



# GST

GOODS AND SERVICE TAX

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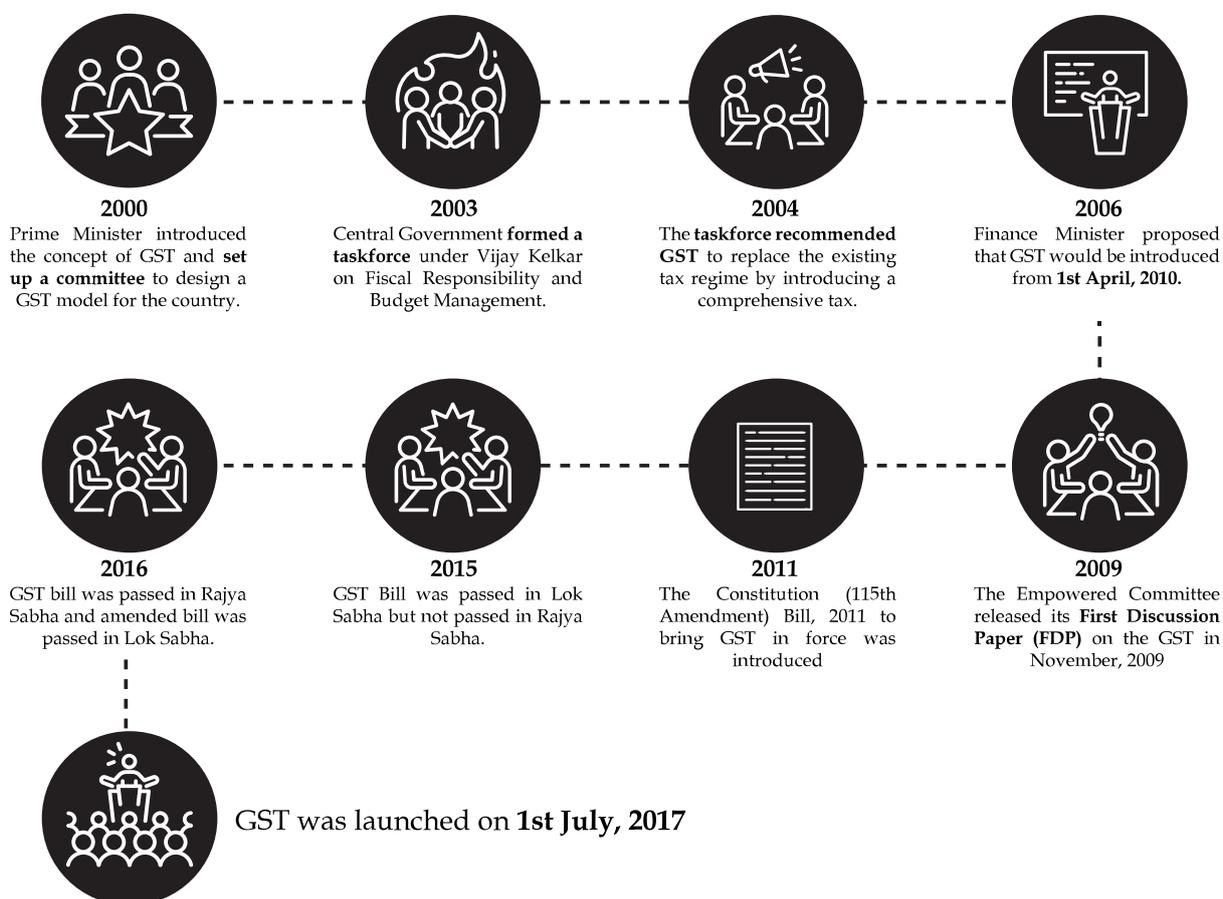
**Important Note:** This communication is intended to provide a general guide to the subject matter and should not be regarded as a basis for taking decisions on specific matters. In such instances, separate advice should be taken.

# Introduction

Taxation is usually the **most important source of revenue** for every country. Taxes are mainly of two types - Direct Tax and Indirect tax.

Direct taxes are paid by a taxpayer on income and indirect taxes are levied on goods and services. In other words, direct taxes are on earning and indirect taxes are on spending. The largest component of indirect taxes is called Goods and Services Tax (GST). Goods and Services Tax is named so as it is charged on goods and services. India adopted Goods and Services Tax (GST) in 2017, considered to be the largest tax reform in its history.

## How did it all start?



Taxes prior to GST were charged at State level and Central (Federal) level. States were allowed to collect taxes on goods whereas the Centre was allowed to collect taxes on manufacturing and services. States charged a number of heterogeneous taxes which made trade and commerce cumbersome and litigation prone.

GST is a single nationwide tax on all goods and services at uniform rates (other than immovable properties, fuel, money, securities, alcohol etc. which is outside the

purview of GST). It's a destination-based tax. It eliminates cascading effect of 'tax on tax' like in VAT. It has subsumed 13 odd local taxes like entry tax, VAT, Entertainment Tax, etc. and has become one single tax for the entire nation and resulted in reduction in tax burden.

Here are a few **additional points** regarding GST:

- ❖ GST ('Act') law extends to **whole of India** (including Jammu and Kashmir).
- ❖ India has adopted a **Dual Tax model** considering the Federal structure of the country. So, the **Centre & States** simultaneously levy taxes on goods & services.
- ❖ There is a single legislation for levying **Central Goods and Service Tax Act, 2017 ('CGST Act')**

For Union territories that do not have any legislation, there is **Union Territory Goods and Service Tax Act, 2017 ('UTGST Act')**.

And for States, that have multiple legislations, the basic features (like chargeability, definitions, valuation) remains the same, keeping the Dual Tax model intact.

- ❖ **Actual burden** of indirect taxes on goods and services is much more **transparent to the consumer**.
- ❖ GST also makes **Indian products competitive** in the domestic as well as international markets due to the neutralization of input taxes across the value chain of production and distribution.
- ❖ Also, due to its transparency, it is **easier for the government to administer**.



# Supply under GST

'Supply' is the taxable event. This means the liability to pay arises when goods or services are **supplied**.

## What is a taxable event?

Any transaction/occurrence which results in tax consequence is called a taxable event. This determines the point at which tax should be levied.

## What is supply under GST?

Supply made should be made so for a **consideration** and in the **course of furtherance of business**. Limitation to this rule are given in Schedule I of CGST Act which are treated as 'deemed' supply.

E.g. If Mr. A buys a television for his personal use and sells it after 9 months to Mr. C. Such a transaction is NOT considered as supply as this is not done for furtherance of business.



### What do you mean by course of furtherance of business?

Business means any activity of trade, commerce, manufacture, profession, etc. It includes all activities incidental and ancillary to any such similar activity.

For any business to qualify as business, frequency, volume, continuity, or regularity of the transaction made is not a necessity.

## What are deemed supplies?

Certain supplies are considered as supplies even though they are made without any consideration. The person to whom these supplies are made can be a taxable or a non-taxable person. These are specifically mentioned under Schedule I of CGST Act. They will be treated as supplies in the following cases:

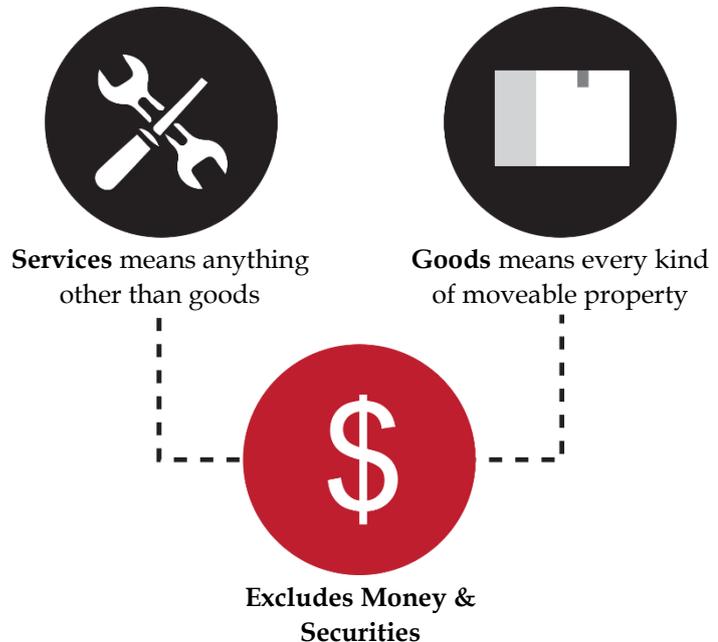
1. Permanent transfer/disposal of business asset
2. Supply between related persons or distinct person
3. Supply between Principal and Agent
4. Import of services

**Import of services – for consideration (whether or not in the course of business):**

Suppose Ram, a businessman, hired Roger, an interior designer, for doing work for his house in New York. Ram will pay \$ 9,000 for this work. In this case, the import of service by Ram is considered as supply of services under GST even though it is **not in the course or for furtherance of business**.

The government has notified certain transactions which are to be classified as goods or services. They can notify any transaction to be treated as supply of services or as supply of goods (given in Schedule II of CGST Act).

There are also certain **supplies that have been excluded** and kept out of scope of supply. Such transactions are covered in the **negative list of services** (given in Schedule III of CGST Act).



**What are the different types of supplies and what rate of tax will apply?**

Some supplies have one or more goods/services supplied together. They are: composite supplies and mixed supplies.

**1. Composite supplies:**

It has three components -

- a. Supply of two or more taxable goods or services or both or any combination thereof,
- b. It is naturally bundled in the ordinary course of business and
- c. one of them is a principal supply.

The rate of tax charged is that of the principal supply.

E.g. Sanganak Manufacturers, makes laptops, and sells them along with one-year warranty and maintenance service. Supply of Laptop is Principal supply and Warranty and Maintenance service are ancillary services.

## 2. Mixed Supplies:

Mixed supply is a supply of two or more taxable goods or services or both or any combination thereof, made in conjunction with each other for a single price, which can ordinarily be supplied separately.

The highest tax rate applicable on one of the items bundled together would apply to the mixed supply.

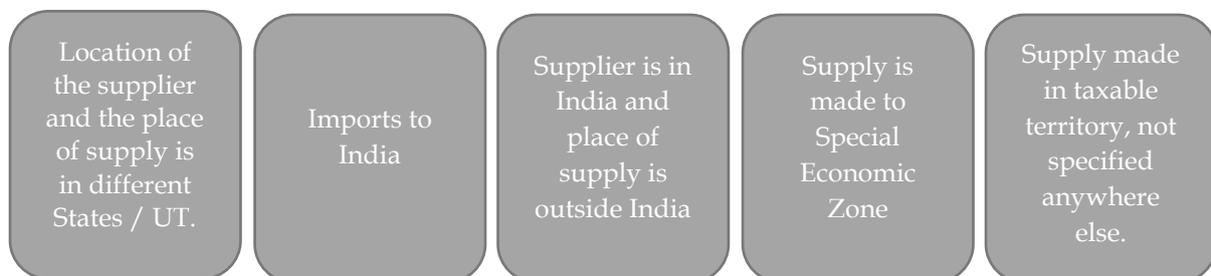
E.g. Shopkeeper selling a combo hamper consisting of chocolates, biscuits and cake wrapped up as a gift item. Each of these items can be bought or sold separately. Therefore, it is mixed supply. Highest tax rate will be applicable.

## Charge of GST

The provisions relating to levy and collect tax is contained under section 9 of CGST Act and section 5 of IGST Act.

Generally, where the place of supply and location of supplier is in the same State or Union Territory, it is treated as **intra-state supply**. Where the place of supply and location of supplier is in different state it is treated as **inter-state supply**.

It is considered to be an **inter-state supply** if the:



It is considered to be **intra-state supply** when:

Location of the supplier and the place of supply is in the same state or union territory

Certain goods and services will **not be treated as intra-state supplier** despite the location of supplier and place of supply is in the same state:

- Supply of goods or service to SEZ
- Supply of goods made to tourist
- Goods imported to India till they cross the customs frontier

## Reverse Charge Mechanism:

Usually, it is the supplier of goods or service that collect taxes from recipient and pays tax to the revenue. But in case of reverse charge, it is the recipient who has to pay tax. This is only for compliance purposes (obtaining registration and filing returns, etc.) as GST being an Indirect Tax, the burden of tax ultimately lies with the recipient only.

Tax is based on reverse charge basis by the recipient in the following cases:

- Supply of goods or services notified by the government (section 9(3) of CGST Act and section 5(3) of the IGST Act).
- Supply of specified goods or services by an unregistered supplier to a specified class of registered person (section 9(3) of CGST Act and section 5(3) of the IGST Act).

### Time of Supply in case of goods:

1. Date of receipt of goods;
2. Date of payment as per books of account or date of debit in bank account, whichever is earlier;
3. The date immediately following thirty days from the date of issue of invoice or similar another document.

**WHICHEVER IS EARLIER**

### Time of Supply in case of services:

1. date of payment as per books of account or date of debit in bank account, whichever is earlier; or
2. the date immediately following sixty days from the date of issue of invoice or similar another document.

**WHICHEVER IS EARLIER**

## How to pay GST under reverse charge?

Tax under reverse charge mechanism has to be paid in cash only. It cannot be paid by utilisation of Input Tax Credit.

## Can recipient avail Input Tax Credit?

Yes, the recipient can avail ITC for the tax paid. The only condition is that the goods or service received should be used for business purpose or furtherance of business only.

Few additional points for charge of GST:

- Small tax payers have an option to pay tax at a lower rate on the basis of the turnover. This option is called **composition levy**. \*  
**Turnover limit: ₹ 75 Lakh for special category states and ₹ 1.5 Cr for remaining states.**
- Small suppliers whose aggregate turnover is not more than ₹ 50 Lakh in the preceding financial year who are not eligible for composition levy can opt to pay tax at a concessional rate too. \*

*\*These schemes are subject to certain terms and conditions which have to be fulfilled.*

# Exemptions under GST

**Exempt supply** means those supplies that:

- attract NIL rate of tax;
- are wholly exempt from tax;
- non-taxable supply (viz. alcoholic liquor for human consumption).

Tax is not to be paid on these supplies and input tax credit attributable to exempt supplies **will not be available** for utilization/setoff.

Before we get into further details, let us understand the difference between certain terms:

- **Zero-rated supplies:** Exports or Supplies made to SEZ/SEZ developers.
- **NIL rated:** Supplies with 0% GST rate.
- **Non-GST:** Supplies outside the scope of GST.

## Goods exempted from GST:

A list has been notified under section 11 (1) of CGST Act and section 6 (1) of IGST Act. These items have been exempted from whole of the tax. Some of the items include live fish, unbranded atta, eggs, curd, lassi, milk, fresh fruits, fresh vegetables, coffee (seed quality) etc.



## Services exempted from GST:

Similarly, there is a certain service also which are notified by the government to be exempt under GST. These include services related to charitable & religious trust, agriculture related services, certain education and healthcare services, etc.

## Place of Supply

GST is a **destination based tax**. This means that the tax is charged at the place where the goods or services are consumed. This makes place of supply one of the very important concept under GST.

### Place of supply of goods other than supply of goods imported/exported:

**1. Supply involving movement of goods:**

In this case, the place of supply is the location of goods, at the time when the movement of goods terminates for delivery to the recipient.

**2. Bill to ship to model:**

This is supply involving movement of goods delivered to recipient on instructions given by a third party. Here, place of supply would be the principal place of business of the third party and not the actual place of recipient.

**3. Supply not involving movement of goods:**

If the supply does not involve movement of goods, the place of supply is the location of goods at the time of delivery to the recipient.

**4. Supply involving installation or assembling:**

If the supply includes goods which need to be installed or assembled, the place of supply is the place where such installation or assembling takes place.

**5. Goods supplied on board a conveyance:**

Place of supply of goods supplied on a board a conveyance like aircraft, train, vessel, vehicle is the place where such goods are taken on board.

### Place of supply of goods imported/exported:

**1. Import of goods:**

In cases where goods are imported from outside India, the place of supply is the place of the importer.

E.g. Goods are imported by Mr.A, a resident of Delhi, from China. Here, the place of supply is Delhi.

**2. Export of goods:**

Place of supply, when goods are exported outside India, is the location where the goods are exported.

E.g. Goods are exported by Mr.B, from Mumbai, to New York. Place of supply in this case is New York.

## Place of supply of services (Location of Supplier & Recipient is in India):

As a general rule, the location of place of supply of service, is the location of the person receiving such service. Given below are a few defined situations given under section 12 of IGST Act.

### 1. Services related to immovable property or boat or vessel:

This includes all services related to an immovable property or boat or vessel. This includes services provided which are directly related to immovable property including architect, interior decorator, etc. It also includes services provided by way of accommodation or accommodation for organizing any marriage/reception, or any kind of function.



In all above cases, the place would be the location of such immovable property or boat or vessel.

### 2. Restaurant and Catering / grooming / health / fitness / beauty :

Place of supply, would be the location where such services are actually performed.

E.g. Mrs. Shabana goes to Delhi from Mumbai for the make up of Mrs. Aishwarya. The place of supply would be Delhi as the service was performed there.



### 3. Training and Performance appraisal services:

This depends on whether the services that are being performed are for registered person or unregistered person. If the recipient is registered, then the place of supply is the location of registered person.

If the recipient is unregistered, then the place of supply would be the location where those services are actually performed.



### 4. Services by way of admission to cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto:

Place of supply is the location where the event is actually held or where park or such other place is actually located.



#### 5. **Organsation of events:**

When such service is provided to a registered person, the place of supply is the location of the recipient. When it is provided to an unregistered person, the place of supply is the location where the event has actually taken place. If the event took place out of India, the place of supply will be the location of the recipient.

E.g. Mr. Amar, a resident of Mumbai hires Creative Thinkers (Event Management Co.) to plan his wedding in Italy. The recipient is unregistered and hence, the place of supply will be the location of recipient i.e. Mumbai and not Italy where the event is held.

#### 6. **Transportation of goods:**

Services in form of transportation of goods (including mail) provided to a registered person, the place of supply is the location of such person. If such services are provided to a unregistered person, then the place of supply is place where the goods are handed over for transportation.

If goods are transported outside India, the place of supply is the place where goods are delivered i.e. destination of goods.

M/s. KGF Pvt. Ltd. ships goods to their customers in Malaga, Spain. Here, since the supply of goods is outside India, the place of supply is Spain.

#### 7. **Passenger Transportation Service:**

This can be divided into two cases:

- Where the journey is defined i.e. point of boarding is known at the time of issuance of right:

In this case if the person is registered, place of supply is the location of the recipient.

If the person is unregistered, then the place of supply will be the location where the journey starts.

- Where the journey is **not** defined i.e. point of boarding is **not** known at the time of issuance of right:

If address of unregistered person is available, then location of such unregistered person will be the place of supply. For any other case, it will be the location of supplier of service.

Examples of cases where journey is not known are a train seasonal pass, airlines seasonal ticket where points can be used to travel between any two locations in a country, etc.

Note: Return journey is counted as a separate journey

### 8. On board service supplies:

The place of supply in such cases will be the point of departure of that journey. E.g. If goods are taken on board at Vadodara, Gujarat on Rajdhani Express from Mumbai to Delhi. The place of supply shall be Vadodara, Gujarat.

### 9. Financial and stock broking services:

Place of supply will be the location of recipient of services. If the location is unknown, then location of supplier of service.

Other defined scenarios like telecommunication services, insurance service and advertisement service to government are given in section 12 of IGST Act.

### Place of supply of services ( Location of Supplier or Recipient is outside India):

As a general rule, the place of supply is the location of the recipient of services. If that is not available, then the place of supply is the location of the supplier of services.

#### 1. Performance based services:

Particulars	Place of Supply
Services that require physical presence of goods.  <b>Exceptions:</b> Where the goods are imported in India <b>temporarily</b> for process and are exported back without using it for any other purpose.	Locations where services are actually performed.  Location of recipient and when the location is not known, the location of the supplier of service.
Services that require physical presence of the recipient	Location where such services are actually performed.
Above services supplied in more than one location including a taxable territory.	Location in taxable territory
Above services supplied in more than one state or union territory.	Each of the state/union territory where it is supplied

**2. Services in relation to immovable property:**

For services directly related to immovable property, services for carrying out construction work including interior design, etc. the place of supply will be the location of immovable property . For services supplied in more than one location or in more than one state/union territory, provision same as performance based services.

**3. Services by way of admission to and/or organization of events or celebrations, etc:**

Such services provided in relation to any cultural, artistic, sporting, scientific, educational, entertainment events, celebrations, conference, or any such similar events or any services ancillary to any such events, the place of supply will be the location where the event actually took place.

For services supplied in more than one location or in more than one state/union territory, provision same as performance based services.

**4. Banking and Financial service, intermediary service, and hiring of means of transport:**

For any of the services provided from above, the place of supply will be the location of the supplier of services.

(Services consisting of hiring of means of transport including yachts but excluding aircrafts and vessels, upto a period of 1 month)

**5. Transportation services:**

- Transportation of goods other than by way of mail or courier, place of supply will be the destination of such goods.
- Passenger transport service - Location where the passenger starts his continuous journey.
- On board services - First scheduled point of departure of that journey.

**6. Online information and data access or retrieval services (OIDAR):**

The place of supply of OIDAR is the location of the recipient of services. As this is an online service and it is difficult to determine the location of the recipient of service, the Act lays down certain conditions. On fulfilling any two non-contradictory conditions, the location of the recipient is said to be in taxable territory i.e. India.

# Input Tax Credit

## What is Input Tax Credit?

Input Tax Credit means credit is given to registered person of taxes paid by him on his inputs (i.e. goods or services or both) received by him which are used or intended to be used in the course or furtherance of business. It is subject to conditions and restrictions.

Input Tax here includes taxes paid on inputs, input services and capital goods. This is to reduce double taxation. Let us understand this with help of an example:

Whenever Mr. A buys any input for the production of goods, he pays tax (Input Tax) on those materials. Whenever he sells his final product, he collects tax (Output Tax) from the buyer. Now, while paying the tax to the government, he has to pay tax the balance amount of tax after deducting tax paid while buying inputs from the tax collected on sale of goods.

$$\text{Tax to be paid to government} = \text{Output Tax} - \text{Input Tax}$$



## What are the conditions for availment of ITC?

Following conditions are to be satisfied by the registered taxable person for obtaining ITC:

- he is in possession of tax invoice or debit note or such other tax paying documents;
- he has received the goods or services or both;
- the supplier has actually paid the tax charged in respect of the supply to the government; and
- he has furnished the GST return
- he has paid the supplier within 180 days from the date of issue of invoice

### Whether Input Tax Credit is available in all cases?

ITC is not available in cases mentioned under Section 17(5) of the CGST Act, 2017 referred to as Blocked Credit. The list covers mainly items such as supply of foods and beverages, membership of a club, healthcare and fitness centre, Goods and/or services used for private or personal consumption, to the extent they are so consumed; Goods lost, stolen, destroyed, written off, gifted, or free samples; etc.

### Whether Input Tax Credit should reconcile with credit reflected in GSTR 2A?

GST Law says that Input Tax Credit claimed by person should get reflected in GSTR 2A (GSTR 2A is generated based on return filed by the supplier). There is a restriction imposed stating the amount of input tax credit in a month should not exceed 10% of eligible input tax credit for that period. Let us understand this with the help of a simple example.

Eligible input tax credit for April month = Rs. 100,

Input Tax Credit reflected in 2A = Rs. 120

Input Tax Credit that can be claimed = Rs. 110 (Rs. 100 Eligible Input Tax Credit + Rs. 10 (10% of Rs. 100))

### Is there any time limit for availment of Input Tax Credit?

In case a registered person does not claim ITC due to any reason in a financial year, he can claim such input tax credit before the below dates whichever is earlier:

- Due date of furnishing return under section 39 i.e. GSTR 3B for the month of September following the end of financial year
- Date of furnishing annual return for that financial year

Thus, outer time limit for availment of ITC is the due date of furnishing GSTR 3B for the month of September.

### Is there any manner of utilization of Input Tax Credit?

ITC is to be utilized in following manner:

Credit of	To be utilised first for payment of	May be utilised further for payment of
CGST	CGST	IGST
SGST/UTGST	SGST/UTGST	IGST
IGST	IGST	CGST, then SGST/UTGST

# Registration

## When does a person have to take GST registration?

Every taxable person whose turnover exceeds the threshold given below, has to get themselves registered;

### Threshold Limit:

	Goods	Services
Special Category*	Aggregate turnover exceeds ₹ 20 Lakh	Aggregate turnover exceeds ₹ 10 Lakh
Other than Special Category	Aggregate turnover exceeds ₹ 40 Lakh	Aggregate turnover exceeds ₹ 20 Lakh

\*Special category states include Arunachal Pradesh, Assam, Jammu & Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand.

Registration is PAN based and is different for every state. GST identification number is called GSTIN.

## What do you mean by aggregate turnover?

“Aggregate turnover” means 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, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess.

## What is the time limit to obtain GST Registration?

A person should take registration within 30 days from which he becomes liable to pay tax under GST. Casual taxable person and non-residents should seek registration 5 days prior to commencement of business.

## In what cases is registration compulsory?

1. Any person making inter-state taxable supply.
2. Casual taxable person who does not have a fixed place of business where he wants to make the supply.
3. A person receiving supplies on which tax is to be paid on reverse charge basis.
4. Non-resident taxable person.
5. All E-commerce aggregators.

6. A person who supplies on behalf of a taxable person.
7. ISD whether or not separately registered under the Act.
8. Person of class of person notified by State or Central Government.
9. 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.
10. Every person who crosses the threshold limit.

### What are consequences of not obtaining registration?

If the person is liable to be registered under the Act but fails to do so, he will be liable to pay ₹ 10,000 or the amount of tax evaded, whichever is higher.

## Import and Export

### How is Import dealt in GST?

Import of Goods and Services are treated as deemed inter-state supplies and IGST is levied on import of goods and services in to the country.

### What do you mean by Import of Goods ? How taxes are levied ?

Import of goods means bringing goods into India from a place outside India.

Integrated tax on goods shall be in addition to the applicable Basic Customs Duty (BCD) which is levied as per the Customs Tariff Act as per IGST Act, 2017. In addition, GST compensation cess, may also be leviable on certain luxury and de-merit goods under the Goods and Services Tax (Compensation to States) Cess Act, 2017. In cases where imported goods are liable to Anti-Dumping Duty or Safeguard Duty, value for calculation of IGST as well as Compensation Cess shall also include Anti-Dumping Duty amount and Safeguard duty amount.

Let us under this with the help of an example: Assessable value of an goods imported into India is Rs. 100/-. Basic Customs Duty is 10% ad-valorem. Education Cess is 3%;

Integrated tax rate is 18% and Compensation Cess is 15%. Calculation of tax will be as under:

Sr. No	Particulars	Duty
(A)	Assessable Value	100.00
(B)	Basic Customs Duty@10%	10.00
(C)	Education Cess @3%	0.30
(D)	Value for Integrated Tax	110.30
(E)	Integrated Tax @18%	19.85

(F)	Value for Compensation Cess	110.30
(G)	Compensation Cess @ 15%	16.55
(H)	Total Duty (B+C +E+G)	46.70

### Whether Passenger Baggage subject to tax?

Passenger Baggage are exempted from IGST as well as compensation cess. The basic customs duty at the rate of 35% and the applicable education cess shall be leviable on the value which is in excess of the duty free allowances provided under the Baggage Rules, 2016.

### What do you mean by Import of Services? How it is dealt in GST?

Import of Services means supply of any service where –

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

The importer of services will have to pay tax on reverse charge basis.

Import of Service can be bifurcated into 2 categories and it can be considered as supply based on whether there is consideration or not and whether the service is supplied in the course or furtherance of business. Let us understand this in tabular form:

Nature of Services	Whether Consideration is required?	Whether it has to be supplied in the course or furtherance of business?
Import of services by a taxable person from a related person or from a distinct person	Not required	Necessarily Required
Import of services other than above	Necessarily Required	Not required

### How are Exports dealt in GST?

All exports are deemed as inter-State supplies. Exports of goods and services are treated as zero rated supplies. The exporter has the two options

- a) Export without payment of tax i.e. Export under bond/Letter of Undertaking and claim refund of Input Tax Credit OR
- b) Export with payment of tax i.e. Pay IGST by utilizing Input Tax Credit or in cash at the time of export and claim refund of IGST paid.

### **What do you mean by Export of goods?**

Export of goods means taking goods out of India to a place outside India.

### **What do you mean by Export of Services ?**

Export of services means the supply of any service when,

- 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 or in Indian rupees wherever permitted by the Reserve Bank of India; and
- e) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;

As per the explanation 1 in section 8, Establishments will be treated as establishment of distinct persons under the following situations:

<b>Situation</b>	<b>Location of one establishment</b>	<b>Location of the other establishment</b>
I	India	Outside India
II	State or Union Territory	Outside that State or Union Territory
III	State or Union Territory	Other Places of Business independently registered in that State or Union Territory

### **What do you mean by Zero Rating?**

Zero rating means no burden of tax on the supplier of goods / services. It can be understood as under:

- a) The taxes paid on the supplies which are zero rated are refunded;
- b) The credit of inputs/ input services is allowed;
- c) Wherever the supplies are exempted, or the supplies are made without payment of tax, the taxes paid on the inputs or input services i.e. the unutilised input tax credit is refunded.

### **What is deemed export under GST Law?**

Deemed export are those supplies where:

- a) goods are manufactured in India,
- b) goods supplied do not leave India, and
- c) Payment for such supplies is received either in Indian rupees or in convertible foreign exchange.

Such supplies are notified by the government for e.g. Supply of goods by a registered person against Advance Authorisation, Supply of goods by a registered person to Export Oriented Unit etc.

## Refund

Another important aspect of GST is the refund process. There are a number of situations that lead to refund claims.:

1. Export / Supply to SEZ developer/unit on payment of IGST
2. Refund of unutilized ITC
3. Refund on tax paid on supply of goods regarded as deemed exports
4. For any balance in electronic cash ledger after payment of tax/interest, refund can be claimed
5. Refund on account of tax paid on supply which is not provided or partially provided, for which invoice has not been raised
6. Refund of tax wrongly collected and paid to government
7. Refund of tax (IGST) paid by tourist leaving India on any supply of goods taken out of India by him
8. Tax refundable due to a judgement or order of Appellate Authority, Appellate Tribunal or any court
9. On finalisation of provisional assessment, if any tax becomes refundable to taxpayer
10. Refund of tax on purchases made by UN bodies or embassies, etc.

### **What is the time limit for claiming Refund?**

Time limit to claim refund is within 2 years of 'relevant date'. Relevant date is defined under section 54, explanation 2 of CGST Act. It is different for different situations.

Below are a few examples:

- If goods are exported by sea or air – date on which the ship or aircraft are loaded, leaves
- If goods are exported by land – date on which such goods pass the frontier
- If goods are exported by post – date of dispatch of goods by the post office to a place outside India

## Returns

Return means a statement of information furnished by the taxpayer to tax authorities. There are several types of returns under GST regime:

Return Type	Meaning	Due Date
1. GSTR-1	Monthly statement of outward supplies of goods and/or services.  Depending on the turnover, taxpayer can also opt for filing returns on quarterly basis.	11 <sup>th</sup> of next month  11 <sup>th</sup> of month succeeding the quarter end.
2. GSTR-3B	Monthly return submitted by taxpayer.	20 <sup>th</sup> of next month
3. GSTR-4	Return submitted by taxpayer under composition scheme. To be submitted once a year	30 <sup>th</sup> April of next financial year.
4. GSTR-5	Monthly return of a non-resident.	20 <sup>th</sup> of next month
5. GSTR 5A	Monthly return of a person outside india providing OIDAR services to non taxable person in India	20 <sup>th</sup> of next month
6. GSTR 6	Monthly return of Input Service Distributor (ISD)	13 <sup>th</sup> of next month
7. GSTR 7	Monthly return of a person required to deduct TDS	10 <sup>th</sup> of next month
8. GSTR 8	Monthly return of E-Commerce operator required to collect TCS	10 <sup>th</sup> of the next month

<b>9. GSTR 9</b>	Annual return of all registered person other than ISD, tax deductor/collector, casual taxable person or non-resident.	31 <sup>st</sup> december of next financial year
<b>10. GSTR 9A</b>	Annual return of person registered and paying tax under composition scheme.	31 <sup>st</sup> december of next financial year
<b>11. GSTR 9B</b>	Annual return of e-commerce operator required to collect tax at source.	31 <sup>st</sup> december of next financial year
<b>12. GSTR 9C</b>	Reconciliation statement for taxpayers whose turnover crossed Rs.2 crore.	Submit along with annual return
<b>13. GSTR 10</b>	Final return, to be submitted when registration has been surrendered or cancelled.	Within three months of date of cancellation or date of order of cancellation, w.e. is later.

# Assessment

Assessment is the determination of the amount of tax payable.

Different types of Assessment under GST are as under:

**1. Self-Assessment**

Every registered person shall self-assess the taxes payable under this Act and furnish a return for each tax period.

**2. Provisional Assessment**

Assessee can request the proper officer for provisional assessment if he is unable to:

- a) determine the value of goods or services to be supplied by him or
- b) determine the rate of tax applicable to the goods or services to be supplied by him

The proper officer can allow the assessee to pay tax on a provisional basis at a value or at a rate specified by him.

**3. Scrutiny of Returns (i.e. Scrutiny Assessment)**

A GST officer may scrutinize the return and related particulars to verify its correctness. The officer will ask for explanations on any discrepancies noticed in the returns and accordingly action might be taken.

**4. Summary Assessment**

It can be initiated to protect the interest of revenue when:

- a) the proper officer has evidence that a taxable person has incurred a liability to pay tax under the Act, and
- b) the proper officer believes that delay in passing an assessment order will adversely affect the interest of revenue.

Such order can be passed after seeking permission from the Additional Commissioner / Joint Commissioner.

**5. Best Judgement Assessment**

An assessing officer does the assessment based on his reasoning and using the relevant information available with him. It is done in below two situations:

- a) When a taxpayer has not filed his return (i.e. Assessment of non-filers of returns)
- b) When a person fails to obtain GST registration even though he is liable. (i.e. Assessment of unregistered persons)

# Appeals

## What do you mean by Appeals under GST?

Appeal means application to higher authority for reversal of decision of lower authority. Tax laws recognize that on any given set of facts and laws, there can be different opinions or viewpoints. Therefore, there is a concept of appeal where the assessee or department whosoever is not satisfied with the order can approach higher authority.

Right to appeal is inherent right of the tax payer therefore law places reasonable fetters on exercising that right. Some examples are as under:

- **Time limit:** At each stage there is a time limit prescribed i.e. within prescribed time of communication of order only appeal can be filed.
- **Condonation of Delay:** If appeal is not filed within the prescribed time limit, delay can be condoned only if there is a sufficient cause for delay and appeal is filed within the time permitted for condonation of delay.
- **Pre-deposit:** Certain sum needs to be deposited before the appeal can be filed.

## Whether appeal is to be filed under CGST and SGST/UTGST separately?

NO. GST Law provides that where a proper officer under one Act (say CGST) has passed an order, any appeal/review/ revision/rectification against the said order will lie only with the proper officers of that Act only (CGST Act). So also, if any order is passed by the proper officer of SGST, any appeal/review/revision/rectification will lie with the proper officer of SGST only.

## Whether appeal can be filed against all decisions?

Appeal cannot be made for below decision taken by proper officer:

- a) An order to transfer the proceedings from one officer to another officer
- b) An order to seize or retain books of account and other documents; or
- c) An order sanctioning prosecution under the Act; or
- d) An order allowing payment of tax and another amount in installments

## How many levels of appeals are there under GST?

There are four levels of appeals under GST which is tabulated as under:

Appeal level	Orders passed by	Appeal to
1 <sup>st</sup>	Adjudicating Authority	First Appellate Authority
2 <sup>nd</sup>	First Appellate Authority	Appellate Tribunal

3 <sup>rd</sup>	Appellate Tribunal	High Court
4 <sup>th</sup>	High Court	Supreme Court

**“Adjudicating authority”** means any authority, appointed or authorised to pass any order or decision under this Act, but does not include the Central Board of Indirect Taxes and Customs (CBIC), the Revisional Authority, the Authority for Advance Ruling, the Appellate Authority for Advance Ruling, the Appellate Authority, the Appellate Tribunal and the Authority referred to in sub-section (2) of section 171 (National Anti-Profiteering Authority).

**Appellate tribunals** are divided into two categories and their jurisdiction is also defined:

- a) National Bench / Regional Benches – where one of the issues involved relates to place of supply
- b) State Bench or Area Benches – other than those cases where the issues involved relates to the place of supply.

Appeal to High Court and Supreme Court can be made only if the case involves a substantial question of law. Thus, in case of question of facts, Appellate Tribunal is the final authority.