Input Tax Credit Under GST Law, Rules & Forms

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What is GST?

Goods & Services Tax Law in India is a comprehensive, multi-stage, destination-based tax that will be levied on every value addition.

In simple words, GST is an indirect tax levied on the supply of goods and services. GST Law has replaced many indirect tax laws that previously existed in India.

Central Taxes

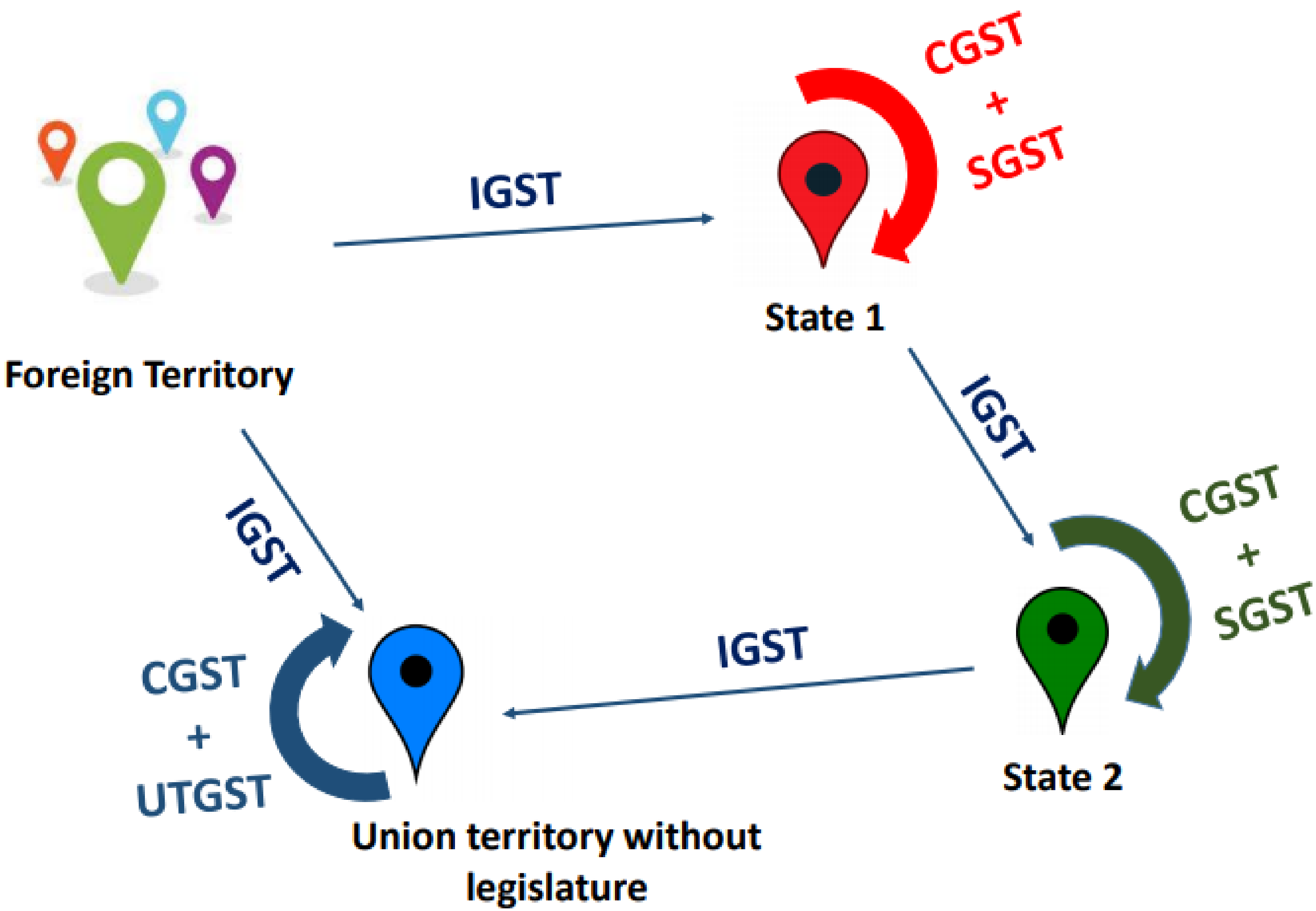
- Central Excise duty
- Additional duties of excise
- Excise duty levied under Medicinal & Toilet Preparation Act
- Additional duties of customs (CVD & SAD)
- Service Tax
- Surcharges & Cesses

GST

State Taxes

- State VAT / Sales Tax
- Central Sales Tax
- Purchase Tax
- Entertainment Tax (other than those levied by local bodies)
- Luxury Tax
- Entry Tax (All forms)
- Taxes on lottery, betting & gambling
- Surcharges & Cesses

GST Types


IGST
State 1
CGST
+
SGST
Foreign Territory
IGST
IGST
CGST
+
SGST
IGST
CGST
+
UTGST
State 2
Union territory without legislature

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What is Input tax?

The Central tax, State tax, Integrated tax or Union territory tax charged on any supply of goods or services or both made to him and includes :-

- IGST on Imports
- Tax on Reverse charge u/s 9 (3) & 9 (4) under CGST Act
- Tax on Reverse charge u/s 5 (3) & 5 (4) under IGST Act
- Tax on Reverse charge u/s 9 (3) & 9 (4) under SGST Act
- Tax on Reverse charge u/s 7 (3) & 7 (4) under UTGST Act

*But doesn’t include tax paid on composition levy.

What is Input Tax Credit?

The “input tax credit” means the credit of input tax

Definition of Input, Input Services & Capital Goods

Input

It means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business

Input service

It means any service used or intended to be used by a supplier in the course or furtherance of business

Capital goods

It means goods, the value of which is capitalized in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business

What do you mean by Business in GST?

The term Business defined under section 2(17) “Business” includes –

- any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- any activity or transaction in connection with or incidental or ancillary to (a) above;
- any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;
- supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;
- provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;
- admission, for a consideration, of persons to any premises; and
- services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- services provided by a race club by way of totalisator or a licence to book maker in such club;
- Explanation- Any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities shall be deemed to be business.
- “Clause (d) includes any supply or acquisition of goods including capital assets and services in connection with commencement or closure of business

When can Input Tax Credit be claimed?

No claim of Input tax Credit can be claimed unless:-

1. The person is in possession of Tax Invoice or Debit/credit note or other tax paying documents as prescribed (example : Challans)
2. The person has received the goods or services or both
3. The tax payable on such transaction is being paid whether by cash or credit
4. The return has been furnished

Note:-

- Where invoices are received in lots/installments then ITC can be availed on receipt of last installment/lot
- Where no payment has been received within 182 days (6 months) in that case, amount equal to tax credit taken along with interest has to be paid.
- Either ITC or depreciation can be claimed (mostly relevant to Capital Goods)

What is the Time period to avail ITC?

ITC can be availed within

- 1 year from the date of Invoice
- September following the end of financial year
- Date of filing of Annual Return

WHICH EVER IS EARLIER

ITC Negative List:
ITC not available for these items

A. Motor vehicles and other conveyance, except in the following cases

1. For making the following taxable supplies:-
   - Further supply of such vehicles
   - Transportation of Passengers (like Ola, Uber)
   - Imparting Training (example: driving school)
2. For transportation of goods

B. 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

C. Goods or Services or both on which tax has been paid under section 10 (Composition Scheme)

...ITC Negative List

D. The following supply of goods or services or both:—

- Food and beverages
- Outdoor catering
- Beauty treatment
- Health services
- Cosmetic and plastic surgery except where an inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as an element of a taxable composite or mixed supply
- Membership of a club, health and fitness centre
- Rent-a-cab, life insurance and health insurance except where
  1. The Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; or
  2. Such inward supply of goods or services or both of a particular category is used by a registered person for making an outward taxable supply of the same category of goods or services or both or as part of a taxable composite or mixed supply
- Travel benefits extended to employees on vacation such as leave or home travel concession

…ITC Negative List

E. 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.

F. “Construction” includes re-construction, renovation, additions or alterations or repairs, to the extent of capitalization, to the said immovable property

G. Goods or Services or both used for personal use

H. Goods or Services or both received by Non Resident, except in case of import

I. Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples

J. Any tax paid in accordance with the provisions of sections 74, 129 and 130 (Demands/ penalties etc)

How ITC can be claimed in Case of Job workers

Person sending goods on Job Worker (Principal) can avail ITC on inputs and capital goods send to them, whether send through their place of work or directly (without being brought to his place first).

If the Inputs/Capital Goods are not received with 1/3 years respectively or after completion of job work, then it shall be deemed that such inputs/capital goods have been supplied by the Principal to Job worker on day they were sent out (i.e. first day)

Interpretation: - If inputs and capital goods are not received back, then ITC availed has to be reversed, and interest has to be paid, from the first day, when inputs and capital goods were sent.

Inputs & Capital Goods doesn’t include moulds and dies, jigs and fixtures, or tools sent to job workers.

How ITC can be claimed in Case of Banking and Financial Institution

Persons engaged in supply of service by way of accepting deposits or extending loans or advances shall have the following options:-

Avail 50% of total credit

Avail credit on only those transactions which are directly attributable to outward supplies

Option once availed cannot be changed within the year.

ITC under Special Cases
Case A- Input & Input Services (Rule 42)

In case where, there are both exempt and taxable supplies(including zero rated), or business and non-business transactions, in the case, ITC shall be determined in following way:-

Particulars		Amount
Total Credit Available for both Exempt & taxable supplies		XX
Less:	Credit related directly to exempt supply	XX
Less:	Credit related to Other Business/not directly related to business	XX
Less:	Credit Inadmissible u/s 17(5)	XX
Credit as per Ledger (A)		XX
Less:	Credit related directly to Taxable Supplies	XX
Common Credit (B)		XX
Less:	Credit attributable to exempt supplies (C)*	XX
Less:	Credit attributable to Non Business Services (D)#	XX
Total Credit Available from Common Credits		XX

...Case A

Credit shall be calculated for Central, State, Union territory and integrated separately.

***Credit attributable to exempt supplies**
(C)= {Aggregate Turnover of Exempt supplies / Total Turnover of the state} X Common Credit

#Credit attributable to Non Business Services (D)
(D)= Common Credit X 5%

Note:-

ITC Calculated using the aforesaid formula shall be calculated finally for the year, before the due date of filing return for the month of September following the end of the financial year to which the credit relates and if,

1. Final calculated amount exceeds the value as per above formula, then add the excess to Outward Supply of the September month and pay it along with interest starting from 1st April of that year.
2. Final is less than value as per above formula, then add them to the credit of the month of September.

...Case A

Interpretation: -

First calculate the ITC using the above formula for each month separately. Thereon, use the same formula to calculate tax on annual basis and then see the difference. If final value exceeds the total of monthly values, then pay tax along with Interest and if it is less, then add the difference in ITC.

EXAMPLE:-

From the following information, get the figure of total ITC Available:-

- Taxable Turnover is Rs. 8.0 Crores
- Exempted Turnover is Rs. 2.0 Crore
- Total available Credit is Rs. 10 Lacs
- Input Credit attributable to exclusively Non business purpose = Rs. 50,000/-
- Input Credit attributable to exclusively exempted business purpose = Rs. 1,00,000/-
- Input Credit attributable to exclusively for Blocked Credit = Rs. 50,000/-
- Input Credit attributable to exclusively for Business purposes = Rs. 5,00,000/-

Example Cont...

Particulars		Amount (Rs.)
Total Credit Available for both Exempt & taxable supplies		10,00,000
Less:	Credit related directly to exempt supply	1,00,000
Less:	Credit related to Other Business/not directly related to business	50,000
Less:	Credit Inadmissible u/s 17(5)	50,000
Credit as per Ledger (A)		8,00,000
Less:	Credit related directly to Taxable Supplies	5,00,000
Common Credit (B)		3,00,000
Less:	Credit attributable to exempt supplies (C)*	60,000
Less:	Credit attributable to Non Business Services (D)#	15,000
Total Credit Available from Common Credits		2,25,000

NET CREDIT AVAILABLE = Credit related to Taxable Supplies + Common Credit
= 5,00,000 +2,25,000
= 7,25,000

Example Cont..

<u>WN-1</u>: Credit attributable to exempt supplies = {Aggregate Turnover of Exempt supplies / Total Turnover of the state} X Common Credit
= 2 Crores/10 Crores * 3,00,000 = 60,000

<u>WN-2:</u> Credit attributable to Non Business Services = Common Credit X 5%
= 3,00,000* 5 % = 15,000

ITC under Special Cases
Case B- Capital Goods (Rule 43)

In case where, there are both exempt and taxable supplies (including zero rated) , or business and non-business transactions, in the case, ITC shall be determined in following way:-

1. First Calculate the common credit, which shall be calculated by reducing the total credit by the followings:-
   - ITC on Non Business Supplies
   - ITC on Taxable Supplies
   - ITC on Exempt Supplies
2. Divide the common credit by 60 (ITC on capital goods is allowed for 5 years {12 * 5= 60})
3. Follow the process, however, cumulate the ITC on common credit and then divide.
4. The common credit should be adjusted, with any change in nature of Capital goods (example, asset used only for exempt supplies, is thereon used for providing taxable supplies)
5. Such change is subject to deduction of base points 5% per quarter.

..Case B

NUMERICAL EXAMPLE

Calculate ITC of Capital Goods available

Particulars	August	September	October
Total ITC on Purchase of Capital	12,00,000	16,00,000	6,00,000
ITC of Exempted Business	1,80,000	2,40,000	90,000
ITC of Taxable Supplies	9,60,000	12,80,000	4,80,000

Solution:-

Particulars	August	September	October
Total ITC on Purchase of Capital (A)	12,00,000	16,00,000	6,00,000
ITC of Exempted Business (B)	1,80,000	2,40,000	90,000
ITC of Taxable Supplies (C)	9,60,000	12,80,000	4,80,000
Common Credit (A-B-C)	60,000	80,000	30,000
Aggregate Common Credit (D)	60,000	1,40,000	1,70,000
Period (E)	60	60	60
ITC Attributable (F= D/E)	1,000	2,333	2,833
ITC AVAILABLE (C+ F)	9,61,000	12,82,333	4,82,833

Manner of Set-off

ITC of :	To pay output tax liability of: (In preference as shown)
CGST	Preference: 1. CGST 2. IGST
SGST	Preference: 1. SGST 2. IGST
IGST	Preference: 1. IGST 2. CGST 3. SGST
UTGST	Preference: 1. UTGST 2. IGST

Analysis of ITC Forms under GST

There are 4 types of ITC forms under GST:-

S.No	Form No	Particulars
1	Form GST ITC – 1	Declaration for claim of input tax credit under sub-section (1) of section 18.
2	Form GST ITC – 2	Declaration for transfer of ITC in case of sale, merger, demerger, amalgamation, lease or transfer of a business under sub-section (3) of section 18.
3	Form GST ITC – 3	Declaration for intimation of ITC reversal on inputs, inputs contained in semi-finished and finished goods and capital goods in stock under sub-section (4) of section 18.
4	Form GST ITC – 4	Details of goods/capital goods sent to job worker and received back.

Form GST ITC- 1

The aforementioned form shall be required to obtain claim (**ITC**) in some special circumstances/events. Benefit of Input or Capital goods or both can be taken subject to the respective condition given below:-

S.No.	Cases	Condition for Availing benefit	Benefit of Inputs	Benefit of Capital Goods
1	Section 18 (1)(a)	A person who has applied for registration with 30 days from the date from which he has become liable and has been granted the registration	Yes, if held in stock for the followings :- • Raw Material • Semi-Finished goods • Finished goods	NO
2	Section 18 (1)(b)	A person who takes voluntarily registration	Yes, if held in stock for the followings :- • Raw Material • Semi-Finished goods • Finished goods	NO

…Form GST ITC- 1

S.No.	Cases	Condition for Availing benefit	Benefit of Inputs	Benefit of Capital Goods
3	Section 18 (1)(c)	A registered person who ceases to avail the benefit of Composition scheme (Opt out of Composition scheme)	Yes, if held in stock for the followings :- • Raw Material • Semi-Finished goods Finished goods	Yes*
4	Section 18 (1)(d)	Where any exempt supply of goods or services or both by a registered person becomes taxable supply	Yes, if held in stock and related to exempt supply for the followings :- • Raw Material • Semi-Finished goods Finished goods	Yes* , only if exclusively used for such exempt supply

...Form GST ITC- 1

*Credit on capital goods shall be reduced by 5% points per quarter or part thereof

Note: Benefit will be available for input/capital goods held till immediately preceding date on happening of aforesaid events.

The said form is required to be signed by a practicing CA/Cost Accountant, except for clause (b) where form is required if aggregate claim of central, state, union and integrated tax exceeds 2 lakhs.

Due date to file such form: - On happening of such event/condition. No exact time period given.

Form GST ITC- 2

Form required to be filed:-

Where there is a change in the constitution of a registered person on account of sale, merger, demerger, amalgamation, lease or transfer of the business with the specific provisions for transfer of liabilities, the said registered person shall be allowed to transfer the input tax credit which remains unutilized in his electronic credit ledger to such sold, merged, demerged, amalgamated, leased or transferred business.

Upon submission, transferee shall on common portal accept the details, thereon un-utilized credit shall be credited to electronic credit ledger.

The said form is required to be signed by a practicing CA/Cost Accountant.

Due date to file such form: - On happening of such event/condition. No exact time period given.

Form GST ITC- 3

Conditions/events in which this form is required to be filed:-

- Where a registered person opts to pay tax under Composition scheme (Chang from normal to composition scheme)
- Where there taxable supply becomes exempt

Then:-

Pay an **amount** equal to Credit of Input or Capital goods(as reduced by the points) or both availed by debit in electronic credit ledger or electronic cash ledger on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption.

Due date to file such form: - On happening of such event/condition. No exact time period given.

Form GST ITC- 4

Conditions/events in which this form is required to be filed:-

- Inputs/Capital goods sent for job-work (along with amendments if any)
- Inputs/Capital goods received back from job worker or sent out from business place of job-work (along with amendments if any)

Frequency of Filing: Quarterly

Note: Details are to be given even in case goods were send to job worker in between the quarter and fully/partially received between the quarters.

Due date to file such form: - No such date prescribed. **As per notification 53/2017 dated 28/10/2017, due date to file such form has been extended to 30th Nov, 2017.**

THANK YOU

Sources

1. **Central Goods and Services Tax, 2017**
2. **Bare Law on GST by ICAI- IDT Department**
3. **Central Goods and Services Tax (CGST) Rules,2017**

Notified vide Notification No. 3 /2017-Central Tax (Dated 19th June 2017) and further as amended by

- Notification No. 7/2017-Central Tax (Dated 27th June 2017)
- Notification No. 10/2017-Central Tax (Dated 28th June 2017)
- Notification No. 15/2017-Central Tax (Dated 1st July 2017)
- Notification No. 17/2017- Central Tax (Dated 27th July 2017)
- Notification No. 22/2017-Central Tax (Dated 17th August 2017)
- Notification No. 27/2017-Central Tax (Dated 30th August 2017)
- Notification No. 34/2017-Central Tax (Dated 15th September 2017)
- Notification No. 36/2017-Central Tax (Dated 29th September 2017)
- Notification No. 45/2017-Central Tax (Dated 13th October 2017)
- Notification No. 47/2017-Central Tax (Dated 18th October, 2017)
- Notification No. 51/2017-Central Tax (Dated 28th October, 2017)
- Notification No. 55/2017-Central Tax (Dated 15th November, 2017)

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