

INCOME TAX AND GST

VI SEMESTER

CORE COURSE: BCM6 B12

B.Com.

(2019 Admission onwards)

CBCSS



UNIVERSITY OF CALICUT

*School of Distance Education,
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Study Material

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“The author(s) shall be solely responsible for the
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Module I

Income Tax Contd:

Aggregation of Income/Deemed Income

In certain cases, some amounts are deemed as income in the hands of the assessee though they are actually not in the nature of income. These cases are contained in sections 68, 69, 69A, 69B, 69C and 69D. The Assessing Officer may require the assessee to furnish explanation in such cases. If the assessee does not offer any explanation or the explanation offered by the assessee is not satisfactory, the amounts referred to in these sections would be deemed to be the income of the assessee. Such amounts have to be aggregated with the assessee's income.

1) Cash Credits (Sec 68): Where any sum is found credited in the books of an assessee maintained for any previous year, and the assessee offers no explanation about the nature and source thereof or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the sum so credited may be charged to income-tax as the income of the assessee of that previous year.

2) Unexplained Investments (Sec 69): Where in the financial year immediately preceding the assessment year the assessee has made investments which are not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of the investments or the explanation offered by him

is not, in the opinion of the Assessing Officer, satisfactory, the value of the investments may be deemed to be the income of the assessee of such financial year.

3) Unexplained Money, etc., (Sec 69A): Where in any financial year the assessee is found to be the owner of any money, bullion, jewellery or other valuable article and such money, bullion, jewellery or valuable article is not recorded in the books of account, if any, maintained by him for any source of income, and the assessee offers no explanation about the nature and source of acquisition of the money, bullion, jewellery or other valuable article, or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the money and the value of the bullion, jewellery or other valuable article may be deemed to be the income of the assessee for such financial year.

4) Amount of Investments, etc., Not Fully Disclosed in Books of Account (69B): Where in any financial year the assessee has made investments or is found to be the owner of any bullion, jewellery or other valuable article, and the Assessing Officer finds that the amount expended on making such investments or in acquiring such bullion, jewellery or other valuable article exceeds the amount recorded in this behalf in the books of account maintained by the assessee for any source of income, and the assessee offers no explanation about such excess amount or the explanation offered by him is not, in the opinion of the Assessing Officer, satisfactory, the excess amount may be deemed to be the income of the assessee for such financial year.

5) Unexplained Expenditure, etc., (69C): Where in any financial year an assessee has incurred any expenditure and he offers no explanation about the source of such expenditure or

part thereof, or the explanation, if any, offered by him is not, in the opinion of the Assessing Officer, satisfactory, the amount covered by such expenditure or part thereof, as the case may be, may be deemed to be the income of the assessee for such financial year:

Provided that, notwithstanding anything contained in any other provision of this Act, such unexplained expenditure which is deemed to be the income of the assessee shall not be allowed as a deduction under any head of income.

6) Amount Borrowed or Repaid on Hundi (69D): Where any amount is borrowed on a hundi from, or any amount due thereon is repaid to, any person otherwise than through an account payee cheque drawn on a bank, the amount so borrowed or repaid shall be deemed to be the income of the person borrowing or repaying the amount aforesaid for the previous year in which the amount was borrowed or repaid, as the case may be:

Provided that, if in any case any amount borrowed on a hundi has been deemed under the provisions of this section to be the income of any person, such person shall not be liable to be assessed again in respect of such amount under the provisions of this section on repayment of such amount. For the purposes of this section, the amount repaid shall include the amount of interest paid on the amount borrowed.

Income of other persons included in assessee's total income/Clubbing of Income

As the term suggests, clubbing of income means adding or including the income of another person (mostly family

members) to one's own income. This is allowed under Section 64 of the IT Act. However, certain restrictions pertaining to specified person(s) and specified scenarios are mandated to discourage this practice.

Specified Persons to Club Income

Income of any and every person cannot be clubbed on a random basis while computing total income of an individual and also not all income of specified person can be clubbed. As per Section 64, there are only certain specified income of specified persons which can be clubbed while computing total income of an individual.

Specified scenarios when you can club income

Section	Specified Person	Specified Scenario	Income to be clubbed
Section 60	Any person	Transferring income without transferring asset either by way of an agreement or any other way,	Any income from such asset will be clubbed in the hands of the transferor
Section 61	Any person	Transferring asset on the condition that it can be revoked	Any income from such asset will be clubbed in the hands of the transferor

Section 64(1A)	Minor child	Any income arising or accruing to your minor child where child includes both step child and adopted child. The clubbing provisions apply even to minor married daughter.	<p>Income will be clubbed in the hands of higher earning parent.</p> <p>Note:</p> <p>a) If marriage of child's parents does not subsist, income shall be clubbed in the income of that parent who maintains the minor child in the previous year</p> <p>b) If minor child's income is clubbed in the hands of parent, then exemption of Rs. 1,500 is allowed to the parent.</p> <p>c) Exceptions to clubbing Income of a disabled child (disability of the nature specified in section 80U)</p> <p>d) Income earned by manual work done by the child or by activity involving application of his skill and talent or specialised knowledge and experience</p>
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			e) Income earned by a major child. This would also include income earned from investments made out of money gifted to the adult child. Also, money gifted to an adult child is exempt from gift tax under gifts to 'relative'.
Section 64(1)(i)	Spouse**	If your spouse receives any remuneration irrespective of its nomenclature such as Salary, commission, fees or any other form and by any mode i.e., cash or in kind from any concern in which you have substantial interest*	Income shall be clubbed in the hands of the taxpayer or spouse, whose income is greater (before clubbing). Exception to clubbing: Clubbing is not attracted if spouse possesses technical or professional qualifications in relation to any income arising to the spouse and such income is solely attributable to the application of his/her technical or professional knowledge and experience
Section	Spouse	Direct or	Income from out of such

n 64(1)(i v)	e**	indirect transfer of assets to your spouse by you for inadequate consideration	asset is clubbed in the hands of the transferor. Provided the asset is other than the house property. Exceptions to clubbing No clubbing of income in following cases: a) Where asset is received as part of divorce settlement b) If assets are transferred before marriage c) No husband and wife relationship subsists on the date of accrual of income d) Asset is acquired by the spouse out of pin money (i.e. an allowance given to the wife by her husband for her personal and usual household expenses)
64(1)(vi)	Daugh ter-in-	Transfer of assets transferred	Any income from such assets transferred is clubbed in the hands of

	law	directly or indirectly to your daughter in-law by you for inadequate consideration	the transferor
64(1)(vii)	Any person or association of person	Transferring any assets directly or indirectly for an inadequate consideration to any person or association of persons to benefit your daughter in-law either immediately or on deferred basis	Income from such assets will be considered as your income and clubbed in your hands
64(1)(viii)	Any person or association of person	Transferring any assets directly or indirectly for an inadequate consideration to any person or association of persons to benefit your spouse either	Income from such assets will be considered as your income and clubbed in your hands

		immediately or on deferred basis	
Section 64(2)	Hindu Undivided Family	In case, a member of HUF transfers his individual property to HUF for inadequate consideration or converts such property into HUF property	Income from such converted property shall be clubbed in the hands of individual

***An individual is said to have the Substantial Interest in the concern if -**

In case of a company, individual either by himself or along with his relative/s beneficially owns shares having 20% or more voting power (not being shares entitled to a fixed rate of dividend whether with or without a further right to participate in profits)

In any other case, such individual either alone or along with his relative/s is entitled to 20% or more of profits in the aggregate of such concern at any time during the previous year.

****Income from reinvestment of clubbed income by a spouse is not clubbed in the hands of individual.**

Illustration 1

Mr P owns a shop which fetches a rent of Rs.12,000 per month. He transfers the rent to his friend Mr Q but retains the ownership of the shop.

Solution

In this case, because Mr P has transferred the income without transferring the asset. Hence, as per section 60 of the income tax act, Mr P must include the rental income while computing his total income.

Illustration 2

Mr Jay is beneficially holding 21% equity shares of PTK Pvt. Ltd. Mrs Jay is employed as a finance manager in PTK Pvt. Ltd. The monthly salary received from Mrs PTK Pvt. Ltd. is Rs. 40,000. Mrs Jay is not having any qualification, experience or knowledge of finance.

Solution

In this situation, Mr Jay has a substantial interest in PTK Pvt. Ltd. with 21% shareholding. But Mrs Jay is employed without any qualification and technical knowledge of finance. Hence, salary or payment received by Mrs Jay from PTK Pvt. Ltd. will be clubbed with the income of Mr Jay as per section 64(1)(ii) of the income tax act.

In the above case, if Mrs Jay had the qualification and knowledge for the finance manager post in PTK Pvt. Ltd., then income earned by Mrs Jay will not be clubbed in the income of Mr Jay.

Illustration 3

Mr Lucky holds gifted Rs. 6,00,000 to his wife. Mrs Lucky has then invested the same amount in the fixed deposit. Mrs lucky receives the interest of 5,000 p.a. from such fixed deposit.

Solution

As Mr Lucky has transferred Cash (asset) without adequate consideration and it was converted into another asset by Mrs Lucky. Hence, interest earned of Rs. 5,000 from the converted asset (fixed deposit) will be clubbed in the income of Mr Lucky as per section 64(1)(iv) of the income tax act.

Note:

If in the above case Mr lucky transfers the cash as a settlement for divorce then clubbing provisions will not apply.

Also, if the cash was transferred before marriage and interest is accrued after marriage, no income shall be clubbed in the hands of Mr. Lucky.

Hence, husband-wife relationship should remain at the time of transfer of asset and also at the time of accrual of income.

Illustration 4

Mr. & Mrs. Sushilkumar have income under the head “Profits & gains of business or profession” of Rs. 3,00,000 and Rs. 4,00,000 respectively. They have 7 children. From the following details compute taxable income of Mr. and Mrs. Sushilkumar for the A.Y. 2021-22:

- 1st child (aged 26 years) is a chartered accountant. His annual income from profession is Rs. 4,00,000. His income

from house property for the P.Y. 2020-21 is Rs. 30,000. He has a son (4 years old) who has earned interest on fixed deposit of Rs. 5,000.

- 2nd child (aged 17 years being a married daughter) who is a stage singer, earned income of Rs. 1,00,000 during the P.Y. 2020-21. She earned interest on fixed deposit Rs. 8,000. Such fixed deposit has been made out of such singing income.
- 3rd child (aged 16 years) is suffering from disability specified u/s 80U (to the extent 55%) blind. He has received interest income of Rs. 40,000 for loan given to a private firm. He is dependent on Mrs. Sushilkumar.
- 4th child (aged 14 years) has earned income of Rs. 45,000 during the P.Y. 2020-21 out of his physical and mental effort. Expenditure incurred to earn such income is Rs. 15,000. His loss from house property is Rs. 30,000.
- 5th child (aged 12 years) is a partner in a partnership firm from which he earned interest income (taxable) of Rs. 40,000 and share of profit of Rs. 35,000. Other two partners of the firm are Mr. & Mrs. Sushilkumar.
- 6th child (aged 9 years) has 1,000 debentures of Rs. 100 each of a public sector company acquired through will of his Grandfather. Interest income on such debenture is Rs. 10,000. Expenditure incurred to collect such interest is Rs. 200. Such debenture was sold and long-term capital gain earned Rs. 25,000.
- 7th child (aged 7 years) has earned interest on fixed deposit Rs. 500.

Solution

Computation of total income of Mr. and Mrs. Sushilkumar for the A.Y. 2021-22

Particulars	Mr.Sushilku mar		Mrs. Sushilkumar	
	Detail s	Amo unt	Detail ls	Amou nt
Income from house property				
Income of 4 th Child: Loss from house property				-30000
Profits & gains of business or profession				
Business Income		300000	400000	
Add: Income of 5th Child:				
Interest from partnership firm			40000	
Share of profit [Exempt u/s 10(2A)]			Nil	
Less: Exemption u/s 10(32)			-1500	438500
Capital gains				
Income of 6th Child				
Long term capital gain [#Deduction can be claimed				25000 *

once]				
Income from other sources				
Income of 2nd Child				
Interest income			8000	
Less: Exemption u/s 10(32)			-1500	6500
Income of 6th Child				
Interest on debenture [10000 – 200]			9800	
Less: Exemption u/s 10(32)			-1500	8300
Income of 7th Child				
Interest on Fixed Deposit			500	
Less: Exemption u/s 10(32)			-500	Nil
Gross Total Income		300000		448300
Less: Deduction u/s 80DD		Nil		75000
Total Income		300000		373300

Notes:

a) In case income of a minor child is clubbed in hands of parent as per provision of sec. 64(1A), the assessee (parent) can claim exemption of an amount being minimum of the following:

i) Rs. 1,500; or

ii) Income so clubbed

b) Income of the first child shall not be clubbed with the income of Mrs. Sushilkumar as he is a major. Income of grand child (son of first child) will be clubbed with the income of his parent.

c) The clubbing provision of sec. 64(1A) shall not apply where

- the income arises or accrues to the minor child due to any manual work done by him; or
- the income arises or accrues to the minor child due to his skill, talent, specialized knowledge or experience; or
- the minor child is suffering from any disability of nature as specified u/s 80U.

d) Income shall be first computed head wise in the hands of recipient and then clubbing shall be carried out head wise.

SET-OFF AND CARRY FORWARD OF LOSSES (SEC 70-80)

Introduction

The concept of set off and carried forward comes into picture only when there is loss any source of income (except salary). To make it clear it that to be studied of in two separations.

- **Inter sources adjustments (with in the same head of income)- sec 70**

- **Inter head adjustments (with overhead of income)- sec 71**

Points to be kept in mind in case of set-off of losses

- (1) Loss from speculative business cannot be set-off from any other income except income from speculative business.
- (2) Long-term capital loss can be set-off only from long-term capital gain.
- (3) Loss from owning and maintaining of race horses can be set-off only from any income earned from owning and maintaining of horse races.
- (4) Any other loss can be set-off from any other heads of income [house property loss, Nonspeculative business loss, Short-term loss and other source loss]
- (5) Loss from business can be set-off from House property, Capital gains and other sources except salaries.

Carry-forward and set-off of losses

- (a) Income from salary

The question of carry-forward and set-off will not arise in this head of income because there will be no loss under this head of income.

- (b) Income (loss) from House property

- Loss which cannot be adjusted during a financial year can be carried forward
- Loss can be carried forward for a period of 8 years.

- Carried forward loss should be set-off only from House property income and not from any other income.
- Return of loss should be filed within the time limit.

(c) Income [loss] from business

Non-speculative business loss

- Loss which cannot be adjusted during a financial year can be carried forward
- Loss can be carried forward for a period of 8 years
- Carried forward loss should be set-off only from Business or professional income and not from any other income.
- It is not necessary that loss should belong to the same business. Continuity of business is not necessary to carry forward and set-off.
- Return of loss should be filed within the time limit.

• Speculative business loss

- Loss can be carried forward and set-off only from speculative income.
- Loss can be carried forward for a period of 4 years
- It is not necessary that loss the same business should be continued.
- Return of loss should be filed within the time limit.

(d) Income [loss] from capital gains

- Loss which cannot be adjusted during a financial year can be carried forward
 - Loss should be adjusted only from capital gains.
 - Long-term capital loss can be carried forward and set-off only from long-term capital gain and not from short-term capital gain.
 - Short-term capital loss can be carried forward and set-off from both long-term and short-term gains.
 - Loss can be carried forward for a period of 8 years.
 - Return of loss should be filed within the time limit.
- (e) Income [loss] from other sources
- Loss from owning and maintaining of race horse comes under this head.
 - Such loss can be carried-forward and set-off only against any income from owning and maintaining of race horses.
 - Loss can be carried forward for a period of 4 years.
 - Return of loss should be filed within the time limit.

Illustration 5

Mr. Neeraj (aged 35 years) submits the following particulars pertaining to the A.Y.2021-22:

Particulars	Rs.
Income from salary (computed)	4,00,000
Loss from self-occupied property	(-)70,000
Loss from let-out property	(-) 1,50,000
Business loss	(-)1,00,000
Bank interest (FD) received	80,000

Compute the total income of Mr. Neeraj for the A.Y.2021-22.

Solution

Computation of total income of Mr. Neeraj for the A.Y.2021-22

Particulars	Amount (Rs.)	Amount (Rs.)
Income from salary	4,00,000	2,00,000
Less: Loss from house property of Rs. 2,20,000 to be restricted to Rs. 2 lakhs by virtue of section 71(3A)	(-)	
Balance loss of Rs. 20,000 from house property to be carried forward to next assessment year	2,00,000	
Income from other sources (interest on		

fixed deposit with bank)	80,000	
Business loss set-off		-
	(-)	
Business loss of Rs. 20,000 to be carried forward for set-off against business income of the next assessment year	1,00,000	
Gross total income [See Note below]		
Less: Deduction under Chapter VI-A		2,00,000
Total income		Nil
		2,00,000

Note: Gross Total Income includes salary income of Rs. 2,00,000 after adjusting loss of Rs. 2,00,000 from house property. The balance loss of Rs. 20,000 from house property to be carried forward to next assessment year for set-off against income from house property of that year.

Business loss of Rs. 1,00,000 is set off against bank interest of Rs. 80,000 and remaining business loss of Rs. 20,000 will be carried forward as it cannot be set off against salary income.

Illustration 6

Mr. Sreenath, a resident individual, furnishes the following particulars of his income and other details for the previous year 2020-21:

Sl. No.	Particulars	Rs.
(i)	Income from salary (computed)	18,000
(ii)	Net annual value of house property	70,000
(iii)	Income from business	80,000
(iv)	Income from speculative business	12,000
(v)	Long term capital gain on sale of land	15,800
(vi)	Loss on maintenance of race horse	9,000
(vii)	Loss on gambling	8,000

Depreciation allowable under the Income-tax Act, 1961, comes to Rs. 8,000, for which no treatment is given above. The other details of unabsorbed depreciation and brought forward losses (pertaining to A.Y. 2020-21) are:

Sl. No.	Particulars	Rs.
(i)	Unabsorbed depreciation	9,000
(ii)	Loss from speculative business	16,000
(iii)	Short term capital loss	7,800

Compute the gross total income of Mr. Sreenath for the Assessment year 2021-22, and the amount of loss that can or cannot be carried forward.

Solution

Computation of Gross Total Income of Mr. Sreenath for the A.Y. 2021-22

Particulars	Rs.	Rs.
(i) Income from salary		18,000
(ii) Income from House Property		
Net Annual Value	70,000	
Less: Deduction under section 24(30% of Rs. 70,000)	21,000	49,000
(iii) Income from business and profession		
(a) Income from business	80,000	
Less : Current year depreciation	8,000	
	72,000	
Less : Unabsorbed depreciation	9,000	63,000
(b) Income from speculative business	12,000	
Less : Brought forward loss from speculative business	12,000	Nil
(Balance loss of Rs. 4,000 (i.e. Rs. 16,000 – Rs. 12,000) can be carried forward to the next year)		
(iv) Income from capital gain		

Long-term capital gain on sale of land	15,800	
Less: Brought forward short-term capital loss	7,800	8,000
Gross total income		1,38,000

Amount of loss to be carried forward to the next year

Particulars	Rs.
Loss from speculative business (to be carried forward as per section 73)	4,000
Loss on maintenance of race horses (to be carried forward as per section 74A)	9,000

Notes:

- i)** Loss on gambling can neither be set-off nor be carried forward.
- ii)** As per section 74A(3), the loss incurred on maintenance of race horses cannot be set-off against income from any other source other than the activity of owning and maintaining race horses. Such loss can be carried forward for a maximum period of 4 assessment years.
- iii)** Speculative business loss can be set off only against income from speculative business of the current year and the balance loss can be carried forward to A.Y. 2022-23. It may be noted that speculative business loss can be carried forward for a maximum of four years as per section 73(4).

DEDUCTION FROM GROSS TOTAL INCOME [SECTION 80C TO 80U]

Introduction

After computing the total income under each head and after giving effect to the provisions for clubbing of income and set off of losses, which gives the Gross Total Income, deductions described under this lesson are allowed i.e., deductions under section 80C to 80U of the Income Tax Act are allowed to assesses.

Basic Rules Governing Deductions (80C to 80 U)

- Gross Total Income means income from all the heads namely income from salary, house property, profits and gains from business or profession, capital gains and other sources combined together after giving effects to provisions of clubbing of income and set off of losses.
- Deductions from section 80C to 80U are deducted from Gross Total Income to arrive at total income of the assessee which is also known as taxable income.
- However deductions are not allowed from the following items although they form part of Gross Total Income:
 - a) Short term capital gain under sec 111A
 - b) Long term capital gain
 - c) Lotteries
 - d) Income under Sections 115A, 115AB, 115AC, 115ACA, 115AD, 115BBA, 115D

Important Points:

- 1) Deductions from gross total income are available only to assessee when the gross total income is a positive figure. If however, the gross total income is nil or is a loss, the question of any deduction from the gross total income does not arise. In other words, the total aggregate of deductions cannot exceed the gross total income.
- 2) Deductions cannot be claimed twice in the same assessment year.
- 3) Deduction is allowed only to assessee.
- 4) Certain deductions like under 80-IA, 80-IAB, 80-IC, 80-ID, 80-IE can only be claimed when income tax return is furnished for assessment year on or before the due date specified under sec139(1).

DEDUCTION UNDER CHAPTER VI-A IN RESPECT OF 'PAYMENTS'		
Section	Nature of Payment	Who can Claim
80C	Life Insurance Premium, Provident Fund Contribution (Maximum : Rs. 1,50,000)	Individuals
80CCC	Pension Fund [Maximum : Rs. 1,50,000	Individuals
80CCD(1)	Deduction available in respect of Employee's / Assesses Contribution to National Pension Scheme (NPS) [Section 80CCD(1)]	Individuals

80CCD(1B)	Additional Deduction of Rs. 50,000 is available in respect of Employee's / Assesses Contribution to National Pension Scheme (NPS) [Section 80CCD(1B)]	Individuals
80CCD(2)	Deduction available in respect of Employer's Contribution to National Pension Scheme (NPS) [Section 80CCD(2)]	Employees
80D	Deduction in respect of Health or Medical Insurance Premium	Individual/HUF
80DD	Deduction in respect of Maintenance Including Medical Treatment of a Dependent who is a Person with Disability	Resident Individual/ Resident HUF
80DDB	Deduction in respect of Medical Treatment , etc.	Resident Individual/ Resident HUF
80E	Payment of interest of Loan taken for higher studies	Individual
80EE	Deduction in respect of Interest on Loan taken for Residential House Property	Individual
80G	Deduction in respect of Donations to certain Funds, Charitable Institutions, etc. [Section 80G]	All Assesse

80GG	Deduction in respect of Rents Paid [Section 80GG]	Individual
80GGA	Deduction in respect of certain Donations for Scientific Research or Rural Development [Section 80GGA]	All assesses not having any income chargeable under the head 'Profits and gains of business or profession'
80GGB/ GGC	Contribution to Political Parties	
DEDUCTION UNDER CHAPTER VI-A IN RESPECT OF 'CERTAIN INCOMES'		
80-IA	Deduction in respect of Profit and Gains from Industrial Undertaking or Enterprises engaged in infrastructure Development [Section 80IA]	All Assesse
80-IAB	Deduction in respect of profits and gains by an undertaking or an enterprise engaged in development of Special Economic Zone (SEZ)	Developers
80-IAC	Special Provision in respect of Eligible Business of Eligible Start Up [Section 80-IAC] [W.e.f. A.Y. 2017-18]	Companies / LLPs

80-IB	Deduction in respect of Profit & Gain from certain Industrial Undertaking other than Infrastructure Development Undertaking [Section 80-IB]	All Assesse
80-IBA	Deduction in respect of Profits and Gains from Housing Projects [Section 80-IBA]	All Assesse
80-IC	Deduction in respect of Profits and Gains of Certain Undertaking or Enterprises in certain Special Category States. [Section 80-IC]	All Assesse
80-ID	Deduction in respect of Profits and Gains from Business of Hotels and Convention center in NCR	All Assesse
80-IE	Deduction in respect of certain undertaking in North-Eastern States	All Assesse
80-JJA	Deduction In Respect of Profit And Gains From Business of Collecting And Processing of Bio-Degradable Waste	All Assesse
80-JJAA	Deduction In Respect of Employment of New Employees [Section 80-JJAA] w.e.f. A.Y. 2017-18	All Assesse
80LA	Deduction in respect of certain incomes of Offshore Banking Units and International Financial Services Centre	Scheduled Banks

80P	Deduction in respect of income of Co-operative Societies	Co-operatives Societies
80PA	Deduction in respect of income of Farm Producer Companies [W.e.f. A.Y. 2019-20]	Producers Companies
80QQB	Deduction in respect of royalty income, etc., of authors of certain books other than text books [Maximum Rs. 3,00,000]	Resident Individuals
80RRB	Deduction in respect of royalty on patents [Maximum Rs. 3,00,000]	Resident Individuals
80TTA	Deduction in respect of interest on deposits in savings accounts to the maximum extent of Rs. 10,000	Individuals / HUF
80TTB	Senior citizen to be allowed a deduction of Rs. 50,000 on account of interest on deposits with Banks / co-operative bank / post office. [W.e.f. A.Y. 2019-20]	Senior Citizens
80U	Deduction in case of a person with disability [Maximum : Rs.1,25,000]	Resident Individuals

Illustration 7 [80 CCE]

The gross total income of Mr. Vinod for the A.Y.2021-22 is Rs. 8,00,000. He has made the following investments/payments during the F.Y.2020-21 –

Particulars	Rs.
(1) Contribution to PPF	1,10,000
(2) Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI	45,000
(3) Repayment of housing loan taken from Standard Chartered Bank	25,000
(4) Contribution to approved pension fund of LIC	1,05,000

Compute the eligible deduction under Chapter VI-A for the A.Y.2021-22.

Solution

Computation of deduction under Chapter VI-A for the A.Y.2021-22

Particulars	Rs.
Deduction under section 80C	
- Contribution to PPF	1,10,000
- Payment of tuition fees to Apeejay School, New Delhi, for education of his son studying in Class XI	45,000
- Repayment of housing loan	25,000
	1,80,000
Restricted to Rs. 1,50,000, being the maximum permissible deduction u/s 80C	1,50,000

Deduction under section 80CCC	
- Contribution to approved pension fund of LIC Rs. 1,05,000	1,05,000
	2,55,000
As per section 80CCE, the aggregate deduction under section 80C, 80CCC and 80CCD(1) has to be restricted to Rs. 1,50,000	
Deduction allowable under Chapter VIA for the A.Y. 2021-22	1,50,000

Illustration 2 [80 D]

Mr. Krishnan, aged 40 years, paid medical insurance premium of Rs. 22,000 during the P.Y. 2020-21 to insure his health as well as the health of his spouse and dependent children. He also paid medical insurance premium of Rs. 33,000 during the year to insure the health of his mother, aged 67 years, who is not dependent on him. He incurred medical expenditure of Rs. 20,000 on his father, aged 71 years, who is not covered under mediclaim policy. His father is also not dependent upon him. He contributed Rs. 6,000 to Central Government Health Scheme during the year. Compute the deduction allowable under section 80D for the A.Y. 2021-22.

Solution

Deduction allowable under section 80D for the A.Y.2021-22

Particulars	Rs.	Rs.
(i) Medical insurance premium paid for self, spouse and dependent children	22,000	
(ii) Contribution to CGHS	6,000	
	28,000	
restricted to		25,000
(iii) Mediclaim premium paid for mother, who is over 60 years of age	33,000	
(iv) Medical expenditure incurred for father, who is over 60 years of age and not covered by any insurance	20,000	
	53,000	
Restricted to		50,000
		75,000

Illustration 8 [80 DD]

Mr. X is a resident individual. He deposits a sum of Rs. 50,000 with Life Insurance Corporation every year for the maintenance of his handicapped grandfather who is wholly dependent upon him. The disability is one which comes under

the Persons with Disabilities (Equal Opportunities, Protection of Rights and Full Participation) Act, 1995. A copy of the certificate from the medical authority is submitted. Compute the amount of deduction available under section 80DD for the A.Y. 2021-22.

1) What will be the deduction if Mr. X had made this deposit for his dependant father?

Solution

Since the amount deposited by Mr. X was for his grandfather, he will not be allowed any deduction under section 80DD. The deduction is available if the individual assessee incurs any expense for a dependant disabled person. Grandfather does not come within the definition of dependant.

1) Since the expense was incurred for a dependant disabled person, Mr. X will be entitled to claim a deduction of Rs. 75,000 under section 80DD, irrespective of the amount deposited. In case his father has severe disability, the deduction would be Rs. 1,25,000.

Deduction in respect of donations to certain funds, charitable institutions etc. [Section 80G]

(1) **Eligible assessee:** An assessee who pays any sum as donation to eligible funds or institutions, is entitled to a deduction, subject to certain limitations, from the gross total income.

(2) **Quantum of deduction:** There are four categories of deductions. The following table gives the details of the institutions and funds to which donations can be made for the purpose of claiming deduction under section 80G, –

I	Donation qualifying for 100% deduction, without any qualifying limit
(1)	The National Defence Fund set up by the Central Government
(2)	Prime Minister's National Relief Fund.
(3)	Prime Minister's Armenia Earthquake Relief Fund
(4)	The Africa (Public Contributions-India) Fund
(5)	The National Children's Fund
(6)	The National Foundation for Communal Harmony
(7)	Approved University or educational institution of national eminence
(8)	Chief Minister's Earthquake Relief Fund, Maharashtra
(9)	Any fund set up by the State Government of Gujarat exclusively for providing relief to the victims of the Gujarat earthquake
(10)	Any Zila Saksharta Samiti constituted in any district for improvement of primary education in villages and towns and for literacy and post-literacy activities
(11)	National Blood Transfusion Council or any State Blood Transfusion Council whose sole objective is the control, supervision, regulation or encouragement in India of the services related to operation and requirements of blood banks

(12)	Any State Government Fund set up to provide medical relief to the poor
(13)	The Army Central Welfare Fund or Indian Naval Benevolent Fund or Air Force Central Welfare Fund established by the armed forces of the Union for the welfare of past and present members of such forces or their dependents.
(14)	The Andhra Pradesh Chief Minister's Cyclone Relief Fund, 1996
(15)	The National Illness Assistance Fund
(16)	The Chief Minister's Relief Fund or Lieutenant Governor's Relief Fund in respect of any State or Union Territory
(17)	The National Sports Fund set up by the Central Government
(18)	The National Cultural Fund set up by the Central Government
(19)	The Fund for Technology Development and Application set up by the Central Government
(20)	National Trust for welfare of persons with Autism, Cerebral Palsy, Mental Retardation and Multiple Disabilities
(21)	The Swachh Bharat Kosh, set up by the Central Government, other than the sum spent by the assessee in pursuance of CSR u/s 135(5) of the Companies Act, 2013

(22)	The Clean Ganga Fund, set up by the Central Government, where such assessee is a resident, other than the sum spent in pursuance of CSR u/s 135(5) of the Companies Act, 2013
(23)	The National Fund for Control of Drug Abuse
(24)	Prime Minister's Citizen Assistance and Relief in Emergency Situations Fund (PM Cares Fund)

II	Donation qualifying for 50% deduction, without any qualifying limit
(1)	The Jawaharlal Nehru Memorial Fund
(2)	Prime Minister's Drought Relief Fund
(3)	Indira Gandhi Memorial Trust
(4)	Rajiv Gandhi Foundation

III	Donation qualifying for 100% deduction, subject to qualifying limit
(1)	The Government or to any approved local authority, institution or association for promotion of family planning
(2)	Sum paid by a company as donation to the Indian Olympic Association or any other association/institution established in India, as may be notified by the Government for the development of infrastructure for sports or games, or the sponsorship of sports and games in India

IV	Donation qualifying for 50% deduction, subject to qualifying limit
(1)	Any Institution or Fund established in India for charitable purposes fulfilling prescribed conditions
(2)	The Government or any local authority for utilisation for any charitable purpose other than the purpose of promoting family planning
(3)	An authority constituted in India by or under any other law enacted either for dealing with and satisfying the need for housing accommodation or for the purpose of planning, development or improvement of cities, towns and villages, or both
(4)	Any Corporation established by the Central Government or any State Government for promoting the interests of the members of a minority community
(5)	for renovation or repair of Notified temple, mosque, gurdwara, church or other place of historic, archaeological or artistic importance or which is a place of public worship of renown throughout any State or States

(3) Qualifying limit: The eligible donations referred to in III and IV should be aggregated and the sum total should be limited to 10% of the adjusted gross total income. This would be the maximum permissible deduction. The donations qualifying for 100% deduction would be first adjusted from the maximum permissible deduction and thereafter 50% deduction of the balance would be allowed.

Steps for computation of qualifying limit

Step 1:	<p>Compute adjusted total income i.e., the GTI as reduced by the following:</p> <ul style="list-style-type: none"> i) Deductions under Chapter VI-A, except under section 80G ii) Short-term capital gain taxable under section 111A iii) Long-term capital gains taxable under sections 112 & 112A iv) Any income on which income-tax is not payable
Step 2:	Calculate 10% of adjusted total income
Step 3:	Calculate the actual donation, which is subject to qualifying limit (Total of Category III and IV donations, shown in the table above)
Step 4:	Lower of Step 2 or Step 3 is the maximum permissible deduction.
Step 5:	The said deduction is adjusted first against donations qualifying for 100% deduction (i.e., Category III donations). Thereafter, 50% of balance qualifies for deduction under section 80G.

(4) Other points:

- i) Where an assessee has claimed and has been allowed any deduction under this section in respect of any amount of donation, the same amount will not qualify for deduction under

any other provision of the Act for the same or any other assessment year.

- ii)** Donations in kind shall not qualify for deduction.
- iii)** No deduction shall be allowed in respect of donation of any sum exceeding Rs. 2000 unless such sum is paid by any mode other than cash.
- iv)** The deduction under section 80G can be claimed whether it has any nexus with the business of the assessee or not.
- v)** As per Circular No.2/2005 dated 12.1.2005, in cases where employees make donations to the Prime Minister's National Relief Fund, the Chief Minister's Relief Fund or the Lieutenant Governor's Relief Fund through their respective employers, it is not possible for such funds to issue separate certificate to every such employee in respect of donations made to such funds as contributions made to these funds are in the form of a consolidated cheque. An employee who makes donations towards these funds is eligible to claim deduction under section 80G. It is, hereby, clarified that the claim in respect of such donations as indicated above will be admissible under section 80G on the basis of the certificate issued by the Drawing and Disbursing Officer (DDO)/Employer in this behalf.

Illustration 9

Mr. Ganesh aged 58 years, has gross total income of Rs. 7,75,000 comprising of income from salary and house property. He has made the following payments and investments:

- i)** Premium paid to insure the life of her major daughter (policy taken on 1.4.2017) (Assured value Rs. 1,80,000) – Rs. 20,000.
- ii)** Medical Insurance premium for self – Rs. 12,000; Spouse – Rs. 14,000.
- iii)** Donation to a public charitable institution registered under 80G ` 50,000 by way of cheque.
- iv)** LIC Pension Fund – Rs. 60,000.
- v)** Donation to National Children’s Fund - Rs. 25,000 by way of cheque
- vi)** Donation to Jawaharlal Nehru Memorial Fund - Rs. 25,000 by way of cheque
- vii)** Donation to approved institution for promotion of family planning - Rs. 40,000 by way of cheque
- viii)** Deposit in PPF – Rs. 1,00,000

Compute the total income of Mr. Ganesh for A.Y. 2021-22.

Solution

Computation of Total Income of Mr. Ganesh for A.Y. 2021-22

Particulars	Rs.	Rs.
Gross Total Income		7,75,000
Less: Deduction under section 80C		

Deposit in PPF	1,00,000	
Life insurance premium paid for insurance of major daughter (Maximum 10% of the assured value Rs.1,80,000, as the policy is taken after 31.3.2012)	18,000	
	1,18,000	
Deduction under section 80CCC in respect of LIC pension fund	60,000	
	1,78,000	
As per section 80CCE, deduction under section 80C & 80CCC is restricted to		1,50,000
Deduction under section 80D		
Medical Insurance premium in respect of self and spouse	26,000	
Restricted to		25,000
Deduction under section 80G (See Working Note below)		87,500
Total income		5,12,500

Working Note: Computation of deduction under section 80G

	Particulars of donation	Amount donated (Rs.)	% deduction	Deduction u/s 80G (Rs.)
(i)	National Children's Fund	25,000	100%	25,000
(ii)	Jawaharlal Nehru Memorial Fund	25,000	50%	12,500
(iii)	Approved institution for promotion of family planning	40,000	100%, subject to qualifying limit	40,000
(iv)	Public Charitable Trust	50,000	50% subject to qualifying limit (See Note below)	10,000
				87,500

Note - Adjusted total income = Gross Total Income – Amount of deductions under section 80C to 80U except section 80G i.e., Rs. 6,00,000, in this case.

Rs. 60,000, being 10% of adjusted total income is the qualifying limit, in this case.

Firstly, donation of Rs. 40,000 to approved institution for family planning qualifying for 100% deduction subject to qualifying limit, has to be adjusted against this amount. Thereafter, donation to public charitable trust qualifying for

50% deduction, subject to qualifying limit is adjusted. Hence, the contribution of Rs. 50,000 to public charitable trust is restricted to 20,000 (being, Rs. 60,000 - Rs. 40,000), 50% of which would be the deduction under section 80G. Therefore, the deduction under section 80G in respect of donation to public charitable trust would be Rs. 10,000, which is 50% of Rs. 20,000.

TAX RATES FOR THE A.Y. 2021-22

Individual/HUF/Association of Persons/Body of Individuals/Artificial Juridical Person

In case of Super Senior citizen

Total Income Range	Rates of Income Tax
Up to Rs. 5,00,000	Nil
Rs. 5,00,001 to Rs. 10,00,000	20% of (Total income – Rs. 5,00,000)
Rs. 10,00,001 and above	Rs. 1,00,000 + 30% of (Total income – Rs. 10,00,000)

Super Senior Citizen means an individual who is resident in India and is of at least 80 years of age at any time during the relevant previous year (i.e. any resident person, male or female, born before 02-04-1941).

In case of Senior citizen

Total Income Range	Rates of Income Tax
Up to Rs. 3,00,000	Nil

Rs. 3,00,001 to Rs. 5,00,000	5% of (Total Income – Rs. 3,00,000)
Rs. 5,00,001 to Rs. 10,00,000	Rs. 10,000 + 20% of (Total income – Rs. 5,00,000)
Rs. 10,00,001 and above	Rs. 1,10,000 + 30% of (Total income – Rs. 10,00,000)

Senior Citizen means an individual who is resident in India and is of at least 60 years of age at any time during the relevant previous year. (i.e., a resident person, male or female, born on or after 02-04-1941 but before 02-04-1961)

In case of other Individual¹ / HUF / Association of Persons / Body of Individuals / Artificial Juridical Person

Total Income Range	Rates of Income Tax
Up to Rs. 2,50,000	Nil
Rs. 2,50,001 to Rs. 5,00,000	5% of (Total Income – Rs. 2,50,000)
Rs. 5,00,001 to Rs. 10,00,000	Rs. 12,500 + 20% of (Total income – Rs. 5,00,000)
Rs. 10,00,001 and above	Rs. 1,12,500 + 30% of (Total income – Rs. 10,00,000)

1. born on or after 02-04-1961 or non-resident individual

Rebates (Section 87A)

In order to provide tax relief to the individual tax payers who are in the 5% tax slab, section 87A provides a rebate from the tax payable by an assessee, being an individual resident in India, whose total income does not exceed **Rs. 500000**. The rebate shall be equal to the amount of income-tax payable on the total income for any assessment year or an amount of **Rs. 12500** whichever is less. However, rebate under section 87A is not available in respect of tax payable @10% on long-term capital gains taxable under section 112A.

Applicable to: Resident Individual

Conditions to be satisfied: Total income of the assessee does not exceed Rs. 5,00,000.

Quantum of Rebate: Lower of the following:

- (a) 100% of tax liability as computed above; or
- (b) Rs. 12,500/-

Illustration 10

Compute rebate u/s 87A in the following cases:

Particulars	Case 1	Case 2	Case 3	Case 4	Case 5	Case 6
Assessee	Individual	Individual	Senior Citizen	Senior Citizen	Individual	HUF
Residential	Resident	Resident			Non-	Resident

l status					Resident	
Total Income	Rs. 4,90,000	Rs. 5,12,000	Rs. 4,25,000	Rs. 5,40,000	Rs. 2,60,000	Rs. 2,65,000
Tax on above	Rs. 12,000	Rs. 14,900	Rs. 6,250	Rs. 18,000	Rs. 500	Rs. 750
Rebate u/s 87A	Rs. 12,000	Nil	Rs. 6,250	Nil	Nil	Nil
Reason		Total income exceeds Rs. 5 lacs		Total income exceeds Rs. 5 lacs	Assessee is non-resident	Assessee is not an individual
Tax after rebate	Nil	Rs. 14,900	Nil	Rs. 18,000	Rs. 500	Rs. 750

Surcharge:

Surcharge is an additional tax payable over and above the income-tax. Surcharge is levied as a percentage of income-tax. Surcharge at the following rate is also payable on tax as computed above after rebate u/s 87A.

Total Income	Rate of Surcharge
Total income does not exceed Rs. 50 lacs	Nil
Total income exceeds Rs. 50 lacs but does not	10% of tax

exceed Rs. 1 crore	
Total income exceeds Rs. 1 crore but does not exceed Rs. 2 crores	15% of tax
Total income exceeds Rs. 2 crores but does not exceed Rs. 5 crores	25% of tax*
Total income exceeds Rs. 5 crores	37% of tax*

* Where the total income includes dividend, any income chargeable u/s 111A and 112A, the surcharge on the amount of income-tax computed on that part of income shall not exceed 15%. In other words, surcharge higher than 15% is applicable only on tax on income other than dividend, income covered u/s 111A and 112A.

Health & Education Cess

Applicable on: All assessee

Rate of cess: 4% of Tax liability after Surcharge

Marginal Relief

To provide relaxation from levy of surcharge to a taxpayer where the total income exceeds marginally above Rs. 50 lakh or Rs. 1 crore or 2 crores or 5 crores, the concept of marginal relief is designed.

Condition: Total income exceeds Rs. 50,00,000 (or Rs. 1 crore or 2 crores or 5 crores)

Relief: Marginal relief is provided to ensure that the additional income tax payable including surcharge on excess of income over Rs. 50,00,000 or Rs. 1,00,00,000 or Rs. 2,00,00,000 or Rs.

5,00,00,000 is limited to the amount by which the income is more than Rs. 50,00,000 or Rs. 1,00,00,000 or Rs. 2,00,00,000 or Rs. 5,00,00,000.

Marginal relief = Calculated Surcharge - 70% (Income – Rs. 50,00,000)] (if positive)

Or

Marginal relief = [(Income tax + surcharge) on income] - [(Income tax on Rs. 50,00,000) + (Income – Rs. 50,00,000)]

Similar relief shall also be provided where income exceeds marginally above Rs. 1 crore or Rs. 2 crores or Rs. 5 crores. In that case, the aforesaid equation shall be changed accordingly.

Illustration 11

Compute tax liability of the assessee (52 years) whose total income is: (Case 1) Rs. 49,90,000 (Case 2) Rs. 50,10,000; (Case 3) Rs. 60,00,000

Particulars	Working	Case 1	Case 2	Case 3
Tax liability before Rebate	Rs. 2,50,000 * Nil	Nil	Nil	Nil
	Rs. 2,50,000 * 5%	12,500	12,500	12,500
	Rs. 5,00,000 * 20%	1,00,000	1,00,000	1,00,000
	Balance Income * 30%	11,97,000	12,03,000	15,00,000
Total		13,09,500	13,15,500	16,12,500

<i>Less:</i> Rebate u/s 87A	As income exceeds Rs. 5,00,000	Nil	Nil	Nil
Liability [A]		13,09,500	13,15,500	16,12,500
Add: Surcharge	B = [10% of (A)]	Nil	1,31,550	1,61,250
Tax and surcharge payable		13,09,500	14,47,050	17,73,750

Analysis of case (1) and case (2)

Increase in income	Rs. 20,000
Liability for surcharge increased	Rs. 1,31,550

Now, computation of tax liability is made after considering marginal relief:

Particulars	Working	Case 1	Case 2	Case 3
Liability [A]		13,09,500	13,15,500	16,12,500
Add: Surcharge	B = [10% of (A)]	Nil	1,31,550	1,61,250
Tax and surcharge		13,09,500	14,47,050	17,73,750
<i>Less:</i> Marginal relief	[(B) – {70% (50,10,000 – 50,00,000)}]	Nil	1,24,550	Nil
Effective Surcharge [C]		Nil	7,000	1,61,250

Liability after surcharge	[A + C]	13,09,500	13,22,500	17,73,750
Add: Health & Education cess	4% of above	52,380	52,900	70,950
Total	Rounded off u/s 288B	13,61,880	13,75,400	18,44,700

Tax point: The concept of marginal relief is not applicable in case of Cess.

An Individual / HUF can opt for alternative tax regime u/s 115BAC.

Firm or Limited Liability Partnership (LLP)

A partnership firm (including limited liability partnership) is taxable at the rate of 30%

Surcharge: 12% of income-tax (if total income exceeds Rs. 1 crore otherwise Nil)

Marginal Relief: Available

Health & Education Cess: 4% of tax liability after surcharge

Company

Company	Rate
In the case of a domestic company	

- Where its total turnover or gross receipts during the previous year 2018-19 does not exceed Rs. 400 crore	25%
- In any other case	30%
In the case of a foreign company	40%

Surcharge

Total Income	Domestic Company	Foreign Company
If total income exceeds Rs. 10 crore	12%	5%
If income exceeds Rs. 1 crore but does not exceed Rs. 10 crore	7%	2%
If income does not exceed Rs. 1 crore	Nil	Nil

Marginal Relief: Available at both points (i.e., income exceeds Rs. 1,00,00,000 or Rs. 10,00,00,000)

Health & Education Cess: 4% of tax liability after surcharge

Computation of Total Income of Individuals

Income-tax is levied on an assessee's total income. Such total income has to be computed as per the provisions contained in the Income-tax Act, 1961. The procedure for computation of total income for the purpose of levy of income-tax is detailed hereunder –

Step 1 – Determination of the residential status of the Assessee:

The residential status of a person has to be determined to ascertain which income is to be included in computing the total income.

- In case of an individual, the number of days of his stay in India during the relevant previous year and/or the earlier previous years would determine his residential status.
- An individual/HUF can be either a –
 - ✓ Resident and ordinarily resident
 - ✓ Resident but not ordinarily resident
 - ✓ Non-resident

Step 2 – Classification of income under different heads

There are five heads of income, namely, -

- Salaries,
- Income from house property,
- Profits and gains of business or profession
- Capital Gains
- Income from other sources

Step 3 – Exclusion of income not chargeable to tax:

There are certain incomes which are wholly exempt from income-tax e.g. agricultural income. These incomes have to be excluded while calculating Gross Total Income. The same time certain incomes are partially exempt from income tax e.g. House Rent Allowance, Education Allowance etc.. These incomes are

excluded only to the extent of the limits specified in the Act. The balance income over and above the prescribed limits would enter computation of total income and have to be classified under the relevant head of income.

Step 4 – Computation of income under each head:

Income is to be computed in accordance with the provisions governing a particular head of income. As per the rules certain deductions and allowances are allowed. These deductions are allowed while computing income under each head.

Step 5 – Clubbing of income of spouse, minor child etc.:

In case of individuals, income-tax is levied on a slab system on the total income. The tax system is progressive. That means if income increases the tax amount to be paid also increases. We can see that some taxpayers who have the higher income bracket have a tendency to divert some portion of their income to their spouse, minor child etc. to minimize their tax burden. In order to prevent such tax avoidance, clubbing provisions have been included in the Income-tax Act. As per the provisions of income tax act income arising to certain persons (like spouse, minor child etc.) have to be included in the income of the person when it is seen that the income is diverted for avoiding tax.

Step 6 – Set-off or carry forward and set-off of losses:

An individual may have different sources of income under the same head of income. He might have profit from one source and loss from the other. As per the provision we can set off the losses under one head or from other heads or can carry forwards for the coming assessment years. All provisions related to that should be considered while computing total income of the Assessee.

Step 7 – Computation of Gross Total Income:

The final figures of income or loss under each head of income, after allowing the deductions, allowances and other adjustments, are then aggregated, after giving effect to the provisions for clubbing of income and set-off and carry forward of losses, to arrive at the gross total income.

Step 8 – Deductions from Gross Total Income:

There are deductions prescribed from gross total income. The allowable deductions in case of an individual are deductions under sections 80C, 80CCC, 80CCD, 80CCF, 80D, 80DD, 80DDB, 80E, 80G, 80GG, 80GGA, 80GGC, 80-IA, 80-IAB, 80-IB, 80-IC, 80-ID, 80-IE, 80JJA, 80QQB, 80RRB, 80TTA and 80U. These deductions are allowed as per the rules prescribed in the income tax act.

Step 9 – Compute Total income:

After allowing all deductions allowable, we can compute total income.

Step 10 – Application of the rates of tax on the total income:

For individuals, there is a slab rate and basic exemption limit. At present, the basic exemption limit is Rs. 2,50,000. This means that no tax is payable by individuals with total income of up to Rs. 2,50,000. The rates of tax and level of total income are as under –

Level of total income Rate of tax

A) Normal Rates:

	Level of total income	Rate of tax
(i)	where the total income does not exceed Rs. 2,50,000	NIL
(ii)	where the total income exceeds Rs. 2,50,000 but does not exceed Rs. 5,00,000	5% of the amount by which the total income exceeds Rs. 2,50,000
(iii)	where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000;	Rs. 12,500 plus 20% of the amount by which the total income exceeds Rs. 5,00,000
(iv)	where the total income exceeds Rs. 10,00,000	Rs. 1,12,500 plus 30% of the amount by which the total income exceeds Rs. 10,00,000

B) Individual- Senior citizen (60 years or more but less than 80 years):

	Level of total income	Rate of tax
(i)	where the total income does not exceed Rs. 3,00,000	NIL
(ii)	where the total income exceeds Rs. 3,00,000 but does not exceed Rs. 5,00,000	5% of the amount by which the total income exceeds Rs. 3,00,000
(iii)	where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000;	Rs. 10,000 plus 20% of the amount by which the total income exceeds Rs. 5,00,000

(iv)	where the total income exceeds Rs. 10,00,000	Rs. 1,10,000 plus 30% of the amount by which the total income exceeds Rs. 10,00,000
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C) Individual- Super senior citizen (80 years or more):

	Level of total income	Rate of tax
(i)	where the total income does not exceed Rs. 5,00,000	NIL
(ii)	where the total income exceeds Rs. 5,00,000 but does not exceed Rs. 10,00,000;	20% of the amount by which the total income exceeds Rs. 5,00,000
(iv)	Where the total income exceeds Rs. 10,00,000	Rs. 1,00,000 plus 30% of the amount by which the total income exceeds Rs. 10,00,000

Step 10 – Rebate under section 87A (where total income Rs. 5,00,000)/ Surcharge (where total income >Rs. 50,00,000)

Step 11– Health and Education cess (HEC) on Income-tax

The income-tax is to be increased by health and education cess@4% on income-tax plus surcharge/ minus rebate under section 87A, wherever applicable. This cess is payable by all assesseees who are liable to pay income-tax irrespective of their level of total income.

Step 12 – Advance tax and tax deducted at source

Although the tax liability of an assessee is determined only at the end of the year, tax is required to be paid in advance in four installments on the basis of estimated income i.e., on or before 15th June, 15th September, 15th December and 15th March. However, residents opting for presumptive taxation scheme can pay advance tax in one installment on or before 15th March instead of four installments. In certain cases, tax is required to be deducted at source from the income by the payer at the rates prescribed in the Income-tax Act, 1961 or the Annual Finance Act. Such deduction should be made either at the time of accrual or at the time of payment, as prescribed by the Act.

Step 13: Tax Payable/Tax Refundable

After adjusting the advance tax and tax deducted at source, the assessee would arrive at the amount of net tax payable or refundable. Such amount should be rounded off to the nearest multiple of Rs. 10 as per section 288B.

The assessee has to pay the amount of tax payable (called self-assessment tax) on or before the due date of filing of the return. Similarly, if any refund is due, assessee will get the same after filing the return of income.

Illustration 12

From the following particulars furnished by Mr. Aravind for the year ended 31.3.2021, you are requested to compute his total income and tax payable for the assessment year 2021-22.

a) Mr. Aravind retired on 31.12.2020 at the age of 58, after putting in 25 years and 9 months of service, from a private company at Mumbai.

b) He was paid a salary of Rs. 25,000 p.m. and house rent allowance of Rs. 6,000 p.m. He paid rent of Rs. 6,500 p.m. during his tenure of service.

c) On retirement, he was paid a gratuity of Rs. 3,50,000. He was covered by the payment of Gratuity Act. Mr. Aravind had not received any other gratuity at any point of time earlier, other than this gratuity.

d) He had accumulated leave of 15 days per annum during the period of his service; this was encashed by Mr. Aravind at the time of his retirement. A sum of Rs. 3,15,000 was received by him in this regard. His average salary may be taken as Rs. 24,500. Employer allowed 30 days leave per annum.

e) After retirement, he ventured into textile business and incurred a loss of Rs. 80,000 for the period upto 31.3.2021.

f) Mr. Aravind has deposited Rs. 1,00,000 in public provident fund.

Solution

Computation of total income of Mr. Aravind for A.Y.2021-22

Particulars	Rs.	Rs.
Income from Salaries		
Basic salary (Rs. 25,000 x 9 months)		2,25,000
House rent allowance:		
Actual amount received (Rs. 6,000 x 9 months)	54,000	

<i>Less</i> : Exemption under section 10(13A)(Note 1)	36,000	18,000
Gratuity:		
Actual amount received	3,50,000	
<i>Less</i> : Exemption under section 10(10)(ii) (Note 2)	3,50,000	-
Leave encashment:		
Actual amount received	3,15,000	
<i>Less</i> : Exemption under section 10(10AA) (Note 3)	2,45,000	70,000
Gross Salary		3,13,000
<i>Less</i> : Standard deduction under section 16(ia)		50,000
		2,63,000
Profits and gains of business or profession		
Business loss of Rs. 80,000 to be carried forward as the same cannot be set off against salary income		Nil
Gross Total income		2,63,000
<i>Less</i> : Deduction under section 80C		
Deposit in Public Provident Fund		1,00,000
Total income		1,63,000

Tax on total income		Nil
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Notes:

1) As per section 10(13A), house rent allowance will be exempt to the extent of least of the following three amounts:

	Rs.
(i) HRA Actually Received (Rs. 6000 × 9)	54000
(ii) Rent paid in excess of 10% of Salary (Rs. 6500 – Rs. 2500) × 9 Months	36000
(iii) 50% Salary	112500

2) Gratuity of Rs. 3,50,000 is exempt under section 10(10)(ii), being the minimum of the following amounts:

	Rs.
(i) Actual amount received	3,50,000
(ii) Half month salary for each year of completed service [(Rs. 25,000 × 15/26) × 26 years]	3,75,000
(iii) Statutory limit	20,00,000

3) Leave encashment is exempt upto the least of the following:

	Rs.
(i) Actual amount received	3,15,000
(ii) 10 months average salary (Rs. 24,500 × 10)	2,45,000

(iii) Cash equivalent of unavailed leave calculated on the basis of maximum 30 days for every year of actual service rendered to the employer from whose service he retired (See Note 4 below)	3,06,250
(iv) Statutory limit	3,00,000

4) Since the leave entitlement of Mr. Aravind as per his employer's rules is 30 days credit for each year of service and he had accumulated 15 days per annum during the period of his service, he would have availed/taken the balance 15 days leave every year.

Leave entitlement of Mr. Aravind on the basis of 30 days for every year of actual service rendered by him to the employer	$= 30 \text{ days/year} \times 25 = 750 \text{ days}$
Less: Leave taken /availed by Mr. Aravind during the period of his service	$= 15 \text{ days/year} \times 25 = 375 \text{ days}$
Earned leave to the credit of Mr. Aravind at the time of his retirement	375 days
Cash equivalent of earned leave to the credit of Mr. Aravind at the time of his retirement	$= 375 \times \text{Rs. } 24,500 / 30 = \text{Rs. } 3,06,250$

Illustration 12

Mr. Philip has following salary structure –

Particulars	Rs.
Basic salary	8,000 p.m.
Dearness allowance	1,000 p.m.
Entertainment allowance	500 p.m.
Children education allowance (for 3 children)	1,000 p.m.
Contribution to RPF by his employer	10,000 p.a.
Own contribution to RPF	10,000 p.a.

His employer also provides rent-free furnished accommodation at Kolkata for which his employer paid Rs. 12,000 p.m. (Rs. 2,000 for furniture and Rs. 10,000 for accommodation). However, he is charged Rs. 1,000 p.m. for accommodation and Rs. 1,000 p.m. for furniture. He also supplied following details for computing total income –

- a) Fixed Deposit interest Rs. 42,000
- b) Rent received Rs. 1,50,000 from a house at Mumbai
- c) Income from royalty on a book (artistic nature) @ 20% Rs. 3,20,000
- d) He contributed Rs. 5,000 to approved scientific research association
- e) He contributed Rs. 10,000 to a political party
- f) Interest on Government securities Rs. 14,000
- g) Investment in PPF Rs. 25,000

h) His date of birth is 07-09-1979.

Solution

Computation of total income of Mr. Philip for A.Y.2021-22

Particulars	Amount	Amount	Amount	Amount
Income from Salaries				
Basic			96000	
Allowances				
Dearness Allowance		12000		
Entertainment Allowance		6000		
Children Education Allowance	12000			
Less: Exempted (Rs. 100 * 12 * 2)	2400	9600	27600	
Perquisites				
Rent free furnished accommodation				
- For accommodation, lower of 15% of salary (W.Note 1) or rent paid	18540			
- For furniture	24000			
	42540			

Less: Rent paid for accommodation and furniture	24000	18540	18540	
Employer's contribution to RPF		10000		
Less: Exempted [12% of salary (W.Note 1)]		12960	Nil	
			142140	
Less: Standard Deduction u/s 16(ia)			50000	92140
Income from House Property				
Gross Annual Value (being rent received)			150000	
Less: Municipal tax paid			Nil	
Net Annual Value (NAV)			150000	
Less: Deduction u/s				
24(a) Standard Deduction @ 30% of NAV		45000		
24(b) Interest on loan		Nil	45000	105000
Income from Other Sources				
Fixed Deposit interest			52000	

Royalty income		320000	
Interest on Government securities		14000	386000
Gross Total Income			583140
Less: Deduction u/s			
80C: Own contribution to RPF	10000		
Contribution to PPF	25000	35000	
80GG (House rent paid) being minimum of			
a) Rs. 5,000 p.m. \times 12	60000		
b) 25% of Adjusted GTI (W.Note 2)	73285		
c) Rent paid over 10% of Adjusted GTI (W.Note 2) (12000 - 29314)	Nil	Nil	
80GGA: Donation to scientific research association		5000	
80GGC: Contribution to political party		10000	
80QQB: Royalty income being minimum of			
a) 100% of income	32000		

		0		
b) 15% of sale value of the book $[(3,20,000/20) \times 15]$		240000		
c) Statutory amount		300000	240000	(290000)
Total Income				293140

Working Note

1) Salary for the purpose of –

Particulars	Accommodation	RPF
Basic salary	96,000	96,000
Dearness allowance	12,000	12,000
Entertainment allowance	6,000	-
Children Education allowance	9,600	-
Total	1,23,600	1,08,000

2) **Adjusted GTI** = Gross taxable income – Long term capital gain – STCG being covered by sec. 111A – All deduction under 80's other than sec. 80GG – Income u/s 115A, etc.

= Rs. 5,83,140 – Rs. (35,000 + 5,000 + 10,000 + 2,40,000) = Rs. 2,93,140

Module II

INCOME TAX AUTHORITIES

The Income-tax Act contains provisions specifying the procedure relating to the appointment of the various income-tax authorities, their powers, functions, jurisdiction and control. In addition to these the Income-tax Department follows the system of functional allocation and distribution of work with a view to specialising and concentrating in the various areas of income tax assessment, procedure, collection, recovery, refund, appeals, etc.

Appointment of Income-tax Authorities (Section 117)

The Central Government may appoint such persons as it thinks fit to be income-tax authorities. Where an income-tax authority is authorised by the Board, it may appoint such executive or ministerial staff as may be necessary to assist it in the execution of its function.

Control of Income-tax Authorities (Section 118)

The Board (CBDT) is empowered to control the income-tax authorities. It may notify that any income-tax authority will be sub-ordinate to such other income-tax authority or authorities as may be specified in the notification.

Jurisdiction of Income-tax Authorities (Section 120)

Income-tax authorities are required to exercise or perform such powers or functions as are assigned to them by the Board. Any

income-tax authority, being an authority higher in rank, may, if so directed by the Board exercise the powers and performs the functions of the income-tax authority lower in rank and any such direction issued by the Board. The Board may authorise any other income-tax authority to issue orders in writing for the exercise of the powers and performance of the functions by all or any of the income-tax authority who are subordinate to it. While issuing such directions, the Board or any other income-tax authority authorised by it may take into account

- i) territorial area,
- ii) persons or classes of persons,
- iii) incomes or classes of income, and
- iv) cases or classes of cases.

Classes of Income-tax Authorities (Sec. 116)

The following are the income-tax authorities who are statutorily empowered to administer the law of Income-tax:

- (i) The Central Board of Direct Taxes [C.B.D.T]
- (ii) Directors-General of Income-tax/Chief Commissioners of Income-tax/ Principal Commissioners of Income-tax
- (iii) Directors of Income-tax / Commissioners of Income-tax / Commissioners of Income-tax (Appeals).
- (iv) Additional Directors of Income-tax/Additional Commissioners of Income-tax/Additional Commissioners of Income-tax (Appeals)

- (v) Joint Directors of Income tax or Joint Commissioners of Income-tax.
- (vi) Deputy Directors of Income-tax or Deputy Commissioners of Income-tax or Deputy Commissioners of Income-tax (Appeals).
- (vii) Assistant Directors of Income-tax or Assistant Commissioners of Income-tax.
- (viii) Income-tax (Assessing) Officers.
- (ix) Tax Recovery Officers.
- (x) Inspectors of Income-tax.

The Central Board of Direct Taxes (CBDT)

1) Appointment and Working of the Board: The Central Board of Direct Taxes was created under the Central Boards of Revenue Act, 1963. The Board in its working is closely associated with the Ministry of Finance.

2) Jurisdiction: It is the topmost executive authority in the sphere of direct taxes. Its powers of administration supervision and control extend over the whole department.

3) Powers:

i) Power to make Rules: It has the power to make rules for carrying out the purposes of this Act. The Rules may be made for whole or any part of India. (Under Section 295)

ii) To issue instructions: It may issue orders, instructions and directions to all officers and persons employed in the execution of the Act (Under Section 119).

iii) Power to relax mandatory provisions: The Board is empowered to relax the provision relating to the charge of mandatory interest for defaults in deduction of tax at source, or payment of such tax or payment of advance tax or interest for defaults in furnishing return or interest for defaults in payment of advance tax or assessment and recovery of tax. The Board is also empowered to relax the provisions relating to the computation of total income and deductions to be made in computing total income in cases of genuine hardship. It can be done by a general or special order and for reasons to be specified therein.

iv) Power to admit belated refund application: To avoid genuine hardship in any case or class of cases, the Board may authorise any income-tax authority, not being Commissioner (Appeals) to admit belated application or claim for any exemption, deduction, refund or any other relief (Section 119)

v) Power to decide jurisdiction: The Board is empowered to decide jurisdictional matters of any income tax authority and assign to them such functions as are to be performed by them (Section 120).

vi) Power to disclose information: The Board may disclose information relating to any assessee, to any officer, authority, or body performing any functions under any tax law relating to the imposition of any tax, duty or cess or dealing in foreign exchange if it considers such disclosure in public interest. The Board may also authorise any other income-tax authority to disclose such information. The provision is intended to facilitate exchange of information about tax evaders. (Section 138).

Director-General /Principal Director-General /Chief Commissioner of Income-Tax

- 1) **Appointment:** Central Government.
- 2) **Jurisdiction:** determined by CBDT, keeping in view the area, persons, incomes and cases.
- 3) **Powers :**
 - i) **To appoint an income-tax authority below the rank of an Assistant Commissioner (Section 117):** If so authorised by the Central Government a Director-General or Director may appoint an income- tax authority below the rank of Assistant Commissioner.
 - ii) **To delegate the powers of Assessing Officer to Joint Commissioner (Section 120):** Where Director-General or Director is so authorised by the Board, he may delegate the powers and functions of the Assessing Officer to Joint Commissioner.
 - iii) **To transfer cases (Section 127):** The Director-General may transfer any case from one or more Assessing Officers subordinate to him to any other Assessing Officer also subordinate to him.
 - iv) **Enquiry into concealment (Section 131)** If the Director-General or Director or Deputy Director or Assistant Director has reason to suspect that any income has been concealed, or is likely to be concealed, by any person or class of persons, within his jurisdiction, he is empowered to make any enquiry or investigation relating thereto notwithstanding that no proceedings with respect to such person or class of persons are pending before him.

v) Search and seizure (Section 132): Where the Director-General/ Director/Chief Commissioner/ Commissioner in consequence of information in his possession is empowered to authorise any Deputy Director, Deputy Commissioner, Assistant Director or Assessing Officer to enter and search any building, place, vessel, vehicle or aircraft, where he has reason to suspect about their availability and seize any such books of accounts, other documents, money, bullion, jewellery or other valuable article or thing where any involvement in tax frauds are present.

vi) To requisition books of account/Assets etc. (Section 132A): Where any books of account or documents have been taken into custody by any officer or authority under any other law and the Director General or Director or the Chief Commissioner or Commissioner, in consequence of information in his possession he may authorise any Deputy Director, Deputy Commissioner, Assistant Director, Assistant Commissioner or Income-tax Officer to require such officer or authority under any other law to deliver such books of account or documents or such assets to the requisitioning officer under income-tax law. On a requisition being made, such officer or authority under any other law is required to deliver such books of accounts or documents or assets to the requisitioning officer either forthwith or after such time when it is no longer necessary to retain them in his custody.

vii) To make any enquiry (Section 135): The Director-General or Director is competent to make any enquiry under this Act.

Commissioner/Director/Additional Commissioner of Income-Tax

1) Appointment: Central Government

2) Jurisdiction: Determined by CBDT, keeping in view the area, persons, incomes and cases.

3) Powers:

i) To appoint an income-tax authority below the rank of Assistant Commissioner (Section 117): If so authorised by the Central Government, a Chief Commissioner or Commissioner may appoint an income-tax authority below the rank of Assistant Commissioner.

ii) To delegate the powers of Assessing Officer to Deputy Commissioner (Sec 120): Where Chief Commissioner or Commissioner is so authorised by the Board, he may delegate the powers and functions of the Assessing Officer to Joint Director or Joint Commissioner.

iii) To transfer case (Section 127): The Chief Commissioner or Commissioner is empowered to transfer any case from any Assessing Officers to any other Assessing Officer or Assessing Officers.

iv) Power regarding discovery, production of evidence etc. (Section 131): The Chief Commissioner/ Commissioner has the powers in respect of discovery and inspection, compelling production of books of accounts and other documents before him for such time as he thinks fit.

v) Search and seizure (Section 132): Like Director-General or Director, the Chief Commissioner or Commissioner of Income-tax has also got the powers of search and seizure.

vi) To requisition books of accounts etc. (Section 132A): Like Director-General or Director of Income tax, the Chief Commissioner or Commissioner is also vested with the power to requisition books of accounts.

vii) Power of survey (Section 133A): An income-tax authority may enter any office, or any other place for the purpose of verifying whether tax has been deducted or collected at source in accordance with the relevant provisions. Provided that such place is within the limits of the area assigned to him.

viii) To make any enquiry (Section 135): The Chief Commissioner or Commissioner is competent to make any enquiry under this Act.

ix) Disclosure of information respecting assesses (Section 138): Where a person makes an application to the Chief Commissioner or Commissioner in the prescribed form for any information relating to any assessee in respect of any assessment, he may furnish the information asked for in respect of that assessment if he satisfied that such disclosure is in public interest.

x) To sanction reopening of the assessment after the expiry of four years (Sec 151): The assessment of an income which has escaped assessment can be reopened after the expiry of four years from the end of the relevant assessment year only if the Chief Commissioner or Commissioner has sanctioned such reopening.

xi) To approve withholding of refund in certain cases (Section 241): Where any proceeding is pending against the assessee and the Assessing Officer is of the opinion that the grant of the refund may adversely affect the revenue, the Chief Commissioner or Commissioner may authorise the Assessing Officer to withhold the refund till such time as the Chief Commissioner or Commissioner may determine.

xii) Set-off of refund against arrears of tax (Section 245): The Chief Commissioner or Commissioner is empowered to set

off the amount of refund or any part thereof due to any person against the arrears of the tax due from such person. Any intimation in writing to this effect should be given to such person.

xiii) To direct the Assessing Officer to prefer appeal to the Tribunal against A.A.C.'s order (Section 253): The Commissioner may, if he objects to any order passed by a Commissioner (Appeals), direct the Assessing Officer to appeal to the Appellate Tribunal against the order.

xiv) To revise any order passed by the Assessing Officer which is prejudicial to revenue (Section 263): The Commissioner may revise any order passed by the Assessing Officer which is prejudicial to the interest or revenue.

xv) Revision of any order passed by a subordinate authority on application by the assessee or suomotu (Section 264): The Commissioner may revise either on his own motion or on an application made by the assessee within the prescribed time for such revision, any order passed by an authority subordinate to him.

Commissioner/Director/Additional Commissioner of Income-Tax

1) Appointment: Central Government.

2) Jurisdiction: Determined by CBDT, keeping in view the area, persons, incomes and cases.

3) Powers:

i) Power regarding discovery, production of evidence (Section 131): Like Chief Commissioner or Commissioner, the

power regarding discovery, production of evidence etc., can also be exercised by the Commissioner (Appeals).

ii) Power to call for information (Section 133): The Commissioner of Income-tax may ask person to furnish information regarding the details submitted by the assessee.

iii) Power to inspect register of companies (Section 134): The Commissioner (Appeals) may inspect and, if necessary, take copies of any register of members, debenture holders or mortgagees of any company or of any entry in such register.

iv) Set-off of refund against arrears of tax (Section 245): The Commissioner (Appeals) is empowered to set off the amount of refund or any part thereof due to any person against the arrears of tax due from such person. Intimation in writing to this effect should be given to such person.

v) Disposal of appeal (Section 251): In disposing of an appeal, the Commissioner (Appeals) has several powers regarding the decisions taken by assessing officer to correct and make changes if required.

vi) Imposition of penalty (Section 271): The Commissioner (Appeals) may impose penalty for not producing the books of accounts or other documents or for concealment of income.

Joint Commissioner or Joint Directors of Income Tax

1) Appointment: Central Government

2) Jurisdiction: Determined by CBDT or any other authority so authorised.

3) Powers:

- i)** He is empowered to accord sanction to levy additional income tax on companies in which public are not substantially interested.
- ii)** He may be authorised by the board or Chief Commissioner to exercise the powers of assessing officers.
- iii)** He has the power to cancel the registration of a firm which is not genuine.
- iv)** He has the power to issue instructions to assessing officer to revise an order issued by income tax officer, if he has received an application from assessee regarding a pending case.

Assessing Officer or Income Tax Officer

The assessing officer is the most important authority of income tax department since he is the primary authority to initiate assessment proceeding. He is the only to collect tax and primary coming in contact with the public.

Jurisdiction: The jurisdiction of assessing officer is determined by CBDT, considering the territorial area, income, persons and cases. The assessing officer shall perform his function in his jurisdiction as the above mentioned authorities may instruct.

Powers:

- 1) Power of Civil Court.** Assessing officer will have the power of civil court when trying to suit in respect of the following,
 - (a)** Discovery and Inspection.

(b) Enforcing the attendance of any person and examining him under oath.

(c) Compelling a person to produce books of accounts and other documents.

(d) Issuing commissions.

2) Power of Search and Seizure. The assessing officer have the right to search any building, place, vessel, vehicle or aircraft and seize books of account, other documents, money, bullion, jewellery or other valuable articles or things.

3) Power of assessment. The assessing officer have the following powers relating to assessment

(a) Power regarding self-assessment.

(b) Power of making regular assessment and best judgement assessment.

(c) Power to reopen assessment.

(d) Power to reopen an assessment in case income has escaped assessment.

(e) Power to treat a person as agent.

(f) Power to assess a person leaving India.

4) Power to call for information. Assessing officer has the power to call for necessary information from firm and H.U.F.

5) Power of Survey. An assessing officer may enter any place where business or profession is carried on, if such place is within the limits of his jurisdiction.

6) Power to inspect Registers of Companies. Assessing officer can inspect and take copies of any register of members, debenture holders, and mortgagees of company.

Income Tax Inspector

They are appointed by Chief Commissioner or commissioner of income tax and are subordinate to Assessing Officers. They assist assessing officers in performing their duties. They have the power to inspect books of account and other documents, place marks of identification and to take statements at any function, ceremony or event.

Advance payment of tax. (Sec 207-219)

Advance payment of tax is the process of paying income tax in a financial year on estimated income which is to be assessed in the subsequent assessment year. It follows the doctrine known as pay as you earn scheme.

Who is liable to pay?

It is obligatory for an assessee to pay advance tax where the advance tax payable is Rs.10,000 or more (Section 208). In order to reduce the burden on senior citizens (above age 60) exemption from payment of advance tax is given if he is not having any income chargeable under the head “Profits and gains of business or profession”

The computation of advance tax liability, under different situations, is to be done as follows:

Due Dates for Payment of Advance Tax (Sec 4)

Particulars	In case of corporate assesseees	In case of non-corporate assesseees
On or before June 15 of the Previous year	Upto 15% of the Advance Tax due
On or before September 15 of the previous year	Upto 45% of the Advance Tax due as reduced by amount paid in earlier instalments	Upto 30% of the advance tax payable
On or before December 15 of the previous year	Upto 75% of the Advance Tax due as reduced by amount paid in earlier instalments	Upto 60% of the advance tax as reduced by amount paid payable in earlier instalments
On or before March 15 of the previous year.	Upto 100% of the Advance Tax due as reduced by amount paid in earlier instalments.	Upto 100% of the advance tax payable as reduced by amount paid in earlier instalments.

Any payment of advance tax payable made before March 31 shall be treated as advance tax paid during the financial year. In case of public holiday or bank holiday, date of payment automatically falls in the next working day and for that delay.

Tax to be computed at the prevailing rate on the current income of the assessee, in a financial year.

Procedure of Collection of Advance Tax under Notice

- i. Due date for payment of Tax (sec 220):** Any amount of tax other than advance tax specified as payable in a notice of demand shall be paid within 30 days.
- ii. Reduction of time limit:** if the assessing officer has any reason to believe that it would be detrimental to revenue if the full 30 days period is allowed, he may reduce the period to less than 30 days.
- iii. Extension of time limit:** the assessing officer may extend the time limit on the basis of application received by the assessee to pay the tax demanded.

Role of Assessing Officer in relation to Advance Payment of Tax

An Assessing Officer can order payment of advance tax if the following conditions are satisfied:

- i)** The assessee has already been assessed by way of regular assessment in respect of total income of any previous year.
- ii)** Failure to pay advance tax by such assessee, in spite of legal obligation.
- iii)** The Assessing officer is of the opinion that such person is liable to pay advance tax on current year's income.

- iv) The order must specify the amount of advance tax and instalments in which advance tax has to be paid.
- v) Such order may be passed during the previous year but not later than last day of February.
- vi) The order must be made in writing.

The assessee can pay advance tax at a rate lower than assessment made by the Assessing Officer and the department cannot object to such assessment, but the assessee has to furnish his own estimate of lower current income.

The Assessing Officer will find out the current income on the following basis:

- (i) Total income of the latest previous year in respect of which the assessee has been assessed by way of regular assessment;
- (ii) The total income returned by the assessee for any previous year subsequent to the previous year for which regular assessment is made. Whichever is higher, on receipt of the order from assessing officer the assessee have to pay the advance tax accordingly.

Assessee in default: The assessee shall be deemed to be in default if the amount specified in the notice is not paid within the time allowed. The amount of default will be the amount outstanding.

Consequences of Non-Payment (Assessee in Default)

- i. **Interest for belated payment of tax:** The assessee shall be liable to pay a **simple interest @ 1% per month.**

ii. Penalty: The assessing officer may direct the assessee to pay a penalty not exceeding the amount of tax in arrears. In case the assessee proves to the satisfaction of assessing officer that the default was for good and sufficient reasons, no penalty shall be levied.

Recovery of Tax

i. Certificate of recovery: when an assessee makes default, the recovery officer may draw up a statement under his signature in Form no. 57 specifying the amount of arrears due from the assessee, such a statement is called certificate of recovery.

ii. Modes of recovery of tax (sec 222): The amount specified in the certificate may be recovered by any one or more of the following modes.

- a) Attachment and sale of assessee's movable property.
- b) Attachment and sale of assessee's immovable property.
- c) Arrest of the assessee and his detention in prison.
- d) Appointing a receiver for the management of assessee's movable and immovable properties.

iii. Other modes of recovery

- a) Recovery through state government.
- b) Recovery of tax in pursuance of agreements with foreign countries.
- c) Recovery from the future salary payable to the defaulting assessee.

Deduction of Tax at Source (TDS)

Any person responsible for making payment of certain category of incomes is liable to deduct tax at source at an appropriate occasion. The IT law prescribes time when the TDS is to be made, rate at which it should be made, and when TDS should be paid to the government.

Following chart shows the TDS rates and it's applicability in important cases-

Particulars	TDS Rate
Section 192: Payment of salary Section 192A: Premature withdrawal from EPF	Normal Slab Rate 10%
Section 193: Interest on securities.	
(a) any security of the Central or State Government;	10%
(b) any debentures or securities for money issued by any local authority or a corporation established by a Central, State or Provincial Act;	10%
(c) any debentures (listed on a recognised stock exchange) issued by a company where such debentures are ;	10%
(d) interest on any other security	10%

Section 194: Payment of any dividend	10%
Section 194A: Income in the form of interest (other than interest on securities).	10%
Section 194B: Income by way of lottery winnings, card games, crossword puzzles, and other games of any type	30%
Section 194BB: Income by way of horse race winnings	30%
Section 194C: Payment to contractor/sub-contractor. (a) Individuals/HUF (b) Others	1% 2%
Section 194D: Insurance commission	5%
Section 194DA: Payment of any sum in respect of a life insurance policy w.e.f. 1 st September 2019, the insurer shall deduct tax (TDS) on the income portion comprised in the insurance pay-out.	5%
Section 194EE: Payment of amount standing to the credit of a person under National Savings Scheme	10%

(NSS)	
Section 194F: Payment due to repurchase of a unit by Unit Trust of India (UTI) or a Mutual Fund	20%
Section 194G: Payments such as commission, etc., on the sale of lottery tickets	5%
Section 194H: Commission or brokerage	5%
Section 194-I: Rent on	
(a) Plant and Machinery	2%
(b) Land/building/furniture/fitting w.e.f 1st April 2019, tax deduction limit on rent is increased to Rs 2.4 lakhs p.a. from Rs 1.8 lakhs p.a.	10%
Section 194-IA: Payment in consideration of transfer of certain immovable property other than agricultural land.	1%
Section 194-IB: Rent payment by an individual or HUF not covered u/s. 194I	5%
Section 194-IC: Payment under Joint Development Agreements (JDA) to Individual/HUF	10%
Section 194J: Any sum paid by way of:	
(a) Fee for professional services;	10%

(b) Remuneration/fee/commission to a director;	10%
(c) For not carrying out any activity in relation to any business;	10%
(d) For not sharing any know-how, patent, copyright etc.	10%
(e) Fee for technical services, and	2%
(f) Royalty towards the sale or distribution, or exhibition of cinematographic films.	2%
(g) Fees for technical services but payee is engaged in the business of operation of call centre	2%
Section 194K: Payment of any income for units of a mutual fund as per section 10(23D) or from the administrator or specified company	10%
Section 194LA: Payment in respect of compensation on acquisition of certain immovable property.	10%
Section 194LBA(1): Certain income distributed by a business trust to its unit holder	10%
Section 194LBB: Certain income paid in respect of units of an investment fund to a unit holder.	10%
Section 194LBC: Income from investment in	

securitisation fund	
(a) Individual and HUF	25%
(b) Others	30%
Section 194M: Certain payments by Individual/HUF (Limit- Rs 50 Lakhs)	5%
Section 194N: Cash withdrawal exceeding a certain amount (limit- Rs 1 crore). In case Rs 20 lakh or more is withdrawn by the person not-filing ITR for the last three years, for which the due date of filing ITR has expired, the TDS rates shall be applicable as per below slabs- For the amount more than Rs.20 lakh but up to Rs. 1 crore, and And for the amount exceeding Rs. 1 crore	2% 2% 5%
Section 194O: For the sale of goods or provision of services by the e-commerce operator through its digital or electronic facility or platform.	1%
Section 194P: Tax deduction by specified banks while making payments (pension or interest) to specified senior citizens or age 75 years or more.	Tax on total income as per rates in force

Section 194Q: Payments to residents for the purchase of goods if the aggregate value of goods exceeds Rs 50 lakhs.(TDS is deductible on value exceeding Rs 50 lakhs)	0.1%
Any Other Income	10%

Tax Collected at Source (TCS)

Every seller at the time of debiting the buyer with the amount payable or receiving payments from buyers engaged in business of alcoholic liquor, forest produce, timber, mines and quarries, bullion and jewellery, etc., shall collect tax at the following rates:

- a) Alcoholic liquor for human consumption @ 1%.
- b) Timber @ 2.5%.
- c) Scrap @ 1%
- d) Minerals being coal, iron ore etc @ 1%.
- e) Bullion if sale price exceeds 2 lac @ 1%.
- f) Jewellery if sale price exceeds 5 lac @ 1%.
- g) Person who grants a lease or a license or enters into a contract for the purpose of parking lot, toll plaza, mining and quarrying TCS @ 2% should be collected.

Filing of TDS and TCS Statements

Any person deducting or collecting tax in accordance with the provisions of the act has to furnish, within the prescribed time, quarterly statements for the period ending on the 30th June, 30th September, 31st December and 31st March in each financial year.

ASSESSMENT PROCEDURE – FILING OF RETURN

Return of Income

The procedure under the Income-tax Act for making an assessment of income begins with the filing of a return of income. Section 139 of the Act contains the relevant provisions relating to the furnishing of a return of income. According to the section, it is statutorily obligatory for every person to furnish a return of his total income or the total income of any other person in respect of which he is assessable under the Income-tax Act (deemed assessee). If his total income exceeds the maximum amount which is not chargeable to income-tax, in any relevant accounting year. The return of income must be furnished by the assessee in the prescribed manner by the Board from time to time. It should be obligatory for the firm to file return of income in every case. Further, in respect of individual, HUF, AOP, BOI, Artificial juridical Person, filing of return of income shall be compulsory if their total income before allowing deductions under Sections 10A, 10B, 10BA or Chapter VI-A exceeds the maximum amount which is not chargeable to income tax.

Different Types of Income Tax Returns to be filed under Section 139 of the Income Tax Act 1961:

While Section 139 generally deals with late filing of income tax returns, it also consists of sub sections which deal with different types of income tax returns that are required to be filed in case

returns have not been filed by the prescribed deadline. These subsections are as follows:

Section 139(1) - Mandatory Return and Voluntary Return:

Section 139(1) of the Income Tax Act deals with two types of belated income tax returns, namely Mandatory Returns and Voluntary Returns.

Mandatory Returns:

The following individuals or entities are required to file a Mandatory Return:

- Any company regardless of whether it may be public, private, foreign or domestic
- Any firm, which also includes Limited Liability Partnerships (LLP) as well as Unlimited Liability Partnerships
- Any person provided that the sum of his or her taxable income for the financial year of relevance is more than the exemption limit allowed

Voluntary Returns:

If a person or entity has filed income tax returns should an event arise wherein the individual or the entity is not under any compulsion to file a Mandatory Return, then the income tax returns filed by the person or the entity in question will be deemed to be a Voluntary Return. Voluntary Returns are also considered to be valid returns.

When Return of Income is to be filed as Statutory Obligation [Section-139(1)]

Section 139(1) requires that every person,—

- (a) being a company or a firm; or
- (b) being a person other than a company or a firm, if
 - i) his total income or
 - ii) the total income of any other person in respect of which he is assessable under the Income-tax Act, during the previous year, exceeded the maximum amount which is not chargeable to income-tax.

Shall, furnish a return of his income or the income of such other person. Such return of income must be furnished on or before the due date, in the prescribed form and verified in the prescribed manner and setting forth such other particulars as may be prescribed.

Various “Return Forms” for filing return of income

ITR Forms	Subject
ITR-1 (SAHAJ)	For an individual who is resident and ordinarily resident (total income does not exceed Rs.50 lakh) having income from salary/one house property (not being bought forward loss or loss to be carried forward)/ income from other sources (not being loss or not being winning from lottery/ income from race horses)
ITR-2	For an individual/HUF where the total income does not include income under the head business

	or profession
ITR-3	For an individual/HUF having income under the head business or profession
ITR-4 (SUGAM)	For an individual/HUF/firm (other than LLP) deriving business income and such income is computed in accordance with special provisions referred to in section 44AD, 44ADA or 44AE
ITR-5	For firms, AOPs and BOIs or any other person (not being individual or HUF or company or to whom ITR-7 is applicable)
ITR-6	For companies other than companies claiming exemption under section 11
ITR-7	For persons including companies required to furnish return under section 139(4A)/(4B)/(4C)/(4D)
ITR-V	Where the data of the return of income in Forms ITR-1, ITR-2, ITR-3, ITR-4 and ITR-5 transmitted electronically without digital signature

Exemption from filing of Return of Income

CBDT has clarified that under what conditions exemption from filing of return is available. Exemption is available to salaried employees from the requirement of filing the returns for. The exemption is applicable only if all the following conditions are fulfilled: -

- Employee has earned only salary income and income from savings bank account and the annual interest earned from savings bank account is less than 10 thousand.
- The total Income of the employee does not exceed 5 Lakh (Total Income means Gross Total Income Less deductions under Chapter VIA).
- The Employee has reported his PAN to the employer.
- Employee has reported his income from interest on savings bank account to employer.
- Employee has received Form 16 from his employer.
- Total Tax Liability of employee has been paid off by employer by way of TDS and employer has deposited TDS with central government.
- Employee has no refund claim.
- Employee has received salary only from one employer.
- Employee has not received any Notice from Income Tax Department for filing of Income Tax return.

Due date for filing return of income

The assessee is obliged to voluntarily file the return of income without waiting for the notice of the Assessing Officer calling for the filing of the return. The time limit for filing of the return by an assessee if his total income of any other person in respect of which he is assessable exceeds the maximum amount not chargeable to tax, shall be as follows:

- (a) where the assessee is –
- i) a company,
 - ii) a person, other than a company whose accounts are required to be audited under the Income tax Act or any other law, for the time being in force,
 - iii) a working partner of a firm whose accounts are required to be audited under this Act or under any law for the time being in force, the **30th day of September** of the Assessment Year.
- (b) In the case of an assessee being a **company**, which is required to furnish a report referred to in section 92E, the **30th day of November** of the assessment year.
- (c) In the case of **any other assessee**, the **31st day of July** of the Assessment Year.

E-filing of Return

Filing of Income Tax Returns is a legal obligation of every person who total for the previous year exceeds the exemption limit provided under the Income Tax Act, 1961. The Income Tax Department has introduced on line facility in addition to conventional method to file return of income. The process of electronically filing of Income Tax return through the mode of internet access is called e-filing of return. E-filing offers convenience of the tax payers. The only obligation for the user of this facility is to have a PAN number. There are eight forms from ITRI to ITR-8 for e-filing of returns. There is a provision e-filing for digital signature by the assessee.

Revised return

An assessee who is required to file a return of income is entitled to revise the return of income originally filed by him to make such amendments, additions or changes as may be found necessary by him. Such a revised return may be filed by the assessee at any time – before the expiry of one year from the end of the relevant assessment year – before the completion of assessment whichever is earlier.

Defective Return Sec. 139 (9)

If the Assessing Officer considers that the return of income furnished by the assessee is defective, he may intimate the defect to the assessee and give him an opportunity to rectify the defect within 15 days from the date of such intimation or within such further period as may be allowed by the Assessing Officer on the request of the assessee. If the assessee fails to rectify the defect within the aforesaid period, the return shall be deemed to be invalid and further it shall be deemed that the assessee had failed to furnish the return. However, where the assessee rectifies the defect after the expiry of the aforesaid period but before the assessment is made, the Assessing Officer may condone the delay and treat the return as a valid return.

LOSS – SECTION 139(3)

Return of Loss

The requirements of Income-tax Act making it obligatory for the assessee to file a return of his total income even in cases where the assessee has incurred a loss. These losses may be under the head ‘profits and gains from business or profession’ or loss from maintenance of race horses or under the head ‘Capital gains’. Unless the assessee files a return of loss in the manner and

within the same time limits as required for a return of income, the assessee would not be entitled to carry forward the loss for being set off against income in the subsequent year.

Belated Return

Any person who has not filed the return within the time allowed under section 139(1) or within the time allowed under a notice issued by the Assessing Officer under section 142(1) may file a belated return

- at any time before the expiry of one year from the end of the relevant assessment year or
- before the completion of the assessment whichever is earlier.

PERMANENT ACCOUNT NUMBER (SECTION 139A)

PAN (Permanent Account Number)

Every person, who has not been allotted any permanent account number, is obliged to obtain permanent account number, if;

- if his total income assessable during the previous year exceeds the maximum amount which is not chargeable to tax or
- any person carrying on business or profession whose total sales turnover or gross receipts are or is likely to exceed 5,00,000 in any previous year or
- is required to furnish a return of income under Section 139(4A)

Besides above cases, the Assessing Officer may also allot a permanent account number to any other person by whom tax is payable. Any other person may also apply for a permanent account number. However, Section 139 has been amended w.e.f. August 1, 1998 and provides the alternative of quoting GIR (General Index Register) number till such time the permanent account number is allotted.

It shall be the duty of every person who has been allotted permanent account number to quote such number in all his returns or correspondence with Income tax authorities, quote such numbers in all challans for the payment of any sum, quote such number in all documents pertaining to such transactions as may be prescribed by the Board in the interest of revenue.

Now quoting PAN is compulsory in the following transactions:

- (a) Sale/purchase of any immovable property valued at 5 lakhs or more.
- (b) Sale/Purchase of Motor vehicle or a vehicle (excluding two wheeled vehicle, inclusive of any detachable side-car having an extra wheel) which requires registration under Motor Vehicles Act, 1988.
- (c) Time deposit exceeding 50,000 with a Bank/Banking Company/Banking Institution.
- (d) Deposit exceeding 50,000 in Post Office Savings Bank.
- (e) Contract for sale/purchase of securities exceeding 1 lakh.
- (f) Opening an account [not being time deposit mentioned in (c)] with a Bank/Banking Company/Banking Institution.

- (g)** Application for installation of a telephone connection including mobile phone.
- (h)** Payments to hotels of bills exceeding 25,000/- at any one time.
- (i)** Payment in cash for purchase of bank drafts or pay orders or banker's cheque for an amount of 50,000 or more during any one day.
- (j)** Deposit in cash aggregating 50,000 during any one day.
- (k)** Payment in cash in connection with travel to any foreign country of an amount exceeding 25,000 at any one time.
- (l)** Making an application to any banking company or to any other company or institution for issue of a credit or debit card.
- (m)** Payment of an amount of 50,000 or more to a Mutual Fund for purchase of its units.
- (n)** Payment of 50,000 or more to a company for acquiring shares or debentures or bonds issued by it.
- (o)** Payment of 50,000 or more to RBI for acquiring bonds issued by it.
- (p)** Payment of an amount of 50,000 or more as life insurance premium to an insurer.
- (q)** Payment to a dealer
 - i)** of an amount of 5 lakh or more at any one time, or
 - ii)** against a bill for an amount of 5 lakh or more for purchase of bullion or jewellery.

Every person, receiving any document relating to the prescribed transactions, shall ensure that the permanent account number has been duly quoted in the document. The Board has been empowered to make rules in relation to the form and the manner in which the application for the allotment of a permanent account number and the particulars which such application will contain, prescribing the categories of transactions and the categories of documents pertaining to business or profession in which the permanent account numbers shall have to be quoted by every person. The “permanent account number under the new series” has been defined to mean a number which will have ten alphanumeric characters to be issued on a laminated card.

ASSESSMENT

Types of Assessments

- (a) Self assessment (Section 140A)
- (b) Regular assessment (Section 143)
- (c) Best judgement assessment (Section 144)
- (d) Income escaping assessment or re-assessment (Section 147)
- (e) Precautionary assessment.
- (f) Assessment in case of search or requisition (Section 153A)

(A) Self-Assessment (Section 140A)

Self-assessment is the first step in the process of assessments. Self-Assessment is simply a process where a person himself assesses his tax liability on the income earned during the

particular previous year and submits Income Tax Return to the department.

Every person, before furnishing return under sections 139(return of income), 142(1), 148 (issue of notice where income has escaped assessment) and 153A (Assessment in case of search or requisition) shall make self-assessment of his income and pay the tax, if due on the basis of such assessment. The total tax payable is calculated on the total income of the assessee after considering the following amount:

- i)** the amount of tax already paid under any provision of this Act;
- ii)** any tax deducted or collected at source;
- iii)** any relief of tax or deduction of tax claimed under section 90 or section 91 on account of tax paid in a country outside India;
- iv)** any relief of tax claimed under section 90A on account of tax paid in any specified territory outside India referred to in that section; and
- v)** any tax credit claimed to be set off in accordance with the provisions of section 115JAA or section 115JD.

Such determined value of tax along with the interest payable under any provision of this Act for any delay in furnishing the return or any default or delay in payment of advance tax is paid before furnishing the return and the proof of payment of such tax is attached with the return. The work of income tax department became easy due to the system of Self-Assessment.

(B) Scrutiny (Regular) Assessment [Section 143(2) & (3)]

Where a return has been made under Section 139, or in response to a notice under Sub-section (1) of Section 142, the Assessing Officer shall, if he considers necessary or expedient to ensure that the assessee has not understated the income or has not computed excessive loss or has not underpaid the tax in any manner, serve on the assessee a notice requiring him, on a date to be specified therein, either to attend his office or to produce, or cause to be produced there, any evidence on which the assessee may rely in support of the return: Provided that no notice under this sub-section shall be served on the assessee after the expiry of six months from the end of the Financial year in which the return is furnished.

On the day specified in the notice issued under Sub-section (2), or as soon afterwards as may be, after hearing such evidence as the assessee may produce and such other evidence as the Assessing Officer may require on specified points, and after taking into account all relevant material which he has gathered, the Assessing Officer shall, by an order in writing, make an assessment of the total income or loss of the assessee, and determine the sum payable by him or refund of any amount due to him on the basis of such assessment.

(C) Best Judgement Assessment U/S 144

The Assessing Officer, after taking into account all relevant material which he has gathered, and after giving the assessee an opportunity of being heard, makes the assessment of the total income or loss to the best of his judgment and determine the sum payable by the assessee on the basis of such assessment in the following cases:

- i)** If any person fails to make the return required under section 139(1) and has not made a return or a revised return under section 139(4) or 139(5), or
- ii)** When a person fails to comply with all the terms of a notice issued under section 142(1) or fails to comply with a direction issued under section 142(2A) for getting the accounts audited, or
- iii)** If any person having made a return, fails to comply with all the terms of a notice issued under section 143(2).

Prior to the proceedings the assessing officer should issue a show cause notice to the assessee. However if the assessee has already issued notice under section 142(1)(i) and the assessee has not complied with the terms then assessing officer can proceed further without issuing a show cause notice. Further assessing officer cannot assess the income below returned income and cannot assess losses higher than the returned losses. A refund cannot be granted under section 144. The assessing officer can also reject the accounts book under section 145 and can make best judgment assessment under section 144 if:

- (a)** The accounts books are incorrect, false or incomplete.
- (b)** If the accounting method employed is such that the profit cannot be derived from it correctly.
- (c)** Where the method of accounting adopted by the assessee is not followed by him regularly or income has not been computed in accordance with notified standards.
- (d)** If the assessee has not followed the income computation and disclosure standards notified by the government.

There are two types of best judgement assessments

(1) **Compulsory best judgement asset:** It is made by the assessing officer in case of non-cooperation on the part of the assessee or when the assessee is in default as regards supplying information.

(2) **Discretionary best judgement assessment:** it is done in cases where assessing officer is not satisfied in the correctness or the completeness of the accounts of the assessee.

(D) Income Escaping Assessment or Re-Assessment (Section 147)

If the Assessing Officer has reason to believe that any income chargeable to tax has escaped assessment for any assessment year, he may, subject to the provisions of sections 148 to 153,

- assess or reassess income which has escaped assessment or
- re-compute the loss or the depreciation allowance or any other allowance, as the case may be for the relevant assessment year.

According to Section 147, the Assessing Officer shall serve on the assessee a notice requiring him to furnish, within such period, as may be specified in the notice, a return of his income or the income of any other person in respect of which he is assessable under this Act during the previous year corresponding to the relevant assessment year, in the prescribed form.

The following shall also be deemed to be cases where income chargeable to tax has escaped assessment, namely:

- i)** where no return of income has been furnished by the assessee although his total income or the total income of any other person in respect of which he is assessable under this Act during the previous year exceeded the maximum amount which is not chargeable to income-tax.
- ii)** where a return of income has been furnished by the assessee but no assessment has been made and it is noticed by the Assessing Officer that the assessee has understated the income or has claimed excessive loss, deduction, allowance or relief in the return.
- iii)** where the assessee has failed to furnish a report in respect of any international transaction which he was so required under section 92E.
- iv)** where an assessment has been made, but
 - (a)** income chargeable to tax has been under assessed ; or
 - (b)** such income has been assessed at too low a rate ; or
 - (c)** such income has been made the subject of excessive relief under this Act ; or
 - (d)** excessive loss or depreciation allowance or any other allowance under this Act has been computed;
- (e)** where a person is found to have any asset (including financial interest in any entity) located outside India.

The assessing officer before making the assessment under this section will have to issue notice u/s 148 to the assessee requiring him to file the return even if he has already filed the return under section 139 or 142(1). The Assessing officer is duty bound to provide the assessee the reasons recorded by him, if the assessee request for it. If on request the reasons are not supplied then Assessing officer cannot proceed the assessment.

(E) Precautionary Assessment

Where it is not clear that as to who has received the income, the assessing officer can commence proceedings against the persons to determine the question as to who is responsible for the payment of tax.

(F) Assessment in case of Search or Requisition (Section 153A)

This assessment is initiated when search is initiated under section 132 or books of accounts are requisitioned under section 132A. The assessment procedure is as following.

- i) Assessing officer issues notice to the assessee, and such person has to furnish a return as may be specified in the notice.
- ii) Such return shall be filed in respect of six assessment years immediately preceding to the assessment year in which the search was conducted.
- iii) The assessing officer shall assess or reassesses the total income of each year.
- iv) If any discrepancies found in the assessment or reassessment the assessing officer can take necessary actions prescribed by the law.

- v)** The central government is empowered to notify classes of cases in which the assessing officer shall not be required to issue notice for initiation of assessment for six assessment years immediately preceding to the relevant assessment year. The assessing officer is not required to issue notice for assessing in the following cases- Where a person is found to be in possession of any money, bullion, jewellery, or other valuables etc., in search or reacquisition of accounts.
- vi)** The tax shall be chargeable to the rate or rates applicable to such assessment year.

Module III

Goods and Services Tax: Brief History behind the Emergence of GST

Evolution of GST in India

The idea of a Goods and Services Tax (GST) for India was first mooted sixteen years back, during the Prime Ministership of Shri Atal Bihari Vajpayee. Thereafter, on 28th February, 2006, the then Union Finance Minister in his Budget for 2006-07 proposed that GST would be introduced from 1st April, 2010. The Empowered Committee of State Finance Ministers (EC), which had formulated the design of State VAT was requested to come up with a roadmap and structure for the GST. Joint Working Groups of officials having representatives of the States as well as the Centre were set up to examine various aspects of the GST and draw up reports specifically on exemptions and thresholds, taxation of services and taxation of inter-State supplies. Based on discussions within and between it and the Central Government, the EC released its First Discussion Paper (FDP) on GST in November, 2009. The FDP spelled out the features of the proposed GST and has formed the basis for the present GST laws and rules.

In March 2011, Constitution (115th Amendment) Bill, 2011 was introduced in the Lok Sabha to enable levy of GST. However, due to lack of political consensus, the Bill lapsed after the dissolution of 15th Lok Sabha in August 2013.

On 19th December, 2014, The Constitution (122nd Amendment) Bill 2014 was introduced in the Lok Sabha and was passed by Lok Sabha in May 2015. The Bill was taken up in Rajya Sabha and was referred to the Joint Committee of the Rajya Sabha and the Lok Sabha on 14th May, 2015. The Select Committee submitted its report on 22nd July, 2015. Thereafter, the Constitutional Amendment Bill was moved on 1st August 2016 based on political consensus. The Bill was passed by the Rajya Sabha on 3rd August 2016 and by the Lok Sabha on 8th August 2016. After ratification by required number of State legislatures and assent of the President, the Constitutional amendment was notified as Constitution (101st Amendment) Act 2016 on 8th September, 2016. The Constitutional amendment paved way for introduction of Goods and Services Tax in India.

After GST Council approved the Central Goods and Services Tax Bill 2017 (The CGST Bill), the Integrated Goods and Services Tax Bill 2017 (The IGST Bill), the Union Territory Goods and Services Tax Bill 2017 (The UTGST Bill), the Goods and Services Tax (Compensation to the States) Bill 2017 (The Compensation Bill), these Bills were passed by the Lok Sabha on 29th March, 2017. The Rajya Sabha passed these Bills on 6th April, 2017 and were then enacted as Acts on 12th April, 2017. T 2015. 6 on 08.09.2016

Thereafter, State Legislatures of different States have passed respective State Goods and Services Tax Bills. After the enactment of various GST laws, GST was launched with effect from 1st July 2017 by Sh. Narendra Modi, Hon'ble Prime Minister of India in the presence of Sh. Pranab Mukherjee, the then President of India in a mid-night function at the Central Hall of Parliament of India.

GST Council Structure

As per Article 279A of the amended Constitution, the GST Council is a joint forum of the Centre and the States, and consists of the following members: -

Union Finance Minister	Chairperson
The Union Minister of State, in-charge of Revenue, Min. of Finance	Member
The Minister In-charge of Finance or Taxation or any other Minister nominated by each State Government	Members

The Council is empowered to make recommendations to the Union and the States on the following:-

- (a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;
- (b) the goods and services that may be subjected to, or exempted from the goods and services tax;
- (c) model Goods and Services Tax Laws, principles of levy, apportionment of Integrated Goods and Services Tax and the principles that govern the place of supply;
- (d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;

- (e) the rates including floor rates with bands of goods and services tax;
- (f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
- (g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
- (h) the date on which GST shall be levied on petroleum crude, high speed diesel, motor spirit (petrol), natural gas and aviation turbine fuel;
- (i) any other matter relating to the goods and services tax, as the Council may decide.

The mechanism of GST Council would ensure harmonisation on different aspects of GST between the Centre and the States as well as amongst the States. It has been provided in the Constitution (One Hundred and First Amendment) Act, 2016 that the GST Council, in discharge of various functions, shall be guided by the need for a harmonized structure of GST and for the development of a harmonized national market for goods and services.

The Constitution (One Hundred and First Amendment) Act, 2016 provides that every decision of the GST Council shall be taken at its meeting by a majority of not less than 3/4th of the weighted votes of the Members present and voting. The vote of the Central Government shall have a weightage of 1/3rd of the votes cast and the votes of all the State Governments taken together shall have a weightage of 2/3rd of the total votes cast in

that meeting. One half of the total number of members of the GST Council shall constitute the quorum at its meeting.

On 12th September, 2016 the Union Cabinet under the Chairmanship of the Hon'ble Prime Minister approved setting up of GST Council and creation of its Secretariat as follows:

- (a) GST Council as per Article 279A of the amended Constitution;
- (b) GST Council Secretariat, with its office at New Delhi;
- (c) Secretary (Revenue) as the Ex-officio Secretary to the GST Council;
- (d) Inclusion of the Chairperson, Central Board of Excise and Customs (CBEC), as a permanent invitee (non-voting) to all proceedings of the GST Council;
- (e) One post of Additional Secretary to the GST Council in the GST Council Secretariat (at the level of Additional Secretary to the Government of India), and four posts of Commissioners in the GST Council Secretariat (at the level of Joint Secretary to the Government of India).

The Cabinet also decided to provide for adequate funds for meeting the recurring and non-recurring expenses of the GST Council Secretariat, which shall be borne by the Central Government. The GST Council Secretariat shall be manned by officers taken on deputation from both the Central and State Governments.

Scope and Advantages of GST

1. GST eliminates the cascading effect of tax

GST is a comprehensive indirect tax that was designed to bring the indirect taxation under one umbrella. More importantly, it is going to eliminate the cascading effect of tax that was evident earlier.

Cascading tax effect can be best described as ‘Tax on Tax’. Let us take this example to understand what “Tax on Tax” is:

Before GST regime:

A consultant offering services for say, ₹ 50,000 and charged a service tax of 15% (₹ 50,000 * 15% = ₹ 7,500).

Then say, he would buy office supplies for ₹ 20,000 paying 5% as VAT (₹ 20,000 * 5% = ₹ 1,000).

He had to pay ₹ 7,500 output service tax without getting any deduction of ₹ 1,000 VAT already paid on stationery.

His total outflow is ₹ 8,500.

Under GST

GST on service of ₹ 50,000 @18%	9,000
Less: GST on office supplies (₹ 20,000*5%)	1,000
Net GST to pay	8,000

2. Higher threshold for registration

Earlier, in the VAT structure, any business with a turnover of more than ₹ 5 lakh (in most states) was liable to pay VAT. Please note that this limit differed state-wise. Also, service tax was exempted for service providers with a turnover of less than ₹ 10 lakh.

Under GST regime, however, this threshold has been increased to ₹ 20 lakh, which exempts many small traders and service providers.

Let us look at this table below:

Tax	Threshold Limits
Excise	₹ 1.5 crores
VAT	₹ 5 lakhs in most states
Service Tax	₹ 10 lakhs
GST	₹ 20 lakhs (₹ 10 lakhs for NE states)

3. Composition scheme for small businesses

Under GST, small businesses (with a turnover of ₹ 20 to 75 lakh) can benefit as it gives an option to lower taxes by utilizing the Composition scheme. This move has brought down the tax and compliance burden on many small businesses.

4. Simple and easy online procedure

The entire process of GST (from registration to filing returns) is made online, and it is super simple. This has been beneficial for start-ups especially, as they do not have to run from pillar to post to get different registrations such as VAT, excise, and service tax.

5. The number of compliances is lesser

Earlier, there was VAT and service tax, each of which had their own returns and compliances. Below table shows the same:

<u>Tax</u>	<u>Return Filing</u>
Excise	Monthly
Service tax	Proprietorship/Partnership- Quarterly Company/LLP- Monthly
VAT	*Different for different states* Some states require monthly returns over a threshold limit. Some states like Karnataka require a monthly return

Under GST, however, there is just one, unified return to be filed. Therefore, the number of returns to be filed has come down. There are about 11 returns under GST, out of which 4 are basic returns which apply to all taxable persons under GST. The main GSTR-1 is manually populated and GSTR-2 and GSTR-3 will be auto-populated.

6. Defined treatment for E-commerce operators

Earlier to GST regime, supplying goods through e-commerce sector was not defined. It had variable VAT laws. Let us look at this example:

Online websites (like Flipkart and Amazon) delivering to Uttar Pradesh had to file a VAT declaration and mention the registration number of the delivery truck. Tax authorities could sometimes seize goods if the documents were not produced.

Again, these e-commerce brands were treated as facilitators or mediators by states like Kerala, Rajasthan, and West Bengal which did not require them to register for VAT.

All these differential treatments and confusing compliances have been removed under GST. For the first time, GST has clearly mapped out the provisions applicable to the e-commerce sector and since these are applicable all over India, there should be no complication regarding the inter-state movement of goods anymore.

7. Improved efficiency of logistics

Earlier, the logistics industry in India had to maintain multiple warehouses across states to avoid the current CST and state entry taxes on inter-state movement. These warehouses were forced to operate below their capacity, giving room to increased operating costs.

Under GST, however, these restrictions on inter-state movement of goods have been lessened.

As an outcome of GST, warehouse operators and e-commerce aggregators players have shown interest in setting up their warehouses at strategic locations such as Nagpur (which is the

zero-mile city of India), instead of every other city on their delivery route.

Reduction in unnecessary logistics costs is already increasing profits for businesses involved in the supply of goods through transportation.

8. Unorganized sector is regulated under GST

In the pre-GST era, it was often seen that certain industries in India like construction and textile were largely unregulated and unorganized.

Under GST, however, there are provisions for online compliances and payments, and for availing of input credit only when the supplier has accepted the amount. This has brought in accountability and regulation to these industries.

Let us now look at disadvantages of GST. Please note that businesses need to overcome these disadvantages to run the business smoothly.

Disadvantages of GST

1. Increased costs due to software purchase

Businesses have to either update their existing accounting or ERP software to GST-compliant one or buy a GST software so that they can keep their business going. But both the options lead to increased cost of software purchase and training of employees for an efficient utilization of the new billing software.

2. Note being GST- Compliant can attract Penalties

Small and medium-sized enterprises (SME) who have not yet signed for GST have to quickly grasp the nuances of the GST tax regime. They will have to issue GST-complaint invoices, be compliant to digital record-keeping, and of course, file timely returns. This means that the GST-complaint invoice issued must have mandatory details such as GSTIN, place of supply, HSN codes, and others.

3. GST will mean an increase in operational costs

As we have already established that GST is changing the way how tax is paid, businesses will now have to employ tax professionals to be GST-complaint. This will gradually increase costs for small businesses as they will have to bear the additional cost of hiring experts.

Also, businesses will need to train their employees in GST compliance, further increasing their overhead expenses.

4. GST came into effect in the middle of the financial year

As GST was implemented on the 1st of July 2017, businesses followed the old tax structure for the first 3 months (April, May, and June), and GST for the rest of the financial year.

Businesses may find it hard to get adjusted to the new tax regime, and some of them are running these tax systems parallelly, resulting in confusion and compliance issues.

5. GST is an online taxation system

Unlike earlier, businesses are now switching from pen and paper invoicing and filing to online return filing and making payments. This might be tough for some smaller businesses to adapt to.

6. SMEs will have a higher tax burden

Smaller businesses, especially in the manufacturing sector will face difficulties under GST. Earlier, only businesses whose turnover exceeded ₹ 1.5 crore had to pay excise duty. But now any business whose turnover exceeds ₹ 20 lakh will have to pay GST.

However, SMEs with a turnover upto ₹ 75 lakh can opt for the composition scheme and pay only 1% tax on turnover in lieu of GST and enjoy lesser compliances. The catch though is these businesses will then not be able to claim any input tax credit. The decision to choose between higher taxes or the composition scheme (and thereby no ITC) will be a tough one for many SMEs.

Definitions and Meaning of GST

Goods and services tax (GST) is a tax on goods and services with value addition at each stage having comprehensive and continuous chain of set of benefits from the producer's/service provider's point up to the retailers level where only the final consumer should bear the tax.

Central Goods and Services Tax Act

The Central Goods and Services Tax Act passed by the Parliament received the assent of the President of India on the

12th April, 2017. The Act has been passed to empower the Central Government to levy and collect tax on supply of goods or services within a state. The CGST Act confers powers to Government of India to collect tax on intra-state supply of goods and services or both. Before the introduction of Goods and Services Tax, sale within a state was a state subject on which the state governments alone were entitled to levy tax. Further, supply of service was not a subject matter of the state governments. With the implementation of GST, supply of goods and services or both are taxable under CGST.

An example for CGST and SGST:

Let's suppose Rajesh is a dealer in Maharashtra who sold goods to Anand in Maharashtra worth ₹ 10,000. The GST rate is 18% comprising of CGST rate of 9% and SGST rate of 9%. In such case, the dealer collects ₹ 1800 of which ₹ 900 will go to the Central Government and ₹ 900 will go to the Maharashtra Government.

Integrated Goods and Services Tax Act

Under GST, IGST is a tax levied on all Inter-State supplies of goods and/or services and will be governed by the IGST Act. IGST will be applicable on any supply of goods and/or services in both cases of import into India and export from India.

Note: Under IGST,

- Exports would be zero-rated.
- Tax will be shared between the Central and State Government.

An example for IGST:

Consider that a businessman Rajesh from Maharashtra had sold goods to Anand from Gujarat worth ₹ 1,00,000. The GST rate is 18% comprised of 18% IGST. In such case, the dealer has to charge ₹ 18,000 as IGST. This IGST will go to the Centre.

State Goods and Services Tax Act

Under GST, SGST is a tax levied on Intra State supplies of both goods and services by the State Government and will be governed by the SGST Act. As explained above, CGST will also be levied on the same Intra State supply but will be governed by the Central Government.

Note: Any tax liability obtained under SGST can be set off against SGST or IGST input tax credit only.

Rates of GST

Goods and Service Tax has been introduced to unify the tax system merging all other indirect taxes. Unification of tax system does not mean unification of tax rates. In fact there are many rates at which GST is levied on different supplies of goods and services. GST Council's rate fitment committee framed different GST slabs after considering the tax incidence under the earlier tax system, on different goods and services. The details of the GST rate structure presently prevailing in the country are as follows:

i) Exempted

A large number of items have been exempted from the purview of GST. Most of the farm products, live animals, live chicken, live fish, eggs, honey, puja articles, hearing aids, slate pencils, etc., belong to the category of exempted goods.

ii) Taxable at the rate of 0.25%

There are goods taxable at the rate of 0.25%. diamonds, non-industrial unworked, precious stones (other than diamonds) and semi-precious stones, unworked, synthetic or reconstructed precious or semi-precious stones, unworked, etc., are the items on which 0.25% is applicable.

iii) Taxable at the rate of 3%

Base metals, gold, silver, articles of jewellery, imitation jewellery, coin, waste and scrap of precious metals, etc., are taxable at the rate of 3%.

iv) Taxable at the rate of 5%

Fish frozen or dried, flours, meals and pellets of fish, Ultra High Temperature (UHT) milk and cream, concentrated vegetables, frozen grapes, raisins, nuts, spices, branded rice, etc., belong to the tax bracket of 5%.

v) Taxable at the rate of 12%

Fruit pulp or fruit juice based drinks, marble and travertine blocks, granite blocks, preserved fish, animal fats and oils, etc., are taxable at the rate of 12%.

vi) Taxable at the rate of 18%

Majority of the supplies are taxable at the rate of 18%.

vii) Taxable at the rate of 28%

Molasses, paints, varnishes, pan masala, non-alcoholic beverages, unmanufactured tobacco, etc., are some of the items on which 28% tax is applicable.

viii) Tax Deducted at Source (TDS) 1%

Government departments, local authorities and government agencies, who are recipients of supply, have to deduct tax at the rate of 1% from the payment made or credited to the supplier where total value of supply, under a contract, exceeds two lakh and fifty thousand rupees.

ix) Tax Collected at Source (TCS) 2%

Electronic commerce operators have to collect 'tax at source', at the rate of 2% of net value of taxable supplies, when they make payments to suppliers supplying goods or services through their portals.

x) Composite tax (1%, with effect from 15.11.2017)

Small scale business firms having turnover upto ₹ 1.5 crore can opt for composition scheme. With effect from 15.11.2017, composite tax rate is 1% for all the categories of composite tax payers. However, the composition rate for hotels shall be 5%. Those who opt for composition scheme have to pay tax at the prescribed rate, based on total turnover. Composite tax payers are not allowed to collect tax from customers. The tax so paid is equally shared between the Centre and the State.

Levy and Collection of Central/State Goods and Services Tax

The Central Goods and Services Tax is levied under Section 9 of the CGST Act. Therefore section 9 is the charging section of CGST which contains the following provisions relating to levy and collection of CGST.

- (1) Intra-state supplies of goods or services or both, shall be levied a tax called the Central Goods and Services Tax (CGST).
- (2) CGST shall not be applicable on the supply of alcoholic liquor for human consumption.
- (3) For the purpose of CGST value of supply shall be determined under section 15.
- (4) The rate of SGST shall be notified by the Government on the recommendations of the GST Council.
- (5) The tax may be collected in the prescribed manner.
- (6) CGST shall be paid by the taxable person.
- (7) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), and natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.
- (8) The Government shall notify the categories of goods or services on which tax shall be paid on 'reverse charge' basis by the recipient of such goods or services or both. All the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Taxable Person

Casual taxable person means a person who supplies taxable goods or services occasionally in a taxable Territory where he does not have a fixed place of business. The person can act as a Principal or agent or in any other capacity supply goods or services for the furtherance of business.

Example:

Mr. X having the place of business in Bangalore providing Management consultancy services in Hyderabad where he has no place of business. Hence Mr. X has to register as a Casual Taxable Person in Hyderabad before providing such services.

Note-

(a) Person includes individuals, Hindu Undivided Family, company including Government Company, firm, limited liability partnership, an association of persons, a body of individuals, co-operative society, local authority and government including a corporation.

(b) Principal place of business means the place of business specified as the principal place of business in the certificate of registration.

Returns to be Furnished

The casual taxable person is required to furnish the following returns

FORM	DUE DATE
FORM GSTR-1 (Details of outward supplies of goods or services)	On or before the 10th of the following month
FORM GSTR-2 (Details of inward supplies)	After 10th but before the 15th of the following month

FORM GSTR-3	After 15th but before the 20th of the following month
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A casual tax person is not required to file an annual return as required by a normally registered taxpayer.

Note – All Forms can be submitted at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

Refund by Casual Taxable Person

CTP is eligible for the refund of any amount deposited in excess of tax liability which will be refunded after all the necessary returns have been furnished for the Registration period.

Application for Refund of balance in excess of tax liability in the electronic cash ledger has to be made in serial no. 14 of the last FORM GSTR-3 return.

Power to Grant Exemption from Tax

Exempt supplies comprise the following three types of supplies:

- (1) Supplies taxable at a 'NIL' rate of tax* (0% tax);
- (2) Supplies that are wholly or partially exempted from CGST or IGST, by way of a notification amending Section 11 of CGST Act or Section 6 of IGST Act;
- (3) Non-taxable supplies as defined under Section 2(78) – supplies that are not taxable under the Act (For Example Alcoholic liquor for human consumption).

Tax need not be paid on these supplies. Input tax credit attributable to exempt supplies will not be available for utilization/setoff.

***Zero-rated supplies such as exports would not be treated as supplies taxable at 'NIL' rate of tax;**

Central or the State Governments are empowered to grant exemptions from GST. Conditions are:

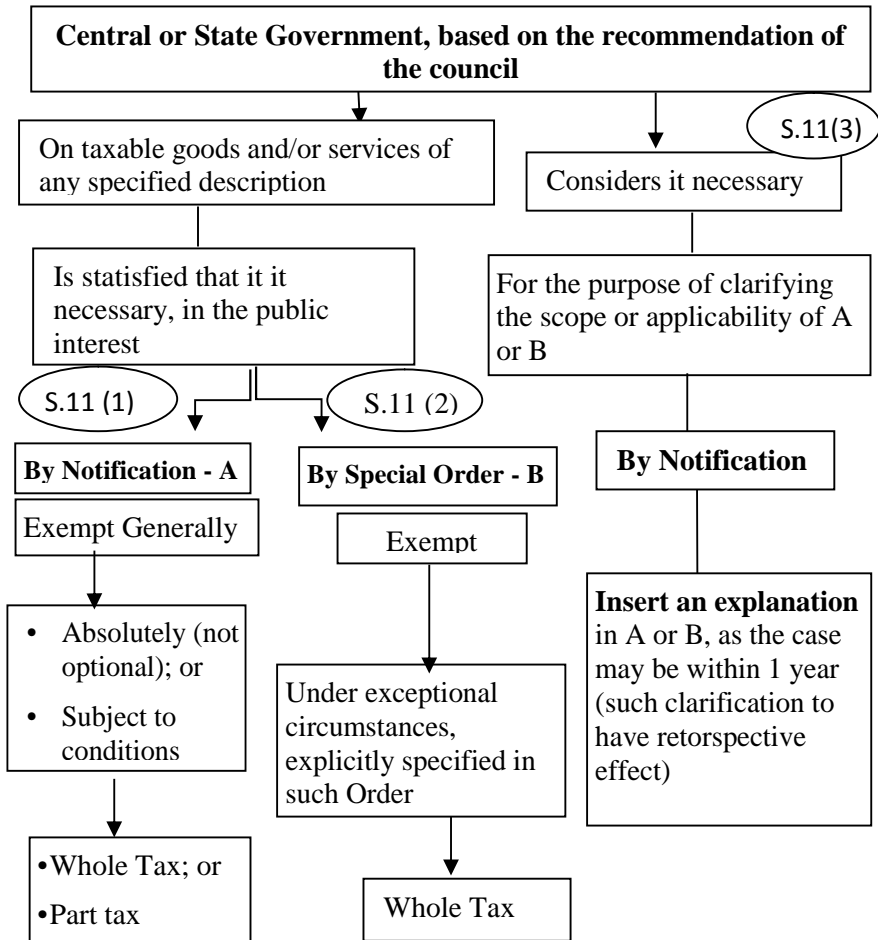
- (1) Exemption should be in public interest
- (2) By way of issue of notification
- (3) Must be recommended by the GST Council
- (4) Absolute exemption or conditional exemption may be for any goods and / or services of any specified description.
- (5) Exemption by way of special order (not notification) may be granted exceptional circumstances.
- (6) Registered person supplying the goods and / or services is not entitled to collect tax higher than the effective rate, where the supply enjoys an absolute exemption.

Classification of Exemptions:

- (1) Supplier may be exempt – Exemption to the person making supplies - i.e., supplier, regardless of the nature of outward supply.
- (2) Ex. Services by Securities and Exchange Board of India, Services by Charitable entities.
- (3) Certain Supplies may be exempt – Certain supplies due to their nature and type are exempted from GST. All supplies

that are notified would be eligible for the exemption. Here, irrespective of who the supplier is, exemption is allowed not very much relevant.

(4) Ex: Services by way of sponsorship of sporting events,
Services by way of public conveniences



Types of Exemptions:

- (1) Absolute exemption: Exemption without any conditions.
- (2) Ex: Transmission or distribution of electricity by an electricity transmission or distribution utility, Services by Reserve Bank of India.
- (3) Conditional Exemption: Exemption subject to certain conditions.
- (4) Ex: Services by a hotel, inn, guest house, club or campsite, by whatever name called, for residential or lodging purposes, having declared tariff of a unit of accommodation less than ₹ 1000/- per day.

Conditional or partial exemption:

Intra-State supplies of goods and/or services received from an unregistered person by a registered person is exempted from payment of tax under reverse charge provided the aggregate value of such supplies received by a registered person from all or any of the suppliers does not exceed ₹ 5000/- in a day.

Time and Value of Supply of Goods

The point of taxation, type of tax, and amount of tax depends on the time, place, and value of supply. It is necessary to understand how these rules apply in case of inter-state and intra-state transactions so that you charge the correct tax every time.

Under GST, 3 types of taxes can be charged in the invoice. SGST and CGST in case of an intra-state transaction and IGST in case of an interstate transaction. But deciding whether a particular transaction is inter or intrastate is not an easy task.

Think about an online training where customers are sitting in different parts of the world. Say in case, hotel services, where the receiver may have an office in another state and may be visiting the hotel only temporarily, or where goods are sold on a train journey passing through different states.

To help address some of these situations, the IGST act lays down certain rules which define whether a transaction is inter or intrastate. These rules are called the place of supply rules.

Time of supply means the point in time when goods/services are considered supplied'. When the seller knows the 'time', it helps him identify due date for payment of taxes.

Place of supply is required for determining the right tax to be charged on the invoice, whether IGST or CGST/SGST will apply.

Value of supply is important because GST is calculated on the value of the sale. If the value is calculated incorrectly, then the amount of GST charged is also incorrect

1. Time of Supply

Time of supply means the point in time when goods/services are considered supplied'. When the seller knows the 'time', it helps him identify due date for payment of taxes.

CGST/SGST or IGST must be paid at the time of supply. Goods and services have a separate basis to identify their time of supply. Let's understand them in detail.

A. Time of Supply of Goods

Time of supply of goods is earliest of:

- 1) Date of issue of invoice
- 2) Last date on which invoice should have been issued
- 3) Date of receipt of advance/ payment*.

For example:

Mr. X sold goods to Mr. Y worth ₹ 1,00,000. The invoice was issued on 15th January. The payment was received on 31st January. The goods were supplied on 20th January.

*Note: GST is not applicable to advances under GST. GST in Advance is payable at the time of issue of the invoice. Notification No. 66/2017 – Central Tax issued on 15.11.2017

Let us analyze and arrive at the time of supply in this case.

Time of supply is earliest of –

- 1) Date of issue of invoice = 15th January
- 2) Last date on which invoice should have been issued = 20th January

Thus the time of supply is 15th January.

What will happen if, in the same example an advance of 50,000 is received by Mr. X on 1st January?

The time of supply for the advance of ₹ 50,000 will be 1st January (since the date of receipt of advance is before the invoice is issued). For the balance 50,000, the time of supply will be 15th January.

B. Time of Supply for Services

Time of supply of services is earliest of:

- 1) Date of issue of invoice
- 2) Date of receipt of advance/ payment.
- 3) Date of provision of services (if invoice is not issued within prescribed period)

Let us understand this using an example:

Mr. A provides services worth ₹ 20000 to Mr. B on 1st January. The invoice was issued on 20th January and the payment for the same was received on 1st February.

In the present case, we need to 1st check if the invoice was issued within the prescribed time. The prescribed time is 30 days from the date of supply i.e. 31st January. The invoice was issued on 20th January. This means that the invoice was issued within a prescribed time limit.

The time of supply will be earliest of –

1. Date of issue of invoice = 20th January
2. Date of payment = 1st February

This means that the time of supply of services will be 20th January.

C. Time of Supply under Reverse Charge

In case of reverse charge the time of supply for service receiver is earliest of:

- 1) Date of payment*
- 2) 30 days from date of issue of invoice for goods (60 days for services)

*w.e.f. 15.11.2017 'Date of Payment' is not applicable for goods and applies only to services. Notification No. 66/2017 – Central Tax

For example:

M/s ABC Pvt. Ltd undertook service of a director Mr. X worth ₹ 50,000 on 15th January. The invoice was raised on 1st February. M/s ABC Pvt Ltd made the payment on 1st May.

The time of supply, in this case, will be earliest of –

1. Date of payment = 1st May
2. 60 days from date of date of invoice = 2nd April

Thus, the time of supply of services is 2nd April.

2. Place of supply

It is very important to understand the term 'place of supply' for determining the right tax to be charged on the invoice.

Here is an example:

Location of Service	Place of supply	Nature of Supply	GST Applicable
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Receiver			
Maharashtra	Maharashtra	Intra-state	CGST + SGST
Maharashtra	Kerala	Inter-state	IGST

A. Place of Supply of Goods

Usually, in case of goods, the place of supply is where the goods are delivered. So, the place of supply of goods is the place where the ownership of goods changes. What if there is no movement of goods. In this case, the place of supply is the location of goods at the time of delivery to the recipient.

For example: In case of sales in a supermarket, the place of supply is the supermarket itself. Place of supply in cases where goods that are assembled and installed will be the location where the installation is done.

For example, a supplier located in Kolkata supplies machinery to the recipient in Delhi. The machinery is installed in the factory of the recipient in Kanpur. In this case, the place of supply of machinery will be Kanpur.

B. Place of Supply for Services

Generally, the place of supply of services is the location of the service recipient. In cases where the services are provided to an unregistered dealer and their location is not available the location of service provider will be the place of provision of service.

Special provisions have been made to determine the place of supply for the following services:

- Services related to immovable property
- Restaurant services
- Admission to events
- Transportation of goods and passengers
- Telecom services
- Banking, Financial and Insurance services.

In case of services related to immovable property, the location of the property is the place of provision of services.

Example 1:

Mr. Anil from Delhi provides interior designing services to Mr. Ajay (Mumbai). The property is located in Ooty (Tamil Nadu).

In this case, place of supply will be the location of the immovable property i.e. Ooty, Tamil Nadu.

Example 2:

A registered taxpayer offers passenger transport services from Bangalore to Hampi. The passengers do not have GST registration. What will be the place of supply in this case?

The place of supply is the place from where the departure takes place i.e. Bangalore in this case.

3. Value of Supply of Goods or Services

Value of supply means the money that a seller would want to collect the goods and services supplied. The amount collected by the seller from the buyer is the value of supply. But where parties are related and a reasonable value may not be charged, or transaction may take place as a barter or exchange; the GST law prescribes that the value on which GST is charged must be its 'transactional value'. This is the value at which unrelated parties would transact in the normal course of business. It makes sure GST is charged and collected properly, even though the full value may not have been paid.

For eg:-

- From the following information furnished by a supplier, calculate the value of supply:

- i) Invoice price of Solar Cooker ₹ 46,000
- ii) Subsidy from State Govt ₹ 4,600
- iii) Subsidy directly linked to the supply from a Charitable Trust engaged in promotion of Solar Cookers ₹ 10,000.

Solution

	₹
Invoice price	46,000
<i>Less:</i> Subsidy directly linked	<u>10,000</u>
Value of Supply	<u><u>36,000</u></u>

Module IV

Registration

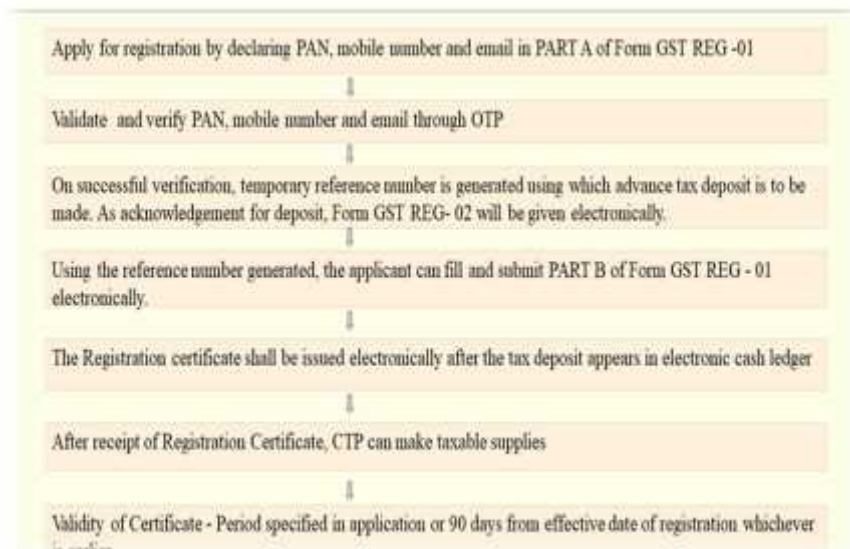
The liability to register under GST arises when the person is a supplier and the aggregate turnover in the financial year is above the threshold limit of ₹ 20 lakh rupees (CBIC has notified the increase in threshold turnover from ₹ 20 lakhs to ₹ 40 lakhs with effect from 1st April 2019). However, there are certain categories of suppliers who are required to get compulsory registration irrespective of their turnover. The threshold limit of 20 lakh rupees is not applicable to them. One such supplier would be a Casual Taxable Person (hereafter referred as CTP). A Casual Taxable person cannot opt for Composition Scheme. A CTP has to obtain a Temporary Registration which is valid for a maximum period of 90 days in the State from where he seeks to supply as a Casual taxable person. A CTP is required to make the advance deposit of GST (based on an estimation of tax liability).

For certain businesses, registration under GST is mandatory. If the organization carries on business without registering under GST, it will be an offence under GST and heavy penalties will apply. GST registration usually takes between 2-6 working days.

Let's take our previous example,

Say Mr. X estimates his taxable services at ₹ 100000. He is required to make an advance deposit of ₹ 18000 (18% of ₹ 100000) to obtain temporary registration.

Registration Process



Extension of Period of Registration

Apply in FORM GST REG-11 before the end of validity of registration. An extension can be made for a further period not extending 90 days. The extension will be allowed only on deposit of additional tax liability for the extended period.

Persons including Register for GST

- Individuals registered under the Pre-GST law (i.e., Excise, VAT, Service Tax etc.)
- Businesses with turnover above the threshold limit of ₹ 20 Lakhs* (₹ 10 Lakhs for North-Eastern States, J&K, Himachal Pradesh and Uttarakhand)
- Casual taxable person / Non-Resident taxable person

- Agents of a supplier & Input service distributor
- Those paying tax under the reverse charge mechanism
- Person who supplies via e-commerce aggregator
- Every e-commerce aggregator
- Person supplying online information and database access or retrieval services from a place outside India to a person in India, other than a registered taxable person

Documents Required for GST Registration

- PAN of the Applicant
- Aadhaar card
- Proof of business registration or Incorporation certificate
- Identity and Address proof of Promoters/Director with Photographs
- Address proof of the place of business
- Bank Account statement/Cancelled cheque
- Digital Signature
- Letter of Authorization/Board Resolution for Authorized Signatory

Amendment of Registration

1) Where there is any change in any of the particulars furnished in the application for registration in FORM GST REG-01 or FORM GST REG-07 or FORM GST REG-09 or FORM GST REG-10 or for UIN in FORM GST-REG-13 either at the time of obtaining registration or UIN or as amended from time to time, the registered person shall, within fifteen days of such change, submit an application, duly signed or verified through EVC, electronically in FORM GST REG-14, along with documents relating to such change at the Common Portal either directly or through a Facilitation Centre notified by the Commissioner.

(a) Where the change relates to-

i) legal name of business;

ii) address of the principal place of business or any additional place of business; or

iii) addition, deletion or retirement of partners or directors, Karta, Managing Committee, Board of Trustees, Chief Executive Officer or equivalent, responsible for day to day affairs of the business,- which does not warrant cancellation of registration under section 29, the proper officer shall, after due verification, approve the amendment within fifteen working days from the date of receipt of application in FORM GST REG-14 and issue an order in FORM GST REG-15 electronically and such amendment shall take effect from the date of occurrence of the event warranting amendment.

(b) The change relating to sub-clause (i) and sub-clause (iii) of clause (a) in any State or Union territory shall be applicable for all registrations of the registered person obtained under these rules on the same PAN.

(c) Where the change relates to any particulars other than those specified in clause (a), the certificate of registration shall stand amended upon submission of the application in FORM GST REG - 14 on the Common Portal: Provided that any change in the mobile number or e-mail address of the authorised signatory submitted under rule 1, as amended from time to time, shall be carried out only after online verification through the Common Portal in the manner provided under the said rule.

(d) Where a change in the constitution of any business results in change of PAN of a registered person, the said person shall apply for fresh registration in FORM GST REG-01.

2) Where the proper officer is of the opinion that the amendment sought under clause (a) of sub-rule (2) is either not warranted or the documents furnished therewith are incomplete or incorrect, he may, within fifteen working days from the date of receipt of the application in FORM GST REG-14 , serve a notice in FORM GST REG-03, requiring the registered person to show cause, within seven working days of the service of the said notice, as to why the application submitted under sub-rule (1) shall not be rejected.

3) The registered person shall furnish a reply to the notice to show cause, issued under sub rule 3, in FORM GST REG-04 within seven working days from the date of the service of the said notice.

4) Where the reply furnished under sub-rule (4) is found to be not satisfactory or where no reply is furnished in response to the notice issued under sub-rule (3) within the period prescribed in sub-rule (4), the proper officer shall reject the application submitted under sub rule (1) and pass an order in FORM GST REG -05.

- 5)** If the proper officer fails to take any action-
- (a) within fifteen working days from the date of submission of application, or
- (b) within seven working days from the date of receipt of reply to the notice to show cause under sub-rule (4), the certificate of registration shall stand amended to the extent applied for and the amended certificate shall be made available to the registered person on the Common Portal.

Cancellation of Registration

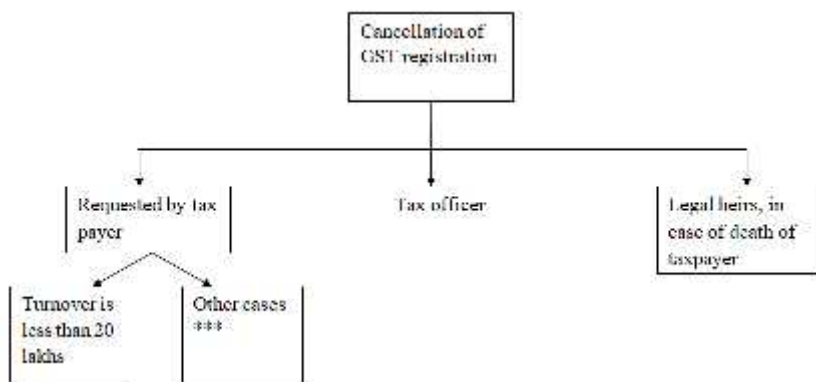
Cancellation of GST registration simply means that the taxpayer will not be a GST registered person any more. He will not have to pay or collect GST.

Consequences of Cancellation

- The taxpayer will not pay GST anymore
- For certain businesses, registration under GST is mandatory. If the GST registration is cancelled and business is still continued, it will mean an offence under GST and heavy penalties will apply.

Who can cancel the GST registration?

Cancellation of GST registration can be done by-



*** Application for cancellation, in case of voluntary registrations made under GST, can be made only after one year from the date of registration.

Cancellation when Turnover is less than 20 lakhs

Every person who was registered under old laws had to mandatorily migrate to GST. Many such persons are not liable to be registered under GST.

For example, the threshold under VAT in most states was 5 lakhs whereas it is 20 lakhs under GST. However, do make sure you are not making inter-state supplies since registration is mandatory for inter-state suppliers except for service providers.

Such a taxpayer can submit an application electronically in FORM GST REG-29 at the common portal.

The proper officer shall, after conducting an enquiry as required will cancel the registration.

Cancellation by taxpayer in other cases

- 1) The business has been discontinued
- 2) The business has been transferred fully, amalgamated, demerged or otherwise disposed — The transferee (or the new company from amalgamation/ demerger) has to get registered. The transferor will cancel its registration if it ceases to exist.
- 3) There is a change in the constitution of the business (For example- Private limited company has changed to a public limited company)

Forms for cancellation

All those who cannot follow the above method must file an application for cancellation in FORM GST REG 16. The legal heirs of the deceased taxpayer will follow the same procedure as below.

- 1) Application for cancellation has to be made in FORM GST REG 16.
- 2) The following details must be included in FORM GST REG 16-
 - (a) Details of inputs, semi-finished, finished goods held in stock on the date on which cancellation of registration is applied
 - (b) Liability thereon
 - (c) Details of the payment
- 3) The proper officer has to issue an order for cancellation in FORM GST REG-19 within 30 days from date of application.

The cancellation will be effective from a date determined by the officer and he will notify the taxable person.

Cancellation by tax officer

The registration can be cancelled, if the taxpayer –

- (a) Does not conduct any business from the declared place of business OR
- (b) Issues invoice or bill without supply of goods/services (i.e., in violation of the provisions) OR
- (c) Violates the anti-profiteering provisions (for example, not passing on benefit of ITC to customers)

Procedure

- If the proper officer has reasons to cancel the registration of a person then he will send a show cause notice to such person in FORM GST REG-17.
- The person must reply in FORM REG-18 within 7 days from date of service of notice why his registration should not be cancelled.
- If the reply is found to be satisfactory, the proper officer will drop the proceedings and pass an order in FORM GST REG-20.
- If the registration is liable to be cancelled, the proper officer will issue an order in FORM GST REG-19. The order will be sent within 30 days from the date of reply to the show cause.

Revocation of Cancellation of Registration

Revocation means the official cancellation of a decision or promise. Revocation of cancellation of registration means that the decision to cancel the registration has been reversed and the registration is still valid.

This is applicable only when the tax officer has cancelled the registration of a taxable person on his own motion. Such taxable person can apply to the officer for revocation of cancellation within thirty days from the date of the cancellation order.

Procedure

- A registered person can submit an application for revocation of cancellation, in FORM GST REG-21, if his registration has been cancelled suo moto by the proper officer.
- He must submit it within 30 days from the date of service of the cancellation order at the Common Portal.
- If the proper officer is satisfied he can revoke the cancellation of registration by an order in FORM GST REG-22 within 30 days from the date of receipt of the application. Reasons for revocation of cancellation of registration must be recorded in writing.
- The proper officer can reject the application for revocation by an order in FORM GST REG-05 and communicate the same to the applicant.
- Before rejecting, the proper officer must issue a show cause notice in FORM GST REG-23 for the applicant to show why the application should not be rejected. The applicant must

reply in FORM GST REG-24 within 7 working days from the date of the service of notice.

- The proper officer will take decision within 30 days from the date of receipt of clarification from the applicant in FORM GST REG-24.

Note: Application for revocation cannot be filed if the registration has been cancelled because of the failure to file returns. Such returns must be furnished first along with payment of all dues amounts of tax, interest & penalty.

Tax Invoice

An invoice or a bill is a list of goods sent or services provided, along with the amount due for payment.

Mandatory fields required for a GST Invoice

A tax invoice is generally issued to charge the tax and pass on the input tax credit. A GST Invoice must have the following mandatory fields –

- 1) Invoice number and date
- 2) Customer name
- 3) Shipping and billing address
- 4) Customer and taxpayer's GSTIN (if registered)**
- 5) Place of supply
- 6) HSN code/ SAC code
- 7) Item details i.e. description, quantity (number), unit (meter, kg etc.), total value

- 8) Taxable value and discounts
- 9) Rate and amount of taxes i.e. CGST/ SGST/ IGST
- 10) Whether GST is payable on reverse charge basis
- 11) Signature of the supplier

****If the recipient is not registered and the value is more than ₹ 50,000 then the invoice should carry:**

- i) name and address of the recipient,
- ii) address of delivery,
- iii) state name and state code

Types of Invoices

1. Bill of Supply

A bill of supply is similar to a GST invoice except for that bill of supply does not contain any tax amount as the seller cannot charge GST to the buyer.

A bill of supply is issued in cases where tax cannot be charged:

- Registered person is selling exempted goods/services,
- Registered person has opted for composition scheme

Invoice-cum-bill of supply

As per Notification No. 45/2017 – Central Tax dated 13th October 2017.

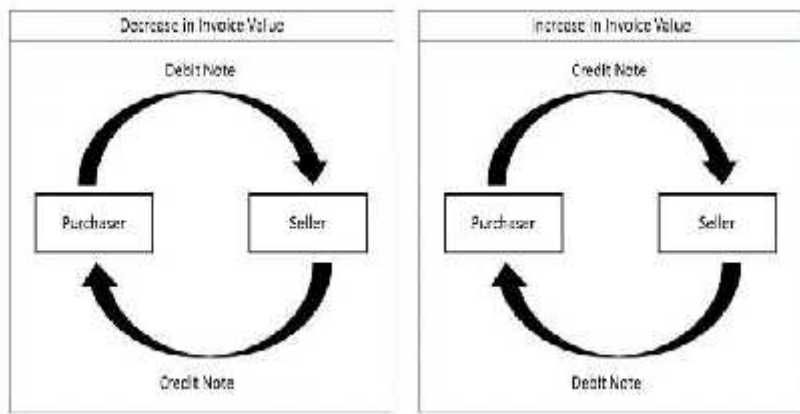
If a registered person is supplying taxable as well as exempted goods/ services to an unregistered person, then he can issue a single “invoice-cum-bill of supply” for all such supplies.

2. Aggregate Invoice

If the value of multiple invoices is less than ₹ 200 and the buyer are unregistered, the seller can issue an aggregate or bulk invoice for the multiple invoices on a daily basis.

For example, you may have issued 3 invoices in a day of ₹ 80, ₹ 90 and ₹ 120. In such a case, you can issue a single invoice, totalling to ₹ 290, to be called an aggregate invoice.

3. Debit and credit note



A debit note is issued by the seller when the amount payable by the buyer to seller increases:

- 1) Tax invoice has a lower taxable value than the amount that should have been charged

2) Tax invoice has a lower tax value than the amount that should have been charged

A credit note is issued by the seller when the value of invoice decreases:

1) Tax invoice has a higher taxable value than the amount that should have been charged

2) Tax invoice has a higher tax value than the amount that should have been charged

3) Buyer refunds the goods to the supplier

4) Services are found to be deficient

Returns

Every registered person paying GST is required to furnish an electronic return every calendar month. A “Tax Return” is a document that showcases the income of a registered taxpayer. Such a document needs to be filed with the tax authorities in order to pay tax to the government. The tax to be paid by a registered dealer depends upon the income declared by such a person in the tax return filed with the tax authorities.

Under the initial GST Return filing procedure, the different types of GST returns demanded the taxpayer to disclose the following details:

- Outward Supplies (Sales)
- Inward Supplies (Purchases)
- GST On Output

- GST on Input (Input Tax Credit)
- Other Particulars (As May be Prescribed in the Document)

***Note: However, the current system of GST Return filing requires a taxpayer to update outward supplies information in GSTR 1. And then file a summary return in GSTR 3B. All the other forms like GSTR 2 and GSTR 3 have been suspended for the time being.

Different Types of GST Returns

Here is a list of all the returns to be filed as prescribed under the GST Law along with the due dates.

As per the CGST Act subject to changes by CBIC Notifications

Return Form	Particulars	Frequency	Due Date
GSTR-1	Details of outward supplies of taxable goods and/or services affected	Monthly	11 th of the next month with effect from October 2018 *Previously, the due date was 10th

		Quarterly (If opted under the QRMP scheme)	13 th of the month succeeding the quarter. Was end of the month succeeding the quarter until December 2020)
GSTR-2 Suspended from September 2017 onwards	Details of inward supplies of taxable goods and/or services affected claiming the input tax credit.	Monthly	15 th of the next month
GSTR-3 Suspended from September 2017 onwards	Monthly return on the basis of finalization of details of outward supplies and inward supplies along with the payment of tax.	Monthly	20 th of the next month
GSTR-3B	Simple Return in which summary of outward	Monthly	20 th of the next month from the

supplies along with Input Tax Credit is declared and payment of tax is affected by taxpayer		month of January 2021 onwards [^] Staggered ^{^^} from the month of January 2020 onwards upto December 2020.* *Previously 20 th of the next month for all taxpayers.
	Quarterly	22 nd or 24 th of the month next to the quarter***
[^] 20 th of next month for taxpayers with an aggregate turnover in the previous financial year more than Rs 5 crore or otherwise eligible but still opting out of the Quarterly Return Filing and Monthly Payment of Taxes (QRMP) scheme.		
^{^^} 1. 20 th of next month for taxpayers with an		

	<p>aggregate turnover in the previous financial year more than Rs 5 crore.</p> <p>2. For the taxpayers with aggregate turnover equal to or below Rs 5 crore, 22nd of next month for taxpayers in category X states/UTs and 24th of next month for taxpayers in category Y states/UTs.</p> <p>***For the taxpayers with aggregate turnover equal to or below Rs 5 crore, eligible and remain opted into the QRMP scheme, 22nd of month next to the quarter for taxpayers in category X states/UTs and 24th of month next to the quarter for taxpayers in category Y states/UTs.</p> <ul style="list-style-type: none"> • Category X: Chhattisgarh, Madhya Pradesh, Gujarat, Maharashtra, Karnataka, Goa, Kerala, Tamil Nadu, Telangana or Andhra Pradesh or the Union territories of Daman and Diu and Dadra and Nagar Haveli, Puducherry, Andaman and Nicobar Islands and Lakshadweep. • Category Y: Himachal Pradesh, Punjab, Uttarakhand, Haryana, Rajasthan, Uttar Pradesh, Bihar, Sikkim, Arunachal Pradesh, Nagaland, Manipur, Mizoram, Tripura, Meghalaya, Assam, West Bengal, Jharkhand or Odisha or the Union Territories of Jammu and Kashmir, Ladakh, Chandigarh and New Delhi. 		
CMP – 08	Statement-cum-	Quarterly	18 th of the

	challan to make a tax payment by a taxpayer registered under the composition scheme under section 10 of the CGST Act (supplier of goods) and CGST (Rate) notification no. 02/2019 dated 7th March 2020 (Supplier of services)		month succeeding the quarter.
GSTR-4	Return for a taxpayer registered under the composition scheme under section 10 of the CGST Act (supplier of goods) and CGST (Rate) notification no. 02/2019 dated 7th March 2020 (Supplier of services).	Annually	30 th of the month succeeding a financial year.
GSTR-5	Return for a Non-Resident foreign taxable person	Monthly	20 th of the next month

GSTR-6	Return for an input service distributor to distribute the eligible input tax credit to its branches.	Monthly	13 th of the next month
GSTR-7	Return for government authorities deducting tax at source (TDS).	Monthly	10 th of the next month
GSTR-8	Details of supplies effected through e-commerce operators and the amount of tax collected at source by them.	Monthly	10 th of the next month
GSTR-9	Annual Return for a Normal Taxpayer	Annually	31 st December of next financial year
GSTR-9A - Suspended	Annual return optional for filing by a taxpayer registered under the composition levy anytime during the	Annually until FY 2017-18 and FY 2018-19	31 st December of next financial year, only up to FY

	year.		2018-19.
GSTR-9C	Certified reconciliation statement	Annually	31 st December of next financial year.
GSTR-10	Final return to be filed by a taxpayer whose GST registration is cancelled.	Once, when GST Registration is cancelled or surrendered	Within three months of the date of cancellation or date of cancellation order, whichever is later.
GSTR-11	Details of inward supplies to be furnished by a person having UIN and claiming a refund	Monthly	28 th of the month following the month for which statement is filed

First Return

“Every registered taxable person paying tax under the provisions of section 7 shall furnish the first return containing the details of:

(a) outward supplies under section 25 from the date on which he became liable to registration till the end of the month in which the registration has been granted;

(b) inward supplies under section 26 from the effective date of registration till the end of the month in which the registration has been granted: Provided that a registered taxable person paying tax under the provisions of section 8 shall furnish the first return for the period starting from the date on which he becomes a registered taxable person till the end of the quarter in which the registration has been granted.

Annual Return

Annual return has to be filed by every registered person paying tax as normal taxpayer under GST. Annual return is to be filed once a year in Form GSTR 9.

GSTR 9 is an annual return to be filed yearly by taxpayers registered under GST. Points to note:

- It consists of details regarding the outward and inward supplies made/received during the relevant previous year under different tax heads i.e. CGST, SGST & IGST and HSN codes.
- It is a consolidation of all the monthly/quarterly returns (GSTR-1, GSTR-2A, GSTR-3B) filed in that year. Though complex, this return helps in extensive reconciliation of data for 100% transparent disclosures.

Final Return

A taxable person whose GST registration is cancelled or surrendered has to file a return in the form of GSTR-10. This return is called as final return.

Tax Return Preparers

GST has provisions for creating a new class of professionals called GST Practitioners or GST Tax Return Preparers for helping small businesses with their GST return filing.

According to GST Rules, to become a GST tax return preparer the following conditions must be satisfied by the applicant:

General Criteria

- He/she is a citizen of India.
- He/she is a person of sound mind
- He/she is not adjudicated as insolvent.
- He/she has not been convicted by a competent court for an offence with imprisonment not less than two years.

Experience Route

The following class of persons can become a GST tax return preparer through the experience route.

- Retired officer of the Commercial Tax Department of any State Government or of the Central Board of Excise and Customs, Department of Revenue, Government of India, who, during his service under the Government, had worked in a post not lower in rank than that of a Group-B gazetted officer for a period of not less than two years.
- The person was enrolled as a sales tax practitioner or tax return preparer under the existing law for a period of not less than five years.

Education Route

The following class of persons having passed the following types of exams are eligible to become GST Tax Return Preparers.

- A graduate or postgraduate degree or its equivalent examination having a degree in Commerce, Law, Banking including Higher Auditing, or Business Administration or Business Management from any Indian University established by any law for the time being in force.
- A degree examination of any Foreign University recognized by any Indian University.
- Any degree examination of an Indian University or of any Foreign University recognized by any Indian University as the equivalent of the degree examination.
- Passed final examination of the Institute of Chartered Accountants of India.
- Passed the final examination of the Institute of Cost Accountants of India.
- Passed the final examination of the Institute of Company Secretaries of India.

Levy of Late Fee

- As per the GST laws, late fee is an amount charged for delay in filing the GST returns. A prescribed late fees will be charged for each day of delay, when a GST registered business misses filing GST returns within the prescribed due date.

- The late fee should be paid in cash and the taxpayer cannot use the Input Tax Credit (ITC) available in electronic credit ledger for payment of late fee.
- The late fee is also applicable for the delay in filing nil returns. For example, one has to pay a late fee even though there are no sales or purchases and no GST liability to declare in the GSTR-3B.
- The late fee will depend upon the number of days of delay from the due date. GST return in GSTR-3B is filed on 23rd January 2021, 3 days after the prescribed due date i.e., 20th January 2021. The late fees will be calculated for three days and it should be deposited in cash.

However, currently, the GST portal is aligned to charge a late fee only on returns GSTR-3B, GSTR-4, GSTR-5, GSTR-5A, GSTR-6, GSTR-8, GSTR-7 and GSTR-9 only.

Amount of Late Fees Applicable

Maximum late fee rationalised from June 2021 or quarter ending June 2021

As per the 43rd GST Council meeting's outcome, maximum late fee is reduced to the following amounts based on type of return and turnover slab, notified via the CGST notifications 19/2021, 20/2021 dated 1st June 2021 for GSTR-3B and GSTR-1.

1) In case of nil GSTR-1 and GSTR-3B filing, the maximum late fee charged shall be capped at Rs.500 per return (i.e., Rs. 250 each for CGST & SGST).

2) In GSTR-1 and GSTR-3B other than nil filing, maximum late fee is fixed based on annual turnover slab, as follows:

(a) If the annual turnover in the previous financial year is upto Rs.1.5 crore then the late fee of maximum Rs 2,000 per return can only be charged (i.e., Rs.1000 each for CGST and SGST).

(b) If the turnover ranges between Rs.1.5 crore and Rs.5 crore then the maximum late fee of Rs.5,000 per return can only be charged (i.e., Rs. 2500 each for CGST and SGST).

(c) If the turnover is more than Rs.5 crore then late fee of maximum Rs.10,000 (i.e., Rs. 5000 per CGST and SGST) can be charged.

Additionally, the late fee has been rationalised for delayed filing of GSTR-4 from FY 2021-22, via the CGST notification 21/2021 dated 1st June 2021. The maximum late fee will be restricted to Rs.500 per return for nil filing and Rs. 2000 for other than nil filing.

According to CGST notification 22/2021 dated 1st June 2021, the late fee chargeable for GSTR-7 i.e., TDS filing under GST shall be of maximum Rs. 2,000 while late fee per day charged is reduced from Rs.200 to Rs.50 per day of delay, per act, per return.

Notice to Return Defaulters

On receiving notice in GSTR-3A Notice, the defaulter has to file the return within 15 days from the date of notice along with penalty and late fees.

Interest (Penalty) under GST

Interest is applicable on late payment of GST liability on the net tax liability after reducing the input tax credit claims. The interest has to be paid by every taxpayer who:

- Makes a delayed GST payment i.e. pays CGST, SGST or IGST after the due date
- Claims excess input tax credit
- Reduces excess output tax liability

If GST is not paid within the due dates of filing return Interest at following rates has to be paid:

Particulars	Interest
Tax paid after due date*	18% p.a.
Excess ITC Claimed or excess reduction in Output Tax	24% p.a.

The Interest has to be calculated from the next day on which tax was due.

For example, a taxpayer fails to make a tax payment of Rs. 10,000 for the month of December 2020, where the due date was 20th January 2021. If he makes the payment on 20th February 2021, the interest for the delay period (31 days: from 21st January till 20th February) will be calculated as follows:

$$₹ 10,000 * 31/365 * 18\% = \text{Rs.153}$$

MODULE V

Payment of Tax, Interest, Penalty and Other Amounts

Under GST Law, payment of tax is to be made as follows:

1) For any intra-state supply (Supply within the state) taxes are to be paid:

- Central tax known as the Central GST (CGST) goes into the account of the Central Government.
- State/UT tax known as the SGST/UTGST goes into the account of the concerned State Government or Union Territory, as the case may be.

2) 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).

Further, interest, penalty, fees and any other payment as per the Act shall also be paid.

Interest on Delayed Payment of Tax

Every person who is liable to pay tax but fails to pay the same within the period prescribed, shall be liable to pay interest at such rate as may be notified by the Government based on the

recommendations of the GST Council. The rate of interest shall not exceed 18%. The interest shall be calculated from the next day on which tax is due. A taxable person who makes an undue or excess claim of input tax credit or undue or excess reduction in output tax liability, shall pay interest on such excess claim or reduction, at the prescribed rate, notified by the Government on the recommendations of the GST Council. The rate shall not exceed 24%.

Tax Deducted at Source

Tax Deducted at Source (TDS) is one of the ways to collect tax based on certain percentages on the amount payable by the receiver on goods/services. The collected tax is a revenue for the government. The following persons are required to deduct tax at source where the total value of supply under a contract exceeds ₹ 250000:

- A department or an establishment of the Central Government or State Government; or
- Local authority; or
- Governmental agencies; or
- Such persons or category of persons as may be notified by the Government on the recommendations of the GST Council.

As per the latest Notification dated 13th September 2018, the following entities also need to deduct TDS-

- An authority or a board or any other body which has been set up by Parliament or a State Legislature or by a

government, with 51% equity (control) owned by the government.

- A society established by the Central or any State Government or a Local Authority and the society is registered under the Societies Registration Act, 1860.
- Public sector undertakings.

Liability to deduct TDS and TDS rate

TDS is to be deducted at the rate of 2 % on payments made to the supplier of taxable goods and/or services, where the total value of such supply, under an individual contract, exceeds Rs.2,50,000. No deduction of Tax is required when the location of supplier and place of supply is different from the State of the registration of the recipient.

Input Tax Credit

Under GST, each person having a GST registration in the supply chain takes part in the process of controlling, collecting GST tax and remitting the amount collected. However, to avoid double taxation and cascading effect of tax, input tax credit is provided as a means to set off tax paid on procurement of raw materials, consumables, goods or services that was used in the manufacturing and supply and sale of goods or services. By using the input tax credit mechanism, businesses are able to achieve neutrality in the incidence of tax and ensure that such input tax element does not enter into the cost of production or cost of supply of goods and services.

For example - You are a manufacturer: a) Tax payable on output (Final Product) is ₹ 450 b) Tax paid on input

(Purchases) is ₹ 300 c) You can claim INPUT CREDIT of ₹ 300 and you only need to deposit ₹ 150 in taxes.

Eligibility for Claiming Input Tax Credit

Input tax credit can be claimed only by a person having GST registration and based on proper documentation and filing of GSTR-2 returns. The following documentary requirements must be satisfied by a taxpayer for claiming input tax credit.

- 1) An invoice issued by the Supplier as per the GST Rules for Invoice; or
- 2) A debit note issued by a supplier; or
- 3) A bill of entry or any similar document; or
- 4) An ISD invoice or ISD credit note or any document issued by an Input Service Distributor.

In addition, the following conditions are also applicable for claiming input tax credit:

- (a) The taxpayer is in possession of a tax invoice or debit note issued by a registered supplier or other tax paying documents.
- (b) The taxpayer has received the goods and/or services.
- (c) The tax charged in respect of the supply has been actually paid to the account of the appropriate Government, in cash or through utilisation of available input tax credit.
- (d) The taxpayer has filed the necessary GST filings.

Transfer/Utilisation of Input Tax Credit and Order of Set-off

According to GST Law, the input tax credit available for a registered person can be set off against the output tax liability of the person. If any surplus credit is available it can be set off against his other outstanding liability, but only subject to the specific restrictions and conditions in the Act and rules in this respect. The utilisation of credit should be as follows:

CGST - Input credit of CGST must be set off against output tax liability of CGST.

Any surplus credit remaining shall be utilised to set off output tax liability of IGST.

SGST - Input credit of SGST must be set off against output tax liability of SGST.

Any surplus credit remaining shall be utilised to set off output tax liability of IGST.

IGST - Input credit of IGST must be set off against output tax liability of IGST.

Any surplus credit remaining shall be utilised to set off output tax liability of CGST and any surplus credit remaining shall be utilised to set off output tax liability of SGST.

Order of Utilisation of Input Tax Credit

	CGST Collected		SGST Collected		IGST Collected
Less	CGST Paid	Less	SGST Paid	Less	IGST Paid
Less	IGST Paid	Less	IGST Paid	Less	CGST Paid
=	CGST Payable	=	SGST Payable	Less	SGST Paid
				=	IGST Payable

Refund of Tax

Usually when the GST paid is more than the GST liability a situation of claiming GST refund arises. Under GST the process of claiming a refund is standardized to avoid confusion. The GST refund process requires the taxpayer to follow elaborate steps, submit documents and declaration if required, to the GST authorities for claiming a GST refund. The refunds under GST can be the cash balance in the electronic cash ledger deposited in excess or tax paid by mistake or the accumulated Input Tax

Credit (ITC) unable to be utilised for tax payments due to zero-rated sales or inverted tax structure.

The forms in which a GST refund is claimed varies according to the type of GST refund being claimed. For instance, the refund of IGST in exports (with tax payment) can be claimed by only reporting details in the GSTR-1 and GSTR-3B. Whereas the refund of cash paid in excess of the electronic cash ledger can be claimed by applying in form RFD-01. Therefore, the steps or the process differs with the type of GST refund.

There are many cases where refund can be claimed. Here are some of them –

- Excess payment of tax is made due to mistake or omission.
- Dealer Exports (including deemed export) goods/services under claim of rebate or Refund
- ITC accumulation due to output being tax exempt or nil-rated
- Refund of tax paid on purchases made by Embassies or UN bodies
- Tax Refund for International Tourists
- Finalization of provisional assessment

Let's take a simple case of excess tax payment made.

Mr. B's GST liability for the month of September is ₹ 50000. But due to mistake, Mr. B made a GST payment of ₹ 5 lakh. Now Mr. B has made an excess GST payment of ₹ 4.5 lakh which can be claimed as a refund by him. The time

limit for claiming the refund is 2 years from the date of payment.

The time limit for claiming a refund is 2 years from relevant date. The relevant date is different in every case. Here are the relevant dates for some cases –

Reason for claiming GST Refund	Relevant Date
Excess payment of GST	Date of payment
Export or deemed export of goods or services	Date despatch/loading/passing of the frontier
ITC accumulates as output is tax exempt or nil-rated	Last date of financial year to which the credit belongs
Finalisation of provisional assessment	Date on which tax is adjusted

Also if refund is paid with delay an interest of 24% p.a. is payable by the government.

Accounts and Records

Every registered person is required to keep and maintain all records at his principal place of business. It is the responsibility of the following persons to maintain specified records-

- 1) The owner
- 2) Operator of warehouse or godown or any other place used for storage of goods
- 3) Every transporter

Every registered person whose turnover during a financial year exceeds the prescribed limit (₹ 2 crore) will get his accounts audited by a chartered accountant or a cost accountant. Every registered person must maintain records of:

- (a) Production or manufacture of goods
- (b) Inward and outward supply of goods or services or both
- (c) Stock of goods
- (d) Input tax credit availed
- (e) Output tax payable and paid and
- (f) Other particulars as may be prescribed

Accounts must be maintained under GST

Under GST, a trader has to maintain the following a/c's (apart from accounts like purchase, sales, stock) –

- Input CGST a/c
- Output CGST a/c
- Input SGST a/c
- Output SGST a/c
- Input IGST a/c

- Output IGST a/c
- Electronic Cash Ledger (to be maintained on Government GST portal to pay GST)

Electronic Ledger/Register

Every registered taxpayer will have 3 ledgers under GST which will be generated automatically at the time of registration and will be maintained electronically.

1) Electronic Cash Ledger: This ledger will serve as an electronic wallet. The taxpayer will have to deposit money into his cash ledger (add money to the wallet). The money will be utilized to make the payment.

2) Electronic Credit Ledger: The input tax credit on purchases will be reflected here under three categories i.e., IGST, CGST & SGST. The taxpayer will be able to utilize the balance shown in this account only for payment of tax (not for interest, penalty, etc).

3) E-Liability Ledger: This ledger will show the total tax liability of a taxpayer after netting off for the particular month. This ledger will be auto-populated.

The above ledgers and register have following sub-ledgers:

- 1) CGST
- 2) SGST (Ledger of each respective state)
- 3) UTGST (Ledger of each respective Union Territory)
- 4) IGST
- 5) Cess

Once a tax payer is registered in a GSTN Portal, two E-ledgers and E-register will be automatically opened and displayed.

Retention of Accounts under GST

As per the GST Act, every registered taxable person must maintain the accounts books and records for at least 72 months (6 Years). The period will be counted from the last date of filing of Annual Return for that year. The last date of filing the Annual Return is 31st December of the following year.

Demands and Recovery

Demand and recovery provisions are applicable when a registered dealer has paid tax incorrectly or not paid tax at all. It is also applicable when an incorrect refund or ITC is claimed by the dealer.

The proper officer will issue a show cause notice along with a demand for payment of tax and penalty in case of fraud.

Demands can arise in the following cases:

- (1) Unpaid or short paid tax or wrong refund
- (2) Tax collected but not deposited with the Central or a State Government
- (3) CGST/SGST paid when IGST was payable and vice versa.

Notice and Order for Demand of Accounts Payable under the Act

- 1) The proper officer shall serve, along with the

(a) notice under sub-section (1) of section 73 or sub-section (1) of section 74 or subsection (2) of section 76, a summary thereof electronically in FORM GST DRC-01,

(b) statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in FORM GST DRC-02, specifying therein the details of the amount payable.

2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of subsection (5) of section 74, he shall inform the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in FORM GST DRC-04.

3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of section 74 within thirty days of the service of a notice under sub-rule (1), he shall intimate the proper officer of such payment in FORM GST DRC-03 and the proper officer shall issue an order in FORM GST DRC-05 concluding the proceedings in respect of the said notice.

4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be in FORM GST DRC-06.

5) A summary of the order issued under sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 shall be uploaded electronically in FORM GST DRC-

07, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.

6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.

7) Any rectification of the order, in accordance with the provisions of section 161, shall be made by the proper officer in FORM GST DRC-08.

Recovery [Rule 143]

If demand is not paid, the GST authority starts recovery proceedings:

Recovery by Deduction from any Money Owed

Where any amount payable by a person (hereafter referred to in this rule as “the defaulter”) to the Government under any of the provisions of the Act or the rules made thereunder is not paid, the proper officer may require, in FORM GST DRC-09, a specified officer to deduct the amount from any money owing to such defaulter in accordance with the provisions of clause (a) of sub-section (1) of section 79.

Explanation: For the purposes of this rule, “specified officer” shall mean any officer of the Central Government or a State Government or the Government of a Union territory or a local authority, or of a Board or Corporation or a company owned or controlled, wholly or partly, by the Central Government or a State Government or the Government of a Union territory or a local authority.

Recovery by Sale of Goods under the Control of Proper Officer

(1) Where any amount due from a defaulter is to be recovered by selling goods belonging to such person in accordance with the provisions of clause (b) of sub-section (1) of section 79, the proper officer shall prepare an inventory and estimate the market value of such goods and proceed to sell only so much of the goods as may be required for recovering the amount payable along with the administrative expenditure incurred on the recovery process.

(2) The said goods shall be sold through a process of auction, including e-auction, for which a notice shall be issued in FORM GST DRC-10 clearly indicating the goods to be sold and the purpose of sale.

(3) The last day for submission of bid or the date of auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (2): Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping them in custody are likely to exceed their value, the proper officer may sell them forthwith.

(4) The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.

(5) The proper officer shall issue a notice to the successful bidder in FORM GST DRC-11 requiring him to make the payment within a period of fifteen days from the date of auction. On payment of the full bid amount, the proper officer shall

transfer the possession of the said goods to the successful bidder and issue a certificate in FORM GST DRC-12.

(6) Where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery, before the issue of the notice under sub-rule (2), the proper officer shall cancel the process of auction and release the goods.

(7) The proper officer shall cancel the process and proceed for re-auction where no bid is received or the auction is considered to be non-competitive due to lack of adequate participation or due to low bids.

Recovery from a Third Person

(1) The proper officer may serve upon a person referred to in clause (c) of sub-section (1) of section 79 (hereafter referred to in this rule as “the third person”), a notice in FORM GST DRC-13 directing him to deposit the amount specified in the notice.

(2) Where the third person makes the payment of the amount specified in the notice issued under sub-rule (1), the proper officer shall issue a certificate in FORM GST DRC-14 to the third person clearly indicating the details of the liability so discharged.

Recovery through Execution of a Decree, etc.

Where any amount is payable to the defaulter in the execution of a decree of a civil court for the payment of money or for sale in the enforcement of a mortgage or charge, the proper officer shall send a request in FORM GST DRC- 15 to the said court and the court shall, subject to the provisions of the Code of Civil

Procedure, 1908 (5 of 1908), execute the attached decree, and credit the net proceeds for settlement of the amount recoverable.

Recovery by Sale of Movable or Immovable Property

(1) The proper officer shall prepare a list of movable and immovable property belonging to the defaulter, estimate their value as per the prevalent market price and issue an order of attachment or distraint and a notice for sale in FORM GST DRC- 16 prohibiting any transaction with regard to such movable and immovable property as may be required for the recovery of the amount due: Provided that the attachment of any property in a debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any Court, shall be attached in the manner provided in rule 151.

(2) The proper officer shall send a copy of the order of attachment or distraint to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the proper officer to that effect.

(3) Where the property subject to the attachment or distraint under sub-rule (1) is-

(a) an immovable property, the order of attachment or distraint shall be affixed on the said property and shall remain affixed till the confirmation of sale;

(b) a movable property, the proper officer shall seize the said property in accordance with the provisions of chapter XIV of the Act and the custody of the said property shall either be

taken by the proper officer himself or an officer authorised by him.

(4) The property attached or distrained shall be sold through auction, including e-auction, for which a notice shall be issued in FORM GST DRC- 17 clearly indicating the property to be sold and the purpose of sale.

(5) Notwithstanding anything contained in the provision of this Chapter, where the property to be sold is a negotiable instrument or a share in a corporation, the proper officer may, instead of selling it by public auction, sell such instrument or a share through a broker and the said broker shall deposit to the Government so much of the proceeds of such sale, reduced by his commission, as may be required for the discharge of the amount under recovery and pay the amount remaining, if any, to the owner of such instrument or a share.

(6) The proper officer may specify the amount of pre-bid deposit to be furnished in the manner specified by such officer, to make the bidders eligible to participate in the auction, which may be returned to the unsuccessful bidders or, forfeited in case the successful bidder fails to make the payment of the full amount, as the case may be.

(7) The last day for the submission of the bid or the date of the auction shall not be earlier than fifteen days from the date of issue of the notice referred to in sub-rule (4): Provided that where the goods are of perishable or hazardous nature or where the expenses of keeping them in custody are likely to exceed their value, the proper officer may sell them forthwith.

(8) Where any claim is preferred or any objection is raised with regard to the attachment or distraint of any property on the ground that such property is not liable to such attachment

or distraint, the proper officer shall investigate the claim or objection and may postpone the sale for such time as he may deem fit.

(9) The person making the claim or objection must adduce evidence to show that on the date of the order issued under sub-rule (1) he had some interest in, or was in possession of, the property in question under attachment or distraint.

(10) Where, upon investigation, the proper officer is satisfied that, for the reason stated in the claim or objection, such property was not, on the said date, in the possession of the defaulter or of any other person on his behalf or that, being in the possession of the defaulter on the said date, it was in his possession, not on his own account or as his own property, but on account of or in trust for any other person, or partly on his own account and partly on account of some other person, the proper officer shall make an order releasing the property, wholly or to such extent as he thinks fit, from attachment or distraint.

(11) Where the proper officer is satisfied that the property was, on the said date, in the possession of the defaulter as his own property and not on account of any other person, or was in the possession of some other person in trust for him, or in the occupancy of a tenant or other person paying rent to him, the proper officer shall reject the claim and proceed with the process of sale through auction.

(12) The proper officer shall issue a notice to the successful bidder in FORM GST DRC-11 requiring him to make the payment within a period of fifteen days from the date of such notice and after the said payment is made, he shall issue a certificate in FORM GST DRC-12 specifying the details of the property, date of transfer, the details of the bidder and the amount paid and upon issuance of such certificate, the rights,

title and interest in the property shall be deemed to be transferred to such bidder: Provided that where the highest bid is made by more than one person and one of them is a co-owner of the property, he shall be deemed to be the successful bidder.

(13) Any amount, including stamp duty, tax or fee payable in respect of the transfer of the property specified in sub-rule (12), shall be paid to the Government by the person to whom the title in such property is transferred.

(14) Where the defaulter pays the amount under recovery, including any expenses incurred on the process of recovery, before the issue of the notice under sub-rule (4), the proper officer shall cancel the process of auction and release the goods.

(15) The proper officer shall cancel the process and proceed for re-auction where no bid is received or the auction is considered to be non-competitive due to lack of adequate participation or due to low bids.

Prohibition against Bidding or Purchase by Officer

No officer or other person having any duty to perform in connection with any sale under the provisions of this Chapter shall, either directly or indirectly, bid for, acquire or attempt to acquire any interest in the property sold.

Prohibition against Sale on Holidays

No sale under the rules under the provision of this chapter shall take place on a Sunday or other general holidays recognized by the Government or on any day which has been notified by the Government to be a holiday for the area in which the sale is to take place.

Assistance by Police

The proper officer may seek such assistance from the officer in-charge of the jurisdictional police station as may be necessary in the discharge of his duties and the said officer-in-charge shall depute sufficient number of police officers for providing such assistance.

Attachment of Debts and Shares, etc.

(1) A debt not secured by a negotiable instrument, a share in a corporation, or other movable property not in the possession of the defaulter except for property deposited in, or in the custody of any court shall be attached by a written order in FORM GST DRC-16 prohibiting:-

(a) in the case of a debt, the creditor from recovering the debt and the debtor from making payment thereof until the receipt of a further order from the proper officer;

(b) in the case of a share, the person in whose name the share may be standing from transferring the same or receiving any dividend thereon;

(c) in the case of any other movable property, the person in possession of the same from giving it to the defaulter.

(2) A copy of such order shall be affixed on some conspicuous part of the office of the proper officer, and another copy shall be sent, in the case of debt, to the debtor, and in the case of shares, to the registered address of the corporation and in the case of other movable property, to the person in possession of the same.

(3) A debtor, prohibited under clause (a) of sub-rule (1), may pay the amount of his debt to the proper officer, and such payment shall be deemed as paid to the defaulter.

Attachment of Property in Custody of Courts or Public Officer

Where the property to be attached is in the custody of any court or Public Officer, the proper officer shall send the order of attachment to such court or officer, requesting that such property, and any interest or dividend becoming payable thereon, may be held till the recovery of the amount payable.

Attachment of Interest in Partnership

(1) Where the property to be attached consists of an interest of the defaulter, being a partner, in the partnership property, the proper officer may make an order charging the share of such partner in the partnership property and profits with payment of the amount due under the certificate, and may, by the same or subsequent order, appoint a receiver of the share of such partner in the profits, whether already declared or accruing, and of any other money which may become due to him in respect of the partnership, and direct accounts and enquiries and make an order for the sale of such interest or such other order as the circumstances of the case may require.

(2) The other partners shall be at liberty at any time to redeem the interest charged or, in the case of a sale being directed, to purchase the same.

Disposal of Proceeds of Sale of Goods and Movable or Immovable Property

The amounts so realised from the sale of goods, movable or immovable property, for the recovery of dues from a defaulter shall,-

- (a) first, be appropriated against the administrative cost of the recovery process;
- (b) next, be appropriated against the amount to be recovered;
- (c) next, be appropriated against any other amount due from the defaulter under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017 and the rules made thereunder; and
- (d) any balance, be paid to the defaulter.

Recovery through Land Revenue Authority

Where an amount is to be recovered in accordance with the provisions of clause (e) of sub-section (1) of section 79, the proper officer shall send a certificate to the Collector or Deputy Commissioner of the district or any other officer authorised in this behalf in FORM GST DRC-18 to recover from the person concerned, the amount specified in the certificate as if it were an arrear of land revenue.

Recovery through Court

Where an amount is to be recovered as if it were a fine imposed under the Code of Criminal Procedure, 1973, the proper officer shall make an application before the appropriate

Magistrate in accordance with the provisions of clause (f) of sub-section (1) of section 79 in FORM GST DRC- 19 to recover from the person concerned, the amount specified thereunder as if it were a fine imposed by him.

Recovery from Surety

Where any person has become surety for the amount due by the defaulter, he may be proceeded against under this Chapter as if he were the defaulter.

Payment of Tax and Other Amounts in Instalments

(1) On an application filed electronically by a taxable person, in FORM GST DRC- 20, seeking extension of time for the payment of taxes or any amount due under the Act or for allowing payment of such taxes or amount in instalments in accordance with the provisions of section 80, the Commissioner shall call for a report from the jurisdictional officer about the financial ability of the taxable person to pay the said amount.

(2) Upon consideration of the request of the taxable person and the report of the jurisdictional officer, the Commissioner may issue an order in FORM GST DRC- 21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly instalments, not exceeding twenty-four, as he may deem fit.

(3) The facility referred to in sub-rule (2) shall not be allowed where-

(a) the taxable person has already defaulted on the payment of any amount under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and

Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017, for which the recovery process is on;

(b) the taxable person has not been allowed to make payment in instalments in the preceding financial year under the Act or the Integrated Goods and Services Tax Act, 2017 or the Union Territory Goods and Services Tax Act, 2017 or any of the State Goods and Services Tax Act, 2017;

(c) the amount for which instalment facility is sought is less than twenty-five thousand rupees.

Provisional Attachment of Property

(1) Where the Commissioner decides to attach any property, including bank account in accordance with the provisions of section 83, he shall pass an order in FORM GST DRC-22 to that effect mentioning therein, the details of property which is attached.

(2) The Commissioner shall send a copy of the order of attachment to the concerned Revenue Authority or Transport Authority or any such Authority to place encumbrance on the said movable or immovable property, which shall be removed only on the written instructions from the Commissioner to that effect.

(3) Where the property attached is of perishable or hazardous nature, and if the taxable person pays an amount equivalent to the market price of such property or the amount that is or may become payable by the taxable person, whichever is lower, then such property shall be released forthwith, by an order in FORM GST DRC-23, on proof of payment.

(4) Where the taxable person fails to pay the amount referred to in sub-rule (3) in respect of the said property of

perishable or hazardous nature, the Commissioner may dispose of such property and the amount realized thereby shall be adjusted against the tax, interest, penalty, fee or any other amount payable by the taxable person.

(5) Any person whose property is attached may, within seven days of the attachment under sub-rule (1), file an objection to the effect that the property attached was or is not liable to attachment, and the Commissioner may, after affording an opportunity of being heard to the person filing the objection, release the said property by an order in FORM GST DRC- 23.

(6) The Commissioner may, upon being satisfied that the property was, or is no longer liable for attachment, release such property by issuing an order in FORM GST DRC- 23.

Recovery from Company in Liquidation

Where the company is under liquidation as specified in section 88, the Commissioner shall notify the liquidator for the recovery of any amount representing tax, interest, penalty or any other amount due under the Act in FORM GST DRC -24.

Continuation of Certain Recovery Proceedings

The order for the reduction or enhancement of any demand under section 84 shall be issued in FORM GST DRC- 25.

Inspection, Search, Seizure and Arrest

Inspection under GST

A Joint Commissioner (or an officer of higher rank) may have “*reasons to believe*” that in order to evade tax, any person has done the following-

- 1) Suppressed any transaction of supply
- 2) Suppressed stock in hand
- 3) Claimed input tax credit in excess
- 4) Violated of any of the provisions
- 5) Any transporter or owner/operator of a warehouse has kept goods which have escaped tax payment or has kept accounts and/or goods in such a way as to evade tax

Then he can authorize any officer in FORM GST INS-01 to inspect places of businesses of:

- the taxable person or
- the transporter or
- owner/operator of warehouse

Reasons to Believe

‘Reason to believe’ means having knowledge of facts (although does not mean having direct knowledge), that would make any reasonable person, knowing the same facts, to reasonably conclude the same thing.

As per the Indian Penal Code, 1860, “A person is said to have ‘reason to believe’ a thing, if he has sufficient cause to believe that thing but not otherwise.”

Reason to believe is a determination based on intelligent examination and evaluation. It is different from a purely subjective consideration, i.e., an opinion. It is based on facts rather than an interpretation of facts.

GST Act does not mention recording the reasons to believe. In fact, Finance Act 2017 has amended Sec 132(1) & (1A) of Income Tax Act retrospectively stating, that reason to believe, shall not be disclosed to any person or any authority or the Appellate Tribunal.

Search under GST

‘**Search**’ involves an attempt to find something. Search, in tax/legal parlance, is an action of a government official (a tax officer or a police officer, depending on the case) to go and look through or examine carefully a place, person, object etc. in order to find something concealed or to discover evidence of a crime. The search can only be done under the proper and valid authority of law.

‘**Inspection**’ is the act of examining something, often closely. In tax/legal language, it is a softer provision than search. It enables officers to access any place of business of a taxable person and also any place of business of a person engaged in transporting goods or who is an owner/operator of a warehouse or godown.

On the basis of results of inspection or any other reason, Joint Commissioner of SGST/CGST or a superior officer can order for a search if he has “reasons to believe” –

- There are goods which are liable for confiscation
- Any documents or books or other things which will be useful during proceedings and are hidden somewhere

He can, on his own or through an authorized officer, search and seize the goods and documents.

Seizure under GST

The term 'seizure' has not been specifically defined in GST. In legal parlance, seizure is the act of taking over something or someone by force through legal process, such as the seizure of evidence found at the scene of a crime. It generally implies taking possession forcibly against the wishes of the owner.

Difference between Seizure and Detention

Not allowing the owner any access to the seized goods by a legal order/notice is called detention. However, the ownership & possession of goods still lie with the owner. It is issued when it is suspected that the goods are liable to confiscation.

Seizure is taking over or actual possession of the goods by the department. But the ownership is still with the owner. Seizure can be made only after inquiry/investigation that the goods are liable to confiscation.

Procedure for Seizure

The proper officer will give an order of seizure in FORM GST INS-02.

Power of Proper Officer

- The officer authorized to search will have the power to seal the door of the premises. He can also break open the door of any premises if access is denied. He can also break open any cupboard or box in which goods, books, documents etc., are suspected to be concealed.
- If it is not practicable to seize the goods, the proper officer will order the owner not to remove these goods without

prior permission of the officer. The officer will issue an order of prohibition in FORM GST INS-03.

- The officer will keep the books and documents as long as it is necessary for examination and inquiry. Other books which are not relevant to the issue of notice will be returned within 30 days from the date of notice.
- The seized goods can be released on a provisional basis against a bond for the value of the goods in FORM GST INS-04. The owner must also furnish a security in the form of a bank guarantee for the amount due (applicable tax, interest and penalty payable).
- If the owner fails to produce the provisionally released goods at the appointed date and place then the security will be encashed and adjusted against the amount due.

Proceedings after Seizure

- 1) The person, whose documents are seized, can make copies only in the presence of an officer.
- 2) If notice is not issued within six months (extendable by 6 more months) of the seizing the goods, they will be returned.
- 3) The Government can issue a list of hazardous or perishable goods which can be disposed off as soon as they are seized.
- 4) All goods seized will be listed properly by the officer.

The provisions of the Code of Criminal Procedure will apply to search and seizure.

Other ways to check/inspect

The Commissioner or an authorized officer can purchase any goods and/or services from a taxable person. This will be done to check the issue of tax invoices, whether they are maintained correctly, and whether GST amount is clearly displayed. When the goods are returned, the amount will have to be refunded by the taxable person and the sales invoice will be cancelled.

Arrest under GST

If the Commissioner of CGST/SGST **believes** a person has committed an offence u/s 132, he can be arrested by any authorised CGST/SGST officer. The arrested person will be informed about the grounds of his arrest. He will appear before the magistrate within 24 hours in case of cognizable offence.

Offenses u/s 132 where arrest provisions become applicable -

- (1) A taxable person supplies any goods/services without any invoice or issues a false invoice
- (2) He issues any invoice or bill without supply of goods/services in violation of the provisions of GST
- (3) He collects any GST but does not submit it to the government within 3 months
- (4) Even if he collects any GST in contravention of provisions, he still has to deposit it to the government within 3 months. Failure to do so will be an offense under GST
- (5) He has already been convicted of an earlier u/s 132 i.e., this is his 2nd offense.

On reading section 132 with arrest provisions, it essentially stands that a person can be arrested only where the tax evasion is more than 100 lakhs rupees or where a person has earlier been convicted of an offence u/s 132.

Offences and Penalties

An offence is a breach of a law or rule, i.e., an illegal act. Similarly, an offence under GST is a breach of the provisions of GST Act and GST Rules. There are 21 offences under GST. For easy understanding, we have grouped them as-

Fake/wrong invoices

- (1) A taxable person supplies any goods/services without any invoice or issues a false invoice.
- (2) He issues any invoice or bill without supply of goods/services in violation of the provisions of GST
- (3) He issues invoices using the identification number of another bonafide taxable person

Fraud

- (1) He submits false information while registering under GST
- (2) He submits fake financial records/documents or files fake returns to evade tax
- (3) Does not provide information/gives false information during proceedings

Tax evasion

- 1) He collects any GST but does not submit it to the government within 3 months
- 2) Even if he collects any GST in contravention of provisions, he still has to deposit it to the government within 3 months. Failure to do so will be an offence under GST.
- 3) He obtains refund of any CGST/SGST by fraud.
- 4) He takes and/or utilizes input tax credit without actual receipt of goods and/or services
- 5) He deliberately suppresses his sales to evade tax

Supply/transport of goods

- 1) He transports goods without proper documents
- 2) Supplies/transport goods which he knows will be confiscated
- 3) Destroys/tampers goods which have been seized

Others

- 1) He has not registered under GST although he is required to by law
- 2) He does not deduct TDS or deducts less amount where applicable.
- 3) He does not collect TCS or collects less amount where applicable.

- 4) Being an Input Service Distributor, he takes or distributes input tax credit in violation of the rules
- 5) He obstructs the proper officer during his duty (for example, he hinders the officer during the audit by tax authorities)
- 6) He does not maintain all the books that he required to maintain by law
- 7) He destroys any evidence

Penalties under GST

The word “penalty” is not specifically defined in GST and so it takes the meaning from various judicial pronouncements and principles of jurisprudence. A penalty is a punishment imposed by law for committing an offence or failing to do something that was the duty of a party to do.

A penalty can be both corporal or pecuniary, civil or criminal. Both corporal (jail) and pecuniary (monetary) penalties are applicable under GST.

Common Offences under GST and their Penalties

Type of Offence	Amount of Penalty
Penalty for delay in filing GSTR	Late fee is ₹ 100 per day per Act. So it is ₹ 100 under CGST & ₹ 100 under SGST. Total will be ₹ 200/day. Maximum is ₹ 5,000. There is no late fee on IGST.

Penalty for not filing GSTR	Penalty 10% of tax due or ₹ 10,000 – Whichever is higher
Penalty for committing a fraud	Penalty 100% of tax due or ₹ 10,000 – whichever is higher (High value fraud cases also have jail term)
Penalty for helping a person to commit fraud	Penalty extending upto ₹ 25,000
Penalty for opting for composition scheme even though he is not eligible	Demand & recovery provisions of sections 73 & 74 will apply. <ul style="list-style-type: none"> • Fraud case Penalty: 100% of tax due or ₹ 10,000 -whichever is higher • Non-fraud case: Penalty 10% of tax due or ₹ 10,000 – whichever is higher
Penalty for wrongfully charging GST rate— charging higher rate	Penalty 100% of tax due or ₹ 10,000 – whichever is higher (if the additional GST collected is not submitted with the govt.)
Penalty for not issuing invoice	Penalty 100% of tax due or ₹ 10,000 – whichever is higher

Penalty for not registering under GST	Penalty 100% of tax due or ₹ 10,000 – whichever is higher
Penalty for incorrect invoicing	Penalty of ₹ 25,000

Situations where there is no penalty (but interest may apply)

Type of offence	Action
Penalty for incorrect type of GST charged (IGST instead of CGST/SGST)	No penalty. Pay the correct GST and get refund of the wrong type of GST paid earlier
Penalty for incorrect filing of GSTR	No penalty. But interest @18% on shortfall amount
Penalty for delay in payment of invoice.	ITC will be reversed if not paid within 6 months. No penalty as such
Penalty for wrongfully charging GST rate—charging lower rate	Interest @18% applicable on the shortfall

Penalty in cases of fraud

An offender has to pay a penalty amount of tax evaded/short deducted etc., i.e., **100%** penalty, subject to a minimum of

10,000. For the 21 offences above, for fraud cases, penalty will be 100% (minimum 10,000).

Not only the taxable person but any person who does the following will have to pay a penalty extending upto 25,000

- 1) Helps any person to commit fraud under GST
- 2) Acquires/receives any goods/services with full knowledge that it is in violation of GST rules
- 3) Fails to appear before the tax authority on receiving a summons
- 4) Fails to issue an invoice according to GST rules
- 5) Fails to account/vouch any invoice appearing in the books

GST has corporal punishments (jail) for high value fraud cases as follows-

Tax amount involved	100-200 lakhs	200-500 lakhs	Above 500 lakhs
Jail term	Upto 1 year	Upto 3 years	Upto 5 year
Fine	In all three cases		

Audit

Audit under GST is the examination of records maintained by a registered dealer. The aim is to verify the correctness of information declared, taxes paid and to assess the compliance with GST.



Audit by Registered Dealer

Every registered dealer whose turnover during a financial year exceeds the ₹ 2 crore has to get his accounts audited by a CA or a CMA.

ICAI clarifies through an announcement dated 28th September 2018 that an Internal Auditor cannot undertake GST Audit simultaneously

Audit by GST Tax Authorities

General Audit: The commissioner or on his orders an officer may conduct an audit of any registered dealer.

Special Audit: The department may conduct a special audit due to the complexity of the case and considering the interest of revenue. The CA or a CMA will be appointed to conduct the audit.

Audit by Tax Authorities

- 1) The Commissioner of CGST/SGST (or any officer authorized by him) may conduct an audit of a taxpayer. The frequency and manner of an audit will be prescribed later.
- 2) A notice will be sent to the auditee at least 15 days before.
- 3) The audit will be completed within 3 months from the date of commencement of the audit.
- 4) The Commissioner can extend the audit period for a further six months with reasons recorded in writing.

Special Audit

The Assistant Commissioner may initiate the special audit, considering the nature and complexity of the case and interest of revenue. If he is of the opinion during any stage of scrutiny/inquiry/investigation that the value has not been correctly declared or the wrong credit has been availed then special audit can be initiated.

The Assistant Commissioner (with the prior approval of the Commissioner) can order for special audit (in writing). The

special audit will be carried out by a chartered accountant or a cost accountant nominated by the Commissioner.

Time limit for special audit

The auditor will have to submit the report within 90 days. This may be further extended by the tax officer for 90 days on an application made by the taxable person or the auditor.

Cost

The expenses for examination and audit including the auditor's remuneration will be determined and paid by the Commissioner.

Findings of special audit

The taxable person will be given an opportunity of being heard in findings of the special audit.

If the audit results in detection of unpaid/short paid tax or wrong refund or input tax credit wrongly availed then demand and recovery actions will be initiated.

Power of CAG to call for Information

As government planning to roll-out GST from July 1 2017, Comptroller and Auditor General (CAG) has demanded explicit provision in the law to empower the official auditor to call for any information for audit of Goods and Service Tax (GST) receipts and utilisation of their funds.

While the Comptroller and Auditor General of India (CAG) by law audit any receipts in the Consolidated Funds of India, the GST Council is not in favour of giving powers to the official auditor under the new GST law to call for information outside of the GST tax receipt for audit.

Section 65 of the draft model GST law provides for power of CAG to call for information for audit. The section as it exists, provides that revenue officer would make available to the CAG “information, records and returns required for conduct of audit.”

Reportedly, CAG is of the opinion that insertion of provisions enabling powers to departmental officers in the GST law to call for any other information to facilitate the audit is very important, otherwise an assessee may legally challenge the calling for additional information for CAG audit.
