

# GOODS AND SERVICES TAX

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## 4. GST Liability and Input Tax Credit

### Rates of GST

Rates of GST are classified based on classification of goods and services. Following are the tax slabs available under GST

- 1) No tax slab of 0%
- 2) GST Tax slab of 5%
- 3) GST Tax slab of 12%
- 4) GST Tax slab of 18%
- 5) GST Tax slab of 28%

### Zero Rating

Zero rated supplies mean any of the following taxable supply of goods and/services, namely-

- Export of goods and / or services; or
- Supply of goods and / or services to SEZ developer or a SEZ unit.

It is also provided that the credit of input tax may be availed for making zero rated supplies notwithstanding that such supply may be an exempt supply.

### Input Tax

As per section 2(62) of Central Goods and Services Tax Act, 2017, the term 'Input Tax' in relation to a taxable person, means the (IGST and CGST) / (IGST and SGS) charged on any supply of goods and / or services to him which are used, or are intended to be used, in course of furtherance of his business and includes the tax payable under section 7(3)

### Input Tax Credit

As per section 2(63) of Central Goods and Services Tax Act, 2017, the term 'Input Tax Credit' means the credit of input tax.

### Eligibility to avail the Input Tax Credit

"Input Tax" in relation to a taxable person, means the Goods and Services Tax charged on any supply of goods and / or services to him which are used or which are intended to be used, during furtherance of his business. Fulfillment of Input Tax Credit under GST – Conditions to claim is one of the most crucial activity for every business to settle its tax liability.

ITC is the backbone of GST and a major matter of concern for the registered persons, conditions for eligibility to ITC and eligible ITC have been prescribed which in majority in line with pre-GST regime. These rules are quite particular and stringent in its approach.

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## Input Tax Credit under GST – Conditions to claim

A registered person will be eligible to claim Input Tax Credit (ITC) on fulfillment of the following conditions:

1. Possession of a tax invoice or debit note or document evidencing payment.
2. Receipt of goods and / or services.
3. Goods delivered by supplier to other person on the direction of registered person against a document of transfer of title of goods.
4. Furnishing of a return
5. Where goods are received in lots or installments ITC will be allowed to be availed when the last lot or installment is received.
6. If supplier fails to supply of goods and / or services within 180 days from the date of invoice, ITC already claimed will be added to output tax liability.
7. No ITC will be allowed if depreciation has been claimed on tax component of a capital good.
8. If invoice or debit note is received after
  - The due date of filing return for September of next financial year. Or
  - Filing annual return.
9. Common credit of ITC used commonly for
  - Effecting exempt and taxable supplies.
  - Business and non-business activityCredit will be allowed according to the rules

## Items on which credit is not allowed

- 1) Motor vehicle and conveyances except the following:
  - Such motor vehicles and conveyances are further supplied i.e. sold
  - Transport of passengers
  - Used for imparting training on driving, flying, navigating such vehicle or conveyances.
  - Transportation of goods
  - Foods and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery.
- 2) Sale of membership in a club, health, fitness center
- 3) Rent a cab, health insurance and life insurance except the following:
  - Government makes it obligatory for employers to provide to its employees
  - Goods or services or both are taken to deliver the same category of services or as a part of a composite supply, credit will be available

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- 4) Travel benefits extended to employees on vacation such as leave or home travel concession.
- 5) Works contract service for construction of an immovable property (except plant and machinery or for providing further supply of works contract service)
- 6) Goods or services or both for construction of an immovable property whether to be used for personal purpose or business use
- 7) Goods or services or both where tax has been paid under composition scheme
- 8) Goods or services or both used for personal use
- 9) Goods or services or both received by a non-resident taxable person except for any of the goods imported by him
- 10) Goods lost, stolen, destroyed, written off or disposed off by the way of gift or free samples
- 11) ITC will not be available in the case of any tax paid due to non-payment or short tax payment, excessive refund of ITC utilized or availed by the reason of fraud or willful misstatements or suppression of facts or confiscation and seizure of goods

## **Input Tax Credit in certain special circumstances**

Section 18 of CGST Act provides for credit of Input Tax in respect of transitional stock. Transitional credit is allowed in case of new registrant under four different circumstances as follows:

- 1) **New Registration:** A person who has applied for registration under the Act within 30 days from the date of on which he becomes liable to registration and has been granted such registration. Transitional stock in this case would refer to the stock as on **the day immediately preceding the date from which he becomes liable to pay tax** under the provisions of this Act.
- 2) **Voluntary Registration:** A person who takes a voluntary registration under section 25(3). Transitional stock in this case would refer to the stock as **on the day immediately preceding the date of grant of registration.**
- 3) **Person exceeding the turnover limit for Composition Levy:** Any registered taxable person who ceases to pay tax under composition levy. Transitional stock in this case would refer to the stock as **on the date from which he becomes liable to pay tax under section 9.**
- 4) **Withdrawal Exemption:** An exempt supply of goods or services by a registered taxable person becoming a taxable supply, may be due to withdrawal of the exemption. Transitional stock in this case would refer to the stock relating to such exempt supply and capital goods exclusively used for such exempt supply, **on the day immediately preceding the date from which such supply becomes taxable.**

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