

Registration

What is advantage of taking registration in GST?

Registration under Goods and Service Tax (GST) regime will confer following advantages to the business:

- Legally recognized as supplier of goods or services.
- Proper accounting of taxes paid on the input goods or services which can be utilized for payment of GST due on supply of goods or services or both by the business.
- Legally authorized to collect tax from his purchasers and pass on the credit of the taxes paid on the goods or services supplied to purchasers or recipients.

Can a person without GST registration claim ITC and collect tax?

No. A person without GST registration can neither collect GST from his customers nor claim any input tax credit of GST paid by him.

What will be the effective date of registration?

Where the application for registration has been submitted within thirty days from the date on which the person becomes liable to registration, the effective date of registration shall be date of his liability for registration.

Where an application for registration has been submitted by the applicant after thirty days from the date of his becoming liable to registration, the effective date of registration shall be the date of grant of registration.

In case of suo moto registration, i.e. taking registration voluntarily while being within the threshold exemption limit for paying tax, the effective date of registration shall be the date of order of registration.

Who are the persons liable to take a Registration under the Model GST Law?

Any supplier who carries on any business at any place in India and whose aggregate turnover exceeds threshold limit as prescribed in a year is liable to get himself registered. However, certain categories of persons mentioned in Schedule III of MGL are liable to be registered irrespective of this threshold.

An agriculturist shall not be considered as a taxable person and shall not be liable to take registration. (As per section 9 (1))

What is aggregate turnover?

As per section 2 (6) of the MGL, aggregate turnover includes the aggregate value of:

- i. all taxable and non-taxable supplies,
- ii. exempt supplies, and
- iii. exports of goods and/or service of a person having the same PAN.

The above shall be computed on all India basis and excludes taxes charged under the CGST Act, SGST Act and the IGST Act.

Aggregate turnover does not include value of supplies on which tax is levied on reverse charge basis, and value of inward supplies.

Which are the cases in which registration is compulsory?

As per paragraph 5 in Schedule III of MGL, the following categories of persons shall be required to be registered compulsorily irrespective of the threshold limit:

- a) persons making any inter-State taxable supply;
- b) casual taxable persons;
- c) persons who are required to pay tax under reverse charge;
- d) non-resident taxable persons;
- e) persons who are required to deduct tax under section 37;
- f) persons who supply goods and/or services on behalf of other registered taxable persons whether as an agent or otherwise
- g) input service distributor;
- h) persons who supply goods and/or services, other than branded services, through electronic commerce operator;
- i) every electronic commerce operator;
- j) an aggregator who supplies services under his brand name or his trade name; and
- k) such other person or class of persons as may be notified by the Central Government or a State Government on the recommendations of the Council.

What is the time limit for taking a Registration under Model GST Law?

Any person should take a Registration, within thirty days from the date on which he becomes liable to registration, in such manner and subject to such conditions as may be prescribed.

If a person is operating in different states, with the same PAN number, whether he can operate with a single Registration?

No. Every person who is liable to take a Registration will have to get registered separately for each of the States where he has a business operation and is liable to pay GST in terms of Sub-section (1) of Section 19 of Model GST Law.

Whether a person having multiple business verticals in a state can obtain for different registrations?

Yes. In terms of Sub-Section (2) of Section 19, a person having multiple business verticals in a State may obtain a separate registration for each business vertical, subject to such conditions as may be prescribed.

Is there a provision for a person to get himself voluntarily registered though he may not be liable to pay GST?

Yes. In terms of Sub-section (3) of Section 19, a person, though not liable to be registered under Schedule III, may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered taxable person, shall apply to such person.

Is possession of a Permanent Account Number (PAN) mandatory for obtaining a Registration?

Yes. Every person shall have a Permanent Account Number issued under the Income Tax Act, 1961 (43 of 1961) in order to be eligible for grant of registration under Section 19 of the Model GST Law. However as per section 19 (4A) of MGL, PAN is not mandatory for a non-resident taxable person who may be granted registration on the basis of any other document as may be prescribed.

Whether the Department through the proper officer, can suo moto proceed with registration of a Person under this Act?

Yes. In terms of sub-section (5) of Section 19, where a person who is liable to be registered under this Act fails to obtain registration, the proper officer may, without prejudice to any action that is, or may be taken under the MGL, or under any other law for the time being in force, proceed to register such person in the manner as may be prescribed.

Whether the proper Officer can reject an Application for Registration?

Yes. In terms of sub-section 7 of MGL, the proper officer can reject an application for registration after due verification. However, it is also provided in sub-section 8 of Section 19, the proper officer shall not reject the application for registration or the Unique Identity Number without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

Whether the Registration granted to any person is permanent?

Yes, the registration Certificate once granted is permanent unless surrendered, cancelled, suspended or revoked.

Is it necessary for the UN bodies to get registration under MGL?

All UN bodies Consulate or Embassy of foreign countries and any other class of persons so notified would be required to obtain a unique identification number (UIN) from the GST portal. The structure of the said ID would be uniform across the States in conformity with GSTIN structure and the same will be common for the Centre and the States. This UIN will be needed for claiming refund of taxes paid by them and for any other purpose as may be prescribed in the GST Rules.

What is the responsibility of the taxable person supplying to UN bodies?

The taxable supplier supplying to these organizations is expected to mention the UIN on the invoices and treat such supplies as supplies to another registered person (B2B) and the invoices of the same will be uploaded by the supplier.

Is it necessary for the Govt. organization to get registration?

A unique identification number (ID) would be given by the respective state tax authorities through GST portal to Government authorities / PSUs not making outwards supplies of GST goods (and thus not liable to obtain GST registration) but are making inter-state purchases.

Who is a Casual Taxable Person?

Casual Taxable Person has been defined in Section 2(21) of MGL. It means a person who occasionally undertakes transactions in a taxable territory where he has no fixed place of business.

Who is a Non-resident Taxable Person?

A taxable person residing outside India and coming to India to occasionally undertake transaction in the country but has no fixed place of business in India is a non-resident taxable person in terms of Section 2 (69) of the MGL.

What is the validity period of the Registration certificate issued to a Casual Taxable Person and Non Resident Taxable person?

The certificate of registration issued to a “casual taxable person” or a “non-resident taxable person” shall be valid for a period of ninety days from the effective date of registration. However, the proper officer, at the request of the said taxable person, may extend the validity of the aforesaid period of ninety days by a further period not exceeding ninety days.

Is there any Advance tax to be paid by a Casual Taxable Person and Non-resident Taxable Person at the time of obtaining registration under this Special Category?

Yes. While a normal taxable person does not have to make any deposit of money to obtain registration, a casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 19, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought. If registration is to be extended beyond the initial period of ninety days, an advance additional amount of tax equivalent to the estimated tax liability is to be deposited for the period for which the extension beyond ninety days is being sought.

Whether Amendments to the Registration Certificate is permissible?

Yes. In terms of Section 20, the proper officer may, on the basis of such information furnished either by the registrant or as ascertained by him, approve or reject amendments in the registration particulars in the manner and within such period as may be prescribed. It is to be noted that permission of the proper officer for making amendments will be required for only certain core fields of information, whereas for the other fields, the registrant can himself carry out the amendments.

Whether Cancellation of Registration Certificate is permissible?

Yes. Any Registration granted under this Act may be cancelled by the Proper Officer, in circumstances mentioned in Section 21 of the MGL. The proper officer may, either on his own motion or on an application filed, in the prescribed manner, by the registered taxable person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed.

Whether cancellation of Registration under CGST Act means cancellation under SGST Act also?

Yes. The cancellation of registration under one Act (say CGST Act) shall be deemed to be a cancellation of registration under the other Act (i.e. SGST Act). (Section 21 (6))

Can the proper Officer Cancel the Registration on his own?

Yes, in certain circumstances specified under section 21(2) of MGL, the proper officer can cancel the registration on his own. Such circumstances include not filing return for a continuous period of six months (for a normal taxable person) or three months (for a compounding taxpayer), and not commencing business within six months from the date of registration. However, before cancelling the registration, the proper officer has to follow the principles of natural justice. (Section 21 (4))

What happens when the registration is obtained by means of wilful mis-statement, fraud or suppression of facts?

In such cases, the registration may be cancelled with retrospective effect by the proper officer Section 21(3).

Is there an option to take centralized registration for services under MGL?

No.

If the taxpayer has different business verticals in one state, will he have to obtain separate registration for each such vertical in the state?

No. However the taxpayer has the option to register such separate business verticals independently in terms of Section 19(2) of MGL.

Will ISD be required to be separately registered other than the existing taxpayer registration?

Yes. The ISD registration is for one office of the taxpayer which will be different from the normal registration.

Can a taxpayer have multiple ISDs?

Yes. Different offices of a taxpayer can apply for ISD registration.

What could be the liabilities (in so far as registration is concerned) on transfer of a business?

The transferee or the successor shall be liable to be registered with effect from such transfer or succession and he will have to obtain a fresh registration with effect from such date. (Schedule III of MGL).

Whether all assessees/dealers who are already registered under existing central excise/service tax/ vat laws will have to obtain fresh registration?

No. GSTN shall migrate all such assessees/dealers to the GSTN network and shall issue GSTIN number and password. They will be asked to submit all requisite documents and information required for registration in a prescribed period of time. Failure to do so will result in cancellation of GSTIN number.

The service tax assessees having centralized registration will have to apply afresh in the respective states wherever they have their businesses.

Whether the job worker will have to be compulsorily registered?

No. Section 43A of MGL does not prescribe any such condition.

At the time of registration will the assessee have to declare all his places of business?

Yes. The principal place of business and place of business have been separately defined under section 2(78) & 2(75) of MGL respectively. The taxpayer will have to declare the principal place of business as well as the details of additional places of business in the registration form.

Is there any system to facilitate smaller dealers or dealers having no IT infrastructure?

In order to cater to the needs of taxpayers who are not IT savvy, following facilities shall be made available:-

- *Tax Return Preparer (TRP):* A taxable person may prepare his registration application /returns himself or can approach the TRP for assistance. TRP will prepare the said registration document / return in prescribed format on the basis of the information furnished to him by the taxable person. The legal

responsibility of the correctness of information contained in the forms prepared by the TRP will rest with the taxable person only and the TRP shall not be liable for any errors or incorrect information.

- *Facilitation Centre (FC)*: shall be responsible for the digitization and / or uploading of the forms and documents including summary sheet duly signed by the Authorized Signatory and given to it by the taxable person. After uploading the data on common portal using the ID and Password of FC, a print-out of acknowledgement will be taken and signed by the FC and handed over to the taxable person for his records. The FC will scan and upload the summary sheet duly signed by the Authorized Signatory.

Is there any facility for digital signature in the GSTN registration?

Taxpayers would have the option to sign the submitted application using valid digital signatures (if the applicant is required to obtain DSC under any other prevalent law then he will have to submit his registration application using the same). For those who do not have a digital signature, alternative mechanisms will be provided in the GST Rules on Registration.

What will be the time limit for the decision on the online application?

If the information and the uploaded documents are found in order, the State and the Central authorities shall approve the application and communicate the approval to the common portal within three common working days. The portal will then automatically generate the Registration Certificate. In case no deficiency is communicated to the applicant by both the tax authorities within three common working days, the registration shall be deemed to have been granted [section 19(9) of MGL] and the portal will automatically generate the Registration Certificate.

What will be the time of response by the applicant if any query is raised in the online application?

If during the process of verification, one of the tax authorities raises some query or notices some error, the same shall be communicated to the applicant and to the other tax authority through the GST Common Portal within 3 common working days. The applicant will reply to the query / rectify the error / answer the query within a period informed by the concerned tax authorities (Normally this period would be seven days).

On receipt of additional document or clarification, the relevant tax authority will respond within seven common working days.

What is the process of refusal of registration?

In case registration is refused, the applicant will be informed about the reasons for such refusal through a speaking order. The applicant shall have the right to appeal against the decision of the Authority. As per sub-section (10) of section 19 of MGL, any rejection of application for registration by one authority (i.e. under the CGST Act / SGST Act) shall be deemed to be a rejection of application for registration by the other tax authority (i.e. under the SGST Act / CGST Act).

Will there be any communication related to the application disposal?

The applicant shall be informed of the fact of grant or rejection of his registration application through an e-mail and SMS by the GST common portal. Jurisdictional details would be intimated to the applicant at this stage.

Can the registration certificate be downloaded from the GSTN portal?

In case registration is granted, applicant can download the Registration Certificate from the GST common portal.

GST Payment of Tax

What are the Payments to be made in GST regime?

In the GST regime, for any intra-state supply, taxes to be paid are the Central GST (CGST, going into the account of the Central Government) and the State GST (SGST, going into the account of the concerned State Government). For any inter-state supply, tax to be paid is Integrated GST (IGST) which will have components of both CGST and SGST. In addition, certain categories of registered persons will be required to pay to the government account Tax Deducted at Source (TDS) and Tax Collected at Source (TCS). In addition, wherever applicable, Interest, Penalty, Fees and any other payment will also be required to be made.

Who is liable to pay GST?

In general the supplier of goods or service is liable to pay GST. However in specified cases like imports and other notified supplies, the liability may be cast on the recipient under the reverse charge mechanism. Further, in some cases, the liability to pay is on the third person (say in the case of e-commerce operator responsible for TCS or Government Department responsible for TDS).

When is GST payment to be done by the taxable person?

At the time of supply of Goods as explained in Section 12 and at the time of supply of services as explained in Section 13. The time is generally the earliest of one of the three events, namely receiving payment, issuance of invoice or completion of supply. Different situations envisaged and different tax points have been explained in the aforesaid sections.

What are the main features of GST payment process?

The payment processes under proposed GST regime will have the following features:

- Electronically generated challan from GSTN Common Portal in all modes of payment and no use of manually prepared challan;
- Facilitation for the taxpayer by providing hassle free, anytime, anywhere mode of payment of tax;
- Convenience of making payment online;
- Logical tax collection data in electronic format;
- Faster remittance of tax revenue to the Government Account;
- Paperless transactions;
- Speedy Accounting and reporting;
- Electronic reconciliation of all receipts;
- Simplified procedure for banks;
- Warehousing of Digital Challan.

How can payment be done?

Payment can be done by the following methods:

- a) Through debit of Credit Ledger of the taxpayer maintained on the Common Portal- ONLY Tax can be paid. Interest, Penalty and Fees cannot be paid by debit in the credit ledger. Tax payers shall be allowed to take credit of taxes paid on inputs (input tax credit) and utilize the same for payment of output tax. However, no input tax credit on account of CGST shall be utilized towards payment of SGST and vice versa. The credit of IGST would be permitted to be utilized for payment of IGST, CGST and SGST in that order.
- b) In cash by debit in the Cash Ledger of the taxpayer maintained on the Common Portal. Money can be deposited in the Cash Ledger by different modes, namely, E-Payment (Internet Banking, Credit Card, Debit Card); Real Time Gross Settlement (RTGS)/ National Electronic Fund Transfer (NEFT); Over the Counter Payment in branches of Banks Authorized to accept deposit of GST.

When is payment of taxes to be made by the Supplier?

Payment of taxes by the normal taxpayer is to be done on monthly basis by the 20th of the succeeding month. Cash payments will be first deposited in the Cash Ledger and the taxpayer shall debit the ledger while making payment in the monthly returns and shall reflect the relevant debit entry number in his return. As mentioned earlier, payment can also be debited from the Credit Ledger. Payment of taxes for the month of March shall be paid by the 20th of April. Composition tax payers will need to pay tax on quarterly basis. Timing of payment will be from 0000 Hrs to 2000 Hrs.

Whether time limit for payment of tax can be extended or paid in monthly installments?

No, this is not permitted in case of self-assessed liability. In other cases, competent authority has been empowered to extend the time period or allow payment in installments. (Section 55 of MGL)

What happens if the taxable person files the return but does not make payment of tax?

In such cases, the return is not considered as a valid return. Section 27 (3) of the MGL provides that the return furnished by a taxable person shall not be treated as valid return unless the full tax due as per the said return has been paid. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient. In other words, unless the supplier has paid the entire self-assessed tax and filed his return and the recipient has filed his return, the ITC of the recipient would not be confirmed.

As per section 28, a taxable person who has not furnished a valid return shall not be allowed to utilize such credit till he discharges his self-assessed tax liability.

Which date is considered as date of deposit of the tax dues- Date of presentation of cheque or Date of payment or Date of credit of amount in the account of government account?

It is the date of credit to the Government account.

What are E-Ledgers?

Electronic Ledgers or E-Ledgers are statements of cash and input tax credit in respect of each registered taxpayer. In addition, each taxpayer shall also have an electronic tax liability register. Once a taxpayer is registered on Common Portal (GSTN), 2 e-ledgers (Cash & Input Tax Credit) and an electronic tax liability register will be automatically opened and displayed on his dashboard at all times.

What is a tax liability register?

Tax Liability Register will reflect the total tax liability of a taxpayer (after netting) for the particular month.

What is a Cash Ledger?

The cash ledger will reflect all deposits made in cash, and TDS/TCS made on account of the taxpayer. The information will be reflected on real time basis. This ledger can be used for making any payment on account of GST.

What is an ITC Ledger?

Input Tax Credit as self-assessed in monthly returns will be reflected in the ITC Ledger. The credit in this ledger can be used to make payment of TAX ONLY and not other amounts such as interest, penalty, fees etc.

What is the linkage between GSTN and the authorized Banks?

There will be real time two way linkages between the GSTN and the Core Banking Solution (CBS) of the Bank. CPIN is automatically routed to the Bank via electronic string for verification and receiving payment and a challan identification number (CIN) is to automatically sent by the Bank to the Common Portal confirming payment receipt. No manual intervention will be involved in the process by any one including bank cashier or teller or the taxpayer.

Can a taxpayer generate challan in multiple sittings?

Yes, a taxpayer can partially fill in the challan form and temporarily “save” the challan for completion at a later stage. A saved challan can be “edited” before finalization. After the tax payer has finalized the challan, he will generate the challan, for use of payment of taxes. The remitter will have option of printing the challan for his record.

Can a challan generated online be modified?

No. After logging into GSTN portal for generation of challan, payment particulars have to be fed in by the tax payer or his authorized person. He can save the challan midway for future updation. However once the challan is finalized and CPIN generated, no further changes can be made to it by the taxpayer.

Is there a validity period of challan?

Yes, a challan will be valid for fifteen days after its generation and thereafter it will be purged from the System. However, the taxpayer can generate another challan at his convenience.

What is a CPIN?

CPIN stands for Common Portal Identification Number (CPIN) given at the time of generation of challan. It is a 14 digit unique number to identify the challan. As stated above, the CPIN remains valid for a period of 15 days.

What is a CIN and what is its relevance?

CIN stands for Challan Identification Number. It is a 17 digit number that is 14-digit CPIN plus 3-digit Bank Code. CIN is generated by the authorized banks/ Reserve Bank of India (RBI) when payment is actually received by such authorized banks or RBI and credited in the relevant government account held with them. It is

an indication that the payment has been realized and credited to the appropriate government account. CIN is communicated by the authorized bank to taxpayer as well as to GSTN.

What is the sequence of payment of tax where that taxpayer has liabilities for previous months also?

Section 35(8) prescribes an order of payment where the taxpayer has tax liability beyond the current return period. In such a situation, the order of payment to be followed is: First self-assessed tax and interest for the previous period; thereafter self-assessed tax and interest for the current period; and thereafter any other amounts payable including any confirmed demands under section 51. This sequence has to be mandatorily followed.

What is an E-FPB?

Ans. E-FPB stands for Electronic Focal Point Branch. These are branches of authorized banks which are authorized to collect payment of GST. Each authorized bank will nominate only one branch as its E-FPB for pan India Transactions. The E-FPB will have to open accounts under each major head for all governments. Total 38 accounts (one each for CGST, IGST and one each for SGST for each State/UT Govt.) will have to be opened. Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB. For NEFT/RTGS Transactions, RBI will act as E-FPB.

What is TDS?

TDS stands for Tax Deducted at Source (TDS). As per section 37, this provision is meant for Government and Government undertakings and other notified entities making contractual payments in excess of Rs.10 Lakhs to suppliers. While making such payment, the concerned Government/authority shall deduct 1% of the total payable amount and remit it into the appropriate GST account.

How will the Supplier account for this TDS while filing his return?

Any amount shown as TDS will be reflected in the electronic cash ledger of the concerned supplier. He can utilize this amount towards discharging his liability towards tax, interest fees and any other amount.

How will the TDS Deductor account for such TDS?

TDS Deductor will account for such TDS in the following ways:

- a) Such deductors needs to get compulsorily registered under section 19 read with Schedule III of MGL.
- b) They need to remit such TDS collected by the 10th day of the month succeeding the month in which TDS was collected and reported in GSTR 7.
- c) The amount deposited as TDS will be reflected in the electronic cash ledger of the supplier.
- d) They need to issue certificate of such TDS to the deductee within 5 days of deducting TDS failing which fees of Rs. 100 per day subject to maximum ofRs. 5000/- will be payable by such deductor.

Is the pre-registration of credit card necessary in the GSTN portal for the GST payment?

Yes. The taxpayer would be required to pre-register his credit card, from which the tax payment is intended, with the Common Portal maintained on GSTN. GSTN may also attempt to put in a system with banks in getting the credit card verified by taking a confirmation from the credit card service provider. The payments using credit cards can therefore be allowed without any monetary limit to facilitate ease of doing business.

Returns Process and matching of Input Tax Credit

What is the purpose of returns?

- Mode for transfer of information to tax administration;
- Compliance verification program of tax administration;
- Finalization of the tax liabilities of the taxpayer within stipulated period of limitation; to declare tax liability for a given period;
- Providing necessary inputs for taking policy decision;
- Management of audit and anti-evasion programs of tax administration.

Who needs to file Return in GST regime?

Every registered taxable person who crosses the threshold limit for payment of taxes needs to file. A supplier needs to be registered when the aggregate turnover crosses Rs. Nine lacs but he become taxable person ONLY when he crosses Rs. ten lacs. So he will be required to file returns when he crosses the threshold limit of Rs. ten lacs. There are some other class of persons who need to be registered and therefore will have to file returns like interstate suppliers, TDS deductors, e-commerce operators, suppliers supplying goods through e-commerce operators etc (reference Schedule-III and Question 6 of the Registration Chapter).

What type of outward supply details are to be filed in the return?

A normal registered taxpayer has to file the outward supply details in GSTR-1 in relation to various types of supplies made in a month, namely outward supplies to registered persons, outward supplies to unregistered persons (consumers), details of Credit/Debit Notes, zero rated, exempted and non-GST supplies, exports, and advances received in relation to future supply.

Is the scanned copy of invoices to be uploaded along with GSTR-1?

No, scanned copy of invoices is to be uploaded. Only certain prescribed fields of information from invoices need to be uploaded.

Whether all invoices will have to be uploaded?

No. It depends on whether B2B or B2C plus whether Intra-state or Inter-state supplies. For B2B supplies, all invoices, whether Intra-state or Interstate supplies, will have to be uploaded. Why So? Because ITC will be taken by the recipients, invoice matching is required to be done.

In B2C supplies, uploading in general may not be required as the buyer will not be taking ITC. However still in order to implement the destination based principle, invoices of value more than Rs.2.5 lacs in inter-state B2B supplies will have to be uploaded. For inter-state invoices below Rs. 2.5 lacs and all intra-state invoices, state wise summary will be sufficient.

Whether description of each item in the invoice will have to be uploaded?

No. In fact description will not have to be uploaded. Only HSN code in respect of supply of goods and Accounting code in respect of supply of services will have to be fed. The minimum number of digits that the filer will have to upload would depend on his turnover in the last year.

Whether value for each transaction will have to be fed? What if no consideration?

Yes. Not only value but taxable value will also have to be fed. In some cases both may be different. In case there is no consideration, but it is supply by virtue of schedule 1, the taxable value will have to be uploaded.

Can a recipient feed information in his GSTR-2 which has been missed by the supplier?

Yes, the recipient can himself feed the invoices not uploaded by his supplier. The credit on such invoices will also be given provisionally but will be subject to matching. On matching, if the invoice is not uploaded by the supplier, both of them will be intimated. If the mismatch is rectified, provisional credit will be confirmed. But if mismatch continues even after intimation, the credit provisionally allowed will be reversed.

Do the taxable person has to feed anything in the GSTR-2 or everything is auto-populated from GSTR-1?

While a large part of GSTR-2 will be auto-populated, there are some details that only recipient can fill like details of imports, details of purchases from non-registered or composition suppliers and exempt/non-GST/nil GST supplies etc.

What if the invoices do not match? Whether ITC given or denied? If denied, what action is taken against supplier?

If invoices in GSTR-2 do not match with invoices in counter-party GSTR-1, the ITC will be reversed if the mismatch continues even after it is made known to both and still it is not rectified. Mismatch can be because of two reasons. First, it could be due to mistake at the side of the recipient, and in such a case, no further action is required. Secondly, it could be possible that the said invoice was issued by supplier but he did not upload it and pay tax on it. In such a case, recovery action shall be taken against the supplier. In short, all mismatches will lead to proceedings if the supplier has made a supply but not paid tax on it.

What will be the legal position in regard to the reversed input tax credit if the supplier later realizes the mistake and feeds the information?

At any stage, but before September of the next financial year, supplier can upload the invoice and pay duty and interest on such missing invoices in his GSTR-3 of the month in which he uploaded the invoice. The recipient will then automatically get ITC on that invoice. The interest paid by the recipient at the time of reversal will also be returned to the recipient through an automated system on the GSTN.

What is the special feature of GSTR-2?

The special feature of GSTR-2 is that the details of supplies received by a recipient can be auto populated on the basis of the details furnished by the counterparty supplier in his GSTR-1.

Whether the ITC denied can be restored?

If the supplier uploads the invoice at any time after the reversal but by September of the next financial year, the credit reversed earlier gets restored along with refund of the interest paid during reversal.

Do tax payers under the composition scheme also need to file GSTR-1 and GSTR-2?

No. Composition tax payers do not need to file any statement of outward or inward supplies. They have to file a quarterly return in Form GSTR-4 by the 1st of the month after the end of the quarter. Since they are not eligible for any input tax credit, there is no relevance of GSTR-2 for them and since they do not pass on any

credit to their recipients, there is no relevance of GSTR-1 for them. In their return, they have to declare summary details of their outward supplies along with the details of tax payment. They also have to give details of their purchases in their quarterly return itself, most of which will be auto populated.

Do Input Service Distributors (ISDs) need to file separate statement of outward and inward supplies with their return?

No, the ISDs need to file only a return in GSTR-6 and the return has the details of credit received by them from the service provider and the credit distributed by them to the subsidiaries. Since their return itself covers these aspects, there is no requirement to file separate statement of inward and outward supplies.

How does a taxpayer get the credit of the tax deducted at source on his behalf? Does he need to produce TDS certificate from the deductee to get the credit?

Under GST, the deductor will be submitting the deductee wise details of all the deductions made by him in his return in Form GSTR-7 to be filed by 10th of the month next to the month in which deductions were made. The details of the deductions as uploaded by the deductor shall be auto populated in the GSTR-2 of the deductee. The taxpayer shall be required to confirm these details in his GSTR-2 to avail the credit for deductions made on his behalf. To avail this credit he does not require to produce any certificate in physical or electronic form. The certificate will only be for record keeping of the tax payer and can be downloaded from the Common Portal.

Who all need to file Annual Return?

All taxpayers filing return in GSTR-1 to 3 other than casual taxpayers and taxpayers under composition scheme are required to file an annual return. Casual taxpayers, nonresident taxpayers, ISDs and persons authorized to deduct tax at source are not required to file annual return.

Is an Annual Return and a Final Return one and the same?

No. Annual Return has to be filed by every registered taxable person paying tax as a normal or a compounding taxpayer. Final Return has to be filed only by those registered taxable persons who have applied for cancellation of registration. This has to be filed within three months of the date of cancellation or the date of cancellation order.

If a return has been filed, how can it be revised if some changes are required to be made?

In GST since the returns are built from details of individual transactions, there is no requirement for having a revised return. Any need to revise a return may arise due to the need to change a set of invoices or debit/ credit notes. Instead of revising the return already submitted, the system will allow changing the details of those transactions (invoices or debit/credit notes) that are required to be amended. They can be amended in any of the future GSTR- 1/2 in the tables specifically provided for the purposes of amending previously declared details.

How can taxpayers file their returns?

Taxpayers will have various modes to file the statements and returns. Firstly, they can file their statement and returns directly on the Common Portal online. However, this may be tedious and time taking for taxpayers with large number of invoices. For such taxpayers, an offline utility will be provided that can be used for preparing the statements offline after downloading the auto populated details and uploading them on the

Common Portal. GSTN has also developed an ecosystem of GST Suvidha Providers (GSP) that will integrate with the Common Portal.

What all should a diligent taxpayer ensure for a hassle free compliance under GST?

One of the most important things under GST will be +timely uploading of the details of outward supplies in Form GSTR-1 by 10th of next month. How best this can be ensured, will depend on the number of B2B invoices that the taxpayer issues. If the number is small, the taxpayer can upload all the information in one go. However, if the number of invoices is large, the invoices (or debit/ credit notes) should be uploaded on a regular basis. GSTN will allow regular uploading of invoices even on a real time basis. Till the statement is actually submitted, the system will also allow the taxpayer to modify the uploaded invoices. Therefore, it would always be beneficial for the taxpayers to regularly upload the invoices. Last minute rush will make uploading difficult and will come with higher risk of possible failure and default. The second thing would be to ensure that taxpayers follow up on uploading the invoices of their inward supplies by their suppliers. This would be helpful in ensuring that the input tax credit is available without any hassle and delay. Recipients can also encourage their suppliers to upload their invoices on a regular basis instead of doing it on or close to the due date. The system would allow recipients to see if their suppliers have uploaded invoices pertaining to them. The GSTN system will also provide the track record about the compliance level of a tax payer, especially about his track record in respect of timely uploading of his supply invoices giving details about the auto reversals that have happened for invoices issued by a supplier.

The Common Portal of GST would have pan India data at one place which will enable valuable services to the taxpayers. Efforts are being made to make regular uploading of invoices as easy as possible and it is expected that an enabling ecosystem will develop towards this objective. Taxpayers should make efficient use of this ecosystem for easy and hassle free compliance under GST.

Is it compulsory for taxpayer to file return by himself?

No. A registered taxpayer person can also get his return filed through a Tax Return Preparer, duly approved by the Central or the State tax administration.

What is the consequence of not filing the return within the prescribed date?

A registered taxable person who files return beyond the prescribed date will have to pay late fees of rupees one hundred for every day of delay subject to a maximum of rupees five thousand.

Refunds

What is refund?

Refund has been discussed in section 38 of the MGL. “Refund” includes refund of tax on goods and/or services exported out of India or on inputs or input services used in the goods and/or services which are exported out of India, or refund of tax on the supply of goods regarded as deemed exports, or refund of unutilized input tax credit as provided under section 38(2).

Can unutilized Input tax credit be allowed as refund?

Yes, but only in following cases as given in sub-section (2) of section 38:-

- (i) Exports of goods on which export duty is not payable;

- (ii) Exports of services;
- (iii) Where credit has accumulated on account of rate of tax on inputs being higher than the rate of taxes on Outputs.

Can unutilized ITC be given refund, in case goods exported outside India are subjected to export duty?

No (Second proviso to Section 38(2) of MGL).

Can ITC of goods lying in stock at the end of the financial year (after introduction of GST) be refunded?

No. It is proposed to be carried forward.

Suppose a taxable person has paid IGST/CGST/SGST mistakenly as an Interstate/intrastate supply, but the nature of which is subsequently clarified. Can the CGST/SGST be adjusted against wrongly paid IGST or vice versa?

No. He will have to pay the appropriate tax and claim refund of the tax wrongly paid. (IGST Sec.30 and Sec.53 GST)

Whether purchases made by Embassies or UN taxed or exempted?

It will be taxed, which later on can be claimed as refund by them. [The United Nations Organization and Consulates or Embassies are required to take a Unique Identity Number and purchases made by them will be reflected against their number in the return of outward supplies of the supplier and refunds of taxes can be granted. A separate process will be notified in the Rules. GST Sec.19 (6)].

What is the time limit for taking refund?

The person concerned is required to file the application before expiry of two years from the relevant date, as given in the explanation to section 38 of MGL.

Whether principle of unjust enrichment will be applicable in refund?

Yes, except in cases of exports and refund of unutilized ITC as referred to in sub-section (2) of section 38 (also refer to question no. 2 above).

In case the tax has been passed on to the consumer, whether refund will be sanctioned?

Yes, however, the amount so determined shall be credited to the Consumer Welfare Fund.

Is there any time limit for sanctioning of refund?

Yes, it is 90 days in all cases, excepting in a case where the refund to the extent of 80% of the total amount claimed is refundable to certain categories of exporters referred to in sub-section (4A) of section 38. If refund is not sanctioned within the period of three months, interest will have to be paid by the department.

Can refund be withheld by the department?

Yes, refund can be withheld in the following circumstances:

- If the registered dealer has not submitted return(s), till he files the return(s);

- If the registered taxable person is required to pay any tax, interest or penalty which has not been stayed by the appellate authority/Tribunal/ court, till he pays such tax interest or penalty; [The proper officer can also deduct unpaid taxes if any of the dealer from the refundable amount].
- Commissioner/Board can withhold refund, if, the Order of Refund is under appeal and he is of the opinion that grant of such refund will adversely affect revenue - (Sec.38(9) of MGL).

Where the refund is withheld under 38(9), as discussed in 11(c) above, will the taxable person be given interest?

If as a result of appeal or further proceeding the taxable person becomes entitled to refund then he shall be also entitled to interest.

Is there any minimum threshold for refund?

No refund shall be granted if the amount is less than Rs.1000/-. (Sec.38 (11) of MGL)

How will the refunds arising out of earlier law be paid?

The refund arising out of earlier law will be paid as per the earlier law and will be paid in cash (under CGST) or as per the provisions of the earlier law (under SGST) and will not be available as ITC (Section 156, 157 and 158 of MGL).

Whether refund can be paid before verification of documents?

For export refunds to notified category of dealers, 80% refund can be granted before verification subject to such conditions and restrictions as may be prescribed –section 38(4A).

In case of refund under exports, whether BRC is necessary for granting refund?

Since the exporter has a time period of one year from the date of export for remitting of export proceeds, BRC may not be available at the time of refund application. But if export proceeds are received in advance BRC may be available. Thus, refund should be subject to submission of BRC details within a period of maximum one year or as extended by RBI. e-BRC module of DGFT will be integrated with GST module. However for export of services BRC would be required before sanction of refund.

Will the principle of unjust enrichment apply to exports or deemed exports?

The principle of unjust enrichment is not applicable in case of actual exports of goods or services as the recipient is located outside the taxable territory. However, in case of deemed exports it will be applicable.

How will the person prove that the principle of unjust enrichment do not apply in his case?

The person concerned may furnish together with the application such document(s) or evidence(s) to establish that the amount of tax and interest, if any, paid on such tax or any other amount paid in relation to which such refund is claimed was not passed on by him to any other person – section 38(3)(b). Further, to provide relief to taxpayers the above sub-section also provides that where the refund amount, as claimed, is less than Rs 5 lakh a self-declaration will only be required.

Today under VAT/CST merchant exporters can purchase goods without payment of tax on furnishing of a declaration form. Will this system be there in GST?

No, there will be no such provision in GST. They will have to purchase goods upon payment of tax and claim refund of the accumulated ITC as discussed in section 38(2).

Presently under Central law, exporters are allowed to obtain duty paid inputs, avail ITC on it and export goods upon payment of duty (after utilizing the ITC) and thereafter claim refund of the duty paid on exports. Will this system continue in GST?

Under the GST regime exports will be zero rated which means that the export goods would not suffer any actual tax liability although inputs for such exports would be tax paid. Under GST, refund will be allowable on the accumulated inputs as well as on exported finished goods.