 51 per cent of the business. GSTN's key goal is to build, provide, and sustain IT infrastructure facilities and services to the federal and state governments, as well as taxpayers and other stakeholders, in preparation for the introduction of GST. Stakeholders may use this website to file or apply their taxes. It promotes Digital India, a paperless tax enforcement regime that is both feasible and time-saving, through this network.

GSTN is a non-profitable organization and rendering IT infrastructure facilities to the stakeholders for the implementation of the Goods and Services Tax System in India. GSTN will perform the overall functions of the GST IT system which are mentioned below:-

- Assisting in Registration Process
- Transmitting the returns to the Central and State Government
- Calculation of IGST
- Confirming or matching the payment details with the banking network
- Giving MIS reports or Data to the Central and State Government and includes all information of a taxpayer.
- Giving an analysis of taxpayers' profile
- Running the matching engine for matching, reversal and reclaim of the input tax credit.
- Generate business intelligence and analytics.

GST is going to implement from 1st July 2017

### **Role of GSP in GST**

A G2B portal would be implemented by the GST framework, allowing taxpayers or users to interact with GST systems. It may not be the best choice for certain taxpayer

organisations, which may also want to use programs offered by third-party applications. Users will have access to G2B via the desktop, web, and other interfaces, and they will be able to communicate with the GST framework.

### **What is ASP (Application Suvidha Provider)?**

Application Service Provider (ASP) is an acronym for Application Service Provider. With the assistance of ASP partners or existing apps, taxpayers or users may file their GST taxes. For corporations, consultants, and taxpayers, ASPs may provide an end-to-end solution. The taxpayer and contractors may use ASPs to handle the selling or procurement of products and services, as well as GST filing.

A significant number of businesses have the option of filing their tax returns through an Application Service Provider (ASP). Organizations or companies must exchange accurate data on sales and acquisitions of Products and Services with the ASP to participate in the ASP. Following that, ASP providers can prepare GST returns and file them using GSP (GST Suvidha Provider).

### **Role of ASP in GST**

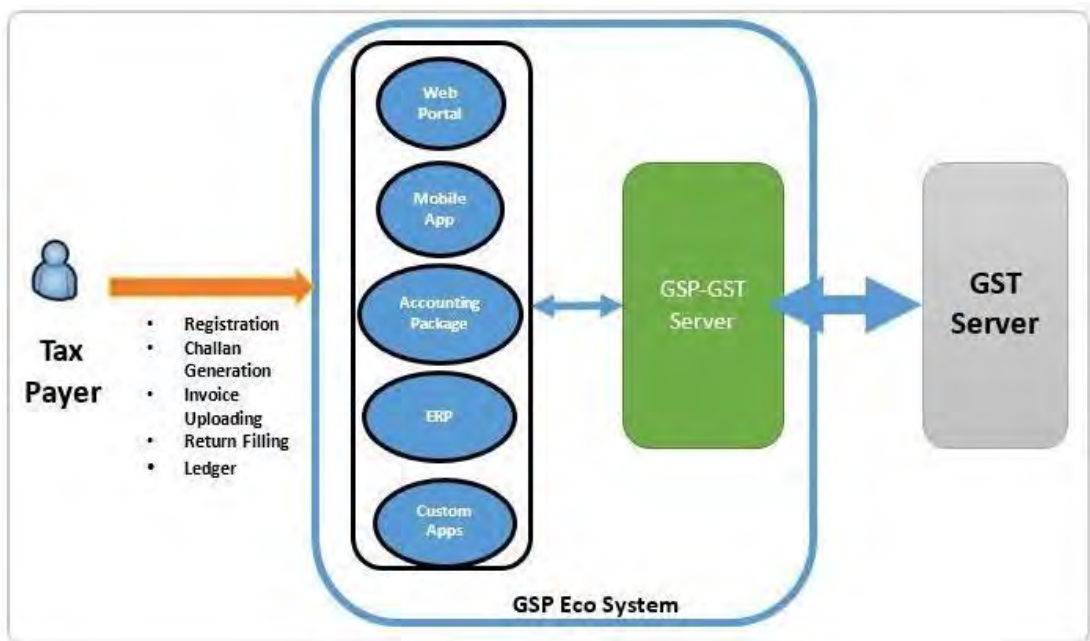
The application programming interface (API) will be critical in filing returns and saving users' time. It gathers all information or data from taxpayers or users and transforms it into tax returns. Five functions will be performed by ASP, as mentioned below.

- **Data Protection & Privacy:** The bulk of an organization's confidential data would be managed by ASP. Who do you sell to and where do you sell them? What do you have to offer? What do you sell for and how much do you charge? That isn't it. Purchase information is also required by an ASP. In general, an ASP can obtain data or information from taxpayers to file returns.
- **Data Verification:** The information you gave ASP will be used to file GST returns. Be certain that the information you've given is accurate and that it can be proven to be yours without a doubt. Any erroneous information or data may result in incorrect returns, resulting in liability for the tax filing agency. The corporation and its executive officers are responsible for filing accurate returns.
- **Data Archiving & Retrieval:** You may be wondering if ASP will provide long-term data archiving and retrieval. At ASP, you'll hold data for up to 8 years after the year's annual returns are filed.
- **Audit Features:** From the point of upload to the production of the returns, ASP will keep track of all information details in the system. Check out the audit features that come with the ASP Platform.
- **Application and Process Control:** Corporate officers are responsible for filing returns. As a result, it's critical to establish, and ASP will give you complete control over the operation. In the sense of India, filing correct returns is important since the filer is responsible for any conflicts resulting from discrepancies. Not filing the dispute on time may have a significant effect on

the net tax liability.

### **GSP and ASP Relation to the Taxpayer**

GSP and ASP mode is used by taxpayers and consumers to file their returns. Both GSP and ASP may be called third-party software, and they may charge the taxpayer or consumer a fee for filing returns. GSP and ASP would save taxpayers time and money while also promoting digital India and reducing paperwork. Taxpayers can easily file returns using GSP and ASP, even if they have no prior knowledge of taxation; they only need to fill in all of the necessary information, and returns will be measured and submitted to the GST portal automatically.



*Image Courtesy: gstn.org*

### **Understanding with an example:**

Let's take an example to understand it better:

ABC Ltd is a private multinational corporation that uses SAP ERP to operate its activities. It houses all of the documents for purchases and sales. Files from ERP are produced at the end of each month and used to prepare and produce tax returns. After that, the returns are submitted to the government's website. Our government is now looking for a single, streamlined workflow in which ERP companies can create an interface with the government's portal and handle all GST enforcement through their apps. GSPs do not have to be ERP firms; they may also be startups or financial technology firms with experience developing web applications for GST filing.

### **GSP – A Brainchild of Goods and Services Tax Network**

GSTN (Goods and Service Tax Network), the private non-government company that operates and manages the GST portal, coined the term GSP. It is in line with the government's "Digital India" initiative, which advocates for a paperless tax

nforcement system that allows for greater transparency and reliability in business across the country.

### Three Modes of Interaction with GST portal

#### 1) Filing directly on the GST portal

A GST taxpayer can typically go straight to the website to take advantage of the various services available, such as registration, GST return filing, refund application, and other similar GST compliances. A taxpayer may not be technically equipped to file electronically for services such as GST return filing. As a result, they may have trouble collating sales and purchase data in the appropriate GSTN format from their ERP system or accounting software. Preparing GST returns can necessitate a significant amount of manual Labour. As a result, a GST Suvidha Provider is an indirect but simple method of accessing the GST portal, saving time and effort.

Under indirect means, there are two types of intermediaries between the taxpayer and the GST portal. They are as follows:

#### 2) ASP who is not a GSP:

These businesses provide the required third-party applications to ensure GST compliance. They, like any other Application Service Provider, provide user interfaces for taxpayers through various modes such as desktop, mobile, or any other device (ASP). A stable GST framework Application Programming Interface (APIs) accessed with the aid of GST will connect an application developer to the GST portal. Providers of Suvidha.

The below diagram will show the two ways of how the taxpayers can access the GST portal indirectly through an ASP who is Non-GSP:



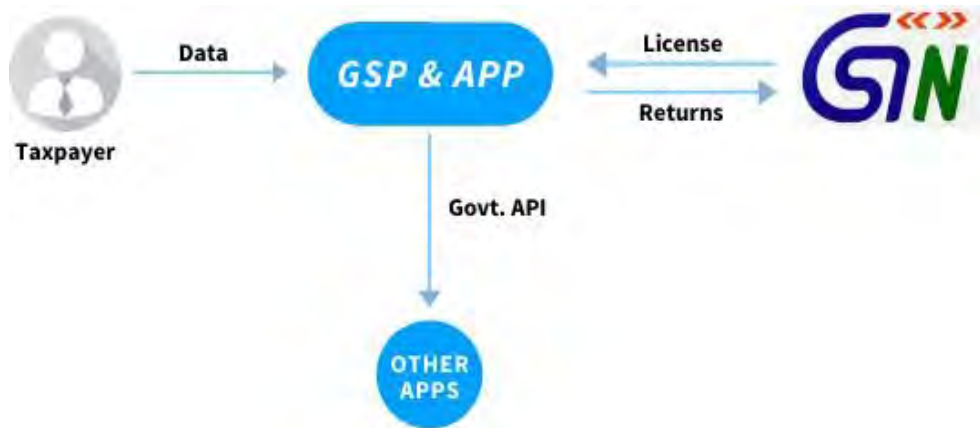
(Image Source: cleartax. in)

#### 3) ASP who is also a GSP:

The most dependable method of achieving GST compliances is to use a government-

approved application service provider. They are authorised to provide an interactive forum for accessing the GST portal and provide the application. An ASP that is also a GST Suvidha Provider will communicate seamlessly with the GST portal, avoiding any third-party dependencies and thus speeding up data processing. Furthermore, an ASP with access to multiple GSPs can provide the user with greater uptime availability and scalability.

The below diagram will show the two ways of how the taxpayers can access the GST portal indirectly through an ASP who is also a GSP:



(Image Source: cleartax.in)

Interaction through an ASP who is also a GSP

**Interaction of a taxpayer with the GST portal can, therefore, take place via either of the three routes as follows:**

Overview of Interaction through GSP

**Areas addressed by GST Suvidha Providers**

1. Invoice data should be uploaded (B2B and large value B2C).
2. Upload GSTR-1 (supply data return), which will be produced based on invoice data and other information given by the taxpayer.
3. GSTR-2A download and reconciliation with ERP-accountable purchase info.
4. GSTR-3B should be filed based on the GSTR-1 area, with purchase data on the record and GSTR-2A data available.
5. Similarly, there are returns for various types of taxpayers, such as casual or composition taxpayers.

**Benefits of being an ASP who is also a GSP**

1. Allows for end-to-end integration with any ERP system or accounting programme, allowing for automated data retrieval.
2. As compared to every other ASP that isn't a GST Suvidha Provider, the performance is improved and quicker.
3. The GSTN integration will allow for a seamless flow of data between the application and the GST portal, removing the need for a third-party.

4. Instead of logging in and out from various locations, a single login is required to access multiple locations (GSTIN).
5. GSTN has authorised and met all security requirements, ensuring better security.

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## 15.6 LET US SUM UP

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GST is a destination-based and use-based levy, which means that taxes are raised by the state where the goods or services are used. The indirect tax system is currently very complicated, with different taxes imposed on the same good/service depending on factors like growth, sales, movement, and so on. The GST for goods and services would replace most of these indirect taxes levied by the federal and state governments, creating a shared market and reducing the cascading impact.

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## 15.7 KEYWORDS

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- **GSP:** GSP stands for GST Suvidha Provider. A GSP enables a GST taxpayer to comply with all the procedural provisions of the GST law through its web platform.
- **GSTR:** A monthly or quarterly return that should be filed by every registered dealer. It contains details of all outward supplies i.e sales. The return has a total of 13 sections.
- **GSTN:** The Goods and Service Tax Network (GSTN) is a non-profit, non-government organization that manages the entire IT system of the GST portal.
- **CBEC:** Central Board of Excise and Customs (CBEC) is the administrative authority for its subordinate organizations, including Custom Houses, Central Excise Commission rates and the Central Revenues Control Laboratory.
- **Tax Refunds:** A tax refund is a reimbursement to a taxpayer of any excess amount paid to the federal government or a state government.

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## 15.8 FURTHER READINGS

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman’s Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
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- [www.icmai.in](http://www.icmai.in)



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## **15.9 MODEL QUESTIONS**

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- Q1:** Discuss in detail the GST Eco System.
- Q2:** Discuss the scope and objectives of GSTN.
- Q3:** Explain the prime features of GSTN.
- Q4:** What is the role of GSP/ASP in the GST -Ecosystem?
- Q5:** What is GST Common Portal?

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# UNIT-16 NATIONAL ANTI-PROFITEERING AUTHORITY IN GST AND COMPLIANCE RATING

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## Structure

- 16.0 Learning Objectives
- 16.1 Introduction: National Anti-Profiteering Authority in GST
- 16.2 GST Compliance Rating
- 16.3 Let us Sum up
- 16.4 Key Words
- 16.5 Further Readings
- 16.6 Model Questions

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## 16.0 LEARNING OBJECTIVES

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After completing this unit you should be clear about the following

- Application and duties of National Anti-Profiteering Authority in GST
- GST compliance rating and its affect

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## 16.1 INTRODUCTION

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### National Anti-Profiteering Authority in GST

The National Anti-Profiteering Authority (NAA) was established under Section 171 of the Central Goods and Services Tax Act, 2017 to ensure that any tax rate reductions or input tax credit benefits are passed on to recipients via price reductions. The NAA has also taken the following measures to ensure that consumers get the full value of tax cuts:

- Daily meetings with the Zonal Screening Committees and the Central Tax Chief Commissioners to emphasize market awareness programs;
- Creating a helpline to answer citizens' questions about how to file complaints about profiteering.
- Complaints are received via email and the NAA portal.
- Collaboration with consumer protection groups to promote outreach programs.

**Introduction:** Any tax rate reduction on the supply of goods or services, as well as the value of an input tax credit, could have been passed on to the recipient in the form of a price reduction. Many nations, on the other hand, have found that when GST was enforced, inflation and commodity prices skyrocketed. This occurred even though a tax credit was available from the point of production to the point of final consumption, which could have resulted in lower final prices. This was occurring because the retailer was failing to pass on the revenue to the client, resulting in unlawful profiteering.

The central government has thus established the National Anti-profiteering Authority to examine whether input tax credits or tax rate reductions obtained by any registered

person have resulted in a commensurate reduction in the price of the goods or services, or both, supplied by him, to protect consumers from arbitrary price increases in the name of the business.

**16.1.1 Constitution of the Authority:** The National Anti-Profiteering Authority will be a five-member committee composed of a Chairman who is or has been a Commissioner of State Tax or Central Tax, or has held an equivalent post under current legislation and four Professional Members who are or have been Commissioners of State Tax or Central Tax. The Secretary to the Authority will serve as the Additional Director General of Safeguards under the CBEC (Board).

Unless the Council advises otherwise, the Authority will cease to exist after two years from the date on which the Chairman takes office. The ability to choose the approach and procedure: The Authority has the authority to assess the methodology and process for determining whether a lower rate of tax on the supply of products or services or the value of an input tax credit, has been passed on to the recipient by way of a price reduction.

**16.1.2 Duties of the Authority:** The Authority would have the following duties:

- (i) To decide whether a lower tax rate on a supply of products or services or the value of an input tax credit, has been passed on to the recipient in the form of a price reduction; National Anti-Profiteering Authority in GST 408 GST FLYERS
- (ii) To find the registered person who has not passed on the advantage of a lower tax rate on supplies of goods or services, or the benefit of an input tax credit to the recipient through a price reduction that is commensurate.
- (iii) To order, (a) reduction in prices; (b) return to the recipient, an amount equal to the amount not passed on by commensurate price reductions, plus interest at the rate of 18% from the date of collection of the higher amount until the date of return of such amount or recovery of the amount not returned, as the case may be, in the event the eligible person does not claim the return of the amount or is not identifiable, and depositing c) levying a penalty; and d) revocation of registration.

**16.1.3 Application to the Authority:** All applications from interested parties on local issues must first be reviewed by the State level Screening Committee, which is comprised of a State government officer appointed by the Commissioner and a Central government officer nominated by the Chief Commissioner in each State.

The Screening Committee will forward the application with its recommendations to the Standing Committee on Anti-profiteering, which shall consist of such officers of the State Government as are satisfied that the supplier has not passed on the reduction in the rate of tax on any supply of goods or services or the benefit of input tax credit to the recipient by way of commensurate reduction in prices.

If the Standing Committee is convinced that there is prima facie evidence that the producer has not passed on the advantage of a lower tax rate on the supply of products or services or the benefit of an input tax credit to the recipient in the form of a price reduction, the matter will be referred to the Director-General of Safeguards for a thorough investigation.

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## **16.2 GST COMPLIANCE RATING**

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The way you follow the goods and services tax law as a company owner affects your government status. Your decisions may have an even greater effect thanks to a new concept called GST enforcement ranking. When the GST enforcement framework is fully operational, the ranking would have an impact on everything from tax refunds to vendor relationships.

The GST enforcement rating is a numerical score that indicates how well the business follows GST regulations. This rating is based on a scale of zero to ten, with ten representing the best and zero representing the worst. The government has the authority under the GST act to allocate a score to any registered taxpayer. According to GSTN CEO Prakash Kumar, everyone will begin on an equal footing. Your GST compliance score can change over time as a result of your GST compliance.

### **GST Compliance Rating and Tax Refunds**

When you pay more tax than you owe, you are entitled to a refund as a taxpayer. The way your refunds are processed can be affected by your GST compliance ranking. If your score is less than five, you will not be eligible for a conditional refund, which is a partial payment you obtain until your full refund is processed. As a result, your refund could take longer to arrive, affecting your cash flow.

### **GST Compliance Rating Affects Your Business Partnerships**

According to the Central Goods and Services Tax Act, the government has the authority to publish GST enforcement ratings. When this happens, anyone who wants to see your score will be able to see it. What difference does it make? The entire supply chain is interconnected under GST. Before the input tax credit can be passed through, the invoice records must fit, and everybody must pay their GST. If one person in the chain is behind on their taxes, it will have an impact on everyone else.

As a result, vendors will be more selective in their partner selection. When a vendor considers purchasing from you, they can first look at your compliance score. You'll have a better chance of forming the relationship if it's big. A high score demonstrates responsibility and attention to detail, which instils trust in business partners.

### **How to Get a High GST Compliance Rating**

The GST act states that your rating will be based on your "record of compliance with the provisions of this Act." That means that you need to follow the rules, including:

- Filing monthly and annual returns on time
- Paying taxes on time

- Cooperating with GST authorities
- Fixing any errors on your returns in time

It's critical to keep current with your taxes because the GST system is online and the ratings are supposed to be produced automatically. A single late return can have a significant impact on your grade. However, the government recognizes that glitches and delays in the GST system are not your responsibility, so if the GST portal goes down and prevents you from filing on time, your score should not be affected. Your company's GST enforcement ranking can be a huge help to you as a small business owner. You can retain a high score by filing and paying on time, which increases your tax status and contributes to lucrative professional collaborations.

GST has also brought in new concepts such as mixed and composite supply, time of supply and most importantly the **GST Compliance Rating**.

### **What is GST Compliance Rating?**

Simply put, the GST compliance rating is a performance ranking of all registered taxable persons that informs you of their compliance with the GST provisions. This will apply regardless of the type, scale, or turnover of the organisation.

For instance, a rating system on a scale of 1 to 10 can be invented, with 10 being the most compliant and 1 being the least compliant. Please bear in mind that the final rating scale is yet to be told.

### **Why is the GST Compliance Rating being introduced?**

This tax administration principle aims to force people to be completely GST compliant and to upload invoices and other necessary documents on time.

An individual can only claim an input tax credit in GSTR-2 (return with monthly purchase details) if the seller has already filed his GSTR-1 (return with monthly sales details) and the information on both forms matches or reconciles.

To gain time, companies also postponed filing returns and paying taxes under the new regime. Continuing this activity under GST would result in a delay in input tax credit across the chain, which will have a significant impact on businesses' working capital. The rating system would prevent credit delays for legitimate buyers due to the non-compliance of a few individuals.

### **How will someone be rated under GST?**

GST Rating will be determined by a set of parameters that has yet to be established. Experts, on the other hand, agree that the following factors may play a significant role in evaluating compliance ratings.

- Timely payment of taxes
- Timely filing of returns
- Timely reconciliations
- Compliance with various other time limits under GST

- Cooperating with the GST authorities

### **How will the GST Rating work?**

Based on your rating, you and your business will enjoy certain benefits. It has been proposed that refunds to a taxpayer will be made on a percentage basis of these ratings. Let us take an example.

Supposing a taxpayer has a rating of 8. He is eligible to claim a refund of Rs. 10,000. Based on his compliance rating (which is 8), he will get an instant provisional refund of Rs. 8,000 when he applies for a refund. The balance of Rs. 2,000 will be paid later after scrutiny.

Similarly, a person with a rating of 6 will get only 60% of the refund. **Only a person with a minimum GST rating of 5 on 10 can avail of a provisional refund.**

*Note: The rules regarding this are yet to be notified.*

### **What are the benefits that you can enjoy?**

Some of the benefits that compliant vendors may be able to enjoy include:

- Get refunds immediately
- Buyers can get input tax credit immediately
- Attract more business
- Reduce chances of an audit by the tax authorities.
- Enjoy a better reputation

### **How will businesses be benefited by becoming GST compliant?**

The easiest way to understand this is through an example.

Ajay requires office stationery. He has shortlisted 2 sellers – ABC & XYZ.

ABC has a rating of 9 whereas XYZ's rating is 6. Ajay hears from his good friend Vijay that the company XYZ does not file its GST returns on time resulting in input credit being blocked, while the company ABC is well-rated and highly compliant.

Based on his friend's suggestions and the vendor's ratings, Ajay places an order with the company ABC.

### **Effect on the buyer:**

Buyers will look for sellers with a higher rating which will ensure they can avail input tax credit faster.

### **Effect on sellers:**

Sellers with a higher rating will attract more customers.

Thus, the GST rating will bring healthy competition between businesses. A prospective client will inquire about the compliance ratings of suppliers before entering deals.

### **What are the disadvantages of this rating scheme?**

To stay competitive, businesses would need to be compliant. This may be a burden, especially for small businesses that lack the resources to be completely compliant, at

least in the beginning. GST is a brand-new tax system, and corporations will likely make mistakes. Errors, delays, and non-compliance will lower the vendor's ranking, and the company can suffer as a result.

Compliant suppliers, on the other hand, would have an advantage because they will be easily differentiated from their rivals. Large players, who have more resources at their disposal, will benefit from this as well.

### **How will you know your GST rating?**

The compliance rating score will be updated periodically. It will be intimated to the taxpayer and also be available publicly. Mr Arun Jaitley, our Ex Finance Minister, correctly said that India is essentially a non-compliant country when it comes to taxes. As a result, GST ranking is a genius scheme that will enable companies to become more compliant and assist in the prevention of tax evasion.

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## **16.3 LET US SUM UP**

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The GST for goods and services would replace most of these indirect taxes levied by the federal and state governments, creating a shared market and reducing the cascading impact.

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## **16.4 KEYWORDS**

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- **CBEC:** Central Board of Excise and Customs (CBEC) is the administrative authority for its subordinate organizations, including Custom Houses, Central Excise Commission rates and the Central Revenues Control Laboratory.
- **Tax Refunds:** A tax refund is a reimbursement to a taxpayer of any excess amount paid to the federal government or a state government.

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## **16.5 FURTHER READINGS**

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- Swain AK & Agrawal – GST: Concepts and Applications, Himalayan Publishing House.
- GST Manual: Taxman's Publication Ltd., New Delhi.
- GST and Indirect Taxes, Sanjeet Sharma, V.K. Global Pub. Pvt. Ltd, New Delhi.
- Mishra, Padhi and Bera – Text Books on GST & Practice, Vikas Publishing House Pvt. Ltd. New Delhi.
- [www.cleartax.in](http://www.cleartax.in)
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- [www.icmai.in](http://www.icmai.in)

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## **16.6 MODEL QUESTIONS**

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**Q1:** Discuss in detail the GST compliance rating.

**Q2:** Discuss the composition and duties of the National Anti-Profitteering Authority.