



Salient features

- › The Draft Model GST Law consists of 162 clauses
 - 25 Chapters along with 4 schedules
- › Valuation Rules 2016 under GST.
- › Draft IGST Act, 2016 consists of 33 clauses divided into 11 Chapters

New Definitions (Sec. 2)

- (2) “**address of delivery**” means the **address of the recipient of goods/ services** indicated on tax invoice
- (3) “**address on record**” means the address of the recipient as available in the records of the supplier;
- (6) “**aggregate turnover**” means the aggregate value of all taxable and non-taxable supplies, exempt supplies and exports of goods and/or services of a person having the same PAN, to be computed on all India basis and excludes taxes, if any, charged under the CGST Act, SGST Act and IGST Act and value of goods/services charged under **reverse charge**
- (9) “**Appellate Tribunal**” means the National Goods and Services Tax Appellate Tribunal constituted under section 81
- (11) “**appropriate Government**” means the Central Government in case of the IGST and the CGST, and the State Government in case of the SGST

New Definitions (Sec. 2)

- (40) **“electronic cash ledger”** means the cash ledger in electronic form maintained at the common portal for each registered taxable person in the manner as may be prescribed in this behalf;
- (41) **“electronic credit ledger”** means the input tax credit ledger in electronic form maintained at the common portal for each registered taxable person in the manner as may be prescribed in this behalf
- (46) **“fixed establishment”** means a place (other than the place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;
- (47) **“fund”** means the **Consumer Welfare Fund** established under section 40;

New Definitions (Sec. 2)

- (75) “**place of business**” includes
- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, provides or receives goods and/or services; or
 - (b) a place where a taxable person maintains his books of account; or
 - (c) a place where a taxable person is engaged in business through an agent, by whatever name called
- (78) “**principal place of business**” means the place of business specified as the principal place of **business in the certificate of registration where the taxable person keeps and maintains the accounts and records as specified under section 42**

New Definitions (Sec. 2)

(105) “**usual place of residence**” means

- (a) in case of an individual, the place where he ordinarily resides;
- (b) in other cases, the place where the person, as defined in sub-section (74), is incorporated or otherwise legally constituted;

Meaning of Supply (Sec.-3)

- (1) Supply includes
 - (a) all forms of supply of goods and/or services such as **sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made** for a consideration by a person in the course or furtherance of business,
 - (b) **importation of service**, whether or not for a consideration and **whether or not** in the course or furtherance of business, and
 - (c) a supply specified in **Schedule I**, made or agreed to be made **without a consideration**.
- (2) **Schedule II**, in respect of matters mentioned therein, shall **apply for determining** what is, or is to be treated as a supply of goods or a supply of services.

Meaning of Supply (Sec.-3)

- (2A) Where a person acting as an agent who, for an agreed commission or brokerage, either supplies or receives any goods and/or services on behalf of any principal, the **transaction between such principal and agent shall be deemed to be a supply.**
- (3) Subject to sub-section (2), the Central or a State Government may, upon recommendation of the Council, specify, by notification, the transactions that are to be treated as—
- (i) a supply of goods and not as a supply of services; or
 - (ii) a supply of services and not as a supply of goods; or
 - (iii) neither a supply of goods nor a supply of services.

Meaning of Supply (Sec.-3)

SCHEDULE I

MATTERS TO BE TREATED AS SUPPLY WITHOUT CONSIDERATION

1. Permanent transfer/disposal of business assets.
2. **Temporary application** of business assets to a private or non-business use.
3. Services put to a private or non-business use.
4. Assets retained after deregistration.
5. Supply of goods and / or services by a taxable person to another taxable or nontaxable person in the course or furtherance of business

Provided that the supply of goods by a registered taxable person to a job-worker in terms of section 43A shall not be treated as supply of goods

Levy & Exemption from tax

Levy of tax

- › Act proposes to levy tax which may be called as **CGST** or **SGST** on all the *intra-State supplies* of *goods* or *services* or *both*.
 - In case of *inter-state* supplies **IGST** shall be levied
- › The rate of tax will be applicable as per the categorisation and classification to be prescribed.
- › CGST/ SGST or IGST or shall be paid by every taxable person in accordance with the manner provided in the law.
- › Further special categories of persons will be notified who are required to pay tax on reverse charge basis

Composition Levy/ Scheme

The proposed compounded levy scheme provides that:

- › A registered taxable person may opt for composition scheme if his aggregate turnover does not exceed Rs. 50 lacs in a financial year.
 - Rate of composition levy shall not be less than 1%.
- › A person who enter into inter-state supplies is not permitted to opt this scheme.
- › A person who opted for composition levy is also required to comply with the provisions of reverse charge mechanism.
- › Credit of input tax is not permitted under composition scheme.
- › Person having multiple registrations has to opt for the composition levy for all registrations

Exemption & Remission of Tax

Exemption

- › Central government in the interest of public can give exemption to supply of goods or services subject to certain conditions as may be notified.

Remission of tax on supplies

- › Central government may by rules provide for remission of tax on such supplies which are found to be deficient in quantity due to natural causes. Further any limit in reference to amount of percentage could also be fixed by the government.

Time and Value of Supply

Time of supply

- › Time of supply of **goods** is the **earliest of:**
 - date of removal/ making available goods by the supplier;
 - date of issue of invoice;
 - date of receipt of payment by the supplier; or
 - date on which the recipient shows the receipt of goods in his books of accounts.

- › Time of supply of **services** is the **earliest of:**
 - date of issue of invoice or date of receipt of payment, if invoice is issued within prescribed period,
 - date of completion of service or date of receipt of payment, if invoice not issued within the prescribed period,
 - date on which recipient shows the receipt of services in his books of accounts, where (i) or (ii) above does not apply.

Time of supply

- › Time of supply under **reverse charge** is the **earliest of**:
 - date of receipt of services;
 - date of payment;
 - date of receipt of invoice; or
 - date of debit in the books of accounts.

- › In addition to the above, there are provisions
 - › to determine the date of supply in case of continuous supply of services.

 - › Change in the rate of tax in respect of supply of services

Value of Supply

- › **Transaction Value Method**: *The value of goods and/or services shall be the transaction value i.e.the value determined in monetary terms.*
- › **Comparison Method**: *Where value of supply cannot be determined under the Transaction Value Method, the value shall be determined on the basis of transaction value of goods and/or services of like kind and quality supplied at or about the same time to customers.*
- › **Computed Value Method**: *Where value cannot be determined under the Comparison method, it shall be based on a computed value which shall include cost of production, manufacture or processing of the goods or, the cost of the provision of services, the charges, if any, for design & brand and amount towards profit & general expenses equal to that usually reflected in supply of goods and/or services of the same class or kind as the goods and/or services being valued which are made by other suppliers.*

Value of Supply

- › *Residual Method*: *Where the value cannot be determined under the Computed Value method, the value shall be determined using reasonable means consistent with the principles and general provisions of the Valuation Rules.*

Place of Supply

Place of Supply - Goods

- › Where a supply involves movement of goods - place of supply shall be the “Location at which the goods are delivered” to the receiver
- › Where a supply does not involves movement of goods - place of supply shall be the “Location of such goods at the time of the delivery” to the receiver
- › Where goods are assembled or installed at site - Place of supply shall be the “Place of such installation or assembly”
- › Where goods are supplied on board of a conveyance (like on vessel, aircraft, train or motor vehicle) - Place of supply shall be the “Location at which such goods are taken on board
- › Where place of supply cannot be determined in terms of above (1 to 4), then it shall be determined in accordance with the law made by Parliament on the recommendation of Council.

Place of Supply - Goods

- › Where the goods are delivered by the supplier to a recipient or any other person,
 - › on the direction of a third person,
 - › whether acting as an agent or otherwise,
 - › before or during movement of goods,
 - › either by transfer of documents or otherwise,
 - › it shall be deemed that the said third person has received the goods

and the place of supply shall be the “Principal place of business of such person”

Place of Supply - Services

General Provision:-

- › Where a service is provide to a **registered person**, then place of supply shall be the “**Location of such service receiver**”.
- › Where a service is provided to an **unregistered person** then place of supply shall be the “Location of service receiver” if address on records is available, otherwise “Location of service provider”.

Place of Supply - Services

Specific Provisions:

- › The place of supply of service related to **immovable property** - location where such **immovable property is located** or intended to be located
- › The place of supply of restaurant and catering services and services in relation to training, performance appraisal, personal grooming, fitness, beauty treatment, health services including cosmetic and plastic surgery shall be the **location where the services are actually performed**.
- › The place of supply of services provided by way of **admission to** a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place and services ancillary thereto, shall be the place **where the event is actually held** or where the park or such other place is located.

Place of Supply - Services

- › The place of supply of **services provided by way of—**
 - organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events, or
 - services ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events, to
 - (i) a registered person, shall be the location of such person;
 - (ii) a person other than a registered person, shall be the place where the event is actually held.
- › The place of supply of services by way of **transportation of goods**, including by mail or courier to,
 - (a) a registered person, shall be the location of such service receiver;
 - (b) a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

Place of Supply - Services

- › The place of supply of **passenger transportation** service shall be the place where the **passenger embarks on the conveyance** for a continuous journey.
- › The place of supply of **services on board a conveyance** such as vessel, aircraft, train or motor vehicle, shall be the location of the **first scheduled point of departure of that conveyance** for the journey.
- › The place of supply of **banking and other financial services** including stock broking services to any person shall be the **location of the recipient of services on the records** of the supplier of services
 - › Where the service is **not linked to the account** of the recipient of services, the place of supply shall be **location of the supplier of services**.

Input Tax Credit

Availability of ITC

- › Every registered taxable person is entitled to ITC provided has filled return
- › No Credit is available after the expiry of **one year from the date of issue of tax invoice** relating to such supply,
- › Proportionate ITC is available where supplies are used partially for business
- › Proportionate ITC is available where supplies are used for taxable including zero rated and non-taxable supplies
- › ITC can be transferred to newly constituted business

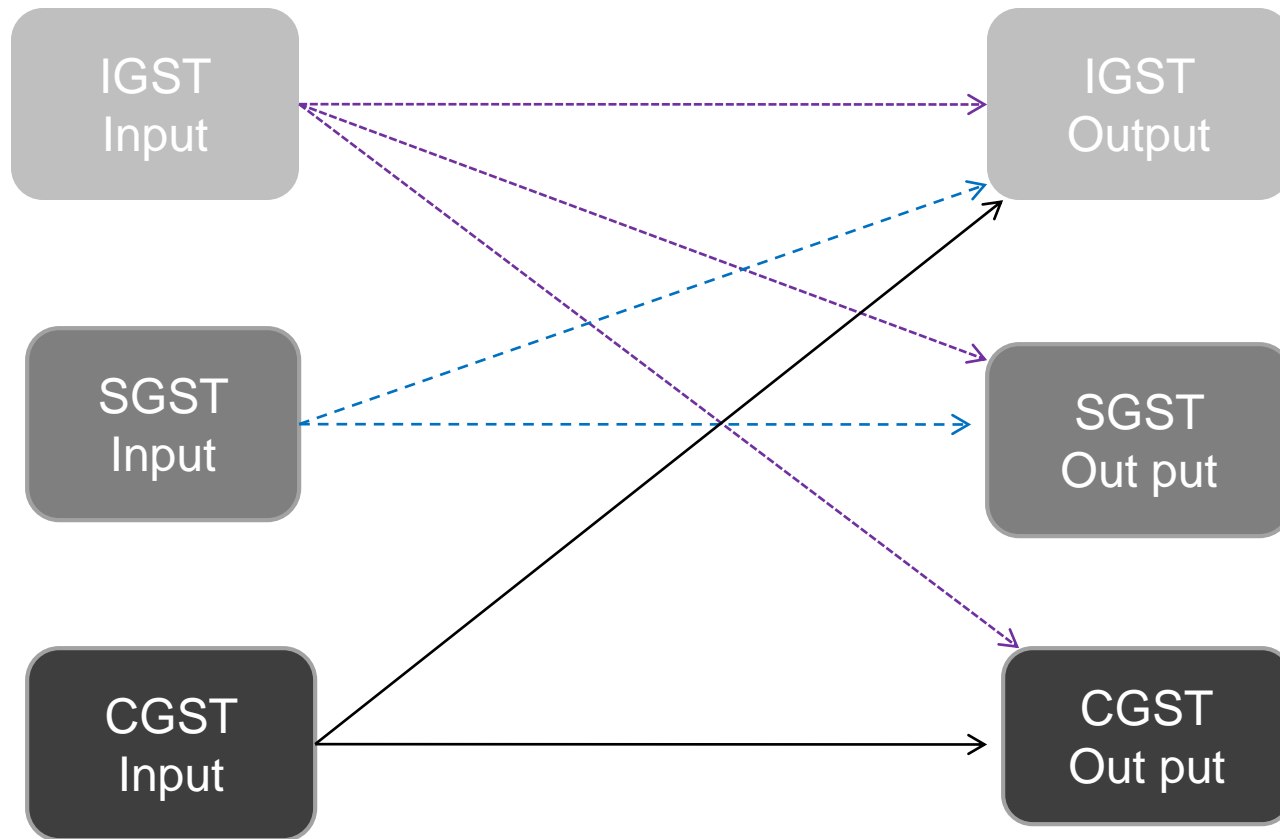
Availability of ITC

- › A taxable person shall not be entitled to take input tax credit in respect of any invoice, after the filing of the return under section 27 for the month of September following the end of financial year to which such invoice pertains or filing of the relevant annual return, whichever is earlier.
- › Any wrong taken ITC, shall be recovered in the manner as may be prescribed in this behalf.

Non availability of ITC

- › ITC not available available on motor vehicle when are not supplied in usual course of business and when claimed by tour operator
- › Goods and/or services acquired by the principal in the execution of works contract when such contract results in construction of immovable property, other than **plant** and Machinery
- › No ITC allowable to person registered under composition scheme
- › ITC over personal consumption is not allowable
- › If person claimed depreciation on the tax component of the cost of capital goods under the provisions of the Income Tax Act, 1961, the input tax credit shall not be allowed on the said tax component

Manner of Utilisation of ITC



- › Input credit of SGST is not available for CGST or vice-a-versa

Sequence of use of IGST Credit

IGST

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graph TD; A[IGST] --> B[CGST]; B --> C[SGST];
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CGST

SGST

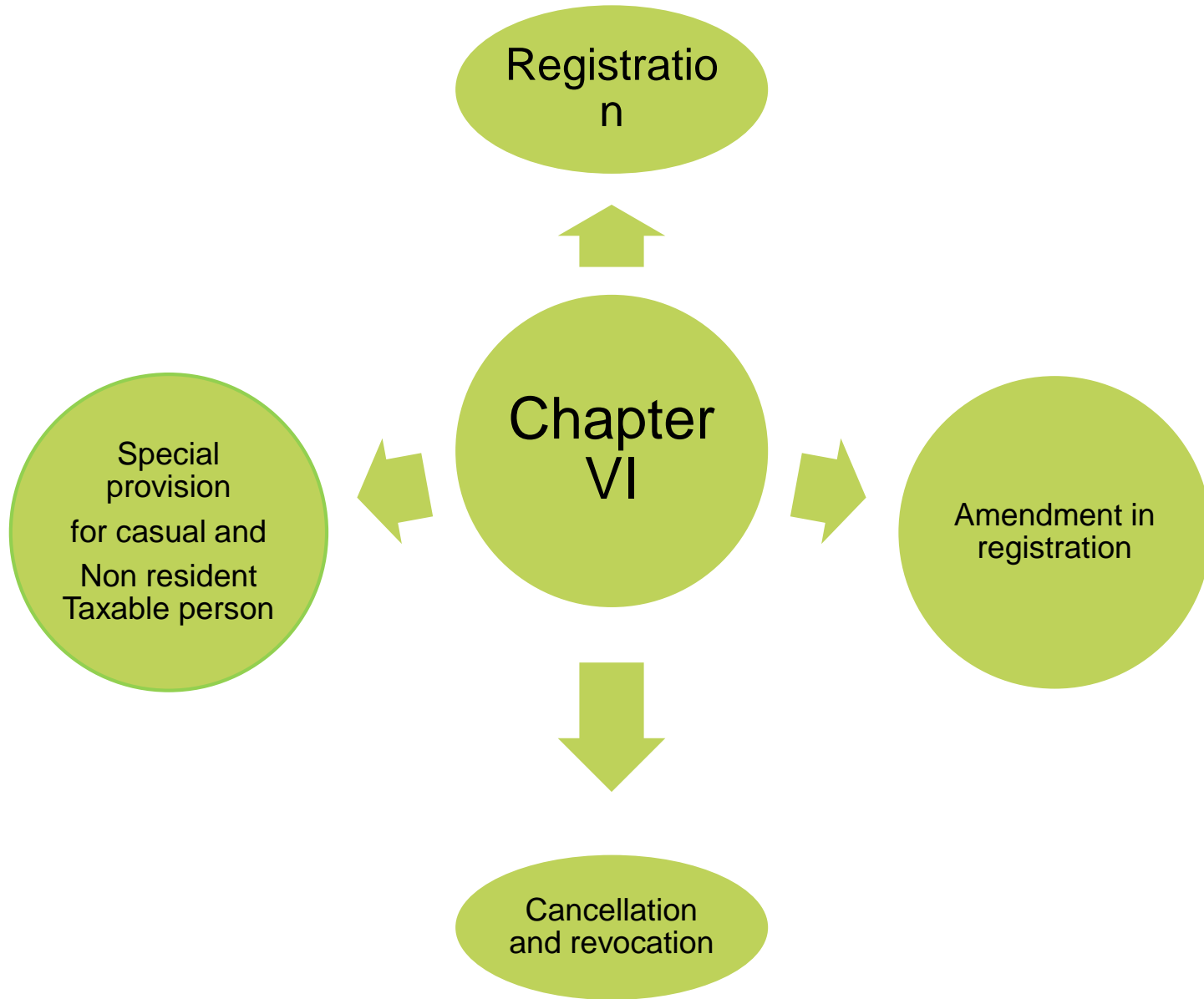
Intra-State Sale - Example

Purchase	Amt. (Rs)	SGST (10%)	CGST (10%)	IGST (20%)	Landed Cost
Raw Material-'A'	100.00	10.00	10.00		120.00
Raw Material- 'B'(Imp.)	100.00	-	-	20.00	120.00
TOTAL	200.00	10.00	10.00	20.00	240.00
Value Addition	100.00				100.00
Sales Price					300.00
Output Tax Liability	300.00	30.00	30.00	-	360.00
ITC ADJ		10.00	30.00	(IGST+CGST)	
TAX PAYABLE		20.00	-	-	

Inter-State Sale - Example

Purchase	Amt. (Rs)	SGST (10%)	CGST (10%)	IGST (20%)	Landed Cost
Raw Material-'A'	100.00	10.00	10.00		120.00
Raw Material- 'B'(Imp.)	100.00	-	-	20.00	120.00
TOTAL	200.00	10.00	10.00	20.00	240.00
Value Addition	100.00				100.00
Sales Price					300.00
Output Tax Liability	300.00	-	-	60.00	360.00
ITC ADJ		10.00	10.00	20.00	
TAX PAYABLE		00.00	00.00	20.00	

Registration and Returns



REGISTRATION

- › **WHO** Every person who is liable to get registration under Schedule III of the act
 - A **supplier** is required to get registered under the GST if his aggregate turnover in a Financial Year exceeds **Rs. 9 lakhs** (4 lakhs in case of NE States)
 - No threshold exemption for persons making **Inter-State supply** and those who are required to pay GST under reverse charge mechanism.
- › **WHEN** - within 30 days from the day on which he is liable to get registration
- › **WHERE** - in every state from where he operates and if he operates from multiple location in same state than for each business vertical
- › Pan Number issued by income tax is mandatory for registration except in case of non resident (13/15 digit PAN based registration)

CASUAL & NON RESIDENT PERSON

Special provisions for casual and Non Resident taxable persons:

- › Validity of registration of casual & NR taxable person is 90 days
- › It may be on request extended by proper officer for further period of not exceeding 90 days
- › Advance tax equal to the estimated liability shall be required to be paid at time of application
- › If extension for registration is sought than advance tax for additional estimated liability to be deposit
- › Credit of such advance shall be availed from electronic cash ledger

CANCELLATION OF REGISTRATION

- › Proper officer at his own motion or on application by registered person may cancel the registration

- › **WHEN**
 - In case of death of person
 - Merger, Demerger, Discontinuation of business
 - Registered person contravene any provision of law
 - Registered person paying tax u/s 8 does not fills the return for consecutive 3 periods (6 months for non tax paying person)
 - Person who takes voluntary registration does not commence business within 6 months of grant of registration
 - If registration has been obtained by fraud, wilful misstatement or suppression of facts

Returns

- › Monthly Return: Every registered taxable person shall have to file a monthly return within 20 days after the end of such month.
- › Return for Composition Scheme: A registered taxable person paying tax under composition scheme shall have to furnish a return for each quarter or part thereof, electronically, within 18 days after the end of such quarter.
- › TDS Return: Every registered taxable person who is required to deduct tax at source shall furnish a return, electronically, within 10 days after the end of month in which deduction is made.
- › Return for Input Service Distributor: Every Input Service Distributor shall file return for every calendar month or part thereof, electronically, within 13 days after the end of such month.

Returns

- › First Return: Every registered taxable person shall have to furnish the first return from the date on which he became liable to registration till the end of the month in which the registration has been granted.
- › Annual return: Every registered taxable person except certain specified person shall have to furnish an annual return for every financial year electronically on or before the 31st day of December following the end of such financial year.
- › Final return: Every registered taxable person who applies for cancellation of registration shall have to furnish a final return within three months of the date of cancellation or date of cancellation order, whichever is later, in a prescribed form.

*late fee of rupees one hundred for every day during which such failure continues subject to a maximum of rupees five thousand.

Accounts and Audit

Accounts & Audit

- › Every registered person shall keep and maintain books of accounts, at his principal place of business, as mentioned in the certificate of registration,
- › Every registered taxable person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a **cost accountant**
- › Every registered person shall retain them until the expiry of **sixty months** from the last date of filing of Annual Return for the year pertaining to such accounts and records
- › **Audit by tax authorities:** may undertake audit of the business transactions of any taxable person for such period, at such frequency and in such manner as may be prescribed.
- › **Special audit:** Authorities may direct such taxable person by notice in writing to get his records including books of account examined and audited by a **chartered accountant** or a **cost accountant** as may be nominated by the Commissioner in this behalf

Refunds

Refund under GST

Situations in which the refunds would arise:

- › Excess Payment of Tax due to mistake or inadvertence
- › Export (including deemed export) of goods/services under claim of rebate or refund of accumulated credit of tax when goods/services are exported.
- › Finalization of Provisional Assessment
- › Refund of Pre-deposit for filing appeal including refund arising in pursuance of an appellate authority's order
- › Payment of Duty/Tax during investigation, but no/less liability arises at the time of finalization of investigation/ adjudication
- › Refund for Tax payment on Purchase by UN bodies, Supplies to CSD Canteens, Para-military forces canteens, etc.

Refund under GST

- › **Refund of tax credit on inputs used for Manufacturing / Generation/ Production/ Creation of Tax- free supplies or Non-GST Supplies**
- › Refund of Carry Forward Input Tax Credit
- › Refund on account of year-end or volume based incentives provided by the supplier through credit notes
- › Tax Refund for International Tourists

Refund under GST

OTHER FEATURES

- › Time Limit- Refund application to be filed within a period of **2 year** from the relevant date along with the supporting documents like, copy of return evidencing payment of duty, copy of invoices, CA certificate for unjust enrichment and/ or any other document prescribed.
- › Scrutiny of Documents - the preliminary scrutiny of refund applications may be carried out within 30 common working days and deficiency, if any, should be communicated to the applicant directly from the respective tax portal.
- › Doctrine of unjust enrichment- Every refund application should be examined in light of the principle of “unjust enrichment”.
- › Minimum Amount- an amount is less than Rs. 1000/-
- › Provision of pre-audit of refund claim exceeding specified amount (5 Lakhs)

Refund under GST

- › Interest- GST Law may provide for a prescribed time limit of 90 days from the date of the system generated acknowledgment of refund application within which refund has to be paid.
- › Interest will accrue from the last date when refund should have been sanctioned.
- › Adjustment of refund claims with outstanding tax demands

Thank You

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