



GST: Levy and Collection of Tax

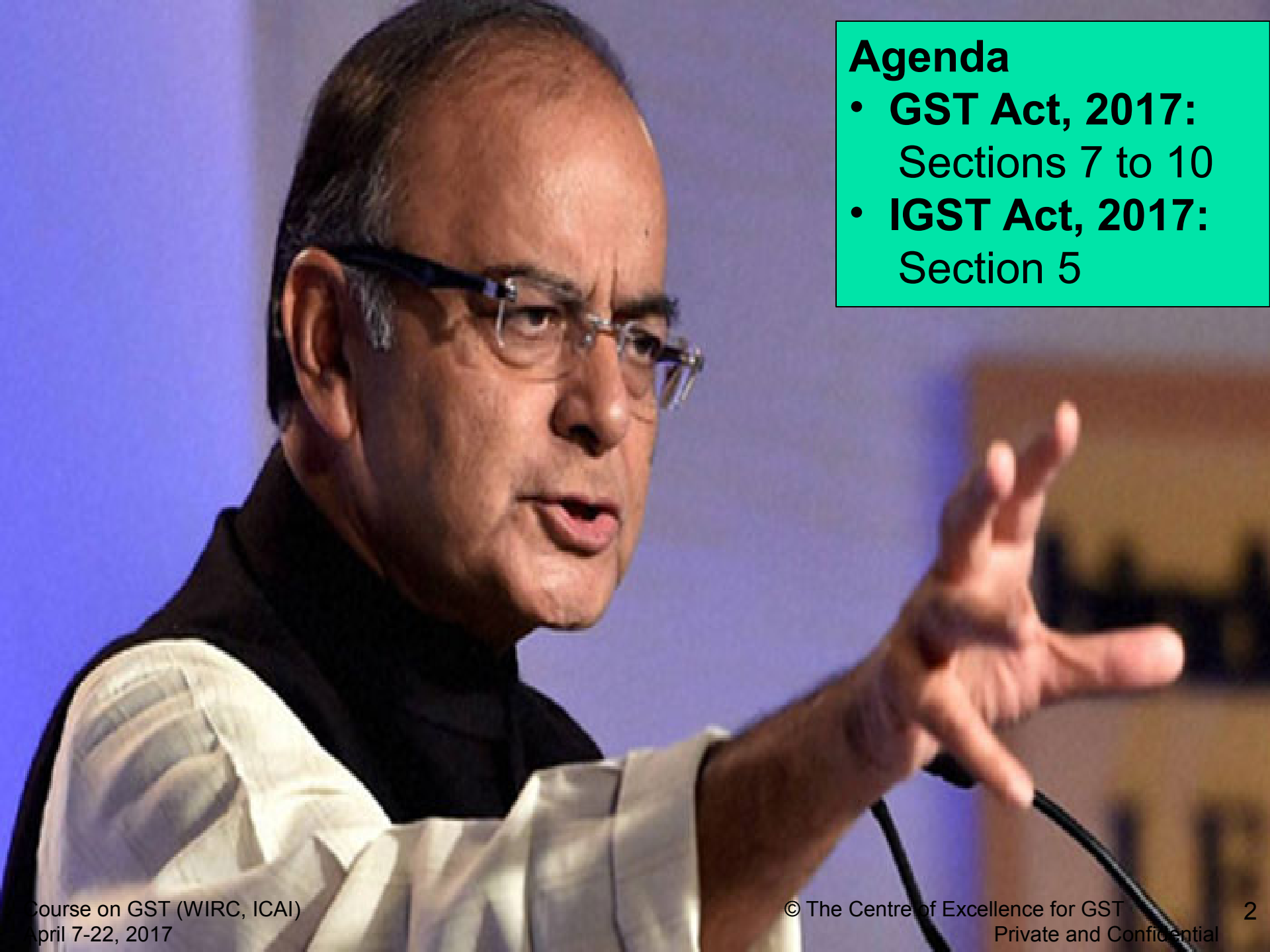
Course on GST – WIRC, ICAI

April 7-22, 2017

ICAI Tower, BKC

Presented by CA. Hemant Vastani

Dean, The Centre of Excellence for GST



Agenda

- **GST Act, 2017:**
Sections 7 to 10
- **IGST Act, 2017:**
Section 5



Topics to be covered in Detail

Act	Section No.
GST Act, 2017	7. Scope of Supply 8. Tax Liability on Composite and Mixed Supplies 9. Levy and Collection 10. Composition Levy
IGST Act, 2017	5. Levy and Collection of Tax

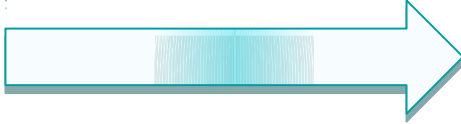
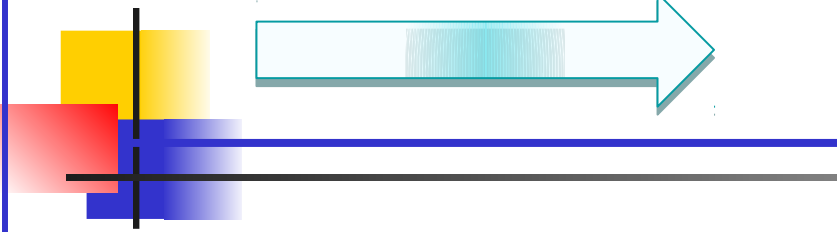


Section 7(1) “Supply” includes–

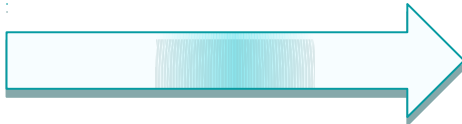
(a) all forms of supply of goods or services or both such as:

- Sale
- Transfer
- Barter
- Exchange
- License
- Rental
- Lease
- Disposal

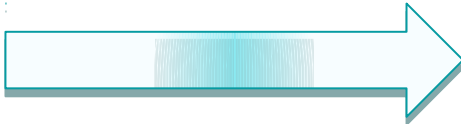
Made or agreed to be made for a consideration by person in the course or furtherance of business.



✓ Import of services for a consideration whether or not in course or furtherance of business;



✓ The activities specified in Schedule I, made or agreed to be made without a consideration



✓ The activities to be treated as supply of goods or supply of services as referred to in Schedule II.

Schedule I: Activities to be treated as supply even if made without 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 as specified in section 25, when made in the course or furtherance of business:

Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.

Schedule I: Activities to be treated as supply even if made without consideration (contd.)

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.

Schedule II :ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

Transfer

- any transfer of the title in goods is a supply of goods;
- any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;
- any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

Land and Building

- any lease, tenancy, easement, licence to occupy land is a supply of services;
- any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

Treatment or process:

Any treatment or process which is applied to another person's goods is a supply of services.



(Contd.)

- **Transfer of business assets:**
 - 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, such transfer or disposal is a supply of goods by the person;
 - 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 is a supply of services;
 - where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless:



(Contd.)

- (i) the business is transferred as a going concern to another person; or
- (ii) the business is carried on by a personal representative who is deemed to be a taxable person.



(Contd.)

- **Supply of services:**

The following shall be treated as supply of service, namely:—

(a) renting of immovable property;

(b) 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.



(Contd.)

- **Composite supply:**

The following composite supplies shall be treated as a supply of services, namely:-

(a) works contract as defined in clause (119) of section 2; and

(119) “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract;



(Contd.)

(b) 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.

- **Supply of Goods**

The following shall be treated as supply of goods, namely:-

Supply of goods by any unincorporated association or body of persons to a member thereof or cash, deferred payment or other valuable consideration

Section 7.(2) Certain Supplies will be neither a supply of goods nor a supply of services



- (a) activities or transactions specified in Schedule III; or
- (b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

Schedule III: ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES (NEGATIVE LIST)

- 1. Services by an employee to the employer in the course of or in relation to his employment.
- 2. Services by any court or Tribunal established under any law for the time being in force.
- 3. (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
(b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
(c) the 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 before the commencement of this clause.



(Contd.)

- 4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
- 5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
- 6. Actionable claims, other than lottery, betting and gambling.

Explanation: For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.

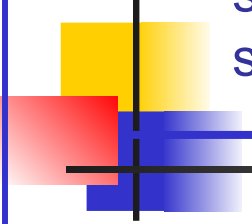


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- **Section 7 (3) Subject to sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as :-**
 - (a) a supply of goods and not as a supply of services; or
 - (b) a supply of services and not as a supply of goods.

Section 8 :- Tax liability on composite and mixed supplies

- The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—
 - (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
 - (b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.



Where a supply involves multiple (more than one) goods or services, or a combination of goods and services, the treatment of such supplies would be as follows:

- (a) If it involves more than one goods and / or services which are naturally bundled together: These are referred to as composite supply of goods and / or services. It shall be deemed to be a supply of those goods or services (), which constitutes the principal supply therein.
- **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 the principal supply. This implies that the supply will be taxed wholly as supply of goods.**



(Contd..)

- (b) If it involves supply of more than one goods and / or services which are not naturally bundled together: These are referred to as mixed supply of goods and / or services. It shall be deemed to be a supply of that goods or services () therein, which are liable to tax at the highest rate of GST.
- A supply of more than one goods and / or services as a bundle will be reckoned as 'mixed supply' if: (i) such goods and / or services are supplied together for a single price (ii) they are not naturally bundled together and (iii) it does not qualify as composite supply.
- **If a tooth paste (say for instance it is liable to GST at 12%) is bundled along with a tooth brush (say for instance it is liable to GST at 18%) and is sold as a single unit for a single price, it would be reckoned as a mixed supply. This would therefore be liable to GST at 18%**

Composite and Mixed supply

- **What are composite supply and mixed supply? How are these two different from each other?**

Ans. Composite supply is a supply consisting of two or more taxable supplies of goods or services or both or any combination thereof, which are bundled in natural course and are supplied in conjunction with each other in the ordinary course of business and where one of which is a principal supply.

For example, when a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance service are ancillary.



(Contd.)

- *Mixed supply is combination of more than one individual supplies of goods or services or any combination thereof made in conjunction with each other for a single price, which can ordinarily be supplied separately.*
- *For example, a shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold separately*



Section 9: Levy and Collection

- 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

CGST

To Be Levied by center

Implemented through Single Statute

Paid to the account of CG

Maximum Rate:20%

Illustration: Intra- State Supply

'A' sold to 'B' of Mumbai		'B' sold to consumer in Mumbai	
Particulars	Rs.	Particulars	Rs.
Sale price	1,000	Sale price	2,000
CGST @ 9%	90	CGST @ 9%	180
SGST @ 9%	90	SGST @ 9%	180
Total price	1,180	Total price	2,360
Collected by Central Government	90	Collected by Central Government	90
		= (Rs. 180 - Rs. 90)	
Collected by State Government	90	Collected by State Government =	90
		(Rs. 180 - Rs. 90)	

Integrated Goods and Services Tax (Levy)



5. (1) Subject to the provisions of sub-section (2),

there shall be levied a tax called the integrated goods and services tax on all inter-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 of the Central Goods and Services Tax Act and at such rates, not exceeding forty 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:

(Contd.)

Mumbai
Sale price= Rs. 1000

CGST 9% = Rs. 90
SGST 9% = Rs. 90

Mumbai
Sale price= Rs. 2000

IGST 18%= Rs. 360 - GST Credit
of Rs. 180= Rs. 180

Consumer in Delhi

Central Government

Transfer of credit of SGST used for
payment of IGST to CG

State Government -
Maharashtra

Delhi Govt. will receive SGST portion
of IGST, being the Consumption
State

State Government -
Delhi



(Contd.)

9 (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.

9 (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



(Contd.)

In the normal course, the tax would be payable by the supplier of goods and / or services. However, in specific cases (as may be notified), the onus of payment of tax is shifted to the recipient of goods and / or services. To impose tax on reverse charge basis, the following conditions would be mandatory:

- (a) Should be notified only on recommendation of the Council.
- (b) Notification to be issued by the Central Government specifying the categories of supply of goods and / or services.



(Contd.)

9 (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.



(Contd.)

- 9(5) Additionally, where any supply of services is effected through e-commerce operators, the law provides that the Central Government may on recommendation of the Council specify (notify) that the e-commerce operator will be liable to discharge the tax on such supplies.
- It is important to note that, in such supplies, the e-commerce operator is neither the supplier of service/s nor the recipient of services. Therefore, this would be an exception to the imposition of tax as specified in para supra. It is important to note that this exception is carved out only in respect of supply of services through an ecommerce operator and will not be applicable / relevant to supply of any goods through an e-commerce operator.



(Contd.)

- Further, where the e-commerce operator does not have a physical presence in the taxable territory, the representative (being agent / any other person) of the operator (if any) shall be the person liable to pay tax. Where such representative also does not have presence in such territory, the operator should appoint a person specifically for this purpose.

Section 10:-Composition levy

- 1) A registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees may opt to pay, an amount calculated at such rate as may be prescribed, but not exceeding. ;
- (a) one per cent. of the turnover in case of a manufacturer,
- (b) Two and a half per cent of the turnover in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II and
- (c) Half a per cent. of the turnover in case of other suppliers, subject to such conditions and restrictions as may be prescribed

Provided that the Government may increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore rupees, as may be recommended by the Council.



(Contd.)

There are different rates for different sectors.

- Traders the composition rate is 0.5 % of the turnover in a State or Union territory.
- Manufacturer, then the rate is 1% of the turnover in a State or Union territory.
- In case of restaurant services, it is 2.5% of the turnover in a State or Union territory.

These rates are under one Act, and same rate would be applicable in the other Act also. So, effectively, the composition rates (combined rate under CGST and SGST/UTGST) are 1%, 2% and 5% for normal supplier, manufacturer and restaurant service respectively.



(Contd.)

10(2) The registered person shall be eligible to opt under subsection (1) if :

- (a) he is not engaged in the supply of services
- (b) he is not engaged in making any supply of goods which are not liable to tax under this Act;
- (c) he is not engaged in making any inter-State outward supplies of goods;
- (d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; or
- (e) He is not a manufacturer of such goods as may be notified on the recommendations of the Council:



(Contd.)

- (3) The option availed of by a registered person under subsection (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).

- (4) A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

- (5) If the proper officer has reasons to believe that a taxable person was not eligible to opt to pay tax under subsection (1), such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.



Section 10:-Composition levy

- **Can the registered person under composition scheme claim input tax credit?**

Ans.: No, registered person under composition scheme is not eligible to claim input tax credit.

- **Can the customer who buys from a registered person who is under the composition scheme claim composition tax as input tax credit?**

Ans.: No, customer who buys goods from registered person who is under composition scheme is not eligible for composition input tax credit because a composition scheme supplier cannot issue a tax invoice.



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- **Can composition tax be collected from customers?**

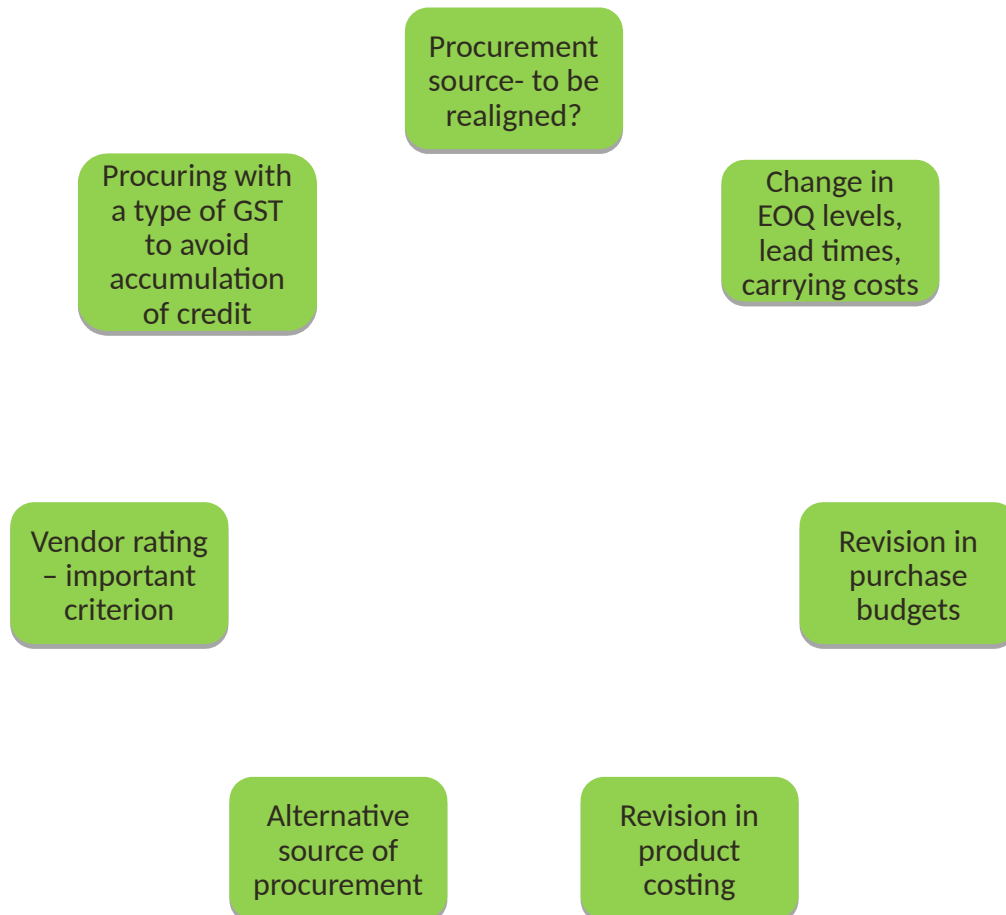
Ans.: No, the registered person under composition scheme is not permitted to collect tax. It means that a composition scheme supplier cannot issue a tax invoice.



GST - IMPACT AREAS

- **Procurement - Procurement source to be realigned**
- **Vendor Management - Review Current Vendor history**
- **Accounts - Registration, Returns, Refunds, Payment**
- **Agreements - Review of Spill over agreements**
- **ERP - Rewire IT components for GST**
- **SOPs - SOPs for Indirect Tax structure**
- **Working Capital management**
- **Human Resource management**

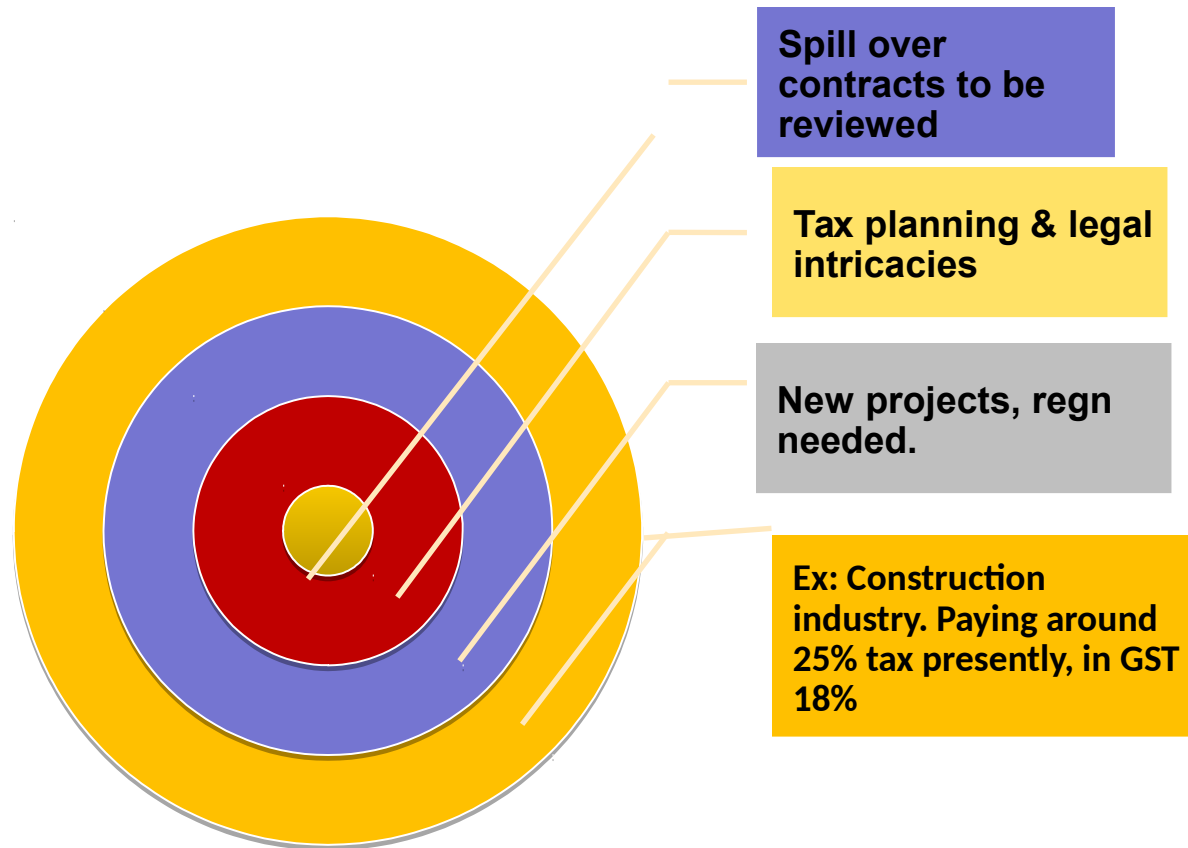
Impact areas - Procurements



Impact areas - Vendor Management

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- Review current vendors history to identify non-compliant vendors
 - GST Compliance rating to identify non-compliant vendors
 - Identify multiple new vendors, get revised quotes
 - Conducting vendor education programmes for unorganized vendors
 - Review price of all related party vendors to avoid disputes in transaction value
 - Suggest vendors to follow similar exercise - better vendor relationships

Impact areas – Agreements





Impact areas – Accounts

Records –
IGST/CGST/
SGST based;
Regular
recos

**Entry
Validation +
Periodic
verification**
– reduction
of errors

Returns –
37/ 49 for a
single
registration

Inward/Out
ward
**Supplies +
ISD
uploaded**

Impact of GST on ERP/IT Systems

Rewire IT components for GST

Build IT Capability

Business & Tax Requirements

Restructure MIS & Reporting

Transaction documents – Invoice, PO etc.

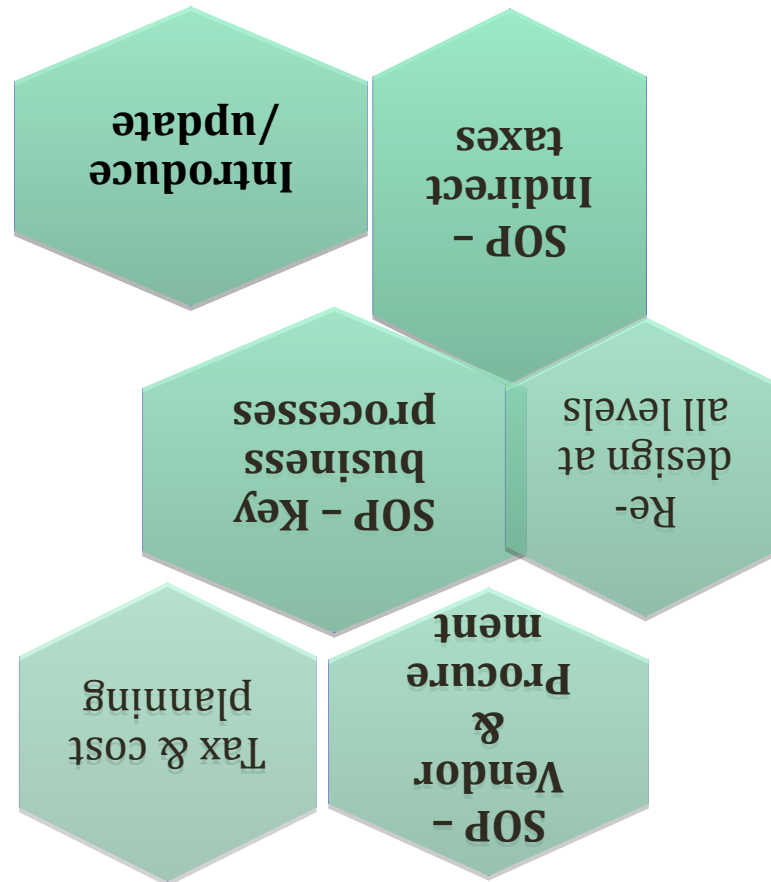
Masters – Customers, Vendors, Tax etc

Functional Assessment of IT changes

Capturing of taxes

Policy, Process & Controls

Impact areas – SOP





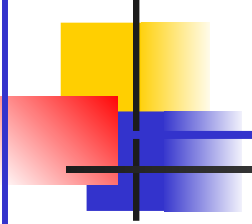
Impact on Pharma Industry

- **Input Tax Credit**
- **Area based exemptions and subsidies**
- **Transition provisions for imported goods**
- **Taxability and valuation of Stock Transfers**
- **Taxability of Free Supplies.**
- **Discounts**
- **Input Service Distributor**
- **Point of taxation**
- **Power to challenge the transaction value**

Impact on Media and Entertainment Industry



- **Input Tax Credit**
- **Taxability of Free Supplies**
- **Barter and exchange**
- **Discounts**
- **Input Service Distributor**
- **Point of taxation**
- **Power to challenge the transaction value**
- **Compliance requirements to increase**
- **Impact on ongoing contracts**



Thank You !!!

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