

Goods and Service Tax-Procedural Aspects

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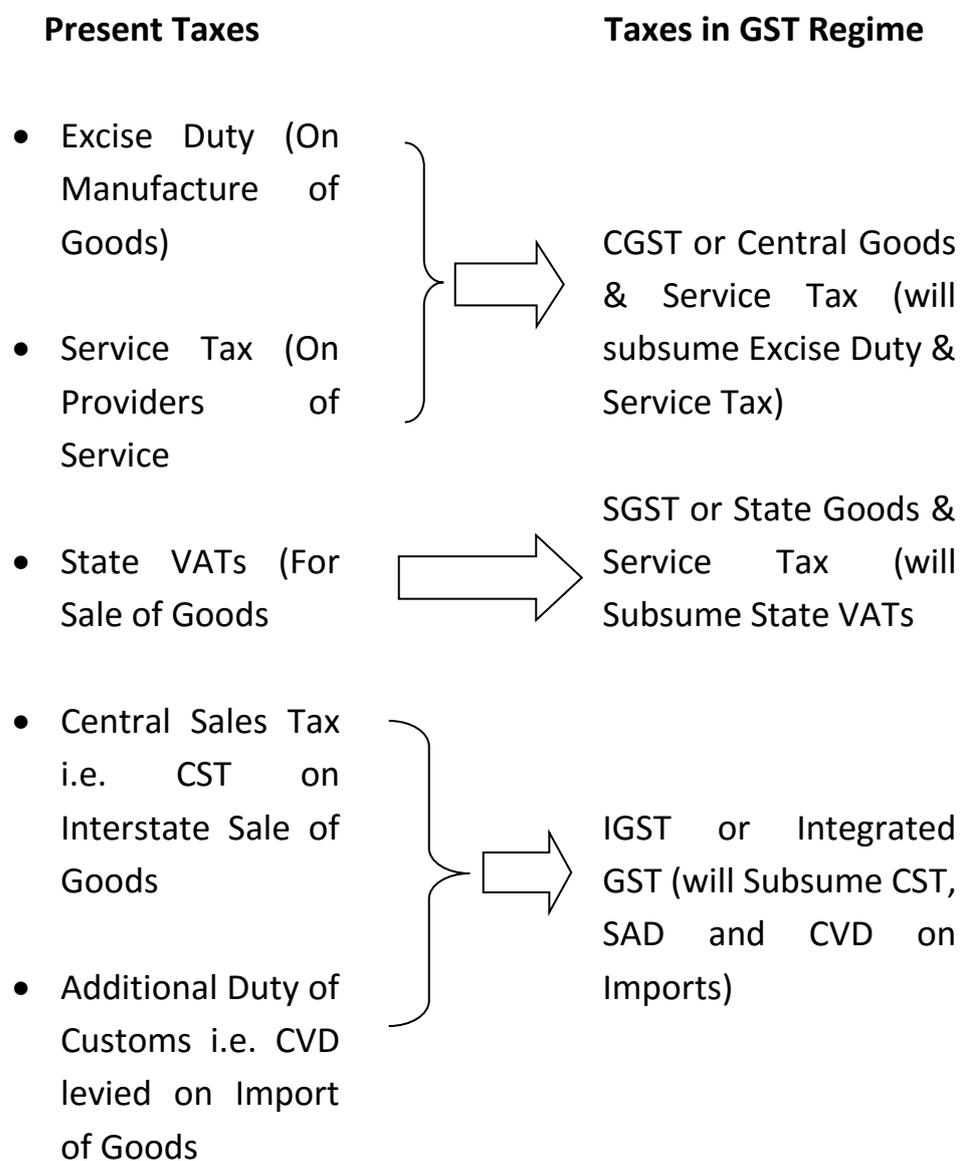
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What is GST

GST is abbreviation for Goods and Service Tax. GST is also known as Value Added Tax (VAT) in few countries.

GST / VAT is a consumption based tax wherein the basic principle is to tax the value addition at each business stage. To achieve this, tax paid on purchases is allowed as a set off/ credit against liability on output/income.



Thus in India, there will be three tier GST i.e. CGST, SGST, and IGST.

GST is levied on all transaction of goods and services. Thus, in principle, GST should not differentiate between “goods” and “services”.

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Through implementation of GST, both the State Governments and the Central Government will hold the power to levy tax on both Goods and Services' may resolve, not all, but surely, most of the current issues such as the classification, valuation, double taxation disputes etc. On a positive note, most of the credit which is not available will be available in GST regime such as the service provider will be eligible to avail credit of VAT, Luxury tax, Entertainment Tax etc.

The following taxes will be subsumed/repealed once GST is implemented:

1. Central Excise Act, 1944
2. State VAT Laws in different States
3. Central Sales Tax Act, 1956
4. Finance Act, 1994 in relation to Service Tax
5. State entry Tax Acts in different states'
6. Octroy in different states
7. Luxury/Entertainment Tax

The Model GST Laws published in June, 2016 consists of

1. The Goods & Service Tax Act, 2016
2. The Integrated Goods & Service Tax Act, 2016
3. GST Valuation (Determination of the value of supply of Goods and Service) Rules, 2016

Levy & Collection of Tax [Chapter-III]

1. CGST/SGST Shall be levied on all **taxable person** on all intra state **supplies** of Goods and/or Services.

2. Taxable Person means-Any Person who carries on any business at any Place in India/States and who is required to registered under the GST Act. However, the following persons cannot be a taxable person:
 - An Agriculturist
 - A person whose Aggregate Turnover does not exceed RS. 10 lakhs
 - A person doing business in North eastern states including Assam whose aggregate turnover does not exceed Rs.5 lakhs.
 - Any employee providing service to his employer in the course of his employment.
 - Any person supplying non-taxable goods/services
 - Any person receiving goods and/or services for his personal use/consumption.

3. For the purpose of this clause Person means-
 - any individual
 - any HUF
 - Any Firm including LLP
 - Any Company and Body Corporates
 - Any Trust
 - Any AOP/BOI

- Any Local Authority, Government, Society registered under Societies Act.
- Any Artificial Juridical Person

4. Meaning and Importance of Supply

Section 3 of the Model Laws specifies an inclusive definition of Supply. As defined Supply includes-

- I. All forms of Supply of Goods/Services i.e. Sale, Transfer, Barter, Exchange, Lease, Rental, License etc. made or agreed to be made for a Consideration by a person in the course or furtherance of business.
- II. Import of Service [whether or not for a consideration and whether or not for furtherance of business]
- III. A supply specified in Schedule-I made or agreed to be made without a consideration
- IV. In respect of matters mentioned in Schedule-II shall be applied for determining what is or is to be treated as supply of Goods and Services.
- V. Transactions of Sale and Purchase between Principle and his agents shall be deemed to be a Supply.
- VI. Any other transactions as may be decided by the Central/State Government on recommendation of GST Council as Supply of Goods/Services.

Importance of “supply” in GST Regime

In GST regime, all ‘supply ‘such as sale, transfer, barter, lease, import of services etc. of goods and/ or services made for a consideration will attract CGST (to be levied by Centre) and SGST (to be levied by State). As GST will be applicable on ‘supply ‘the

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erstwhile taxable events such as ‘manufacture ‘, ‘sale ‘, ‘provision of services ‘etc. will lose their relevance.

Further, certain supplies, even if made without consideration, such as permanent transfer of business assets, self-supply of goods or services, assets retained after deregistration etc. will attract GST. Interestingly, even a “barter” of goods transaction which were hitherto un-taxed in VAT regime, will attract GST. Further, Interstate Stock Transfer from one branch to another branch/Principal to Agent will be taxed under GST.

Time of Supply

Both CGST and IGST is payable at the time of supply specified under this law. Section 12 determines the Time of Supply in case of Goods and Section 12 determines the Time of Supply of Services.

Time of Supply in case of Goods [Section 12]

Time of Supply in case of Goods shall be **Earliest** of the following Dates:

- The date of removal of goods by the supplier for supply to the recipient
- In case goods are not capable of being removed, the date on which goods are made available to the recipient
- The date of Invoice issued by the supplier
- The date of receipt of payment by the supplier
- The date on which the recipient shows the receipt of goods in his books of accounts

In case of Continuous Supply of Goods, where successive Statement of Accounts or Successive payments are involved, The Time of Supply shall be:

- The date of expiry of the period to which such successive statement of accounts or successive payments relate.
- If there is no successive statement of accounts, the date of issue of invoice or date of receipt of payments, whichever is earlier, shall be treated as Time of Supply.

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The Continuous Supply of Goods is a new concept brought into the ambit of GST which means Supply of Goods on a continuous basis under a contract whether or not through Pipeline, Conduit, wire, cables etc. and for Invoice is raised by the supplier on a regular basis.

Time of Supply in case of Services [Section 13]

Time of Supply in case of Services shall be **Earliest** of the following Dates:

- The date of issue of Invoice or the date of receipt of payment whichever is earlier [if the Invoice is issued within the stipulated period]
- The date of Completion of Service or the date of receipt of payment, whichever is earlier [if invoice is not issued within the stipulated period]
- Where both the above is not applicable, the time of supply will be the date when the recipient of service shows the receipt of services in his books of accounts.

In case of Continuous Supply of Services, the time or supply shall be as below:

- Where the Due date of payment is ascertainable as per contract- the date on which the Recipient of Service is liable to make the payment- whether or not invoice is issued by the service provider.
- Where the Due date of payment is not ascertainable from the contract- the of receipt of payment or the date of issue of invoice, whichever is earlier.
- Where the payment is linked with completion of an event, the date of completion of that event.

In case of Service taxable under Reverse Charge Mechanism, time of supply shall be earliest of the following dates:

- The date of receipt of services,
- The date of Payment
- The date of receipt of invoice
- The date of debit in the books of accounts

Residuary Provisions

If it is not possible to determine the time of supply of services as per the above, then it shall be as below:

- Where periodical return has to be filed, the due date of filing the return
- In any other case, the date of payment of CGST/SGST.

Change in Effective Rate of Tax and Time of Supply [Section 14]

As per the present Rule 4 and Rule 5 of the Point of Taxation Rules, 2011, this section GST will define the Time of Supply in case of change in Rate of Tax. The following table can define it in a nutshell:

Situations	Time of Supply
Service has been provided before change in rate of tax	
- Invoice issued & payment received after change in rate	Earliest of the date of payment received or date of Invoice
- Invoice issued prior to change	Date of Issue of Invoice

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but payment received after change	
- Payment received before change but Invoice issued after Change	Date of Receipt of Payment
Service has been provided After change in rate of tax	
- Payment received after change but Invoice issued Prior to Change	Date of Receipt of Payment
- Invoice issued & payment received before change in rate	Earliest of the date of payment received or date of Invoice
- Invoice issued after the change but payment received before change	Date of Issue of Invoice

Comments: The liability to pay CGST / SGST will arise at the time of supply as determined for goods and services. In this regard, as aforesaid, separate provisions prescribe what will be the time of supply for goods and services. In a nutshell, the provisions contemplate payment of GST at the earliest for:

- a. 'Goods '- Removal of goods or receipt of payment or issuance of invoice or date on which buyer shows receipt of goods
- b. 'Service 's- Issuance of invoice or receipt of payment or date on which recipient shows receipt of services

It can be observed that there are many parameters in determining time of supply. Thus, determining the time of supply and further maintaining reconciliation between revenue as per financials and as per GST rules could be a major challenge to meet.

Value of Supply

Now, after determining the Time of Supply, the next question comes what is the value on which GST shall be levied. In this case, it is very important that in present scenario we are paying indirect taxes on different valuations like MRP Based Value, Transaction Value etc. In GST Regime, the valuation shall be done as per Transaction Value [Section 15] of Goods and/or services supplied where-

- ✓ price is the Sole Consideration and
- ✓ the Supplier and Recipient are not related parties.

Here, Transaction Value shall include, -

- i. Any expenditure incurred by the recipient of Goods/Service in respect of the Supply for which actual liability belongs to the Supplier, if not already included.
- ii. Value of Goods/Services supplied by the recipient free of cost or at reduced cost in connection with the Goods/Services supplied.
- iii. Royalties and license fees that the recipient of service have to pay, directly or indirectly, in connection with the said supply.
- iv. Any other taxes/duties/fees levied under any statute except GST.

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- v. Any reimbursable expenditure or cost incurred by the Service Recipient on behalf of the Supplier.
- vi. Any incidental expenses in connection with the supply charged by the supplier to the recipient including any amount charged as cost for anything done at the time of or before delivery of goods/services.
- vii. Subsidies provided linked with any supply
- viii. Any discount/incentives that may be allowed after the supply has been effected.

Any post supply discount, if established as per the agreement and is known before the time of supply and specifically linked with supply invoices, shall not be included in Transaction Value.

Discount allowed before or at the time of supply, if such discount is given as per normal trade practice and the same shall be specifically mentioned in the Invoices.

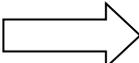
Separate Valuation needs to be done in the following cases:

1. Recipient and Supplier are related parties;
2. Consideration is not wholly or partly in money;
3. Transaction Value declared by the supplier is not correct/accurate
4. Business transactions undertaken as pure agent, money changer, insurer, air travel agent and distributors/selling agents.

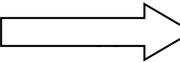
Movement of Goods and Services

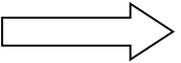
In GST era movement of goods and services will have immense importance in respect of Levy of appropriate GST. Presently only in case of State VAT Laws and Central Sales Tax Laws, we determine the movement of goods and accordingly charge State VAT in respect of within state movement and CST in respect of interstate movement of goods by way of sale. However, for levying central excise and service tax we need not measure the movement of goods.

In GST scenario, as there will be no distinction between supply of goods and services, the interstate and intrastate movement of goods and services will determine the appropriate levy of GST in the following manner:

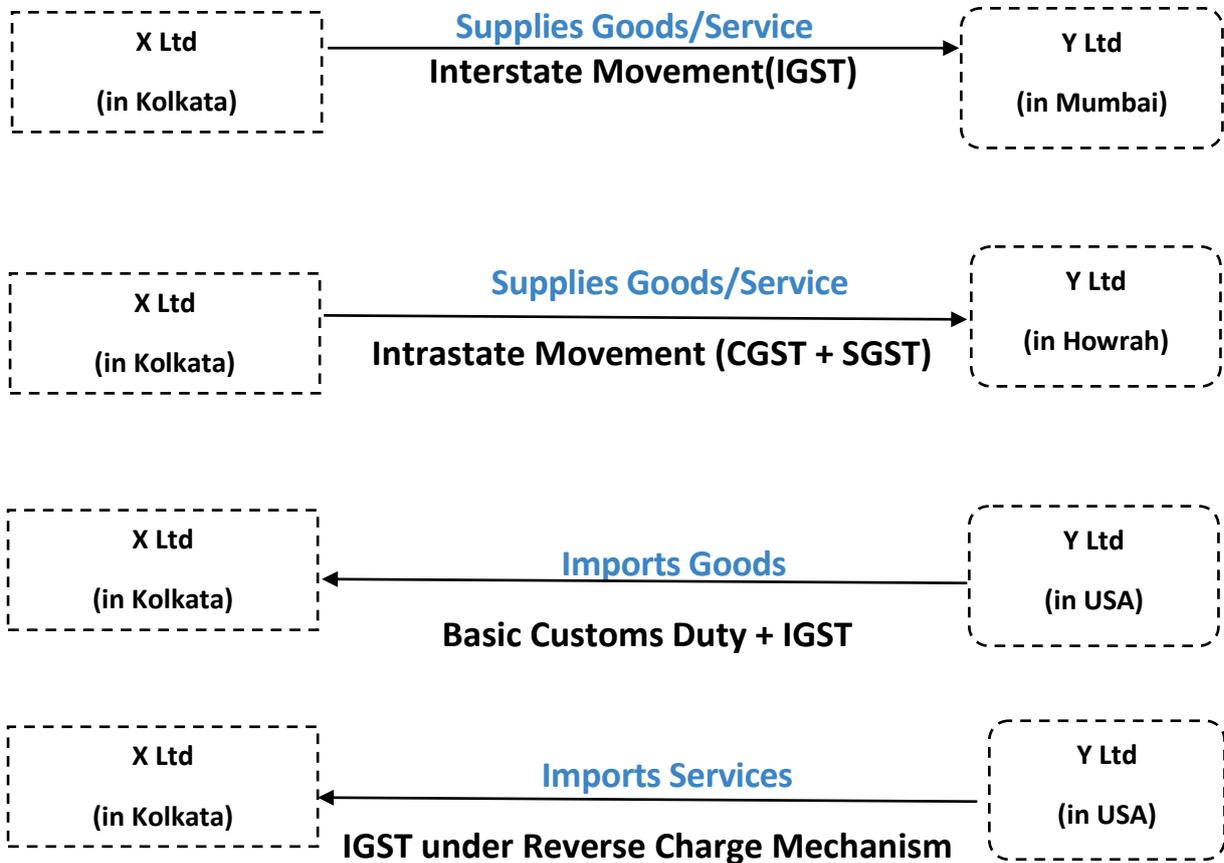
For Intra State Movement:  CGST + SGST [Payable by the Seller]

For Inter State Movement:  IGST will be levied [Payable by the Seller]

For Import of Goods:  Customs Duty + IGST [Payable by Importer]

For Import of Services:  IGST [Payable by Importer under RCM]

Example



Input Tax Credit

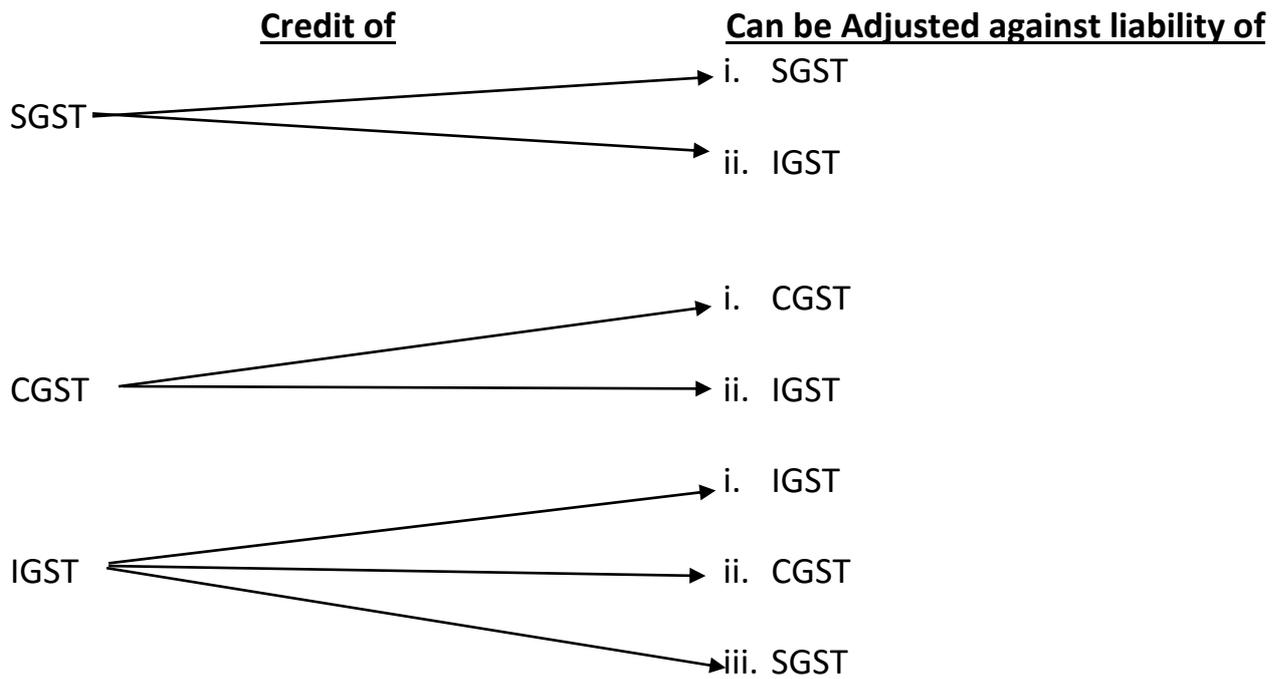
Every Taxable person is entitled to avail Input Tax Credit subject to the conditions and restrictions mentioned hereunder:

<u>Time Limit</u>	ITC shall be availed within one year from the date of issue of Tax Invoice
<u>Conditions</u>	<ol style="list-style-type: none">1. Possession of Tax Invoice, Supplementary Invoice, Debit Notes etc.2. The recipient has received the Goods and Services [in case goods/services are received by instalments, ITC can be availed upon receipt of last instalment.3. The Supplier has actually paid such tax charged either in cash or by utilising CENVAT credit4. The Supplier has submitted Returns
<u>Restrictions</u>	<ol style="list-style-type: none">1. ITC shall be restricted on Inputs received for business and not for personal consumption2. In respect of Exempt or zero rated supply, no ITC is allowable

	<p>3. ITC shall not be allowed on the following:</p> <ul style="list-style-type: none">a) Motor Vehicles unless it is used in the business of Transportation of Passengers, Transportation of Goods or used for imparting training on motor driving schoolb) Goods/Services provided in relation to Outdoor Catering, Beauty Treatment, Health Services, Cosmetic & Plastic Surgery, Membership of a club, health & fitness centre, life insurance, health insurance and travel benefits extended to employeesc) Goods/Services acquired by the principal for execution of works contract in relation to immovable property other than plant & machineryd) Goods acquired by the principal the property in which not transferred to another person, if used in relation to immovable property other than plant & machinery.
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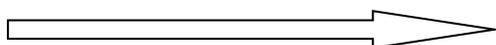
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Manner of Utilisation of ITC



ITC in respect of Job Work

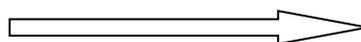
Inputs



Can be availed by the principal if received back from Job Worker within 180 days from the date of their being sent out.

[in case of inputs are directly sent to Job Worker, then 180 days shall be counted from the date of receipt of materials by the Job Worker.]

Capital Goods



Can be availed by the principal if received back from Job Worker within 2years from the date of their being sent out.

[in case of capital goods are directly sent to Job Worker, then 180 days shall be counted from the date of receipt of materials by the Job Worker.]

Manner of Distribution of Credit by Input Service Distributor

Situations	Credit of	Credit distributed as
Distributor and Recipient of credit are located in different states	CGST + IGST	IGST
	SGST	IGST
Distributor and Recipient of credit, being a business vertical, are located in the same state	CGST + IGST	CGST
	SGST+IGST	SGST

Conditions for Distribution of Credit

1. Credit can be distributed by issue of Invoice.
2. Credit distributed shall not exceed Credit Available
3. Credit attributable to one branch/supplier, shall be distributed to that branch/supplier.
4. Credit attributable to more than One branch/supplier shall be distributed amongst them on pro-rata on the basis of Turnover.

Payment of GST

Payment shall be made by taxable persons by using the following banking channels:

- i. Internet Banking
- ii. Credit/Debit Cards
- iii. NEFT
- iv. RTGS
- v. Any Other Mode to be prescribed

How to Compute the amount payable

Particulars	CGST	SGST	IGST
Liability from Sales/Supply	XXXX	XXXX	XXXX
Less: Input Tax Credit in the following manner			
ITC of SGST	-	XXXX	XXXX
ITC of CGST	XXXX	-	XXXX
ITC of IGST	XXXX	XXXX	XXXX
Net GST Payable	XXXX	XXXX	XXXX

- All liabilities of a taxable person shall be maintained in Electronic Register through GSTIN Network.
- All Input Tax Credit of CGST, IGST & SGST shall be available in the Electronic Register.
- All payments of taxes, interest, penalty & fees shall be used through Electronic Cash Ledger.
- Date of Credit to the Government (Central or State) shall be recognised as date of Payment.

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Discharge of Dues shall be in the Given Order:

1. Self-Assessed tax for previous period
2. Self-Assessed Tax for the Current period
3. Any other amount payable

Tax Deduction at Source

Following persons are liable for Tax Deduction at source:

1. Any Central or State Government department or establishment
2. Local Authority
3. Government Agencies
4. Any other persons notified by the Central/State Government on the recommendation of the GST Council.

Rate of Tax Deduction: 1% from the payment made or credited to the supplier/deductee.

When to deduct: If the Value of Supply under a contract exceeds Rs. 10lakhs.

Due date of Deposit to Government: Within 10days of the subsequent month in which tax was deducted at source.

Deductor is liable to give a Tax deduction certificate to the deductee within 5 days from the date of payment to government. If the deductor fails to do so, late fees will be applied at the rate of Rs. 100 per day from the date of expiry of 5days until the date of issuing the certificate.

The Deductee is eligible to avail the credit of the amount deducted if the deductor has filed the return and the amount deducted is reflected in the electronic ledger of the deductee.

Returns

Based upon the Report of the Joint Committee on Business Process for GST on GST Return, the following are the returns to be filed by different classes of Tax Payers. The entire process of filing of returns and maintenance of Electronic ITC Ledger, Output Tax Ledger and Cash Ledger will be routed through GSTN Network across the country.

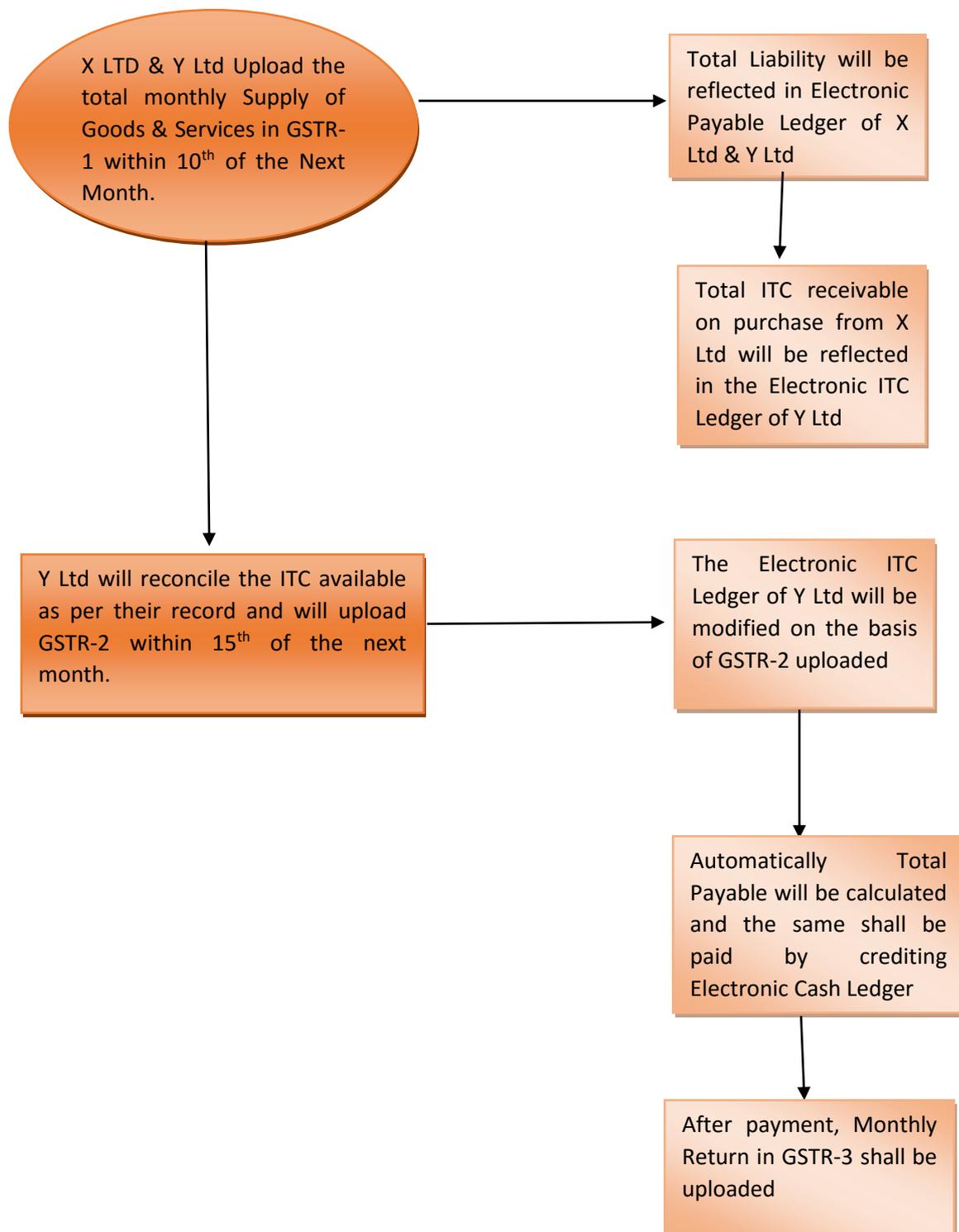
Sl No.	Returns	For	Due Date	By whom
1	GSTR-1	Outward Supplies made by the Tax Payer	10 th of the Subsequent Month	All Taxpayers except under Compounding Scheme & ISD
2	GSTR-2	Inward Supplies received by the Tax Payer	15 th of the next month	All Taxpayers except under Compounding Scheme & ISD
3	GSTR-3	Monthly Return	20 th of the next month	All Taxpayers except under Compounding Scheme & ISD
4	GSTR-4	Quarterly return for taxpayers under Compounding Scheme	18 th of the subsequent month after the end of a quarter	Compounding Tax Payers
5	GSTR-5	Periodic return by Non Resident Tax Payer	Last day of registration	Non Resident taxpayers
6	GSTR-6	Return by Input Service Distributors	13 th of the next month	Input Service Distributors
7	GSTR-7	Return for Tax Deducted at Source	10 th of the next month	Person responsible for

				deduction of tax at source
8	GSTR-8	Annual Return	31 st December of the next FY	All Tax Payers

The following are the important points to be noted in respect of returns

- NIL returns to be filed in case of No Transactions
- Revision of Return is possible within 30th September or before filing of Annual return whichever is earlier
- A taxpayer will not be allowed to file a return for a month/quarter until and unless a valid return for a previous period is filed by him.
- Non filing of GSTR-4 for One Quarter(3months) will result into Cancellation of Registration of a Compounding Dealer
- Non Filing of other returns for consecutive 6 months would result into cancellation of registration of other persons.

Total Chain of Returns and its effect on Tax Payer



Registration

Persons liable to get themselves registered [Schedule-III]

- i. Every Supplier in the State from where he makes a taxable supply of goods/services if
 - If Total Turnover > Rs. 9 lakhs[in all States except North Eastern States]
 - If Total Turnover> Rs. 4 lakhs[in North Eastern States]
- ii. Every Person presently registered under Existing laws
- iii. Every Transferee or successors, in case of transfer of business [from the date of transfer or succession]
- iv. Every demerged Companies from the date of Certificate of Incorporation
- v. Every person making inter-state supply of goods/services
- vi. Every casual taxable person
- vii. Every person liable to pay tax under Reverse Charge
- viii. Every Non Resident Taxable person
- ix. Every person required to deduct tax at source
- x. Every Agent/distributors etc.
- xi. Every Input Service Distributors
- xii. Persons supplying goods/services, other than branded products, through e-commerce operator.
- xiii. Every e-commerce operator
- xiv. Persons supplying Goods/Services under brand name

New Concept of Business Vertical

It has been prescribed in the Model Laws of GST that a person having multiple business verticals in a State may take registration for each business vertical separately.

The term Business Vertical has the same meaning assigned to Business Segment in Accounting Standard 17 issued by the ICAI.

Other features of registration

- Registration number shall be PAN Based Number
- Upon receiving proper documentary proof, a Unique Identity Number shall be allotted to every supplier.
- The Unique Identity Number, will be the same for all of CGST, SGST or IGST.

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