

# **GOODS AND SERVICES TAX**

## GOODS AND SERVICES TAX – PART II

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### TAXES UNDER GST

Different types of taxes are levied under Goods and Services Tax for supplies of goods or services or both, which are as under:

Sl. No.	Type of Tax	Act which governs levy of such tax	Rate of Tax
1	Central Goods and Services Tax (CGST)	CGST Act, 2017	½ of applicable GST rate e.g. if GST rate 5%, then CGST rate 2.5%
2	State Goods and Services Tax (SGST)	SGST Act, 2017 of respective State	½ of applicable GST rate e.g. if GST rate if 12%, then SGST rate is 6%
3	Union Territory Goods and Services Tax (UTGST)	UTGST Act, 2017	½ of applicable GST rate e.g. if GST rate if 18%, then UGST rate is 9%
4	Integrated Goods and Services Tax (IGST)	IGST Act, 2017	GST rate

Apart from the above four different types of taxes, Compensation Cess is payable on certain goods and services.

#### 1. Central Goods and Services Tax (CGST)

Central Goods and Services Tax (CGST) is levied on all intra-state (within the state) supplies of goods or services or both. CGST is levied as per provisions of Sec.9 of the CGST Act, 2017. It is a Central tax and CGST amount collected from tax payers is tax revenue of the Central Government. However, CGST is not leviable on the following items:

- Alcoholic liquor for human consumption
- Petroleum crude
- High Speed Diesel (HSD)
- Motor spirit (Petrol)
- Natural gas, and
- Aviation Turbine Fuel (ATF)

Rate of CGST has been notified by the Government on the recommendation of the GST Council and such rates are half of the GST rate as mentioned below:

Applicable GST Rate	CGST Rate	Goods/Service	Approximate number of items covered
NIL Rate	NIL Rate	Goods	149
		Services	87
0%	0%	Exports of goods	
0.25%	0.125%	Goods – Unpolished Diamond, precious stones etc.	3
1%	0.5%	Goods - Traders who have opted for	

		Composition levy scheme	
2%	1%	Goods - Manufacturers who have opted for Composition levy scheme	All goods which are manufactured except, Pan Masala, tobacco and ice -cream
3%	1.5%	Goods - Gold, Silver, Jewellery etc.	18
5%	2.5%	Goods - Frozen food items, Tea, Coffee, branded food products, Medicines etc.	263
		Services - Restaurants without service of alcohol who have opted for Composition levy	1
		Services - Transport of goods by rail, in vessel, Transport of passengers by rail in Air-Conditioned coaches or First Class etc.,	12
12%	6%	Goods - Meat products, dried fruits, food items, lottery etc.	242
		Services - Food in a Non-AC Restaurant, Hotel stay with room rent of more than ₹1,000/- but less than ₹2,500/- etc.	7
18%	9%	Goods - Hair Oil, Toothpastes, Refractory cements etc.	452
		Services - Food in an AC Restaurant, Works Contract, Hotel stay with room rent of more than ₹2,500/- but less than ₹7,500/- any service which is not taxed at any specified rate etc.	8
28%	14%	Goods - Chewing gum, Chocolates, Pan masala etc.	228
		Services - Hotel stay with room rent of more than ₹7,500/-, Gambling etc.	4

## 2. State Goods and Services Tax (SGST)

State Goods and Services Tax (SGST) is levied on all intra-state (within the state) supplies of goods or services or both. SGST is levied as per the provisions of respective State GST Acts. SGST rate is same to that of CGST rate. It is a State tax and SGST amount paid by tax payers is tax revenue of the respective State Government. SGST is applicable to 29 States and two Union Territories i.e. Delhi and Puducherry who have state legislatures.

## 3. Union Territory Goods and Services Tax (UTGST)

Union Territory Goods and Services Tax (UTGST) is levied on all intra-Union Territory (within the Union Territory) supplies of goods or services or both. UTGST is levied as per the provisions of UTGST Act, 2017 and applicable to all five Union Territory which are as under:

- a. Andaman & Nicobar Islands
- b. Lakshadweep
- c. Dadra and Nagar Haveli
- d. Daman and Diu, and
- e. Chandigarh.

UTGST rate is same to that of SGST rate.

## 4. Integrated Goods and Services Tax (IGST)

Integrated Goods and Services Tax (IGST) is levied on all inter-State (between the states) supplies of goods or services or both. IGST is levied as per the provisions of IGST Act, 2017. All imports are also subject to IGST. IGST amount paid by tax payers is apportioned between the Centre and respective State Government where supply is made. However, IGST is collected by Central Government for easy administration and later on Central Government transfer the State share to respective state. Applicable GST rate is the IGST rate and the taxpayer do not split IGST into CGST and SGST while paying.

## 5. Compensation Cess

Compensation cess is levied on intra-state supply of goods or services or both as per recommendation of the GST Council. Basic objective of levy of Compensation cess is to provide compensation to States for a period of five years with effect from 01.07.2017, for the loss of revenue arising out of implementation of GST. However, Compensation cess is not applicable for taxpayers who opt for Composition levy scheme. Compensation Cess is levied either as a equivalent rate of GST or a fixed amount per quantity. Usually sin goods like pan masala, cigarette etc. and luxury goods like car etc. and environment polluting goods like coal attract Compensation Cess which is over and above the applicable GST.

Some of the cess rates are as under:

Description of Goods	Rate of GST Compensation cess
Pan-masala	60%
Aerated waters	12%
Lemonade	12%
Others	12%
Unmanufactured tobacco (without lime tube) – bearing a brand name	71%
Unmanufactured tobacco (with lime tube) – bearing a brand name	65%
Tobacco refuse, bearing a brand name	61%
Cigar and cheroots	21% or ₹ 4170 per thousand, whichever is higher
Cigarillos	21% or ₹ 4170 per thousand, whichever is higher
Cigarettes containing tobacco other than filter cigarettes, of length not exceeding 65 millimetres	5% + ₹1591 per thousand
Cigarettes containing tobacco other than filter cigarettes, of length exceeding 65 millimetres but not exceeding 75 millimetres	5% + ₹2876 per thousand
Filter Khaini	160%
Pan-masala containing tobacco 'Gutkha'	204%
Coal	₹400 per tonne

## REGISTRATION

Registration is required for every Supplier for each State or Union Territory when the following conditions are fulfilled:

- The Supplier is making taxable supply of goods or service or both; and
- Aggregate turnover in a financial year exceeds rupees twenty lakhs.

This limit of rupees twenty lakhs is rupees ten lakhs for the special category states. Refer 3.1. for more details.

Registered persons under the pre-GST Law i.e. persons who were registered earlier for Central Excise, Service Tax, VAT, CST, Entry Tax etc. had to migrate into GST as those taxes, duties and cess subsumed into GST. However, persons dealing with alcohol for human consumption and the five petroleum products like petroleum crude, diesel, petrol, aviation turbine fuel and natural gas are still continuing as per the pre-GST Law and have not migrated into GST if they are exclusively dealing with these non-GST goods even in GST regime.

A Person who is supposed to be registered under GST includes:

- an individual;
- a Hindu Undivided Family;
- a company;
- a firm;
- a Limited Liability Partnership;

- f. an association of persons or a body of individuals, whether incorporated or not, in India or outside India;
- g. any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013;
- h. any body corporate incorporated by or under the laws of a country outside India;
- i. a co-operative society registered under any law relating to co-operative societies;
- j. a local authority;
- k. Central Government or a State Government;
- l. society as defined under the Societies Registration Act, 1860;
- m. trust; and
- n. every artificial juridical person, not falling within any of the above;

Registration is compulsory for the following types of persons as per GST Law:

- (i) persons making any inter-State taxable supply, except supplier of services whose turnover is less than ₹20.00 lakhs for all taxable territories excluding the state of Jammu and Kashmir for which the limit is ₹10.00 lakhs;
- (ii) casual taxable persons making taxable supply;
- (iii) persons who are required to pay tax under reverse charge;
- (iv) specific services which are intra-state supplies and for which the electronic commerce operators pay the taxes;
- (v) non-resident taxable persons making taxable supply;
- (vi) persons who are required to deduct Tax Deduction at Source (TDS), whether or not separately registered under this Act;
- (vii) persons who make taxable supply of goods or services or both on behalf of other taxable persons whether as an agent or otherwise;
- (viii) Input Service Distributor, whether or not separately registered under this Act;
- (ix) persons who supply goods or services or both, through such electronic commerce operator who is required to collect tax at source;
- (x) every electronic commerce operator;
- (xi) 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; and
- (xii) such other person or class of persons as may be notified by the Government on the recommendations of the Council.

The following persons are not be liable to registration:

- (a) any person engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax;
- (b) an agriculturist, to the extent of supply of produce out of cultivation of land.

### Threshold for Registration

A person whose aggregate turnover during a financial year does not exceed the following threshold (small tax payers) is not liable for registration in normal situation.

Threshold Limit	States/Union Territory to which applicable
₹10.00 lakhs	1. Arunachal Pradesh 2. Assam 3. Jammu & Kashmir 4. Manipur 5. Meghalaya 6. Mizoram 7. Nagaland 8. Sikkim 9. Tripura 10. Himachal Pradesh, and 11. Uttarakhand
₹20.00 lakhs	Remaining 18 States, 2 Union Territory having state legislature i.e. Delhi and Puducherry and five Union Territories

Aggregate turnover is the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, export of

goods or services or both and inter-state supplies of persons having same Permanent Account Number (PAN), to be computed on all India basis but excludes GST and Compensation Cess.

Though registration is not required till a person does not exceed the threshold limit during a financial year, a person has the option to get registered on voluntary basis even if his aggregate turnover does not exceed the threshold. This is because, under GST regime a person is required to be registered as persons to whom he makes outward supply desire him to be registered to avoid the unwarranted task of payment of GST under reverse charge when there is any inward supply to them from a Unregistered supplier. However, this provision is deferred till 31.03.2018 as decided by the 22<sup>nd</sup> meeting of GST Council held on 06.10.2017 at New Delhi.

### Regular Taxpayer

A person who has not opted for composition levy scheme is treated as a regular tax payer. A regular taxpayer is required to pay GST at normal rate as applicable for supply of goods or service or both and also have to file GST Returns for Outward supply, Inward supply on monthly basis as applicable. GST liability is also to be paid by a Regular Taxpayer on monthly basis.

### Composition Taxpayer

Small taxpayers with an aggregate turnover in the preceding financial year not exceeding up to ₹100 lakhs or ₹75.00 lakhs as the case may be, are eligible for composition levy. Under the scheme, a taxpayer has to pay tax as a percentage of his turnover in a state or union territory during the year without the benefit of Input Tax Credit (ITC). The rate of tax for CGST and SGST under Composition levy scheme is as under:

Manufacturer = 2% (1% CGST and 1% SGST)

Trader/Supplier/Vendor of Goods = 1% (0.5% CGST and 0.5% SGST)

Restaurant Service only = 5% (2.5% CGST and 2.5% SGST)

A Manufacturer, Trader/Supplier/Vendor of Goods who has opted for composition levy cannot collect any tax from the recipient and cannot issue a Taxable Invoice as such. Instead of Invoice, such Taxpayer has to raise a Bill of Supply. A small taxpayer may not opt for composition levy even if his aggregate turnover in a financial year is within ₹75 lakhs. No service other than Restaurant Services is eligible for composition levy.

A person whose aggregate turnover during a financial year does not exceed the following threshold (small tax payers) can opt for composition scheme.

Threshold Limit	States/Union Territory to which applicable
₹75.00 lakhs	1. Arunachal Pradesh 2. Assam 3. Manipur 4. Meghalaya 5. Mizoram 6. Nagaland 7. Sikkim 8. Tripura, and 9. Himachal Pradesh
₹100.00 lakhs	Remaining 20 States, 2 Union Territory having state legislature i.e. Delhi and Puducherry and five Union Territories

A Taxpayer is not eligible for composition levy in case any of the following condition is satisfied:

- He is making Inter-State supply of goods or services or both;
- He is engaged in supply of services other than restaurant services;
- He is engaged in making any supply of goods through electronic commerce operator who is required to collect tax at source;
- He is engaged in manufacture of ice-cream, tobacco or pan masala;
- He is engaged in making any supply of goods which are not leviable to tax.

### Casual Taxpayer

A Casual taxpayer is a person who occasionally undertakes transactions involving supply of goods or services or both in the course or furtherance of business, whether as principal, agent or in any other capacity, in a State or a Union territory where he has no fixed place of business. Registration for a Casual Taxpayer is compulsory and the threshold limit is not applicable for them. A Casual Taxpayer needs to apply for registration at least five days prior to the commencement of business. The certificate of registration issued to a casual taxable person is valid for the period specified in the application for registration or ninety days from the effective date of registration, whichever is earlier and a casual taxpayer make taxable supplies only after the issuance of the certificate of registration. A casual taxpayer, at the time of submission of application for registration, make an advance deposit of tax in an amount equivalent to the estimated tax liability for the period for which the registration is sought.

### Non-resident Taxable Person

A Non-Resident Taxable Person is a person who occasionally undertakes transactions involving supply of goods or services or both, whether as principal or agent or in any other capacity, but who has no fixed place of business or residence in India. Registration is compulsory for a Non-Resident Taxable person who is making any taxable supply without any threshold limit. A Non-Resident Taxable person has to apply for registration at least five days prior to the commencement of business by making an advance deposit of tax in an amount equivalent to the estimated tax liability for the period for which the registration is sought. Input Tax Credit is not available for goods or services or both received by a Non-Resident Taxable person except on goods imported by him.

### Unique Identification No.

Unique Identification Number (UIN) is granted to any specialised agency of the United Nations Organisation (UNO) or any Multilateral Financial Institution and Organisation notified under the United Nations (Privileges and Immunities) Act, 1947, Consulate or Embassy of foreign countries. Commissioner of GST may also notify and grant UIN to any other person or class of persons for the purpose of getting refund of taxes on the notified supplies of goods or services or both received by them. Once UIN is granted under SGST Act, 2017 or UTGST Act, 2017, it is also deemed to be a grant of the same under CGST Act, 2017, unless the same has been rejected earlier under CGST Act, 2017. Similarly, rejection of UIN under SGST Act, 2017 or UTGST Act, 2017, is also deemed to be rejection of the same under CGST Act, 2017.

### Registration Number Format

Goods and Services Tax Identification Number (GSTIN) is a combination fifteen digit alpha numeric characters as under:

State Code		PAN Number										Entity Code		Check Digit
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

- (a) first two characters for the State code;
- (b) next ten characters for the Permanent Account Number or the Tax Deduction and Collection Account Number;
- (c) next two characters for the entity code; and
- (d) the last character is a one checksum character.

GSTIN of a Registered Taxpayer who is a practicing Cost Accountant looks as under:

State Code		PAN										Entity Code		Check Digit
2	1	A	G	P	P	P	2	7	6	0	F	1	Z	G

1	2	3	4	5	6	7	8	9	10	11	12	13	14	15
<b>2 digits</b>		<b>10 digits</b>										<b>2 digits</b>		<b>1 digit</b>

Details of two digit State Code for different State and Union Territory is as under:

Sl. No.	State/Union Territory	State Code
1	Andaman & Nicobar Islands	35
2	Andhra Pradesh	37
3	Arunachal Pradesh	12
4	Assam	18
5	Bihar	10
6	Chandigarh	04
7	Chattishgarh	22
8	Dadra & Nagar Haveli	26
9	Daman & Diu	25
10	Delhi	07
11	Goa	30
12	Gujrat	24
13	Haryana	06
14	Himachal Pradesh	02
15	Jammu & Kashmir	01
16	Jharkhand	20
17	Karnataka	29
18	Kerala	32

Sl. No.	State/Union Territory	State Code
19	Lakshadweep	31
20	Madhya Pradesh	23
21	Marasashtra	27
22	Manipur	14
23	Meghalaya	17
24	Mizoram	15
25	Nagaland	13
26	Odisha	21
27	Other Territory	97
28	Puducherry	34
29	Punjab	03
30	Rajasthan	08
31	Sikkim	11
32	Tamil Nadu	33
33	Telengana	36
34	Tripura	16
35	Uttar Pradesh	09
36	Uttarakhand	05
37	West Bengal	19

## SUPPLY

Supply includes all forms of supply of goods or services or both such as

- Sale
- Transfer
- Barter
- Exchange
- License
- Rental
- lease or
- disposal

- made or agreed to be made
- for a consideration
- by a person
- in the course or furtherance of business

Supply also includes import of services for a consideration whether or not in the course or furtherance of business.

**Supply can be of following types: -**

### a. Composite Supply

It is made by a taxable person to a recipient and consist of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply;

Illustration - Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

### b. Mixed Supply

When two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply, it is called a mixed supply.

Illustration - A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It is not a mixed supply if these items are supplied separately.



### **c. Continuous Supply of Goods**

It is a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as notified by the Government.

### **d. Continuous Supply of Services**

It is a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as notified by the Government.

#### **The following activities are treated as supply even if they are made without any consideration**

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
2. Supply of goods or services or both between related persons or between distinct persons, when made in the course or furtherance of business. However gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee is not treated as supply of goods or services or both.
3. Supply of goods -
  - (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
  - (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

#### **Activities which are treated as Supply of Goods**

1. Any transfer of the title in goods;
2. Any transfer of title in goods under an agreement which stipulates that property in goods pass at a future date upon payment of full consideration as agreed;
3. Where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration;
4. Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

#### **Activities which are treated as Supply of Services**

1. Any transfer of right in goods or of undivided share in goods without the transfer of title thereof;
2. Any lease, tenancy, easement, licence to occupy land;
3. Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly;
4. Any treatment or process which is applied to another person's goods.
5. Where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods;
6. Renting of immovable property;
7. Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.
8. Temporary transfer or permitting the use or enjoyment of any intellectual property right;
9. Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
10. Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;

11. Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.
12. Works contract; and
13. Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

### **Activities or transactions which are treated neither as a supply of goods nor supply of service**

1. Services by an employee to the employer in the course of or in relation to his employment;
2. Services by any District Court, High Court, Supreme Court or Tribunal;
3. Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
4. Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity;
5. Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee of that body.
6. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
7. Sale of land and sale of building unless it is constructed with an intention to sale and chargeable to tax under Works contract
8. Actionable claims, other than lottery, betting and gambling.

## **TIME OF SUPPLY**

The liability to pay tax on goods or services arise at the Time of Supply. Time of Supply is determined following prescribed rules which is different for goods and services.

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

- a. In case of supply of goods, time of supply is the earlier of the following dates:
  - i. the date of issue of invoice by the supplier or the last date on which he is required to issue the invoice with respect to the supply; or
  - ii. the date on which the supplier receives the payment (the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier) with respect to the supply:

This means even in case advance is received against a future supply of goods, GST is payable on such advance received by a Supplier.

- b. In case of supply of goods in respect to which GST is paid or payable on Reverse Charge basis i.e inward supply to a registered taxpayer by a unregistered taxpayer, Time of Supply is the earlier of the following dates:
  - i. the date of the receipt of goods; or
  - ii. the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
  - iii. the date immediately following thirty days from the date of issue of invoice or any other document.
- c. In case of supply of vouchers by a supplier, the time of supply is -
  - i. the date of issue of voucher, if the supply is identifiable at that point; or
  - ii. the date of redemption of voucher, in all other cases.
- d. In case of addition of value by way of interest, late fee or penalty for delayed payment, Time of Supply is the date on which the supplier receives such addition in value
- e. In case Time of Supply is not possible to be determined by any of the above specific rules, then Time of Supply is to be determined using the residuary rule which is as under:

- i. in a case where a periodical return has to be filed, the date on which such return is to be filed;  
or
- ii. in any other case, the date on which the tax is paid.

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

a. In case of supply of services, time of supply is the earlier of the following dates:

- i. the date of issue of invoice by the supplier, if the invoice is issued within the prescribed period or the date of receipt of payment, whichever is earlier; or
- ii. the date of provision of service, if the invoice is not issued within the prescribed period or the date of receipt of payment, whichever is earlier; or

In case the above two provisions are not applicable, then time of supply is the date on which the recipient shows the receipt of services in his books of account:

In case advance is received against a future supply of services, GST is payable on such receipt of advance.

b. In case of supply of goods in respect to which GST is paid or payable on Reverse Charge basis i.e inward supply to a registered taxpayer by a unregistered taxpayer, time of supply is the earlier of the following dates:

- i. the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- ii. the date immediately following sixty days from the date of issue of invoice or any other document..

c. In case of supply of vouchers by a supplier, the time of supply is -

- i. the date of issue of voucher, if the supply is identifiable at that point; or
- ii. the date of redemption of voucher, in all other cases.

d. In case of addition of value by way of interest, late fee or penalty for delayed payment, time of supply is the date on which the supplier receives such addition in value

e. In case time of supply is not possible to be determined by any of the above specific rules, then Time of Supply is to be determined using the residuary rule which is as under:

- i. in a case where a periodical return has to be filed, the date on which such return is to be filed;  
or
- ii. in any other case, the date on which the tax is paid.

### **VALUE OF SUPPLY**

Value of supply of goods or services is the transaction value. Transaction value is the price actually paid or payable for supply of good or services, where the supplier and recipient of the supply are not related and the price is the sole consideration for the supply.

**Value of supply includes the following: -**

- a. any taxes, duties, cesses, fees and charges levied under any law, other than GST and Compensation cess, if charged separately by the supplier;
- b. any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both;
- c. incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services at the time of, or before delivery of goods or supply of services;
- d. interest or late fee or penalty for delayed payment of any consideration for any supply; and
- e. subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

### The value of the supply do not include any discount which is given -

- (a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and
- (b) after the supply has been effected, if –
  - (i) such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
  - (ii) input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply.

## PLACE OF SUPPLY

### Concepts of Place of Supply

Goods and Services Tax is based on the principle of 'destination based consumption tax'. This means State GST is the revenue for the State where ultimately the goods or service move and ultimately consumed there. This is in contrary to the earlier principle of 'originating based taxation system' where the State where sale or movement of goods were made, that particular State was getting the tax revenue. For GST, there are 36 tax territories in India, which consists of 29 States, 2 Union Territory with State legislature and 5 Union Territories. Central GST (CGST) and State GST (SGST) or Union Territory GST (UTGST) is paid when supply is Intra-State and Integrated GST (IGST) is paid when supply is Inter-State. In order to ascertain whether supply of goods or service is inter-state or intra-state, rules under GST law are to be referred, which are discussed as under.

#### 1. Inter- state Supply

Supply of goods or services are treated as Inter-State, where the location of the supplier and place of supply are in any of the following combination:

- a. two different states; or
- b. two different Union Territories; or
- c. any State and any Union Territory.

Inter mean between and Inter-State supply takes place between two different tax territories i.e. either a State or a Union Territory.

Import of goods or services are also treated as Inter-State supply and subject to IGST.

#### 2. Intra- state Supply

Supply of goods or services are treated as Intra-State, where location of the supplier and the place of supply are in the same State or in the same Union Territory. Intra means within and Intra-State supply takes place within a particular tax territory i.e. either within a State or within a Union Territory.

There are certain exceptions to the above general provision and in the following cases, supply of goods is not treated as Intra-State supply-

- a. supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;
- b. goods imported into the territory of India till they cross the customs frontiers of India; or
- c. supplies made to a tourist who is a person not normally resident in India and enters India for a stay of not more than six months.

#### 3. Export of Service

Export of Service means the supply of any service when all the following conditions are fulfilled

- a. the supplier of service is located in India;
- b. the recipient of service is located outside India;
- c. the place of supply of service is outside India;
- d. the payment for such service has been received by the supplier of service in convertible foreign exchange; and
- e. the supplier of service and the recipient of service are not merely establishments of a distinct person;

Establishments of distinct persons include the following establishments, where a Person has –

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

#### 4. Export of Goods

Export of goods means taking goods out of India to a place outside India. Place of supply of goods exported from India is the location outside India.

#### 5. Import of Service

Import of service takes place when all the following conditions are fulfilled -

- a. the supplier of service is located outside India;
- b. the recipient of service is located in India; and
- c. the place of supply of service is in India;

#### 6. Import of Goods

Import of goods takes place when goods are brought into India from a place outside India. Place of supply of imported goods into India is the location of the importer.

### Place of Supply of Goods

Place of supply of goods is to be determined following provisions of the IGST Act, 2017 which is different for different situations. The same is discussed as under -

- **Where there is movement of goods**

Place of supply of goods where the supply involves movement of goods is the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. Such movement of goods may be made by the supplier or the recipient or by any other person.

- **Where there is no movement of goods**

In case where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply is the location of such goods at the time of the delivery to the recipient.

- **Where goods are installed or assembled**

If the goods are assembled or installed at site, the place of supply is the place of such installation or assembly.

- **Where goods are shipped on board**

In a situation where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply is the location at which such goods are taken on board.

- **Bill To / Ship To**

In case the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise, it is deemed that the said third person has received the goods and the place of supply of such goods is the principal place of business of such person.

### Place of Supply of Services

Place of supply of services are also determined following provisions of the IGST Act, 2017 which is different for different situations. The same is discussed as under -

- **General Rule**

- a. The Place of supply of services made by a registered person is the location of the receiver. However, if the recipient is not registered, then Place of supply is the location of the recipient where the address on record exists. If address of the recipient is not available on records, then Place of supply is the location of the supplier of service.

- b. In case of services related to an immovable property, like services provided by architects, interior decorators, surveyors, engineers, estate agents etc., place of supply is the location at which the immovable property is located.
- c. Place of supply for services provided by a hotel, lodge, guest house, inn or club is the location at which such hotel, lodge, guest house, inn or club is located.
- d. Services provided by a marriage mandap, convention hall, venue where marriage function or receptions, conference or any social or business function is held, then location at which such marriage mandap, convention hall, venue is located is the place of supply.
- e. For services rendered by restaurant and catering service, beauty parlor, Spa, health club or Fitness center, place of supply is the location where such services are actually performed.
- f. Place of supply relating to training and performance appraisal is the location of the recipient, if the recipient is the registered. However, if the recipient is not registered, then place of supply is the location where such training and performance appraisal services are rendered.
- g. When a cultural, artistic, sporting, scientific, educational or entertainment event is organized or services are supplied in relation to a conference, fair, exhibition or celebration then place of supply is the location of recipient, if the recipient is registered. Even if the location of event is outside India, the place of supply is the location of recipient. If the recipient is not registered then place of supply is the location where the event is held.
- h. Place of supply for goods transported from one place to another by any means i.e by road, rail, air, water, mail, courier etc. is the location of recipient, if the recipient is registered. If the recipient is not registered, then place of supply is the location where goods are handed over for their transportation.
- i. Similarly, place of supply of passenger transportation is the location of recipient, if the recipient is registered. If the recipient is not registered, then place of supply is the location where the passenger starts his journey.
- j. When services are rendered during journey in a train, aircraft, motor vehicle or a vessel, then place of supply is the location where the journey begins.
- k. For telecommunication services like data transfer, broadcasting, cable and direct to home television, place of supply is the location where the telecommunication line, leased circuit, cable connection or dish antenna is installed.
- l. In case of mobile connection for telecommunication, internet services provided on post-paid basis, place of supply is the location of billing address of the recipient. However, if the same is pre-paid basis, then

- **Exceptions**

Whenever the recipient is not registered, place of supply is the location of the service provider.

### **INPUT TAX CREDIT**

GST is a tax on value addition. Tax on tax which is otherwise known as cascading is avoided in GST framework as a single tax is levied both for supply of goods and services. One of the very important advantage of GST structure is seamless movement of Input Tax Credit in the entire value chain of supply of goods or services. GST paid by a recipient taxpayer for inward supply of input goods and services made to him by a supplier who is also a registered tax payer is available as Input Tax Credit to the recipient of goods or services. Even GST paid on capital goods like plant and machinery, equipment, computer, furniture, fixtures etc. which are purchased and used by a taxpayer for business purpose is eligible as Input Tax Credit.

Input Tax Credit available to a registered tax payer upon payment of GST on inward supply of goods or service is adjusted against outward tax liability that arise on making outward supply of goods or services. As Input Tax Credit is available to each registered taxpayer on subsequent supply till the goods reaches to the ultimate consumer, cost of goods reduce in general which ultimately benefit a consumer.

In the entire Value Chain of supply of goods or services or both, Input Tax Credit is available to a registered tax payer when the following conditions are fulfilled –

- a. GST paid by a recipient registered taxpayer on inward supply of goods or services or both made to him by another registered taxpayer.
- b. Such goods or services are used by the recipient in the course or furtherance of his business.

- c. The recipient is in possession of GST compliant tax Invoice or a Debit Note as issued by the Supplier against such supply of goods or services.
- d. The recipient has received the goods or services so supplied to him.
- e. The goods or services are not restricted for availment of Input tax Credit.
- f. The supplier has paid GST and filed GST Return for such outward supply made by him.
- g. The supplier has not opted for Composition levy scheme.
- h. The recipient has cleared the payment of supplier within one hundred eighty days from the date of Invoice.

### Input Tax Credit Process

Burden to pay GST reduces when a taxpayer set-off or adjust the Input Tax Credit available to him for all inward supply made to him by a registered normal taxpayer. After set-off of the Input Tax Credit available, a taxpayer discharge his tax liability by paying the differential tax liability in cash on monthly basis.

#### Illustration:

Outward Supply made during the month of July, 2017	Amount in Rupees
Total Taxable Value of outward supply of services	1,00,000
CGST Rate	9%
SGST Rate	9%
Amount of CGST payable on outward supply of services for the month of July, 2017	9,000
Amount of SGST payable on outward supply of services for the month of July, 2017	9,000

Details of Inward Supply made during the month of July, 2017 and eligible for ITC			
	Goods	Services	Total
Taxable Value of inward supply	50,000	20,000	70,000
CGST Rate	6%	9%	
SGST Rate	6%	9%	
Amount of CGST paid on inward supply and available as ITC	3,000	1,800	4,800
Amount of SGST paid on inward supply and available as ITC	3,000	1,800	4,800

Set-off of Input Tax Credit for the month of July, 2017			
	CGST	SGST	Total
Output tax liability	9,000	9,000	18,000
Less: Set-off of Input Tax Credit	4,800	4,800	9,600
Differential amount to be paid in Cash by the Taxpayer	4,200	4,200	8,400

### Negative List for Input Tax Credit

Input Tax Credit is not available in case of the following items of inward supply made to a taxpayer even if the same fulfill all other conditions as discussed previously.

- a. motor vehicles and other conveyances.
- b. food and beverages, outdoor catering.
- c. membership of a club, health and fitness centre.
- d. rent-a-cab, life insurance and health insurance.
- e. travel benefits extended to employees on vacation such as leave or home travel concession.
- f. works contract services when supplied for construction of an immovable property (other than plant and machinery) except where it is an input service for further supply of works contract service.
- g. goods or services or both received by a taxable person for construction of an immovable property (other than plant or machinery) on his own account including when such goods or services or both are used in the course or furtherance of business.
- h. goods or services or both on which tax has been paid under Composition Scheme.

- i. goods or services or both received by a non-resident taxable person except on goods imported by him.
- j. goods or services or both used for personal consumption.
- k. goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples; and
- l. any penalty or fines paid under GST law.

Even if any of the above inward supply is made to a taxpayer and GST is paid on such inward supply, still Input Tax Credit is not available for the same to a recipient.

### Input Tax Credit Utilization

Input Tax Credit is available as a pool which can be utilized by a taxpayer as per his choice. However, a tax payer has to opt and select the inward supply of goods or services that are eligible for Input Tax Credit out of all the inward supply of goods or services made to him by registered taxpayers which is shown in his monthly return GSTR-2A. Input Tax Credit (ITC) available in form of IGST, CGST, SGST or UTGST can be utilised by a taxpayer in the following manner –

Type of GST	Utilization of ITC possible against		
	IGST	CGST	SGST/UTGST
IGST-ITC	Yes	Yes	Yes
CGST-ITC	Yes	Yes	<b>Not available</b>
SGST/UTGST-ITC	Yes	<b>Not available</b>	Yes

However, an order is to be followed while utilizing Input Tax Credit (ITC) from the pool of ITC available separately for IGST, CGST and SGST/UTGST. The same is as under:

Type of GST	Order of utilisation of ITC		
	IGST	CGST	SGST/UTGST
IGST-ITC	First	Second	Third
CGST-ITC	Second	First	<b>Not available</b>
SGST/UTGST-ITC	Second	<b>Not available</b>	First

### Input Tax Credit Reversal

The recipient is allowed to avail and utilize Input Tax Credit on provisional basis even if supplier has not paid the GST or not filed the GST Return. However, the same is reversed if the supplier do not pay the GST and file Return subsequently. In case of reversal of Input Tax Credit already availed earlier by a taxpayer, interest is payable at applicable rate on the Input Tax Credit already availed. Similarly, if a recipient of goods or services has availed Input Tax Credit but not paid the supplier within one hundred and eighty days from the date of Invoice, then Input Tax Credit availed by a recipient taxpayer is reversed and interest is payable at applicable rate on the Input Tax Credit already availed before.

## PAYMENT OF TAXES

In GST framework, almost all activities relating to compliance of the provisions of IGST Act, CGST Act, SGST Act and UTGST Act is done using the common GST portal which is designed and managed by GST Network. Starting from registration, return filing, tax payment, claim for refund, communication between tax authorities and tax payer, report uploading etc. are done on-line using the GST common portal. Apart from few other important information and particulars, the common portal maintain and update on real time basis, the following three ledgers for each tax payer which are of extreme importance both for the tax authorities as well as the tax payer –

- a. Electronic Liability Ledger
- b. Electronic Credit Ledger
- c. Electronic Cash Ledger

The above ledgers help a tax payer to file returns following the procedures and can be considered as a parallel maintenance of books of accounts on behalf of a taxpayer by the GST common portal, in respect to input tax credit availed and set off made, cash paid in form of GST, payment of interest, penalty, late fee etc. and liability of IGST, CGST, SGST and UTGST on monthly basis.



### 1. Electronic Liability Register

All liabilities of a taxable person in respect to IGST, CGST, SGST and UTGST is recorded and maintained in the Electronic Liability Ledger. When a taxpayer file his Outward tax return GSTR-1 or tax to be paid on reverse charge basis, then liability is auto captured in the Electronic Liability Ledger.

### 2. Electronic Credit Register

Input Tax Credit available to a taxpayer, which the taxpayer has to opt by himself while filing GSTR-2 is credited to his Electronic Credit Ledger

### 3. Electronic Cash Register

A taxpayer collect GST from a recipient against supply of taxable goods or services and has to pay the same to government every month on or before the due date, after adjustment of eligible Input Tax Credit. He has to transfer to his Electronic Cash ledger the amount of GST to be paid by him on a particular month. Apart from the GST amount, he has to transfer cash as required to pay towards interest, penalty or late fee for delayed return filing, if any. Cash available in the Electronic Cash Ledger is utilized to off-set the tax liability of a particular month, if matching amount of Input Tax Credit is not available in the Electronic Credit Ledger. Cash transfer to Electronic Cash Ledger can be made by a taxpayer by creating a challan on-line and paying through internet banking, NEFT/RTGS or over the counter payment. There is also provision to pay tax, interest, penalty and late fee by using debit or credit card. Balance available in the Electronic Cash Ledger can be utilized in subsequent months towards payment of GST, interest, penalty or late fee for delayed return filing, if any.

### Unique Identification Number

A unique identification number is generated for each transaction that is updated for debit or credit in the Electronic Liability Register, Electronic Credit Ledger, and Electronic Cash Ledger. For audit and tracking purpose it is recommended to capture the reference number in the accounting system or ERP. This will be useful during the audit as well as for reconciliation purpose.

## RETURNS

Under GST law, tax period is a calendar month or part thereof. A normal taxpayer has to file three GST Returns every month, which are as under:

- a. GSTR-1 for Outward supply by 10th of next month
- b. GSTR-2 for Inward supply after 10th but on or before 15th day of next month
- c. GSTR-3 for Outward supply by 10th of next month

If a taxpayer do not file GSTR-1 by 10th of a month, then GSTR-1 cannot be filed for 11th to 15th and that will lead to payment of late fees @ ₹100/- per day for delay of 5 days which will be automatically added to liability ledger of the taxpayer. The taxpayer can rectify the error/omission for unmatched entries after GSTR-2A gets auto populated on 11th day of a month. The taxpayer can verify, validate, modify, delete or include Inward supplies, Debit Note or Credit Note as required while filing monthly returns. However, no rectification of error or omission is possible after filing of GSTR-3 for September month of next financial year or before filing the Annual Return. The taxpayer can communicate for modifications, deletions and inclusions made to concerned Supplier in case of mismatch entries. Even if there is no transaction, NIL GST return is to be filed for every month. If GSTR-1 is not filed, GSTR-2 and 3 cannot be filed for a particular month.

A Composite tax payer is required to file return on quarterly basis. Even, to facilitate the ease of payment and return filing for small and medium businesses with aggregate annual turnover upto ₹1.50 crores, such small tax payers is required to pay tax and file GSTR 1, 2 and 3 on quarterly basis w.e.f. 01.10.2017 as decided by the GST Council in it's 22<sup>nd</sup> meeting held on 06.10.2017 at New Delhi.