

# India prepares for GST

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NEW DELHI - MUMBAI - BENGALURU - CHENNAI - HYDERABAD - AHMEDABAD - PUNE  
KOLKATA - CHANDIGARH - GURGAON - GENEVA - LONDON

## Agenda

- Taxability of specific transactions
- Input Tax Credit
- Input Service Distributor
- Documentation
- Refund
- Related Transitional Provisions
- Key impact areas

# Taxability of Specific Transactions

# TAXABILITY OF SPECIFIC TRANSACTIONS

Transactions falling in  
ambit of supply

- Stock transfer of goods from one factory/depot to another factory/depot in different state
- Support provided by HO to the depots/sales offices
- Sales support provided by the sales branch to the HO
- Support provided by overseas HO to the subsidiary in India (with or without consideration)
- Supply of goods to the agent (say consignment agent)
- Gifts, promotional items given to customers
- Samples given to customers
- Insurance, transportation, etc. on FOC basis to employees.
- Recovery from employees towards insurance, canteen, etc.
- Interest free loans to employees.
- Gifts to employees (exceeding INR 50,000 per employee per year)
- Business assets put to private use (such as company car)

Whether supply under warranty would be a deemed supply?

Whether benefits to employees be treated as part of remuneration?

Goods supplied for incineration?

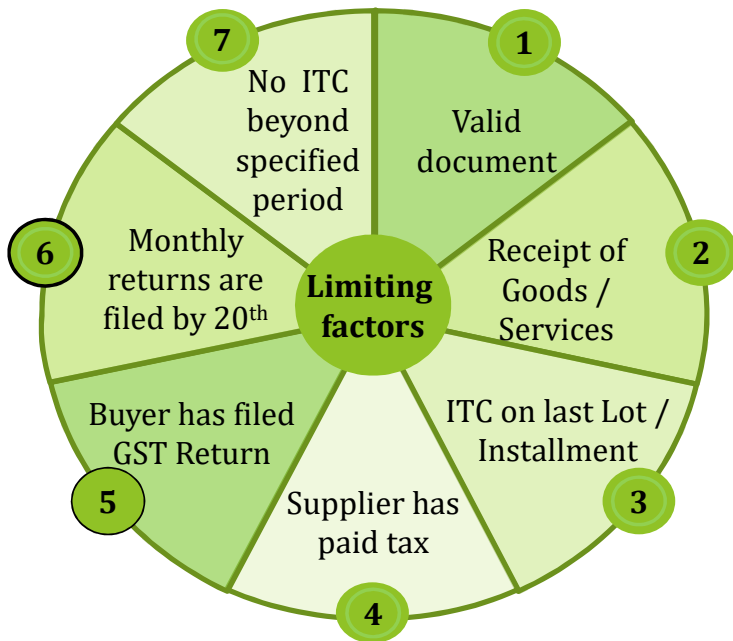
FOC supplies under the contract.  
Whether to be part of the valuations?

Notice period recovery whether a supply?

Liquidated damages – whether a supply?

# Input Tax Credit

# INPUT TAX CREDIT (ITC)



- The basket of ITC is broaden. ITC claimable on any supply of goods or services which are used or intended to be used in the course or furtherance of business.
- ITC blocked on certain items such as motor vehicles, rent-a-cab, insurance for employees, construction activities, etc.
- Matching of ITC concept introduced. That is, details of inward supplies to be matched with the corresponding outward supplies furnished by the supplier.
- Compliance rating of supplier introduced.

Credit on business assets put to private use?

Credit of CGST paid in other states?

Credit on post removal activities?

# CONDITIONS FOR AVAILING ITC

## Conditions to be met, to avail the credit

- He is in possession of the tax invoice or debit note or any other prescribed tax paying document.
- He has received goods or services or both,
- The tax charged has actually paid to the Government.
- Return has been furnished.
- ITC has been availed before furnishing return for the month of September (following the end of FY) or the annual return, whichever is earlier.

## Note:

- If goods are received in lots against an invoice : Upon receipt of last lot or installment.

# ITC - DOCUMENTS REQUIRED

## **ITC can be availed on the basis of the following documents:**

- Invoice by supplier of goods and/or services;
- Debit note issued by supplier;
- Bill of Entry;
- Purchase invoice issued by recipient on supply of goods and/or services received from un-registered supplier;
- Input Service Distributor invoice or credit note.

## **Note:**

- ITC can be availed only if all particulars prescribed under Invoice Rules are contained in said document and same is furnished in Form GSTR-2.
- No relaxation similar to current Credit Rules, wherein, credit available if certain particulars not captured on invoice.



## Reversal of ITC in case of non-payment

- Recipient liable to proportionately reverse credit in cases where he fails to pay the supplier of goods and/or services the amount towards the value of supply along with tax payable within a period of 180 days.
- 180 days calculated from date of issue of invoice.
- Amount to be reversed by adding it in the output tax liability, along with interest, in GSTR-2 for the month immediately following period of 180 days.
- Interest applicable from date of avilment of credit.
- Recipient can take credit once payment of consideration towards value of supply along with tax portion is made to supplier. **(Re-credit option available but interest paid would be a cost.)**

What would be the treatment in case of retention sum?

Payment made after 180 days post September of subsequent FY?

# ITC – NEGATIVE LIST OF ITEMS

Sl. No.	Negative list item	Exception
1	Motor vehicles and other conveyances	a. Further supply of <u>such</u> vehicles b. Transportation of passengers c. Imparting training d. Transportation of goods
2	Food & Beverage, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery	Providing outward taxable supply of <u>same category</u> of goods or services or as part of a composite/mixed supply
3	Membership of a club, health and fitness center	NA
4	Rent a cab, life insurance, health insurance	Where government notifies services which are obligatory for an employer to provide to his employees under law; Providing outward taxable supply of <u>same category</u> or as part of a composite/mixed supply
5	Travel benefits extended to employees on vacation such as leave or home travel concession	NA

# ITC – NEGATIVE LIST OF ITEMS

Sl. No.	Negative list Item	Exceptions
6	Works contract services for construction of immovable property other than Plant & Machinery	When it is used as an input service for further supply of works contract service
7	Goods or services used in construction of any immovable property on his own account, even if used for business	Plant & Machinery
8	Goods and/or services on which tax has been paid under Composition Scheme	NA
9	Taxes if any paid under following circumstances ; i. Wrongful utilization by reason of fraud, willful- misstatement, credits wrongly utilized or availed, erroneously refunded ii. Detention, seizure and release of goods and conveyances in transit iii. Confiscation of goods and/or conveyances and levy of penalty	NA
10	Goods lost, <u>stolen, destroyed, written off or disposed</u> of by way of gift or free samples.	NA

# APPORTIONMENT OF ITC

## Applicable in case of registered person making taxable as well as exempt supplies

- Where credit attributable to goods and/or services used partly for business purpose and partly for non-business purpose, credit restricted to input tax attributable to the purposes of his business.
- Similar restriction on ITC in respect of partly taxable supplies (including zero-rated supplies) and partly exempt supplies.

**Note:** Exempt supplies includes: supplies on which tax payable by recipient under RCM, transactions in securities, sale of land, sale of building.

- Special provisions on availing of ITC by banking company, financial institutions including NBFCs - 50% of the eligible ITC.

Whether ITC on treasury function would need to be reversed?

What be the implication where NBFC is doing other transactions such as insurance, securitization.

# APPORTIONMENT OF ITC - COMPUTATION

Sl.No.	Invoice No.	Input Tax charged	Remark
A	Invoice # 1	10,000	Used exclusively for exempted output supply – <b>No Credit</b>
	Invoice # 2	30,000	Used exclusively for taxable output supply - <b>Full credit available, no need to reverse any credit</b>
	Invoice # 3	15,000	Used exclusively for zero rated (say exports) - <b>Full credit available, no need to reverse any credit</b>
	Invoice # 4	25,000	Used for exempted and taxable output supply - <b>Proportionate credit to be reversed</b>
	Invoice # 5	30,000	Used for business and non business purpose - <b>Proportionate credit to be reversed</b>
	Invoice # 6	20,000	Negative list item - <b>Credit can't be availed</b>

# APPORTIONMENT OF ITC - COMPUTATION

B	Value of exempted output supplies	4,500,000
C	Total turnover of registered person	10,000,000
	<b>Credit to be reversed in respect Invoice # 4 &amp; # 5</b>	
D	Common credit attributable to taxable and exempted supplies and business and non business use	55,000
E	Credit attributable to exempted supplies $([B/C]*D)$	24,750
F	Credit attributable to non business purpose supplies $(D*5\%)$	2,750
G	Total ineligible common input tax credit $(E+F)$	27,500
H	Eligible common credit $(D-G)$	27,500

# ITC ON CAPITAL GOODS

## **Capital Goods:**

Goods the value of which is capitalized in the books of accounts of the person claiming credit and which are used in the course or furtherance of business

Current scenario	GST scenario
CENVAT on Capital Goods used for both dutiable as well as Non-dutiable goods/Services is 100% allowed.	No credit on capitals goods used exclusively for non-business purposes or exclusively for effecting exempt supplies.
In the first FY in which capital goods are received, only 50% of the Cenvat credit can be availed	Proportionate reduction on capital goods used on account of making common supplies, i.e. taxable & exempt supplies.

# APPORTIONMENT OF ITC ON CAPITAL GOODS





# APPORTIONMENT OF ITC ON CAPITAL GOODS



$$\begin{array}{l} \text{Amount to be} \\ \text{reversed} \\ \text{monthly (T)} \end{array} = \frac{\begin{array}{l} \text{Amount of ITC} \\ \text{taken} \\ 60 \text{ (5 years} \\ \text{deemed as} \\ \text{useful life)} \end{array}}{60} \times \frac{\begin{array}{l} \text{Exempt Turnover of relevant month} \\ \text{Total Turnover of relevant month} \end{array}}$$

**Note:**

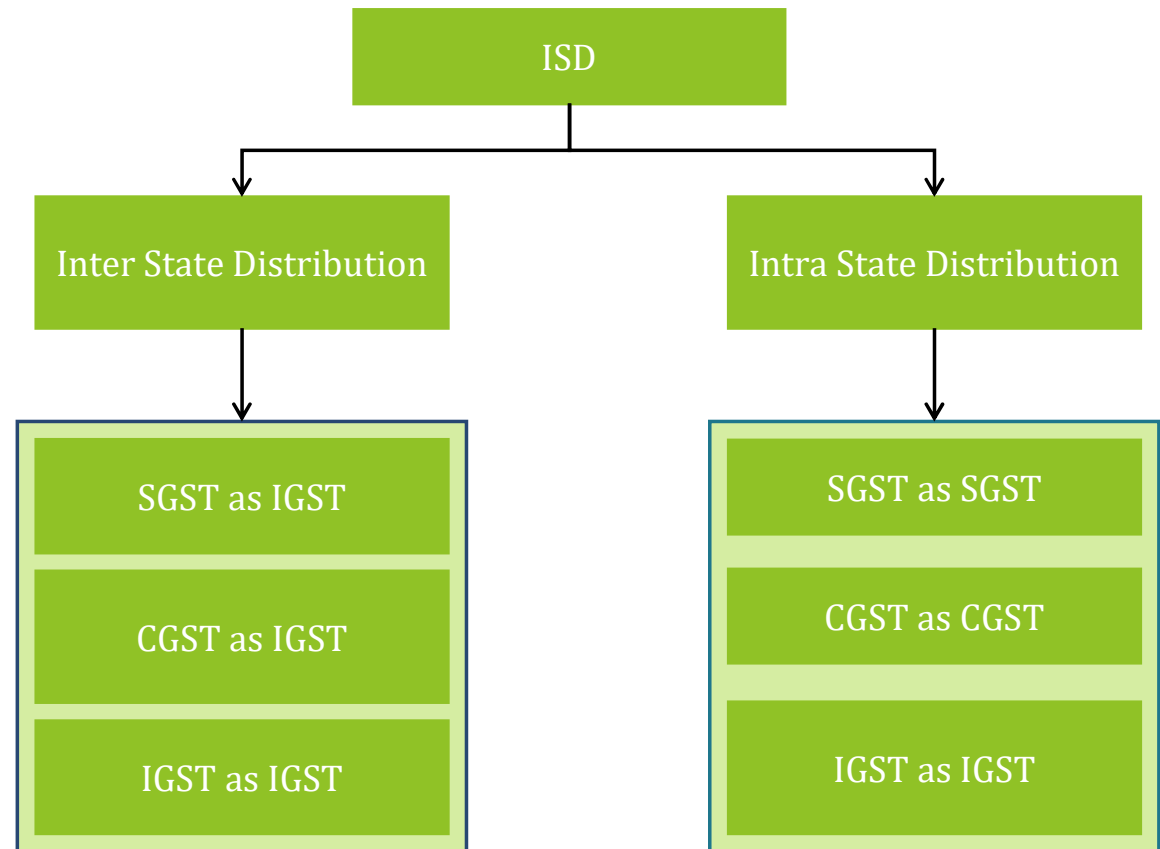
- T (amount to be reversed monthly) along with applicable interest to be added to output tax liability during every tax period.

# Input Service Distributor

# INPUT SERVICE DISTRIBUTOR

“**Input Service Distributor**” means an office of the supplier of goods or services or both which receives tax invoices issued under Section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same PAN as that of the said office.

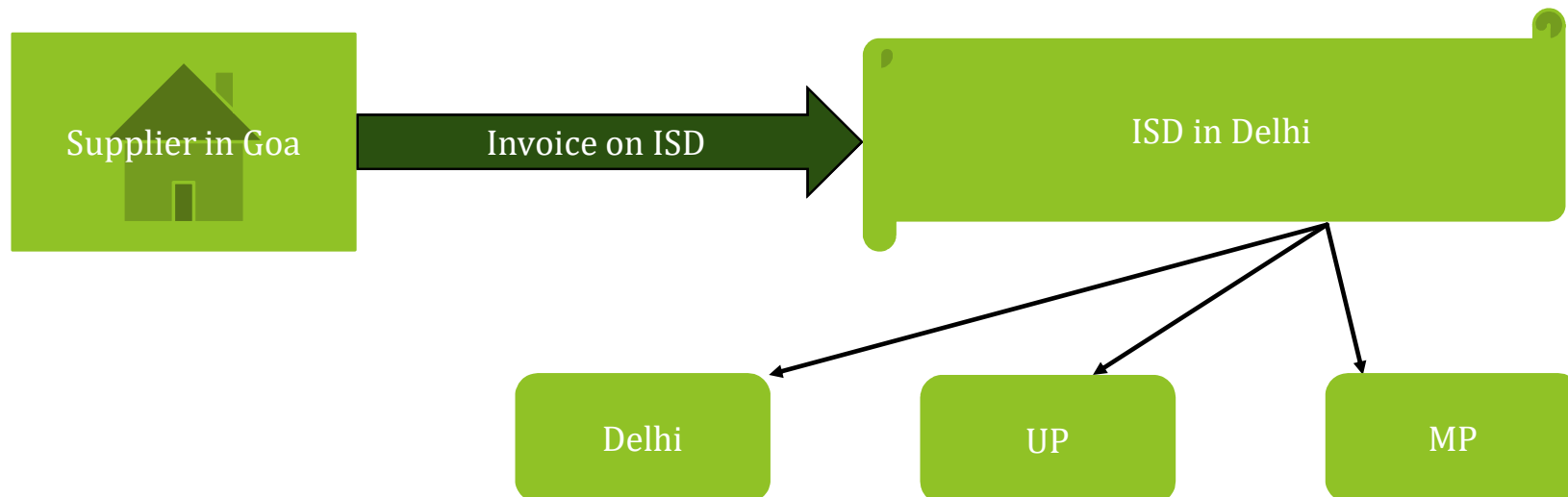
## Credit Distribution Mechanism

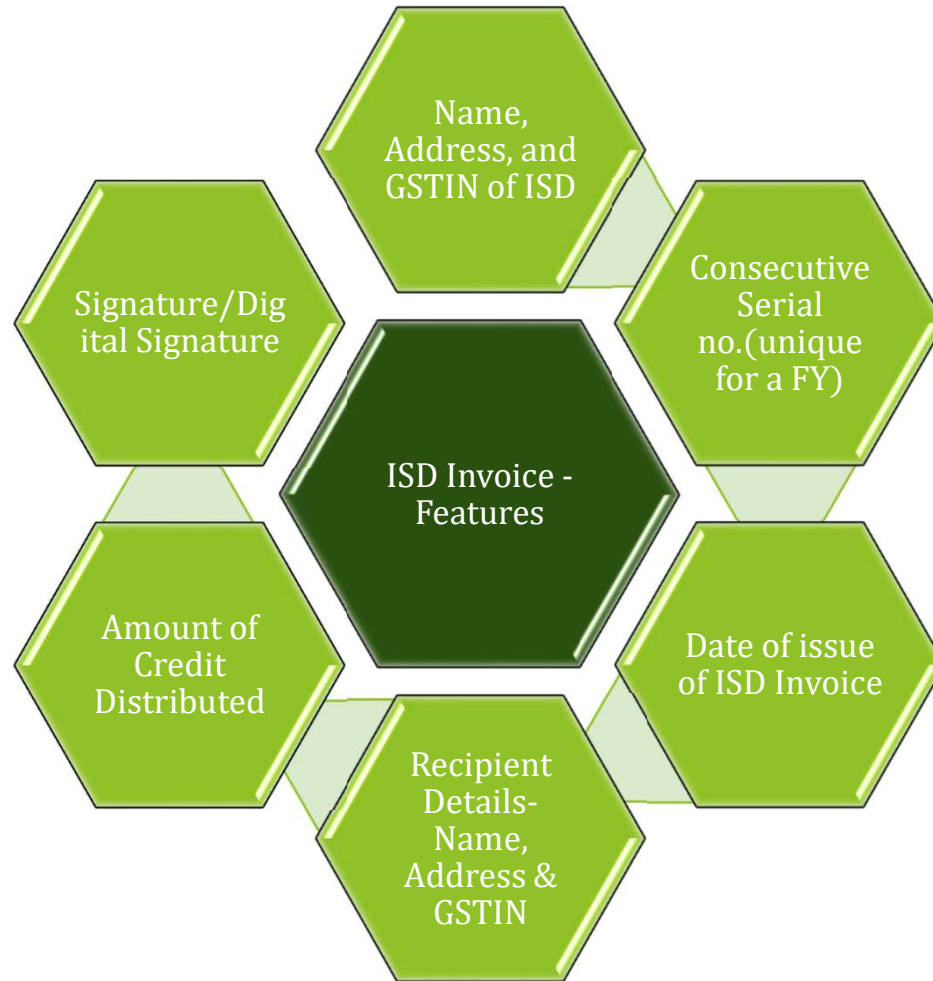


## Scenario:

ISD registered in Delhi and services relating to immovable property are received in Goa. Place of supply of services is Goa. Supplier of service is in Goa. Invoice issued in Delhi-ISD's name and CGST + SGST charged.

### Whether ISD can distribute such credit?





## **NOTE**

Banking                      Company/Financial  
Institution/NBFC -

All details of ISD Invoice  
mandatorily to be issued except  
Consecutive Serial no.

# ISD – BURDEN ON TAXPAYERS

- ISD has to maintain accounts of credit distribution invoice-wise, as well as tax-wise (IGST / CGST / SGST / UTGST).
- Distribution of credit ineligible under Section 17(5):
  - ISD has to pass on credit - Disallowance at Unit's end.
- Pro-rata distribution to units engaged exclusively in making exempt supplies:
  - Presently, ISD must compute but not necessary to distribute.



# Documentation

# CREDIT / DEBIT NOTES – SALIENT FEATURES



## Issue of Credit Note

### A. Conditions

- Taxable Value/Tax Charged in Invoice exceeds actual Taxable value/Tax payable
- Goods returned by the Recipient
- Goods/Services found to be deficient

### B. Restriction

- Credit note can be issued and declared in the returns but not later than September following the end of financial year.



## Issue of Debit Note

### A. Conditions

- Taxable value/Tax charged in Invoice is less than actual Taxable value/Tax payable



# DELIVERY CHALLAN AND E-WAY BILL

## Purpose of Delivery Challan

- Quantity of **Liquid Gas** unknown at time of removal from place of supplier
- Goods transported for **Job work**
- Transportation of goods **other than** for reasons of **Supply**
- Such **other supplies as notified** by the Board

## Concept of **E-WAYBILL**

Transportation of goods on basis of delivery Challan in lieu of invoice – Such Goods to Declared in Form (**E-Waybill**)

HSN Code & Goods Description

Date & No. of Delivery Challan

Name, Address, and GSTIN of Consignor (if Regd.)

Name, Address, and GSTIN/UIN of Consignee (if Regd.)

Constituents of Delivery Challan

Quantity (Provisional, where quantity uncertain)

Place of Supply

Taxable Value, Tax Rate & Amount

Signature

# INVOICE – ADVANCE RECEIVED / PAID



# Refund

# REFUND

## Availability of Refund

- On unutilized ITC - where goods and services are exported without payment of IGST (under a bond/LoU)
- Refund of IGST amount - Where goods and services are exported on payment of IGST

## Time period

- Refund application to be submitted within a period of two years from the relevant date.
- “relevant date” means - when goods are exported out of India (for goods) / when payment is received in convertible foreign exchange (for services) and in case of refund of unutilized credit, the end of the financial year.

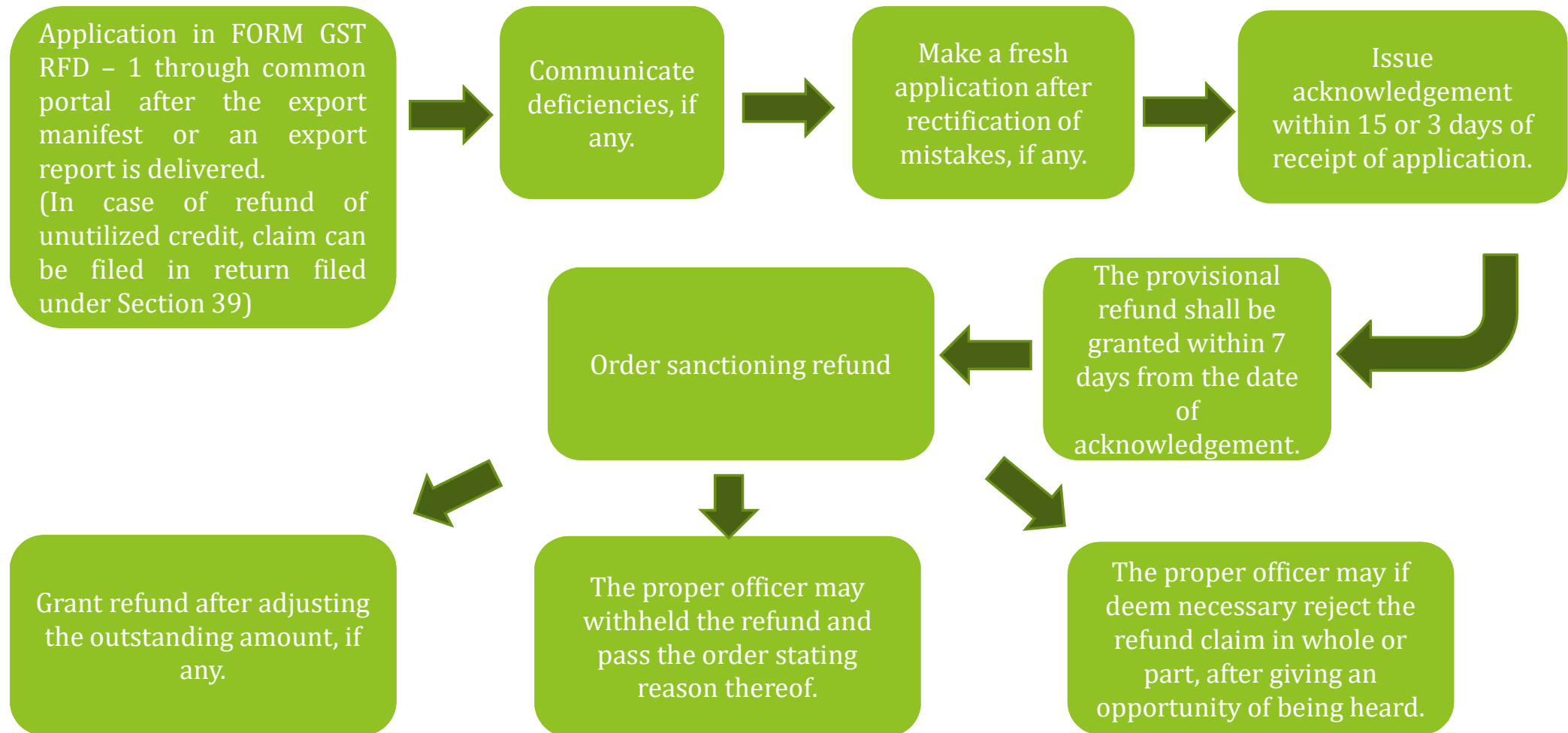
## Online Processing

- Refund application to be filed electronically through GSTN.
- Refund amount to be credited electronically to the bank account.

## Provisional Refund (in case refund relates to zero rate supplies)

- 90% of refund amount to be refund on provisional basis, subject to certain conditions
- To be approved within 7 days from the date of acknowledgement.
- Provisional refund to be granted only to the applicant who is not prosecuted for any offence where amount of tax evasion exceeds 250 lakhs in the immediately preceding 5 years.

# PROCESS - REFUND



## Transitional Provisions

# TRANSITIONAL PROVISIONS

## Situations Covered in Transitional Provisions

Migration of taxpayers to GST regime

Carry forward of credit lying in returns

Carry forward of unavailed capital goods credit

ITC of inputs held in stock

ITC of goods/services in transit

Taxable person switching over from composition scheme

Change in price after the appointed day

Goods returned after the appointed day

Pending litigation - refund claims

Pending litigation - demands

Revision of returns

Treatment of long term contracts

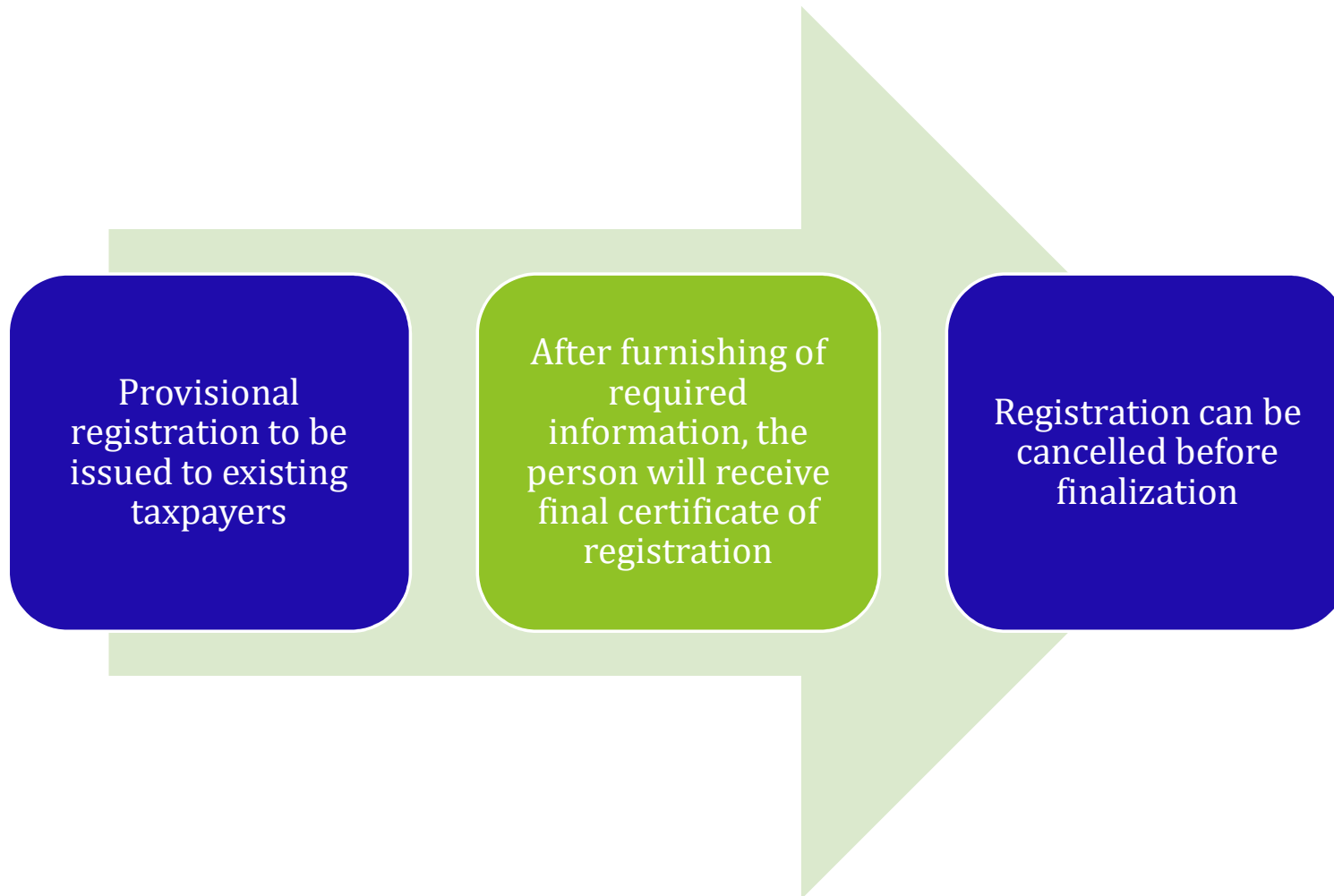
Impact of levy of earlier taxes on transactions

Goods Sent on approval

Deduction of tax at source



# MIGRATION OF EXISTING TAXPAYERS TO GST





# CARRY FORWARD OF CREDIT

## For credit lying in the returns:

- Subject to following conditions:
  - *tax is not paid under composition scheme;*
  - *Credit is not blocked under GST;*
  - *He has furnished all the returns under the existing law for the period of six months immediately preceding the appointed day; or*
  - *The amount of credit should not relate to goods manufactured and cleared under exemption notifications as to be notified by the Government.*

## For unavailed credit on capital goods:

- No credit shall be allowed to be taken in the following circumstances:
  - *where the said amount of the credit is not admissible as ITC under the CGST Act.*
  - *where the said amount of the credit was not admissible as Cenvat credit under the existing law.*

Whether credit in relation to inverted duty structure has been restricted?

Meaning of goods cleared under exemption notification?

Carry forward of EDU Cess, SHE CESS, KKC?

What happens in a situation where no credit has been availed?

# STOCK LYING ON THE APPOINTED DAY

100% credit of eligible excise duties on stock as on appointed day

## Who is eligible?

Persons who were not liable to register under earlier law;

Persons engaged in manufacturing of exempted goods/services;

Persons providing work contract services and availing of the benefits of Notification 26/2012;

First stage dealers/Second stage dealers/Registered importers;

Depot of a manufacturer.

## Other conditions

Such inputs or goods are used or intended to be used for making taxable supplies;

The registered person is eligible for ITC on such inputs under GST;

Possession of invoice and/or other prescribed documents evidencing payment of duty in respect of such inputs;

Invoice not to be older than 12 months.

# STOCK LYING ON THE APPOINTED DAY

60% / 40% ITC of eligible excise duties on stock as on appointed day

## For traders not having valid document:

- The registered person shall be eligible for taking 60% / 40% of CGST charged and paid in GST regime. In case of IGST supply the credit would be available at 30% / 20% of IGST amount.
- The scheme shall be valid only for six months.
- Such goods were not wholly exempted under excise law and procurement document should be available.
- Benefit of credit to be passed as reduced price.

## Illustration

Particulars	Amount
Net Selling Price	200
Add: CGST and SGST at 9%	36
Total Commercial value	236
Less: Eligible credit at 60% of 18	10.8
<b>Gross Selling Price</b>	<b>207.2</b>

# ITC ON GOODS IN TRANSIT

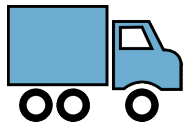
## Situation:

- Inputs or input services received on or after the appointed day, and
- Tax paid before the appointed day.

## Conditions:

- Taxable person has furnished a statement in such manner as may be prescribed.
- Invoice or any other/tax paying document has been recorded in the books of accounts of such person within a period of 30 days from the appointed day unless extended for 30 days by the Commissioner.

Duty/ tax is paid

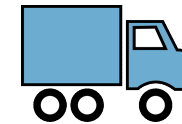


26 June

Invoice issued and inputs dispatched

1 July 2017

Inputs received on 6 July



Invoice/tax/duty paying document has been recorded within 30 days from the appointed date unless extended

In above scenario, the recipient eligible to claim credit in GST regime.

**NOTE: CAPITAL GOODS NOT COVERED**

# CREDIT TRANSFER DOCUMENT

The manufacturer registered under the Excise Act, may issue a document called Credit Transfer Document to evidence payment of duty of excise under the cover of an invoice issued to a person who was not registered under the Excise Act but is registered under the provisions of CGST subject to limitations:

- value of such goods in higher than rupees twenty five thousand per piece;
- bears the brand name of the manufacturer or the principal manufacturer;
- identifiable as a distinct number such as chassis / engine no. of a car;
- verifiable records of clearance and duty payment relatable to each piece of such goods is maintained by the manufacturer;
- the Credit Transfer Document shall be serially numbered;
- the manufacturer is satisfied that the dealer to whom Credit Transfer Document is issued is in possession of such manufactured goods in the form in which it was cleared by him.
- credit Transfer Document shall be issued within 30 days of the appointed date on which the CGST Act comes into force.
- copy of the corresponding invoices shall be enclosed with the Credit Transfer Document
- Credit transfer document shall not be issued in favour of a dealer to whom invoice was issued for the same goods before the appointed date.

## In case of return by unregistered person

Refund of duty, subject to following conditions:

- Such goods are not removed earlier than six months from the appointed day;
- The goods are returned to the place of business of such registered person;
- The goods are returned on or after the appointed day but within a period of six months;
- The goods are identifiable to the satisfaction of the proper officer.

**Note:** If the goods are returned by a **registered person** on or after the appointed day, the same shall be **deemed to be a supply**.

Sales returns of  
exempted goods?

# SUPPLIES STRADDLING OVER APPOINTED DAY

## Treatment of Long-Term Contract:

Such supplies shall be liable to tax under the GST Act, where:

- Contract has been entered prior to the appointed day; and
- goods and/or services has been supplied after the appointed day.

## Impact of tax paid under earlier regime:

No tax shall be payable on goods under GST, to the extent the tax was leviable under the state VAT Act

No tax shall be payable on services under GST, to the extent the tax was leviable under the service tax law.

## Transactions attracting both VAT & Service Tax:

To the extent the supplies are provided after the appointed day,

- the tax shall be liable to be paid under GST. ITC of taxes paid under earlier laws shall be given.
- This provision shall be applicable in case of works contracts.

Note : Project completion percentage as on appointed day needs to be worked out.

**Tax Liability in case of  
advances lying in books  
of account?**

# PENDING LITIGATIONS - DEMANDS

- The refund claim, appeal, review or reference pending under the existing law at the appointed day is to be disposed off in accordance with the provisions of existing laws.
- Tax recoverable under the existing law shall be recovered as an arrear of tax under the GST Act.
- Tax recoverable under the earlier law shall be payable in cash.
- The amount so recovered shall not be admissible as input tax credit under the GST Act.
- 

**Issues on valuation for captive consumption / demands under reverse charge?**

**Excise – Section 35 EE**

**Impact of revenue neutrality?**

**Proceedings of revision not covered here?**

**Issues under Foreign Trade Policy?**

**Refund amount to lapse, if the refund claim is rejected after the appointed day.**



## KEY IMPACT AREAS

# KEY IMPACT AREAS

- Branches/Depots/Warehouses of same person in different states shall be considered to be distinct person. Inter-state branch transfers are deemed to be 'supply'.
- Compliance cost under GST is expected to rise as a result of the requirement to file various returns.
- GST would not be a cost to the business, unless you are providing exempt supplies and claiming of ITC is specifically blocked.
- Matching of ITC concept is introduced. System based reporting will have to be followed.
- GST to trigger upon receipt of advance payments. However, deposit is not part of consideration, unless the same is applied towards supply.
- Anti-profiteering provisions introduced to curb sudden spike in prices of goods and/or services.
- Concept of unjust-enrichment is inbuilt in GST law.
- Supply of goods/services to employee by employer shall be deemed to be supply.
- New concept of e-way bill introduced.
- Payment of GST on RCM in case goods are purchased from unregistered suppliers.

List of goods/services on which TDS is to be deducted?

Whether supply to EOUs, EHTPs would be considered as 'deemed export'?

## QUESTION AND ANSWER

# L&S OFFICES

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