#### INPUT TAX CREDIT OF INPUT TAX CHARGED ON SUPPLY OF GOODS AND SERVICES

# Eligible Supplies/Non Eligible supplies / Restricted supplies Eligible Supplies Sec 16(1)

Input Tax paid on Supplies of Goods or Services or both only for furtherance of Business –(ITC not allowed for Non- Business Purpose).

## Input Tax - Sec 16(1) read with Sec 2 (62)

- SGST
- CGST
- IGST
- UGST

#### Goods Sec 2 (52) :-

Goods means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under contract of supply.

Note :- a) Actionable claim is specifically included in goods.

b) Credit of Tax paid on import of goods and services and on reverse charge basis is also elegible.

# Non Eligible supplies :-

- ITC NOT allowed in relation to Club Membership ,health, and fitness centre.(Sec 17(5) (b)(ii))
- Travel benefit to employees on vacation LTC etc (Sec 17(5) (b)(iv))
- Taxes under Composition Levy (Sec 17(5) (e))
- No ITC of Goods or Services received by Non Resident Taxable Purpose (Sec 17(5) (f) )
- Supplies used for Personal Consumption\_(Sec 17(5) (g))

# **Eligible Conditions / procedures /time**

#### Sec 16(2)(a)

Possession of Duty paying documents – Invoice , Debit Notes or others

#### ITC Rule 1(1)and 1(2)

Prescribe documents like Invoice (Sec 31), Debit Note (Sec 34), Bill of Entry with prescribed particulars / contents and these relevant information is uploaded in Form GSTR-2 by recipient of supply [Separately discussed]

Particulars include Supplier's Name, GSTN, Specific Invoice Number Format, Name & Address of Recipient, , Address of delivery, HSN Code, Accounting Code, Description and Quantity, Value of goods and services, Rate and amount of tax, other prescribed particulars.

Litigation may arise sue to mismatch of invoice numbers in common portal as different suppliers use different invoice format.

## Sec 16(2)(b)

Receipt of Goods or Services

#### **Explanation to Sec 16(2)(b)**

Even delivery of goods to an agent or third party on the direction of registered person either by way of transfer of documents of title to goods or otherwise is deemed to be receipt of goods by the registered person

# Sec 16(2)(c)

Payment of Tax by supplier to Government either in cash or through the availing of ITC.

- Goods lost, stolen, destroyed or written off or disposed of by way of gift and free samples\_(Sec 17(5) (h))
- Any tax paid in accordance with provision of sec 74, 129 and 130 – Tax paid as a result of Fraud, Wilful misstatement, suppression of facts, Contravention of provisions of the Act to evade taxes, search and seizure cases\_(Sec 17(5) (i))
- It is again reiterated in the rules that no ITC of Input Tax is available if such tax is paid on account of fraud, wilful misstatement or suppression of facts. (ITC Rule 1(3))
- No ITC if depreciation claimed on ITC portion in case of Capital Goods (Sec 16(3))

#### Supplies on which credit is allowed on certain restrictions

#### Sec 17(5) (a) - Restricted Eligibility

ITC in respect of Motor Vehicle and other conveyance allowed ONLY for :

- Further supply of such vehicles or conveyances.
- Transportation of passengers
- Imparting training on driving, flying, navigating such vehicles or conveyance
- Transportation of goods

No ITC in relation to Motor Vehicles and other conveyances used for any other purpose not eligible.

## Sec 17(5) (b)(i) - Restricted Eligibility

ITC in respect of Food and beverages, outdoor service, beauty treatment, health services, cosmetic and plastic surgery allowed only for providing outward supply of the same category or forming part of mixed or composite supply.

#### Sec 17(5) (b)(iii) - Restricted Eligibility

Renting a Cab , Life Insurance and Health Insurance only :

- a) When obligatory on part of employer to provide to employees under law
- b) For providing outward supply of the same category or forming part of mixed or composite supply

Otherwise no ITC allowed.

#### Sec 16(2)(d)

Filing of returns by recipient of goods / services U/s 39 – GSTR-3 for the related month has to be filed.

Input credit is allowed only if the supplier has deposited the tax collected from recipient. Every input credit being claimed must be matched and validated before any claim is made.

If the supplier is not GST compliant no ITC shall be allowed to the person claiming ITC on supplies.

#### **Proviso 1 to Sec 16(2)**

In case of Goods received in lots / instalments against an invoice credit allowed only on receipt of last lot / instalment..

## Proviso 2 to Sec 16(2)

Payment for the Value of Goods and Services along with Taxes thereupon to the supplier in case of Forward Charge Mechanism within 180 Days of date of Invoice.

If Payment for the Value of Goods and Services along with Taxes thereupon to the supplier in case of Forward Charge Mechanism not paid within 180 Days of date of Invoice

## **ITC Rule 2(1)**

Detail of such supply and ITC availed thereon  $\,$  need to be furnished in Form GSTR - 2 for the month immediately following the period of 180 days

#### ITC Rule 2(2)

ITC Reversal is to be added to output tax liability for the month in which such detail is furnished.

#### **ITC Rule 2(3)**

Amount of ITC availed with Interest need to be paid as prescribed in and at the rate notified u/s 50(1) for the period starting from the date of availing credit till date of addition in Output Tax liability **is paid.** 

#### Sec 17(5) (c) -Restricted Eligibility

Works Contract Services when supplied for construction of **IMMOVABLE PROPERTY** except where these services are inputs service for further supply of Works contract service.

However, Works contract service eligible for ITC when supplied in relation to construction of any movable or IMMOVABLE property being Plant and Machinery.

#### Sec 17(5) (d) -Restricted - Eligibility

Goods and Services use of which result into self construction / formation of Immovable Property are not eligible for ITC even if the immovable property is used for furtherance of business.

However, Good and service for construction of plant and machinery are eligible for ITC.

**Construction** includes re-construction, renovation, repairs, additions or alterations to the extent of capitalisation to the immovable property.

**Plant and Machineries** also includes foundation and structural support but it does not include

- Land Building or Civil Structure
- Telecommunication Tower
- Pipeline laid down outside factory premises etc

(Explanation to Sec 17)

## Sec 17(1) and Sec 17(2)

Goods / Services used for both business and non – business purpose, taxable (including zero rated supply) and exempted supplies then proportionate credit attributable to business purpose allowed as per rules.

# Sec 2(47)

Exempt supply include Non-Taxable supply

## Sec 17(3)

a) Exempt supply also includes the supplies on which liability to pay tax is on recipient of supply

#### Proviso 3 to Sec 6(2)

Re credit allowed upon payment, is payment is made after 180 days

#### Sec 16(4)

Before due date of furnishing the return for September following the end of the financial year to which invoice or debit note relates i.e. Invoice or debit note on which ITC taken or the date of furnishing annual return whichever is earlier.

For all the returns filed from July 17 to March 18 – last date of taking the ITC is due date of filing the return for September 18 – 20th October 2018 or the actual date of filing of annual return if filed before  $20^{th}$  October 18

# Rule 7(1) - Provisional Reversal on proportionate basis

## ITC Rule 7(2)

Final reversal on proportionate basis

Reversal of Input Tax on Capital Goods ITC Rule 8(1), ITC Rule 8(2), ITC Rule 8(3)

## **Discussed Later**

- b) Transaction in securities
- c) Sale of land, building except construction of complex, Building, or part thereof Intended for sale to a buyer where any consideration is received before the issue of completion certificate.

# Payment of ITC after having availed earlier

Situations	
Supply of Capital Goods other	
than Refractory Bricks, Moulds, Jigs, Dies, Fixtures supplied as	
Scrap, on which ITC taken	
Supply of Capital Goods being	· · · · · · · · · · · · · · · · · · ·
Refractory Bricks, Moulds, Jigs, Dies, Fixtures supplied as Scrap,	· ·
on which ITC taken	
Taxable supplies becomes	ITC Rule 9(1)
exempted or switching over or opting for composition scheme or	
registration is cancelled	Capital Gains – Credit relating to remaining residual life in months on pro- rata basis considering the residual
	life as 5 years.
	ITC Rule 9 (2) Separate determination of amount of IGST and CGST for the purpose of reversal.
	Separate determination of amount of 1051 and e051 for the purpose of reversal.
	ITC Rule 9 (3)
	In case of non – availability of invoice for reversal of credit ,reversal shall be based on the prevailing market price of the goods on the date of occurrence of any of the events stated in Section 18(4) or 29(5) viz. date of opting for Composition Scheme or effective date of exemption or date of cancellation of registration.
	ITC Rule 9 (4)
	Amount of reversal shall form part of Output Tax Liability
	Detail of reversal need to be furnished in Form GST ITC 03 (Where Taxable supply become exempt/ Normal scheme to Composition scheme) or Form No. GSTR – 10 (in case of cancellation of Registration)
	Debit in electronic credit ledger / cash ledger the above calculated amount
	Any balance lying in the electronic credit ledger after such debit shall lapse.

Change	in cor	nstit	ution	of
registered	person	by	reason	of
sale,	merger,		demerg	er,
amalgama	tion, lease	e or	transfer	of
the busine	:SS			

No reversal by transferor - Full CC allowed to the transferee If there is specific provisions for transfer of liabilities and vice-versa

## **ITC Rule 6(1)**

Application in Form GST ITC 02 electronically with request to transfer unutilized ITC lying in ECL to the transferee

## **ITC Rule 6(2)**

A certificate from practicing Chartered Accountant or Cost accountant to the effect that transfer of business has been done with a specific provision of transfer of liabilities has to be obtained.

## **ITC Rule 6(3)**

Un-utilized credit shall be credited to ECL of transferee once the transferee makes online acceptance (of detail filed by transferor in Form GST ITC 02) on Common Portal.

# **ITC Rule 6(4)**

Inputs and capital Goods so transferred must be properly accounted for by the transferee

#### **Methodology in case of Demerger**

ITC shall be apportioned in the ratio of Value of assets of the new units specified in the demerger scheme

# **Treatment of Stock held during Transitional stages after implementation of GST**

Situations	ITC Credit on stock held on	Procedure and Rules
	(Relevant Date) :	
	Date on which liable to pay tax	ITC Rule 5(b) and (c)
Voluntary application for	Day immediately preceding the date	Credit of Input Tax on Capital Goods shall be the amount computed
registration - Person not liable to	of grant of registration	after reducing the credit by 5% per quarter or part thereof from the
take registration		date of Invoice or duty paying document.
Transitional Situation – Adopting	Day immediately preceding the date	
Composition Scheme to Normal	on which liable to pay tax U/s 9	A Declaration in Form GST ITC – 01 to the effect that the dealer is
Scheme		eligible for availing ITC required to be filed within 30 days from the
Transitional Situation - Exempt	Day immediately preceding the date	date of becoming eligible to avail ITC.
supply become Taxable	from which the supplies becomes	
	taxable	ITC Rule 5(d)
When Liability for registration		Where the claim of ITC exceeds Rs. 2 lakh , a certificate from
arise and registration is not		practicing Chartered Accountant or Cost accountant has to be
applied within thirty days		obtained.
		ITC Rule 5(e)
		ITC claim shall be allowed only after verification of corresponding

details furnished by corresponding supplier in Form GSTR -1 or GSTR 4 as the case may be on the common portal.	
Therefore if the supplier has not filed/ not filed properly GSTR - 1 or GSTR - 4 no ITC claim is allowed.	

Note: No ITC after expiry of 1 year from the date of issue of Invoice relating to such supply

Job Work related provisions	Condition	Consequences	Procedure
Principal sale be allowed input tax credit on inputs sent for job work directly to job workers premises or after being first bought to his place of business	Goods must be received back within 1 year (for Inputs) / 3 years (for Capital Goods) of being sent out.  Time limit is not applicable to moulds, jigs, dies, fixtures or tools sent out to job worker for job wok	If the goods are not	TC Rule 10 (1) Challan must be issued by the Principal for sending goods to Job Worker from his premises or directly from the suppliers place.  ITC Rule 10 (2) Challan should contain the details prescribed in Invoice Rule 8  ITC Rule 10 (3) Detail for goods sent to or received from Job Worker need to be included in Form GSTR – 1  ITC Rule 10 (4) If goods are not received within the prescribed time limit from the Job Worker Challan issued shall be deemed to be the Invoice for the purpose of the Act.  Explanation  Capital Goods includes Plant and Machinery  Stamp Duty Value shall be the Value of Land and Building for determining the value of exempted supply
			Stamp Duty Value shall be the Value of Land and Building for determining the value of

# <u>Provisions relating to Banking Company, NBFC and Financial Institutions (Supplying services by way of accepting deposits, loans or advances)</u>

Situations		
	0 1 11 1770	
Input Tax Credit - Normal Scheme	Comply with normal ITC provisions	
Option to go for alternative method of	Avail 50% of the eligible Input Tax Credit on Inputs,	ITC Rule 3
availing ITC	Capital Goods and Inputs Services every month	Ascertainment of total Input Tax – Say Rs. 100
	Option once exercised not to be withdrawn during	·
	the remaining part of the financial year	Deduction of Tax of non – business purpose
	Restriction of 50% not applicable on tax paid on	and ineligible credit – Say Rs. 25
	supplies made by one registered person to another	and mengible credit Say No. 25
	, , , , , , , , , , , , , , , , , , , ,	Doduct clicible gradit of tax paid in accordance
	registered person having same PAN.	Deduct eligible credit of tax paid in accordance     with approximately 2 of a secondary 17(4) who are producted as a first paid in accordance.
		with proviso 2 of sec 17(4) where restriction of
		50% is not applicable (Supplies by one
		registered person to another under same PAN)
		– Say Rs. 15
		Balance amount – Rs. 60
		ITC Calculation
		50% of Rs. 60 + 100% of Rs. 15 = Rs. 45
		30 % 01 KS. 00 + 100 % 01 KS. 15 - KS. 45
		Above amount pood to be gradited to electronic
		Above amount need to be credited to electronic
		credit ledger .
		Return in Form No GSTR – 2 to be furnished with
		the above details.

#### Provisions relating to distribution of credit by Input Service Distributors

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What to Distribute	How
CGST – as CGST or IGST	ITC Rule 1(a)
IGST – as IGST or CGST	ITC to be distributed in the
	same month to which it
ITC Rule 4(e)	pertains .
Credit of IGST shall be	<b>P</b>
distributed as IGST Credit	Return to be furnished in
alburbated ab 1887 erealt	Form GSTR – 6.
ITC Rule 4(f)	ITC Rule 1(c)
Methodology of distribution of	Even ineligible ITC need to be
Credit of CGST, SGST, UGST :	distributed separately
credit of CdS1, SdS1, OdS1.	distributed separatery
When ICD and Desirient	TTC Deals 4(s)
Where ISD and Recipient	ITC Rule 1(c)
in same state	Separate distribution of
CGST as CGST	CGST, SGST, UGST and IGST
<ul> <li>SGST as SGST</li> </ul>	
<ul> <li>UGST as UGST</li> </ul>	
	By issue of prescribed
	documents with prescribed
Where ISD and Recipient	details in prescribed manner
in different state	
CGST/ SGST/ UGST as IGST	ITC Rule 4(g)
	Invoice must clearly indicate
	that it is issued only for
	distribution of ITC.
	Rule 4(3)
	ISD Credit Note and ISD
	Invoice need to be reported
	in Form GSTR – 6

#### **How much**

Maximum to the extent of credit available for distribution.

#### ITC Rule 4(h)

If ITC already distributed gets reduced for any reason credit then ISD credit note to be issued.

#### ITC Rule 4(i)

Where additional tax credit on account of increase in ITC due to revision in prices such addition ITC shall be further distributed in the same month in which the debit note reported in GSTR – 6

#### ITC Rule 4(j)

Where there is reduction in ITC on account decrease in ITC due to revision in value of supply need to be reversed as under:

- Tax to be distributed will be reduced by tax amount as per Credit Note included in Form GSTR-6
- Where there is a shortfall, the balance amount has to be added to the tax liability of the Recipient of supply

# Manner in which is to be distributed

- Credit attributable to specific recipient to be distributed to that recipient only.
- Common credit for more than one recipient but not all – Distribution on prorate basis only to those relevant units (operational) based on their turnover
- Common credit for all the recipient units Distribution on prorate basis to all such recipient units (operational) on the basis of their turnover.

#### **TURNOVER**

- Turnover in State or Union Territory during preceding financial year for which credit is to be distributed
- If there is no such turnover in State or Union Territory during preceding financial year, then last quarter for which turnover detail available preceding the month during which credit is to be distributed
- Turnover shall not include Excise duty payable under state or central laws.

#### ITC Rule 1(d)

Credit to be distributed to the relevant units on the basis of turnover of that unit to total turnover of last financial year / quarter preceding the period of distribution , as the case may be.

Distribution shall also be made to units engaged in exempted supplies / unregistered units.

ITC Rule 4(2)	
If ITC distributed is reduced	
later on for any reason for any	
recipient (including distribution	
to wrong Recipient ) process	
prescribed above need to be	
followed.	

Common ITC used for both business and non - business purpose or for effecting Taxable (including Zero Rated Supplies) as well as exempt supplies

Reversal of Input Tax on Inputs and Input Services	Reversal of Input Tax on Capital Goods
Rule 7(1) - Provisional Reversal on proportionate basis	ITC Rule 8(1)
Calculate T = Total Input Tax on Inputs / Input Services	<ul> <li>Identify Input Tax on Capital Goods exclusively attributable to non business purposes and indicate in Form No. GSTR – 2 – No credit in ECL</li> </ul>
• Calculate T1 = Input Tax exclusively attributable to non business purposes	<ul> <li>Identify Input Tax on Capital Goods exclusively attributable to exempted supplies and indicate in Form No. GSTR – 2 – No credit in</li> </ul>
• Calculate T2 = Input Tax exclusively attributable to exempted supplies	ECL
Calculate T3 = Input Tax ineligible for ITC	<ul> <li>Identify Input Tax on Capital Goods exclusively attributable to business purposes and indicate in Form No. GSTR – 2 – Take credit in ECL</li> </ul>
• Calculate C1 = Eligible Input Tax = T-T1-T2-T3	Identify Input Tax on Capital Goods exclusively attributable to
• Calculate T4 = Input Tax exclusively attributable to Taxable supplies (including Zero rated)	taxable supplies (including zero rated supplies) and indicate in Form No. GSTR – 2 – Take credit in ECL
• Calculate C2 = Common Input Tax pertaining to Taxable / Exempted / Non – business Purpose = C1 – T4	Calculate A = Common Input Tax
<ul> <li>Calculate E = Aggregate Value of exempt Supply for the tax period</li> </ul>	Calculate Tc = Summation of all common Input tax
OR Aggregate Value of exempt Supply for last tax period preceding to the current tax month (if turnover is not available)	• Calculate Tr = = Proportionate Tax Credit over residual economic life = T/60 = per month
• Calculate F = Total Turnover of the Registered person for the Tax period OR Aggregate Value of exempt Supply for last tax period preceding to the current tax month (if turnover is not available)	
<ul> <li>Calculate D1 = Input Tax pertaining to exempted supplies on</li> </ul>	Calculate E = Aggregate Value of Exempt Supplies during Tax period OR last tax period preceding to the current tax month (if

turnover is not available)

proportionate percentage = E/F X C2

- Calculate D2 = Input Tax pertaining to Non business purpose = Presumptive figure = 5% of C2 (Common Input Tax )
- Calculate C3 = Input Tax attributable to Business Purpose and Taxable Supplies = C2 - (D1+D2)
- Separate computation of Input Tax of CGST, SGST, UGST and IGST |
- Amount calculated as D1 and D2 shall be added to Output Tax liability
- If identification and segregation of Input Tax relating to partly for Non – Business Purpose or Exempt Supplies is possible at Invoice level itself registered person has the option to include the same in T1 and T2 above and the remaining amount of credit shall be included in T4

#### **ITC Rule 7(2)**

# Final reversal on proportionate basis

- Re-computation of reversal of Input Tax on the basis actual turnover for the entire financial year
- In case provisional reversal is less than final reversal resulting in short payment , the additional tax/ differential tax liable is to be paid will be added in the output tax liability
- Where the provisional reversal is more than final reversal resulting in excess payment, such excess tax will be allowed as credit.

# **Time Limit applicable**

- Before due date of filing of return for September following the end of the financial year to which such tax credit relates.
- Any excess tax is to be added to the output tax liability for a month not later than September following the end of the financial year to which such tax credit relates.

- Calculate F = Total Turnover during Tax period OR last tax period preceding to the current tax month (if turnover is not available)
- Calculate Te = Common Tax credit attributable to exempted supplies = Tr X E/F
- Summation of Tax pertaining to common assets Tr shall be reduced by tax on exempted supplies or Non- Business supplies arrived at by applying % of turnover of exempted supplies / total supplies

## ITC Rule 8(2)

- Amount calculated as Te shall be added to Output Tax liability during every tax period of the residual life of the concerned capital goods.
- Interest applicable shall also be calculated .

# **ITC Rule 8(3)**

• Separate computation of Input Tax of CGST, SGST, UGST and IGST

Important - No reversal of tax credit on common capital goods required in case of capital goods used for non - business purpose

- Interest on such excess tax is to be calculated from first day of April of succeeding financial year till the date of payment
- Any short amount can be claimed as credit in his return for a month not later than September following the end of the financial year to which such tax credit relates.

#### Few points:

- It is possible to have unclaimed input credit.
- In case of tax on purchases being higher than tax on sale input tax is allowed to be carried forward or claimed as refund.
- No interest is paid on input tax balance by the government

#### • Example 1

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:

Step 1: Mr A will upload the details of all tax invoices issued in GSTR 1.

Step 2. The details with respect to sales to Mr B will auto populate/ get reflected in GSTR 2A, the same data will be pulled when Mr B will file GSTR 2 (i.e details of inward supply).

Step 3: Mr B will then accept the details that the purchase has been made and reported by the seller correctly and subsequently the tax on purchases will be credited to 'Electronic Credit Ledger' of Mr B and he can adjust it against future output tax liability and get the refund.

## Example 2

CA Firm - Surat - GSTR2A Bill of CA firm on Lucknow with IGST

Auditee Address - Lucknow

Place of Audit - Mumbai .= Place of supply Hotel at Mumbai = CGST + MGST - GSTR1 with GSTIN of Gujarat

- Even the credit of capital Goods need to be apportioned between partly taxable and partly exempt supplies
- Advance payment GST but credit when supply received
- Unnecessary condition Goods in lots / instalments against an invoice
- Interest for credit taken and reversed 3 months