INDIRECT TAX LAWS
For B.Com Semester VI(CBCS)
Paper –CC14

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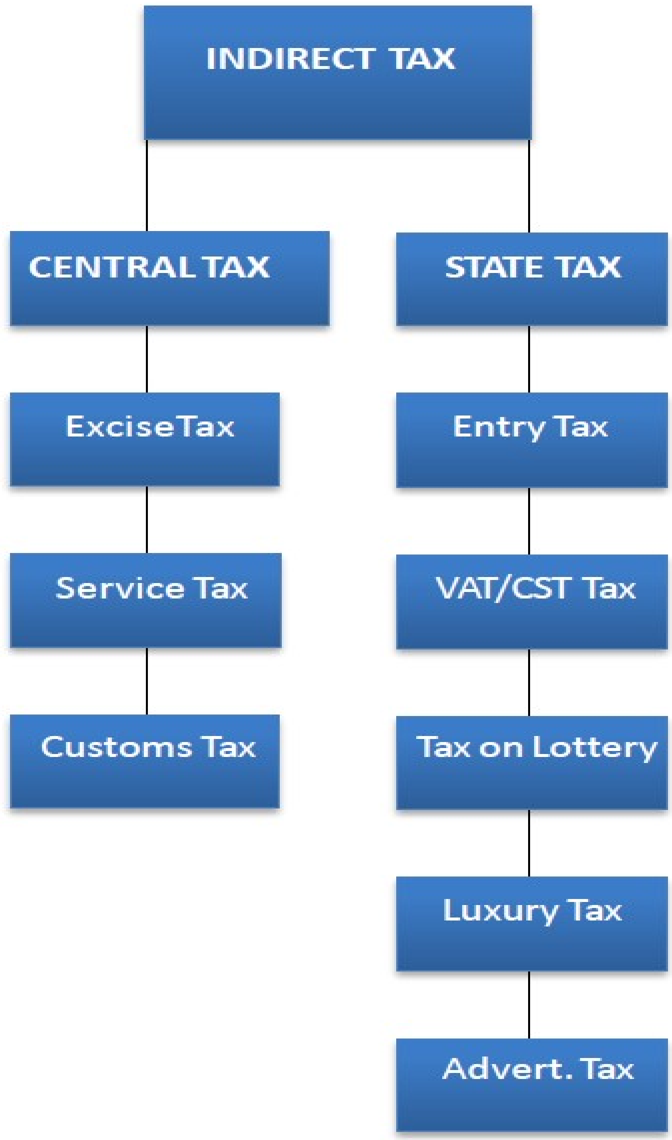
GOODS AND SERVICES TAX (GST)


INDIRECT TAX
CENTRAL TAX
STATE TAX
ExciseTax
Service Tax
Customs Tax
Entry Tax
VAT/CST Tax
Tax on Lottery
Luxury Tax
Advert. Tax

GST vs Current Indirect Tax Structure

To understand GST, it is important that we understand the current indirect taxation system. **Direct taxes such as income tax are borne by the person liable to pay the tax; this means that the tax burden cannot be shifted to anyone else.** The liability of an indirect taxes on the other hand, can be shifted to another person. So, the person liable to pay the tax can collect the tax from someone else and then pay it to the government; thus shifting the tax burden. The GST tax falls in this category.

The current indirect tax structure, which comprises of so many different taxes, can be classified as:

Central taxes: levied by the Central govt (includes Central Sales Tax, Excise Duty etc.)

State taxes: levied by the various state govts (VAT, Service Tax, Octroi)

The current indirect tax has one major problem - **the cascading effect**. When you buy something, you pay a tax on tax itself.

Let's understand this with a hypothetical numerical example

Existing Indirect Tax Structure in India

Central Taxes

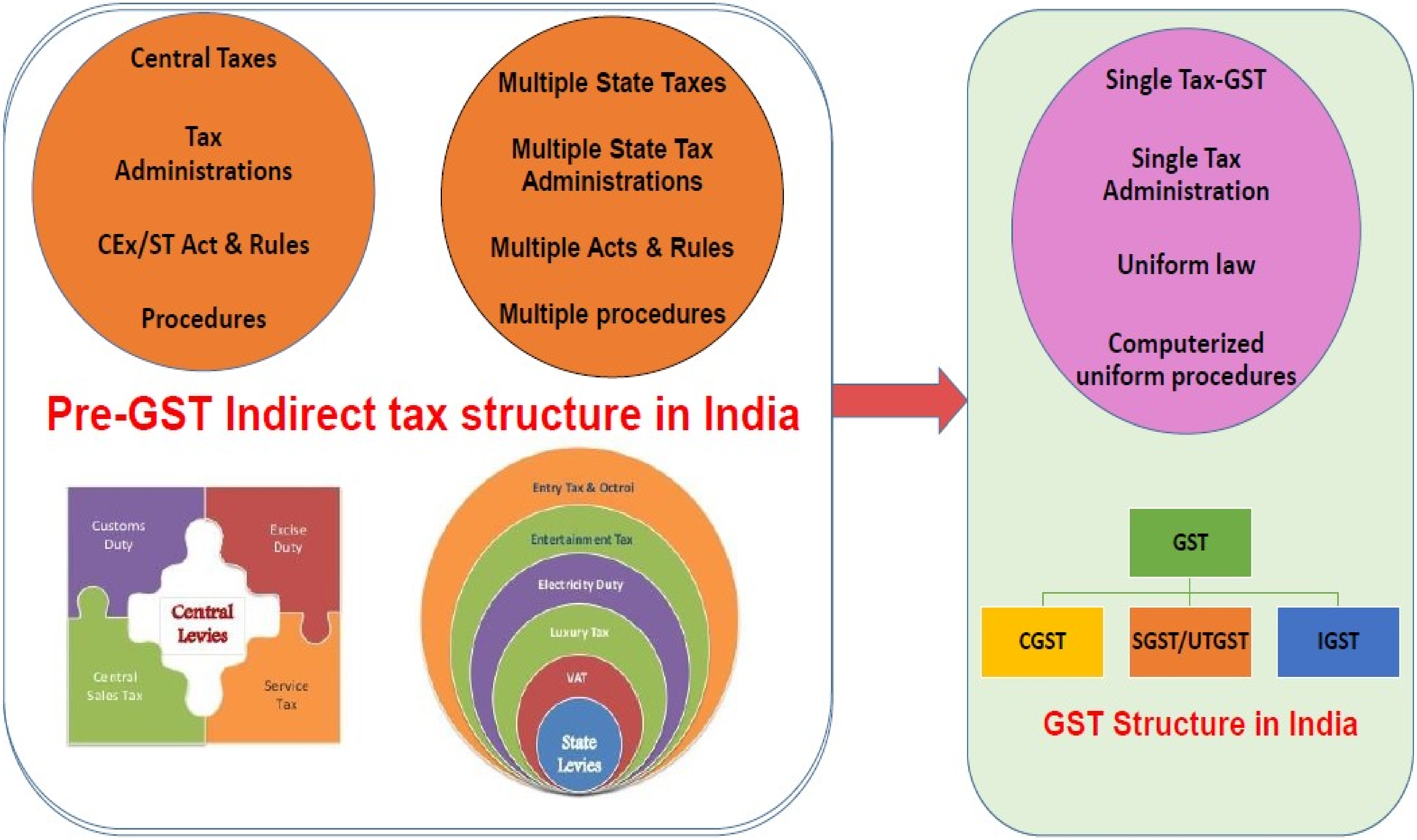
- Central Excise duty
- Additional duties of excise
- Excise duty levied under Medicinal & Toilet Preparation Act
- Additional duties of customs (CVD & SAD)
- Service Tax
- Surcharges & Cesses

State Taxes

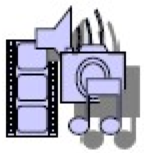
- State VAT / Sales Tax
- Central Sales Tax
- Purchase Tax
- Entertainment Tax (other than those levied by local bodies)
- Luxury Tax
- Entry Tax (All forms)
- Taxes on lottery, betting & gambling
- Surcharges & Cesses

GST

Constitution amended to provide concurrent powers to both Centre & States to levy GST (Centre to tax sale of goods and States to tax provision of services)


Central Taxes
Tax Administrations
CEx/ST Act & Rules
Procedures
Multiple State Taxes
Multiple State Tax Administrations
Multiple Acts & Rules
Multiple procedures
Pre-GST Indirect tax structure in India
Customs Duty
Excise Duty
Central Levies
Central Sales Tax
Service Tax
Entry Tax & Octroi
Entertainment Tax
Electricity Duty
Luxury Tax
VAT
State Levies
Single Tax-GST
Single Tax Administration
Uniform law
Computerized uniform procedures
GST
CGST
SGST/UTGST
IGST
GST Structure in India

Outside GST !

	Alcohol for human consumption	Power to tax remains with the State
	Five petroleum products – crude oil , diesel, petrol, natural gas and ATF	GST Council to decide the date from which GST will be applicable
	Tobacco	Part of GST but power to levy additional excise duty with Central Government
	Entertainment tax levied by local bodies	Power to tax remains with local bodies

Benefits of GST (1/2)

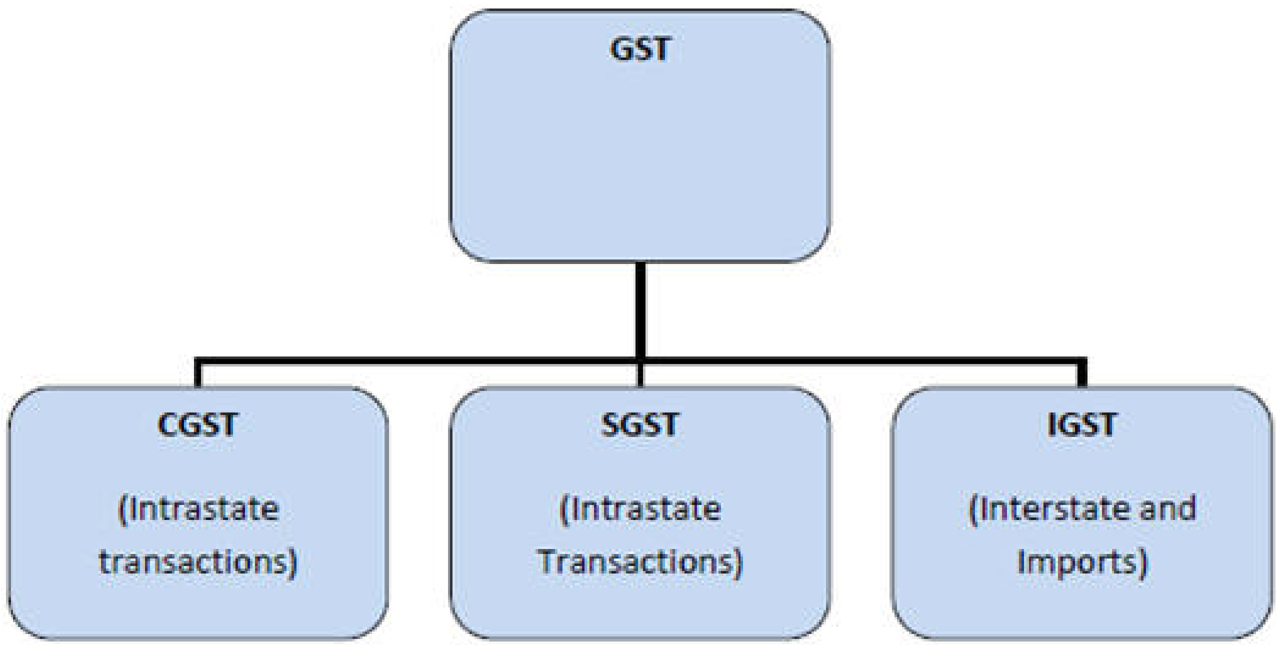
1. Reduction in Cascading of Taxes
2. Overall Reduction in Prices
3. Common National Market
4. Benefits to Small Taxpayers
5. Self-Regulating Tax System
6. Non-Intrusive Electronic Tax System

Decrease in Inflation

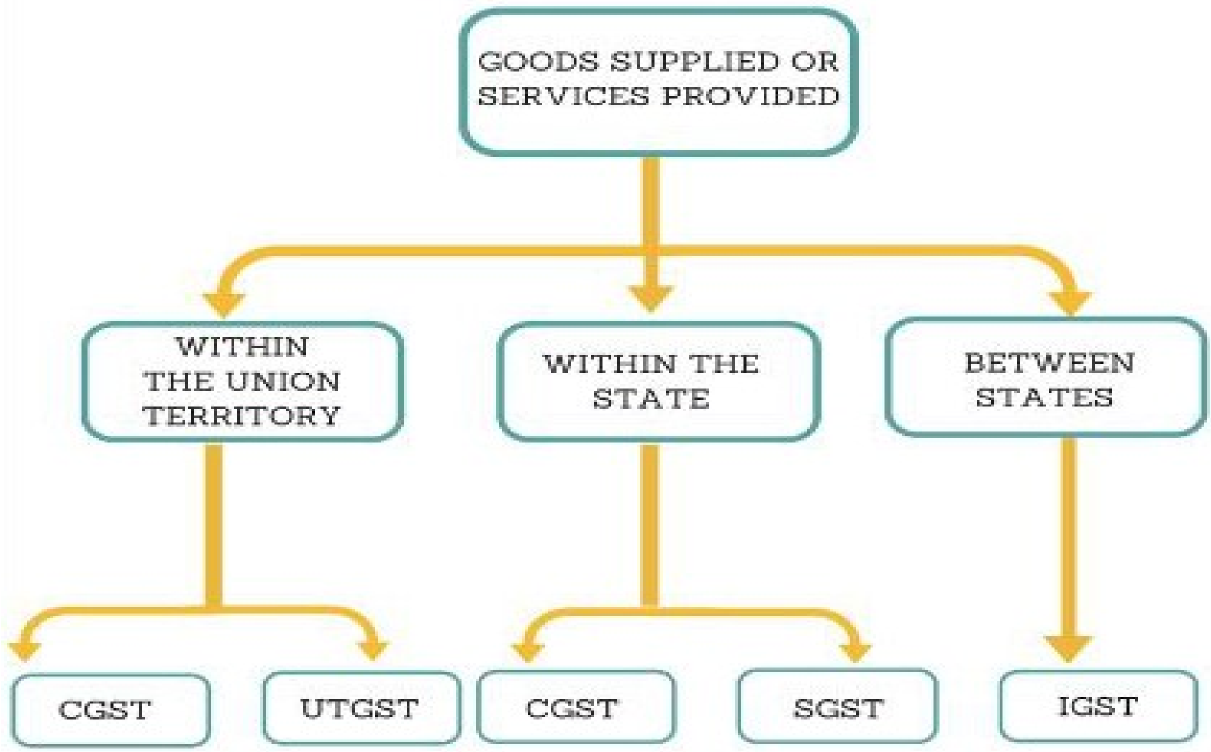
Ease of Doing Business

Decrease in "Black" Transactions

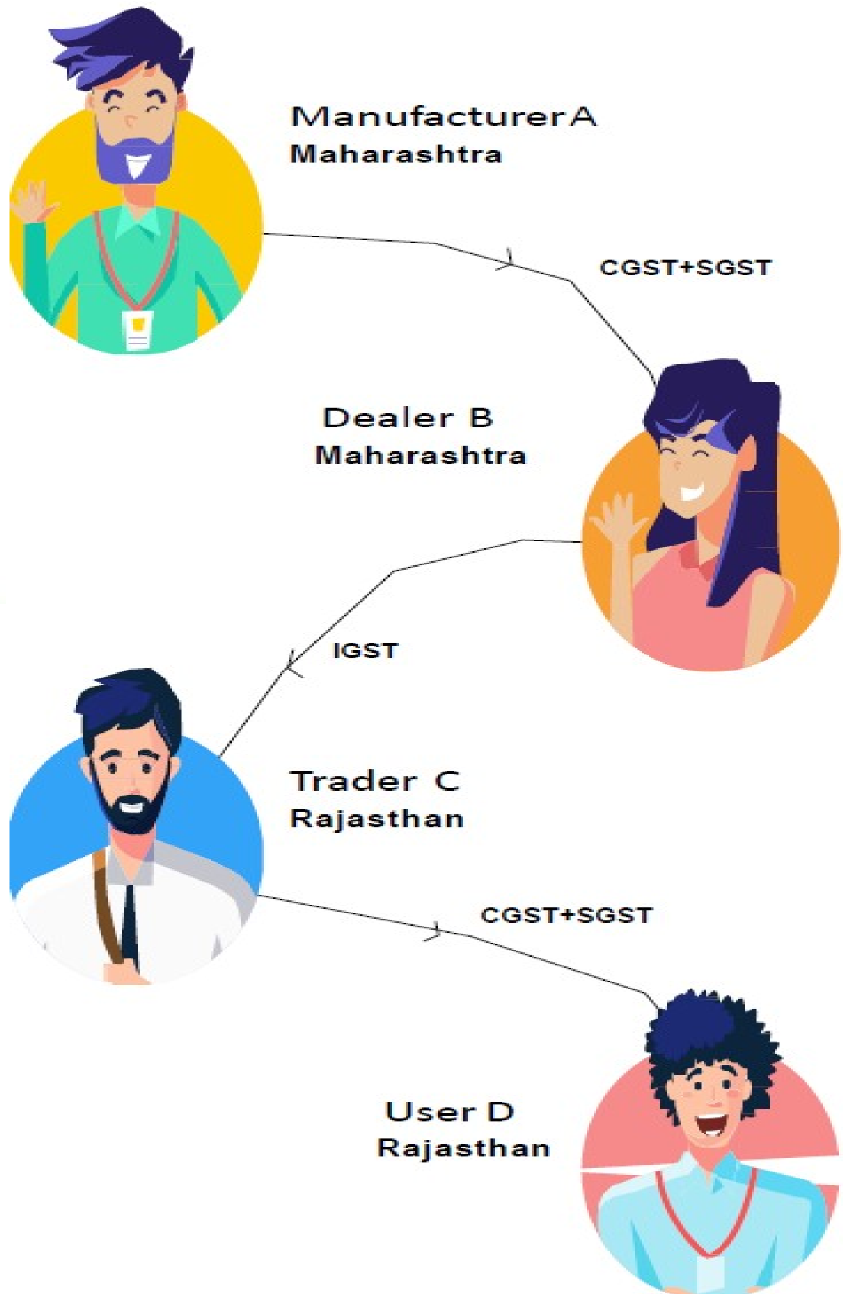
GST Structure



Structure of GST



What is SGST, CGST and IGST?



Suppose goods worth INR 10,000 are sold by manufacturer A in Maharashtra to Dealer B in Maharashtra. B resells them to trader C in Rajasthan for INR 17,500. Trader C finally sells to end user D in Rajasthan for INR 30,000.

Suppose CGST= 9%, SGST=9%. Then, IGST= 9+9=18%

Since A is selling this to B in Maharashtra itself, it is an intra-state sale and both CGST and SGST will apply, at the rate of 9% each.

B (Maharashtra) is selling to C (Rajasthan). Since it is an inter- state sale, IGST at the rate of 18% will apply.

C (Rajasthan) is selling to D also in Rajasthan. Once again it is an intra-state sale and both CGST and SGST will apply, at the rate of 9% each.

*** Any IGST credit will first be applied to set off IGST then CGST. Balance will be applied to setoff SGST.

Since, GST is a consumption based tax, i.e., the state where the goods were consumed will collect GST. By that logic, Maharashtra (where goods were sold) should not get any taxes.

Rajasthan and Central both should have got (30,000 * 9%) = 2,700 each instead of only 2,250.

Maharashtra (exporting state) will transfer to the Centre the credit of SGST of INR 900 used in payment of IGST.

The Centre will transfer to Rajasthan (importing state) INR 450 as IGST credit used.

****Note** : Custom duties are not part of this tax structure.

When is Tax Levied?

A taxable event such as manufacture, sale and provision of a good has to occur for tax to be collected. Under the current system, each taxable event is subject to multiple taxes such as excise, VAT/ CST and service tax. But under GST, products will no longer have multiple taxes, and will not incur excise duty as well as VAT at different points of time. There will no longer be any difference between goods and services in terms of taxation.

An example of this is when we go out to eat at a restaurant. Earlier, the customer paid both VAT and service tax on a single bill, but after GST there is single tax charged on the bill amount.

This leads us to an important concept in GST - Time, Place, and Value of Supply of goods and services. Let us look at these provisions in detail in the next chapter.

Registering under GST

Now that we know the basics of GST calculation, the process of ITC claims and filing of returns, let us look at how a tax-payer can register for GST.

If you meet any of the conditions listed below, you should obtain your GST registration in following cases.

- Your aggregate turnover in a financial year exceeds INR 20 lakhs (INR 10 lakhs for Special category states)

- If your turnover includes supply of only those goods/services which are exempt under GST, this clause does not apply.

To calculate this threshold, your turnover should include the aggregate value of all taxable supplies, exempt supplies, export of goods and/or services and inter-state supplies of a person having the same PAN.

Important Points to Remember

When:

- Every person who is registered under an earlier law will take registration under GST too.

- Where a business which is registered has been transferred to someone, **the transferee shall take registration with effect from the date of transfer.**

- **Registration is mandatory for anyone who makes inter-state supply of goods and/or services.**

- Registration is mandatory for:
- Casual Taxable Person
- Non-Resident Taxable Person
- Agents of a supplier
- Taxpayers paying tax under reverse charge mechanism
- Input Service Distributors
- E-commerce operator or aggregator and their suppliers
- Person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered taxable person

Other Notable Points Regarding Registration

- A person with multiple business verticals in a state will need to obtain a separate registration for each business vertical.
- PAN is mandatory to apply for GST registration (except for non-resident person who can get GST registration on the basis of other documents).
- A registration which has been rejected under CGST Act/SGST Act shall also stand rejected for the purpose of SGST/CGST Act.

Who is a ‘Casual Taxable Person?

If you occasionally make supply of goods/services as a principal or agent or any other capacity, in a taxable territory, where GST applies but where you don’t have a fixed place of business. As per GST, you will be treated as a casual taxable person.

Who is a Non- Resident Taxable Person

When you occasionally make supply of goods/services as a principal or agent or any other capacity, in a taxable territory, where GST applies but you don't have a fixed place of business in India. As per GST, you will be treated as a non-resident taxable person.

Here are the rules for registration for these persons:

- Registration shall be valid for 90 days.
- It can be further extended by 90 days.
- An advance deposit of tax liability for the period of registration must be made. Additional tax must be deposited if extension of registration is sought.
- This tax deposited shall be used like 'input credit'

Exemption from GST Registration

The following shall not be required to obtain registration and will be allotted a UIN (Unique Identification Number) instead. They can receive refund of taxes on notified supplies of goods/services received by them:

- Any specialised agency of UNO (United Nations Organization) or any multilateral financial institution and organization notified under the United Nations Act, 1947
- Consulate or Embassy of foreign countries
- Any other person notified by the Board/Commissioner
- The central government or state government may be based on the recommendation of the GST council, notify exemption from registration to specific persons.

Should You Opt for Voluntary Registration?

A person may opt for voluntary registration under GST even if he is not liable to be registered. All the provisions of GST applicable to a registered taxable person will similarly apply to such a voluntarily registered person also, i.e. he will be treated as a normal taxable person.

For example, assume there is a small grocery dealer with a limited turnover of Rs. 12-15 lakh. Such a dealer may not be required to register under GST. However, he may be supplying inputs to a nearby restaurant which has a turnover exceeding Rs. 20 lakh, is registered as a normal taxpayer, and is thus eligible for input credit. In such a scenario, a small dealer may register voluntarily to pass on the benefit of input credit to his buyer.

Check the Positive and the Negative aspects of Voluntary Registration

Time, Place and Value of Supply under GST Explained

How to Determine Time of Supply

The time of supply of goods/services shall be the earlier of the following dates:

- the date of issuing invoice (or the last day by which invoice should have been issued)
  OR
- the date of receipt of payment, whichever is earlier

If the supplier of taxable goods/service receives an amount up to INR 1000 in excess of invoice amount, the time of supply for the extra amount shall be the date of issue of invoice

For both the above clauses, the supply shall be assumed to have been made to the extent it is covered by the invoice or the payment (as the case may be).

For the second clause, the date of receipt of payment shall be the earlier of:

- the date on which the dealer enters the payment in their books

  OR
- the date on which the payment is credited to their bank account

For example, if the date of invoice is 15th May 2018, and date of receipt of payment is 10th July 2018. The date when the supplier recorded the receipt in his books is 11th July 2018.

Thus, the time of supply will be 15th May 2018.

How to Determine Place of Supply

'Place of Supply' under GST is an important factor as it defines whether the transaction will be counted as intra-state (i.e within the same state) or inter-state (i.e. between two states) and accordingly the changeability of tax. While determining the levy of taxes based on place of supply, two things are considered:

- Location of Supplier: It is the registered place of business of the supplier

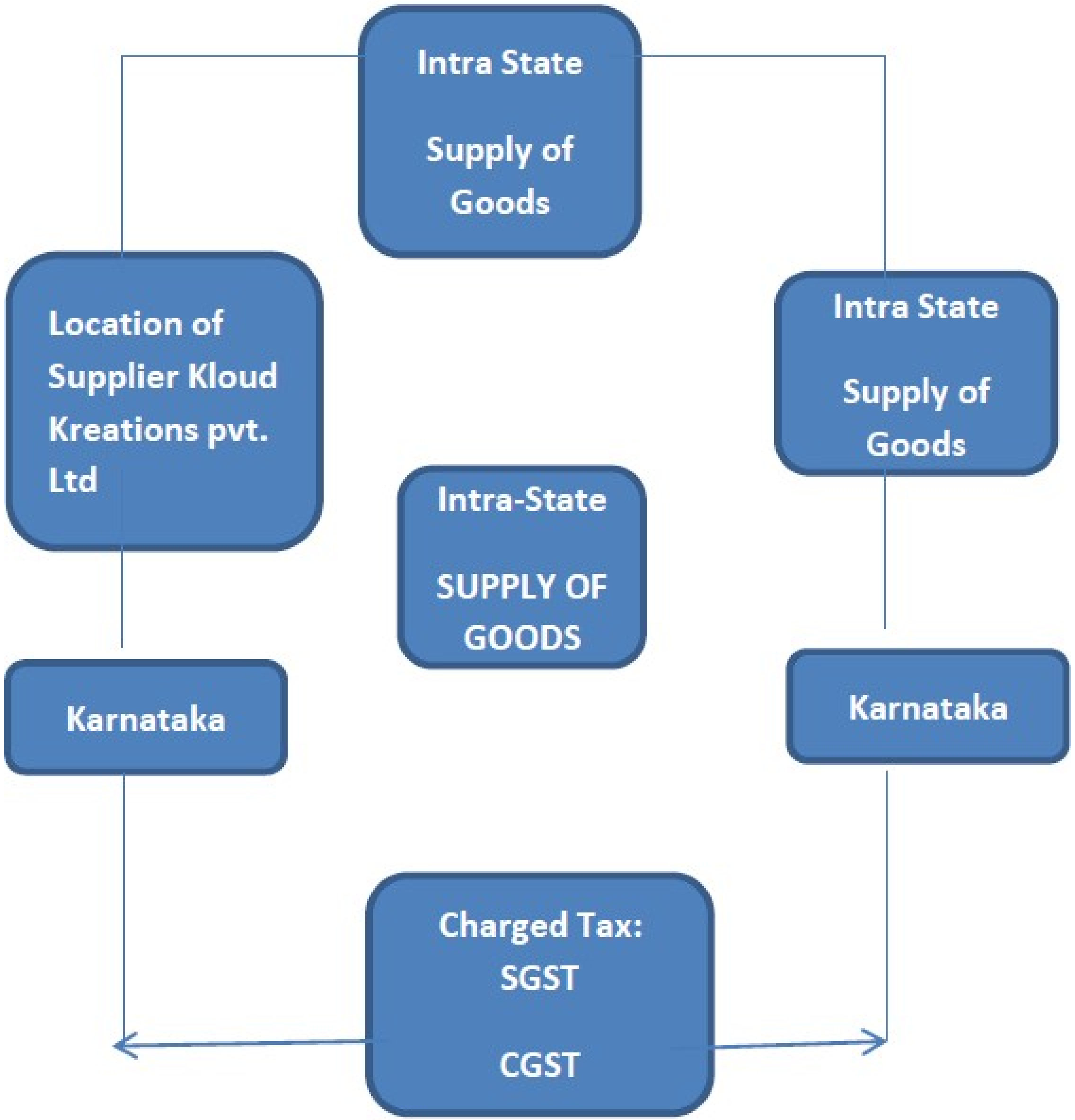
- Place of Supply: It is the registered place of business of the recipient

Let's understand this with the help of two examples

Example 1: Determining Place of Supply for Intra-State Supply of Goods

Let us assume there is a supplier of craft products, Kloud Kreations Pvt. Ltd with the registered office in Bangalore, Karnataka. It supplies goods to schools in Manipal, Karnataka. Here, since the supplier as well as the recipient are located in same state i.e Karnataka, it will be counted as 'Intra-State Supply of Goods' and hence SGST and CGST will be levied.

How to Determine Place of Supply

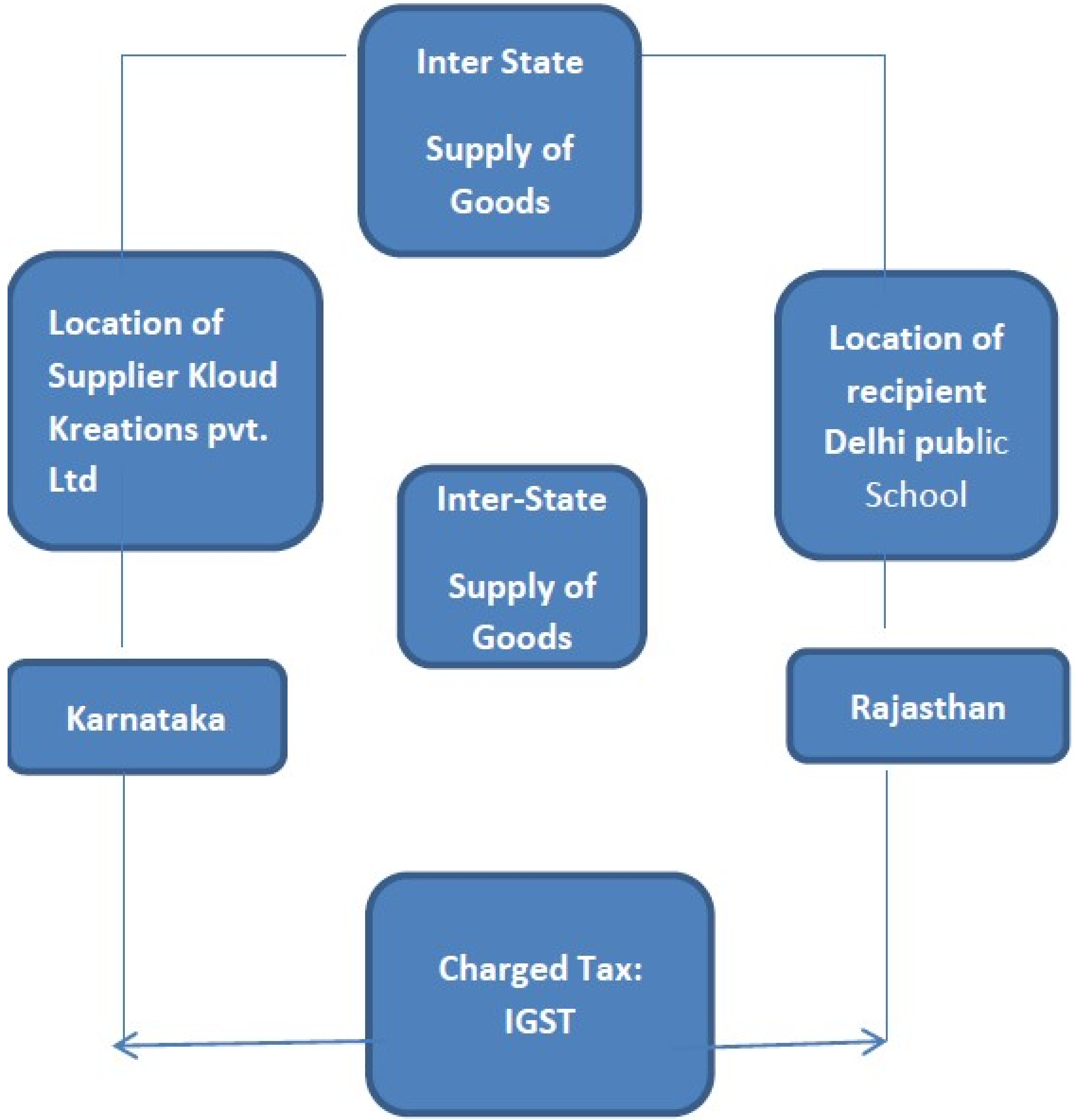


Example 2: Determining Place of Supply for Inter-State Supply of Goods

Let us assume the supplier of craft products, Kloud Kreations Pvt. Ltd has their registered office in Bangalore, Karnataka and the recipient i.e Delhi Public School is located in Jaipur, Rajasthan. Here, since the supplier and the recipient are located in different states i.e Karnataka and Rajasthan, it will be counted as 'Inter-State Supply of Goods' and hence IGST will be levied.

There are specific provisions for determination of place of supply of goods which depend on:

- The place of supply of goods: where the supply involves movement of goods
- The place of supply of goods: where the supply involves no movement of goods
- The place of supply of goods: in case of export and import of goods


Inter State
Supply of Goods
Location of Supplier Kloud Kreations pvt. Ltd
Location of recipient Delhi public School
Inter-State
Supply of Goods
Karnataka
Rajasthan
Charged Tax: IGST

How to Determine the Place Of Supply Of Services

GST is destination based tax i.e consumption tax, which means tax will be levied where goods and services are consumed and will accrue to that state.

Under GST, there are three levels of Tax, IGST, CGST and SGST and based on the "place of supply" so determined, the respective tax will be levied. IGST is levied where transaction is inter-state, and CGST and SGST are levied where the transaction is intra-state. The following concepts are very important ,namely:

- location of the recipient of services
- location of the supplier of services

Let's understand these two concepts in detail as they will form the base for determining the place of supply in case of supply of services:

Calculating Place of Supply of Services under GST

Let us first understand why an accurate determination of place of supply is important for businesses. The reasons for this are listed below:

- Wrong classification of supply between interstate or intra-state and vice-versa may lead to hardship to the taxpayer as per section 19 of IGST Act and section 70 of CGST Act
- Where wrong taxes have been paid on the basis of the wrong classification, refund will have to be claimed by the taxpayer
- The taxpayer will have to pay the correct tax along with interest for delay on the basis of revised/correct classification
- Also, correct determination of place of supply will help us in knowing the incidence of tax. As if place of supply is determined as a place outside India, then tax will not have to be paid on that transaction.

How to Determine the Place Of Supply Of Services

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Location of the recipient of services

S.No.	Case	Location of Recipient of Service
A	where a supply is received at a place of business for which the registration has been obtained	such place of business
B	where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere)	such fixed establishment

C	where a supply is received at more than one establishment, whether the place of business or fixed establishment	the location of the establishment most directly concerned with the receipt of the supply
D	in absence of such places	the location of the usual place of residence of the recipient

Location of the provider/ supplier of services

S.No.	Case	Location of Recipient of Service
A	where a supply is made from a place of business for which the registration has been obtained	the location of such place of business
B	where a supply is made from a place other than the place of business for which registration has beenobtained (a fixed establishment elsewhere)	the location of such fixed establishment

C	where a supply is made from more than one establishment, whether the place of business or fixed establishment	the location of the establishment most directly concerned with the receipt of the supply
D	in absence of such places,	the location of the usual place of residence of the supplier

The transactions in terms of supply of services can be broadly categorized as below:

1. Domestic Transactions

These are the transactions where both the parties i.e the supplier as well as recipient of service are in India. Domestic transactions can be further categorized as below:

Inter-State (i.e. between two different states)

Intra-State (i.e. within the same state)

General Rule for Domestic Transactions

In general, the place of supply for services will be the location of the service recipient (the recipient needs to be a registered person). In cases, where service is provided to an unregistered person, the place of supply will be the:

location of the service recipient (if the address is available on record)

location of service provider (if location of recipient is not available)

2. International Transactions

These are the transactions where either of the service recipient or the provider is outside India. Transactions in which both the recipient as well as provider are outside India are not covered here.

General Rule for International Transactions

The place of supply, for services treated as international transactions, will be:

the location of service recipient

the place of supply shall be location of the supplier, in case where the location of service recipient is not available.

Classification of Goods Under GST Regime

- The Central government on recommendation of GST council has notified rate of Integrated tax payable on goods vide **notification no 01/2017 – Integrated tax (rate) date 28/06/2017**. It may be noted that notifications regarding central tax (CGST) issued by central govt and notification regarding state tax (SGST) issued by respective state govt have identical provisions. We shall now analyze provisions of **notification no 01/2017 – integrated tax (rate) dt 28/06/2017**. The notification divides all goods in following 6 schedules-
- i) Schedule I – 5% – 264 entries
- ii) Schedule II – 12% – 242 entries
- iii) Schedule III – 18% – 453 entries
- iv) Schedule IV – 28% – 228 entries
- v) Schedule V – 3% – 18 entries
- vi) Schedule VI – 0.25% – 3 entries

GST classification of common items:

- 5%= Household necessities including edible oil, spices, sugar, tea, and coffee (except those instant packing and noodles) Coal, Indian Sweets, and Life-saving drugs and medications are covered under this GST slab.
- 12%= This slab includes all the computers its parts and processed and instant food products.
- 18% =Commodities like toothpaste, hair oils, soaps, cleaners industrial intermediaries and capital goods come under this category.
- 28% =All the luxury items like cars, high-end bikes, consumer appliances like AC and Refrigerators and other electrical goods, cigarettes, aerated drinks come under this high tax reform category.

List of Goods Exempt Under GST

- Live Animals.
- Meat.
- Fish, Meat and Fillets.
- Eggs, Honey and Milk Products.
- Non – Edible Animal Products.
- Live Trees and Plants.
- Vegetables.
- Fruits and Dry Fruits.

Negative list under GST

- Services by employee to employer in the course/ relation to employment
- Services of funeral, burial, crematorium or mortuary
- Sale of land
- Sale of completed buildings
- Actionable claims (other than lottery, betting and gambling)
- Services by any court or Tribunal
- Functions performed by the MPs, MLAs etc.
- Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.

Difference between Nil Rated, Exempt, Zero Rated and Non-GST supplies

Exports

- Supplies made to SEZ or SEZ Developers.
- Zero Rated

Nil Rated

- Supplies that have a declared rate of 0% GST.
- Example: Salt, grains, jaggery etc.

Exempt

- Supplies are taxable but do not attract GST and for which ITC cannot be claimed.
- Example: Fresh milk, Fresh fruits, Curd, Bread etc.

Non-GST

- These supplies do not come under the purview of GST law.
- Example: Alcohol for human consumption, Petrol etc.

Exempted Services

- All the services related to agriculture including harvesting, cultivation, supply, packaging, warehouse, renting or leasing of machinery, etc. are exempted from GST. However, this does not include the rearing of horses.

- Transportation of individuals via public transport, metered cabs, auto-rickshaws, metro, etc.

- Transport of agriculture produce and transportation of goods outside of India

- Transportation of goods where the total amount of charges is less than Rs 1500

- Government and foreign diplomatic services

- Services provided by RBI or any foreign diplomatic mission in India are also exempt from GST

- Services provided to diplomats including the United Nations

- Certain healthcare and educational services are also exempt from GST such as mid-day meal catering services, services provided by a Vet, clinic, or paramedics. Services by ambulances and charities are also included in the list

Some of the other exemptions of services under GST Include:

- Services provided by tour guides to foreign tourist.

- Library services

- Services for conducting religious ceremonies

- Distribution of electricity

- Services by authorised sports organisations

GST - Reverse Charge

NORMAL GST PAYMENT PROCESS

GST PAYMENT IN CASE OF REVERSE CHARGE

When is Reverse Charge Applicable

- A. Supply from an Unregistered dealer to a Registered dealer
- B. Services through an e-commerce operator
- C. Supply of certain goods and services specified by CBEC

Time of Supply under Reverse Charge

- **A. Time Of Supply in case of Goods**
- In case of reverse charge, the time of supply shall be the **earliest** of the following dates:
- the date of **receipt** of goods
- the date of **payment***
- the date immediately after **30** days from the date of issue of an **invoice** by the supplier
- If it is not possible to determine the time of supply, the time of supply shall be the **date of entry** in the books of account of the **recipient.**
- *This point is no more applicable based this Notification No. 66/2017 – Central Tax issued on 15.11.2017

Illustration:

- Date of receipt of goods 15th May 2018
- Date of invoice 1st June 2018
- Date of entry in books of receiver 18th May 2018
- The Time of supply of service, in this case, will be 15th May 2018

Time of Supply under Reverse Charge

- **Time Of Supply in case of Services**
- In case of reverse charge, the time of supply shall be the **earliest** of the following dates:
- The date of **payment**
- The date immediately after **60** days from the date of **issue of invoice** by the supplier
- If it is not possible to determine the time of supply, the time of supply shall be the **date of entry** in the books of account of the **recipient.**

Illustration:

- Date of payment 15th July 2018
- Date immediately after **60** days from the date of **issue of invoice** (Suppose the date of invoice is 15th May 2018, then 60 days from this date will be 14th July 2018)
- Date of entry in books of receiver 18th July 2018
- The Time of supply of service, in this case, will be 14th July 2018

GST Composition Scheme

- Composition Scheme is a simple and easy scheme under GST for taxpayers. Small taxpayers can get rid of tedious GST formalities and pay GST at a fixed rate of turnover. This scheme can be opted by any taxpayer whose turnover is less than Rs. 1.0 crore*.

Who can opt for Composition Scheme

- A taxpayer whose turnover is below Rs 1.0 crore* can opt for Composition Scheme. In case of North-Eastern states and Himachal Pradesh, the limit is now Rs 75* lakh.
- As per the CGST (Amendment) Act, 2018, a composition dealer can also supply services to an extent of ten percent of turnover, or Rs.5 lakhs, whichever is higher. This amendment will be applicable from the 1st of Feb, 2019. Further, GST Council in its 32nd meeting proposed an increase to this limit for service providers on 10th Jan 2019*.
- Turnover of all businesses registered with the same PAN should be taken into consideration to calculate turnover.
- ***CBIC has notified the increase to the threshold limit from Rs 1.0 Crore to Rs. 1.5 Crores.**

Who cannot opt for Composition Scheme

The following people cannot opt for the scheme-

- Manufacturer of ice cream, pan masala, or tobacco
- A person making inter-state supplies
- A casual taxable person or a non-resident taxable person
- Businesses which supply goods through an e-commerce operator

What are the conditions for availing Composition Scheme?

- No Input Tax Credit can be claimed by a dealer opting for composition scheme
- The dealer cannot supply GST exempted goods
- The taxpayer has to pay tax at normal rates for transactions under the Reverse Charge Mechanism
- If a taxable person has different segments of businesses (such as textile, electronic accessories, groceries, etc.) under the same PAN, they must register all such businesses under the scheme collectively or opt out of the scheme.
- The taxpayer has to mention the words ‘composition taxable person’ on every notice or signboard displayed prominently at their place of business.
- The taxpayer has to mention the words ‘composition taxable person’ on every bill of supply issued by him.
- As per the CGST (Amendment) Act, 2018, a manufacturer or trader can now also supply services to an extent of ten percent of turnover, or Rs.5 lakhs, whichever is higher. This amendment will be applicable from the 1st of Feb, 2019.

How can a taxpayer opt for composition scheme?

- o opt for composition scheme a taxpayer has to file GST CMP-02 with the government. This can be done online by logging into the GST Portal.
- This intimation should be given at the beginning of every Financial Year by a dealer wanting to opt for Composition Scheme.
- Here is a step by step Guide to File CMP-02 on GST Portal.

What is the tax rate applicable to a Composition Dealer?

Composition Scheme – Applicable GST Rate			
Type of Business	CGST	SGST	Total
Manufacturer and Traders (Goods)	0.5%	0.5%	1.0%
Restaurants not serving alcohol	2.5%	2.5%	5%
Service Providers are not eligible for Composition Scheme			

How Should a Composition Dealer raise bill?

- A composition dealer cannot issue a tax invoice. This is because a composition dealer cannot charge tax from their customers. They need to pay tax out of their own pocket.
- Hence, the dealer has to issue a Bill of Supply.
- The dealer should also mention "composition taxable person, not eligible to collect tax on supplies" at the top of the Bill of Supply.

How should GST payment be made by a composition dealer?

The GST payment to be made by a composition dealer comprises of the following:

- GST on supplies made.
- Tax on reverse charge
- Tax on purchase from an unregistered dealer*

*Only on the specified categories of goods and services and well as the notified class of registered persons with effect from 1st Feb 2019 but is yet to be notified. Hence, not applicable until then.

What are the advantages of Composition Scheme?

- Lesser compliance (returns, maintaining books of record, issuance of invoices)
- Limited tax liability
- High liquidity as taxes are at a lower rate

What are the disadvantages of Composition Scheme?

- A limited territory of business. The dealer is barred from carrying out inter-state transactions
- No Input Tax Credit available to composition dealers
- The taxpayer will not be eligible to supply exempt goods or goods through an e-commerce portal.

How should the Tax amount be calculated?

- A composition dealer is required to pay tax at a specific rate on total sales. Also, the dealer has to pay tax under reverse charge on specified purchases, purchase form unregistered dealer and import of services.
- This means that Total GST Payable =
- Tax on supplies (net of advance and goods returned)
- + Tax on B2B transactions where Reverse Charge is applicable
- + Tax on B2B purchases from Unregistered suppliers (July and August 2017)
- + Tax on Import of Services
- The rate of Tax on transactions under Reverse Charge, purchase from an unregistered dealer and import of services will be at normal rates, i.e. the rates applicable to the supplies. Rates under Composition Scheme are applicable only to sales of a composition dealer.

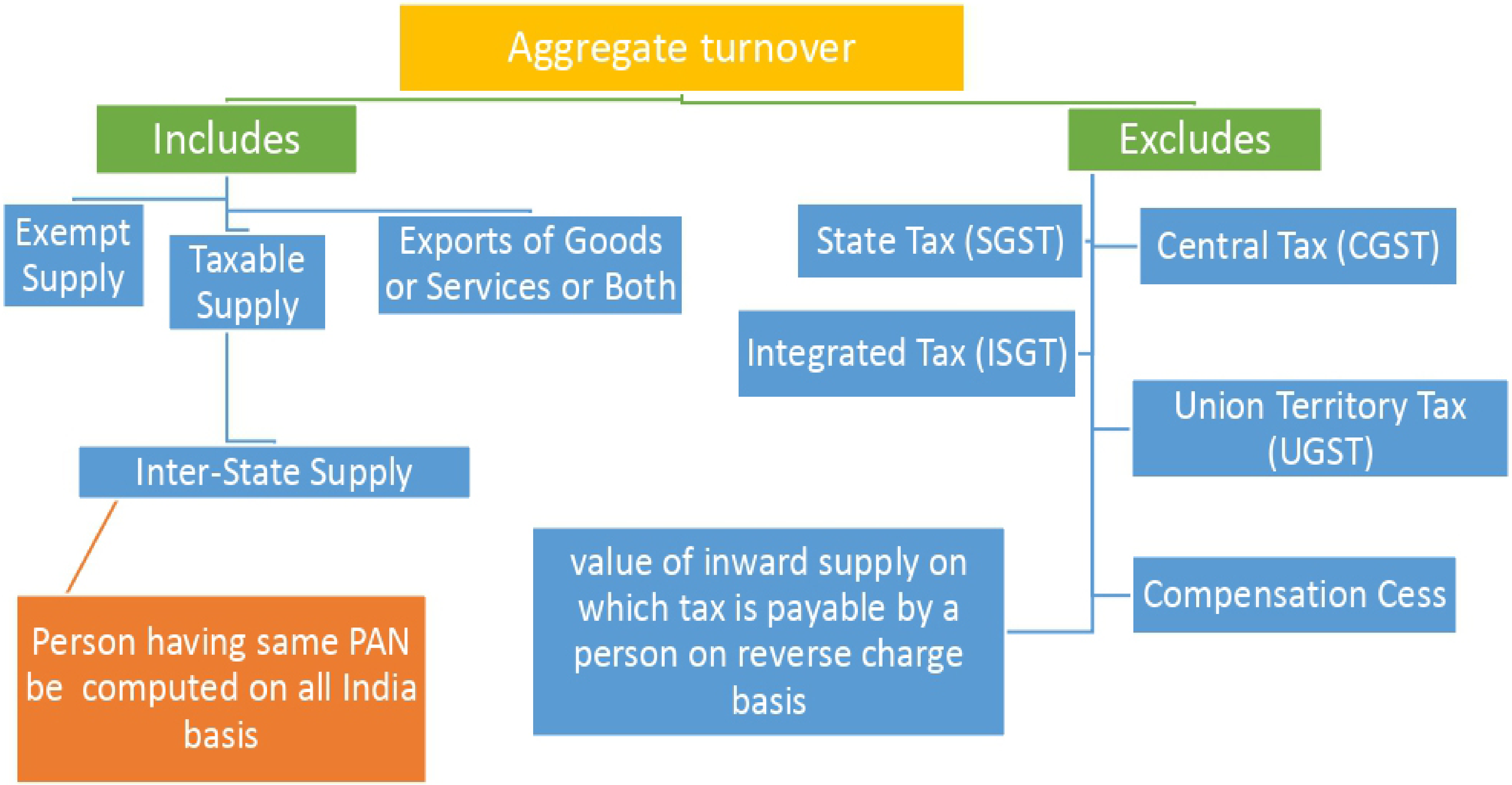
Harmonized System of Nomenclature

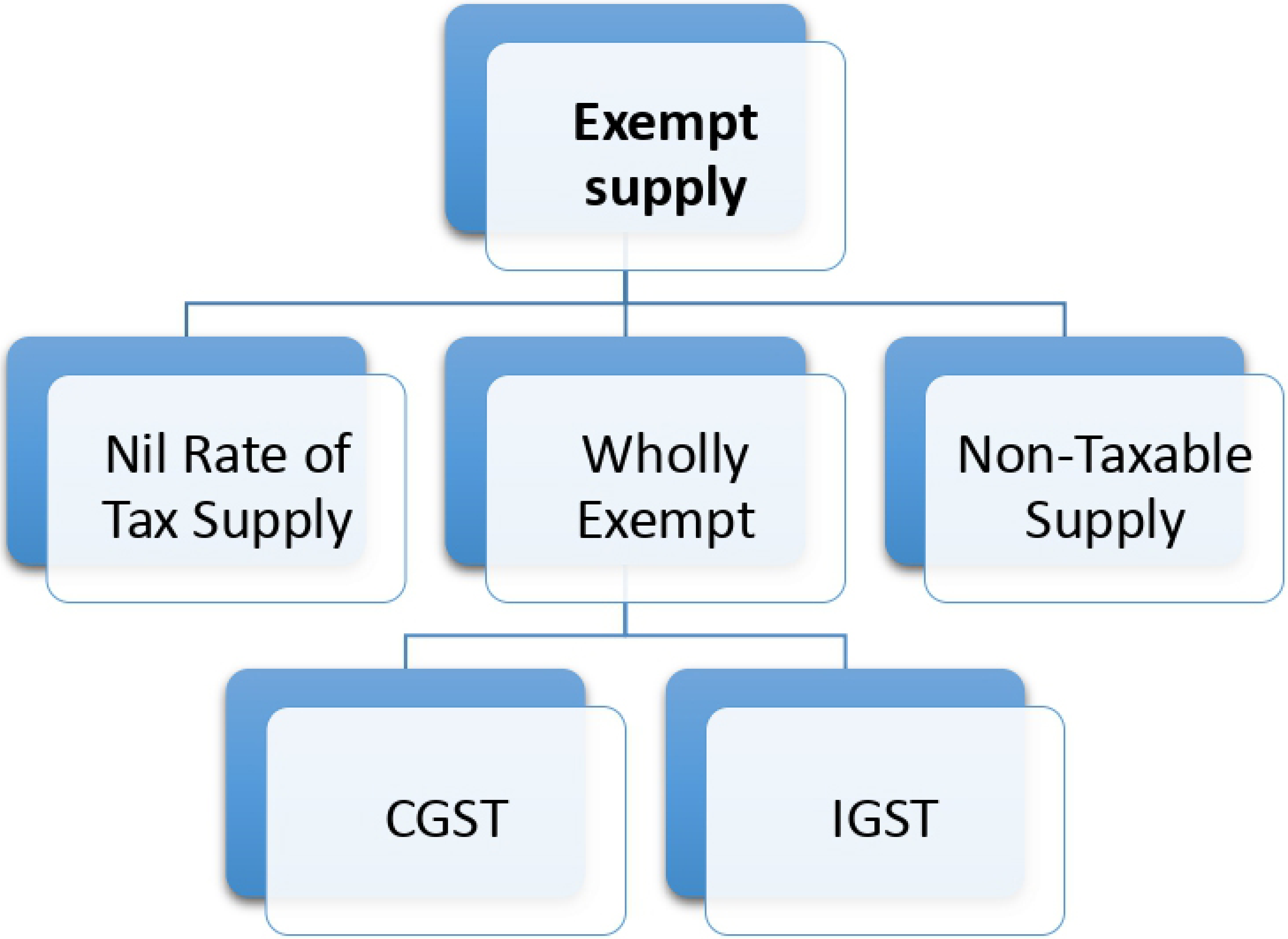
- **HSN** stands for Harmonized System of Nomenclature which was developed by the World Customs Organization (WCO) with the vision of classifying goods all over the World **in** a systematic manner. **HSN** contains six digit uniform **code** that classifies 5,000+ products and which is accepted worldwide.

What is SAC code?

- The SAC code means Services Accounting Code under which services fall under GST are classified.
- HSN code and SAC code are the codes used to classify goods and services under GST regime in India.

GST TURNOVER –HOW TO CALCULATE


Aggregate turnover
Includes
Excludes
Exempt Supply
Taxable Supply
Exports of Goods or Services or Both
Inter-State Supply
Person having same PAN be computed on all India basis
State Tax (SGST)
Central Tax (CGST)
Integrated Tax (ISGT)
Union Territory Tax (UGST)
Compensation Cess
value of inward supply on which tax is payable by a person on reverse charge basis


Exempt supply
Nil Rate of Tax Supply
Wholly Exempt
Non-Taxable Supply
CGST
IGST

Input Tax Credit

When you buy a product/service from a registered dealer you pay taxes on purchase, while making sales, tax is collected and periodically the same is adjusted with the tax you already paid at time of purchase and balance liability of tax (tax on sales (minus) tax on purchase) is to be paid to the government. This mechanism is called utilisation of input tax credit (tax on purchase adjustment against tax liability on output i.e. sales).

Following are some of the conditions that need to be addressed for availing ITC:

1. **Input credit is to be availed within one year**: Businesses will not be entitled to take input tax credit under GST law, in respect of any supply of goods and/ or services after the expiry of one year from the date of issue of tax invoice in respect of such supply.
2. **Generally accepted accounting principles should be followed:** The amount of credit under GST law will be calculated in accordance with generally accepted accounting principles.
3. **ITC is attributable to the purpose of business only:** In case goods and/or services supplied are used by the taxable person partly for the purpose of any business and partly for any other purpose, the the ITC shall be restricted to the extent of the input tax as is attributable to the purpose of business.

4. ITC is attributable to taxable supply: There can be a business scenario when the goods and /or service are used by the registered taxable person partly for effecting taxable supplies and partly for the purpose of non-taxable supplies. In such cases, input credit attributable to exempt/ non-taxable supply will not be available. However, the amount of input tax on zero-rated supplies(Exports and supplies to SEZ) will be available as credit.

5. Proper tax invoice must be furnished: Businesses registered under GST will not be provided the credit of any input tax in respect of any supply of goods and/or services unless:

- the business is in possession of a tax invoice, debit note, supplementary invoice or such other taxpaying document as may be required under the notified GST law
- the business has actually received mentioned goods and/ or services
- GST charged in respect of such supply has been actually paid to the credit of government against such supply
- The business has furnished the proper return under GST law

Also, where the goods against an invoice are received in lots or installments, the registered taxable person shall be entitled to the credit upon receipt of last lot or installment.

Input Tax Credit on Job Work

Manufacturers today are operating in a competitive business environment. These manufacturing units are now focusing on their core products and most of the work is outsourced to outsiders or Job workers. Such practices often ensure cost efficient products while simultaneously accelerating the production cycle.

Job work is understood as the processing or working on of goods supplied by the principal, to complete a part or whole of the process. The work may be in the initial process, intermediate process, assembly, packing or any other completion process. The goods sent for job work may be raw material, component parts, semi-finished goods and even finished goods. The resultant goods could also be a variation of the same or the complete product.

Tax Liability under Current Regime

In case, if the process undertaken by the job worker amounts to manufacture/ deemed manufacture, the job worker is liable to pay excise on the final product. However, the principal manufacturer who has supplied the goods for job work may furnish a declaration which exempts goods manufactured by a job worker from paying this duty. This declaration also puts certain conditions on the principal manufacturer which are:

1. the goods produced by the job worker must be used in the manufacturing process by the principal manufacturer, and
2. The manufacturing process should result in a dutiable product on which the government can charge excise duty.

The activity undertaken by job worker is not liable for service tax as well because the process amounting to manufacture or production of goods is covered by the Negative list of Services Tax.

Tax Liability under GST Regime

The GST law has exclusive provisions on Job Work and related activities. **The GST law allows the principal to send taxable goods, without payment of tax, to a job worker.**

There can be further movement of such goods from one job worker to another. **However, such goods must be brought back to principal's place of business and must be removed after payment of tax thereon.**

In simple words, a principal can remove goods from the place of supply without payment of tax, provided such goods are sent for job work and are intended to be brought back for a taxable supply. Such removal of goods is allowed only after a declaration stating the same is made.

Claiming Input Tax on Job Work

There are three different scenarios that can affect the ITC on job work:

1. Capital goods are sent for job work after the appointed day

The principal can send capital goods to the job worker after the appointed day of GST implementation (July 1st) and these will have to be sent back within 3 years from the date of movement. Such goods will not be taxed to the job worker.

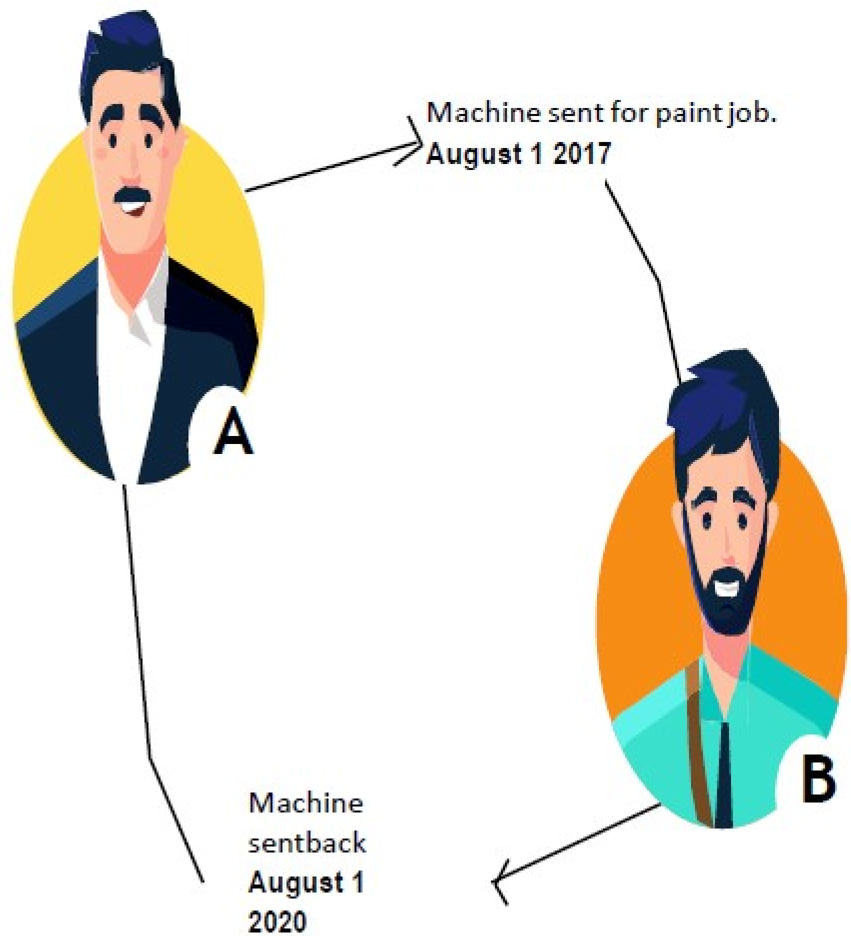
For example: Let's say A sends a machine to job worker B for paint work on 1 August 2017. If B sends the machine back to A by 1 August 2020 then there will be no tax applicable to B and input tax credit will be available to A.

2. Other goods are sent for job work after the appointed day

All other goods (except capital goods) sent to job worker after GST implementation have to be returned to the manufacturer within a period of 1 year and are not liable to be taxed to the job worker.

For example: X sends plastic glasses to a job worker Y packaging on 15 July 2017. No tax will be applicable to Y if the goods are returned by 15 July 2018, and the input tax credit of the same will be available to X.

Example 1



there will be no tax applicable to B and input tax credit will be available to A.

Cases where ITC cannot be Availed by the Dealer

There are certain cases in which ITC will not be available. These have been listed below.

1. ITC will not be available for motor vehicles and conveyances except when:

the vehicle is used for the supply of other vehicles or conveyances the rule shall not apply if the vehicle is used for transportation of passengers the vehicle is used for imparting training on driving, flying, navigating such vehicle or conveyances.

2. No ITC will be available for the supply of following goods or services, or both:

- Food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where the category of inward and outward supply is same or the component belongs to a mixed or composite supply under GST.
- Sale of membership in a club, health, fitness centre .ITC will not be available for rent-a-cab, health insurance and life insurance except the following
  - any services which are made obligatory for an employer to provide its employee by the Indian Government under any current law in force.
  - where the category is same for the inward supply and outward supply or it is a part of the mixed or composite supply in the case of travel, benefits extended to employees on vacation such as leave or home travel concession.

3. ITC will not be available for any work contract services.

ITC for the construction of an immovable property cannot be availed, except where the input service is used for further work contract services.

4. No ITC will be provided for materials used in the construction of immovable property or for furtherance of business.

ITC will not be available for the goods or services or both provided to a taxable person used in the construction of an immovable property on his own account including when such goods orservices or both are used in the course or furtherance of business.

5. No ITC will be available to the person who has made the payment of tax under Composition Scheme in GST law.

6. ITC cannot be availed on goods or services or both received by a non-resident taxable person except for any of the goods imported by him.

7. No ITC will be available for the goods and services or both used for personal consumption and not for business purposes.

8. Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples are not available for ITC underGST.

9. ITC will not be available in the case of any tax paid due to non or short tax payment, excessive refund or ITC utilised or availed by the reason of fraud or willful misstatements or suppression of facts or confiscation and seizure of goods.

It is therefore imperative for companies to make the necessary operational and financial changes for accommodating the above cases of ineligibility of ITC.