

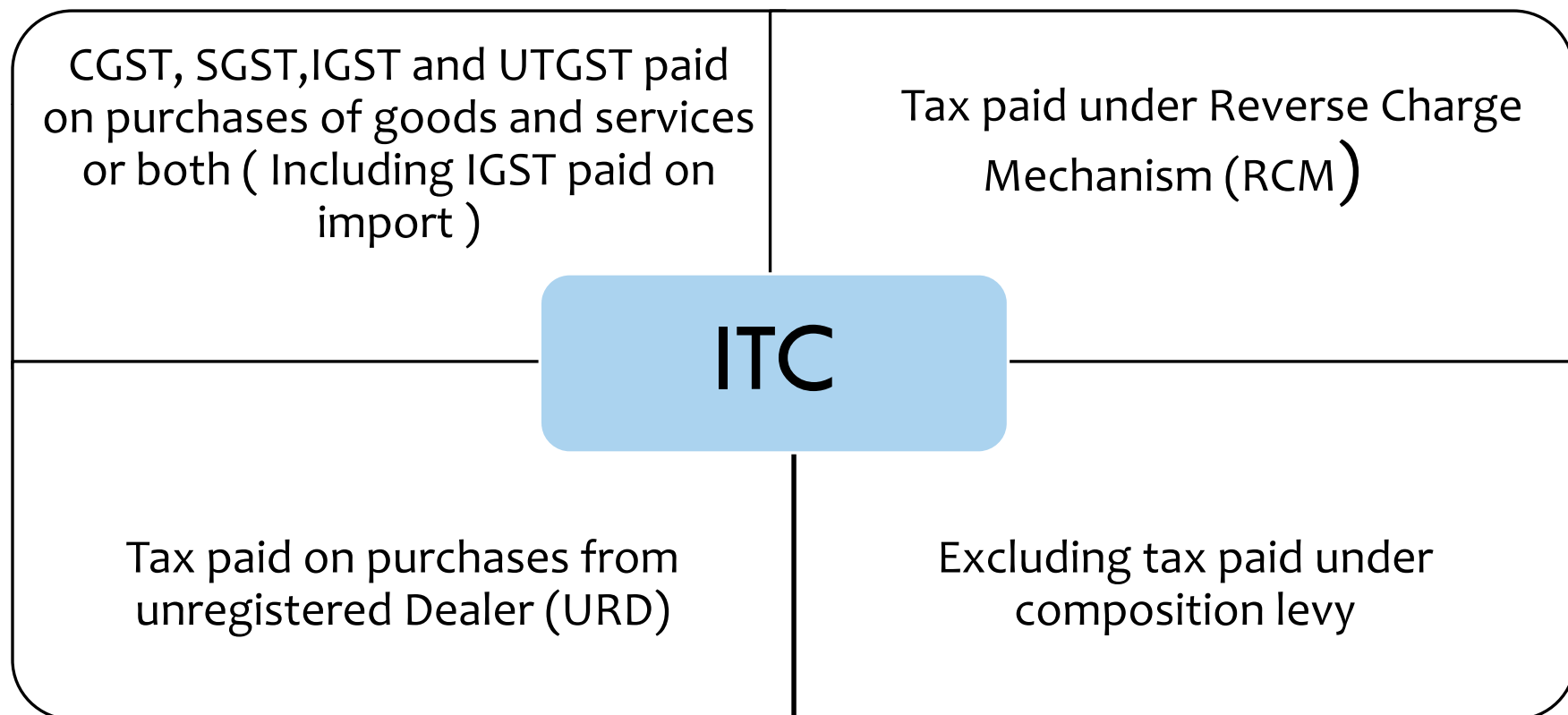
Issues In Input Tax Credit Under GST

SGCO & Co. LLP
Chartered Accountants

- Concept of Input Tax Credit
- Eligibility and Conditions for claiming Input Tax credit
- Documents Required for claiming Input Tax Credit
- Apportionment and Blocked Credit
- Input Tax Credit Under Special Circumstances
- Input Tax Credit Under Job Worker
- Input Tax Credit Under Input Service Distributors
- Questions for discussion under Input Tax Credit

CONCEPT OF INPUT TAX CREDIT

- **Input Tax Credit Means Credit of Input Tax – 2(62)**
- **Input Tax means – 2(63);**



CONCEPT OF INPUT TAX CREDIT

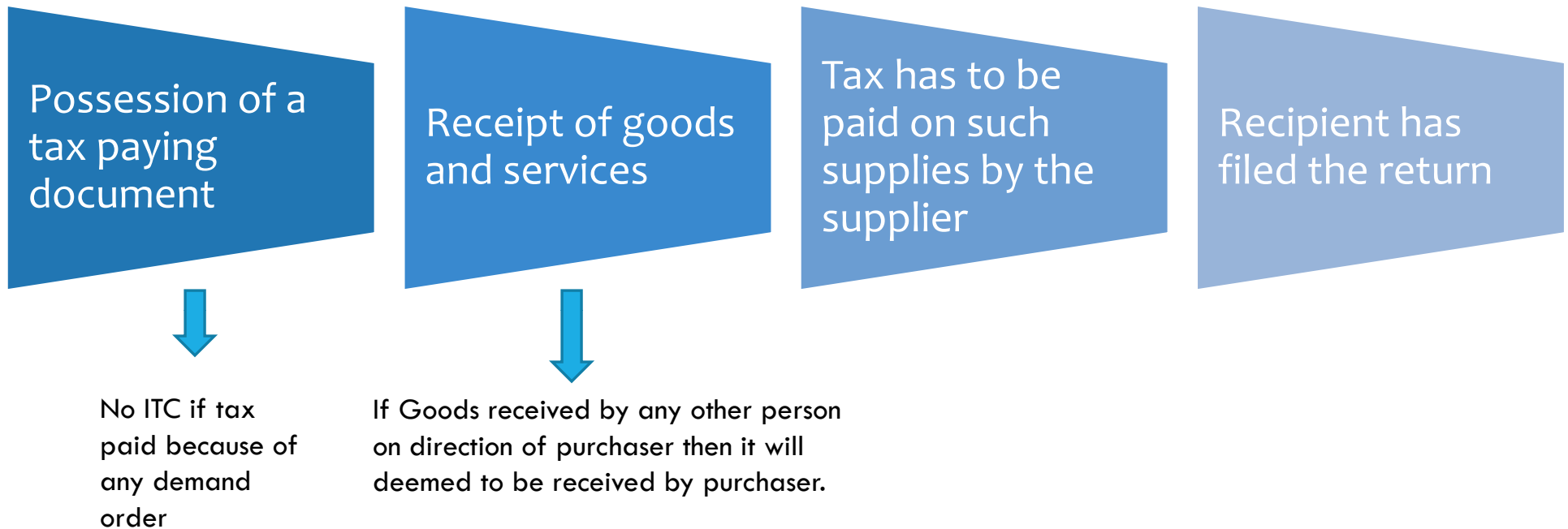
- “Input” Means any goods other than capital goods used or intended to be used by a supplier in the course of furtherance of business – 2(59)
 - Nexus of the definition has been widened to cover anything in course or furtherance of business
 - Covers not only goods ‘used’ but also ‘intended to be use’
 - “Input Service” means any service used or intended to be used by a supplier in course or further of business - section 2(60)
 - Widened scope due to inclusion of all services used in the course or furtherance of business
- “ Capital Goods “ means goods, the value of which is capitalised in the books of accounts of person claiming the input tax credit and which are used or intended to be used in course of furtherance of business – 2 (19)
- “ Input Service Distributor” means an office of the supplier of goods or services or both which receives tax invoices issued under section 31 towards the receipt of input services and issues a prescribed document for the purposes of distributing the credit of central tax, State tax, integrated tax or Union territory tax paid on the said services to a supplier of taxable goods or services or both having the same Permanent Account Number as that of the said office – 2(61)

ELIGIBILITY AND CONDITIONS FOR TAKING ITC – SEC 16 (1)

Eligibility for Input Tax credit

- Person should be registered under Goods and Services Act
- Entitled to take credit of Input Tax charged
- On any supply of Goods and Services or both to him
- Goods or Services to be used in course of furtherance of his business
- Input Tax shall be credited to the electronic credit ledger of such person

CONDITIONS FOR AVAILMENT OF CREDIT – SEC 16 (2)



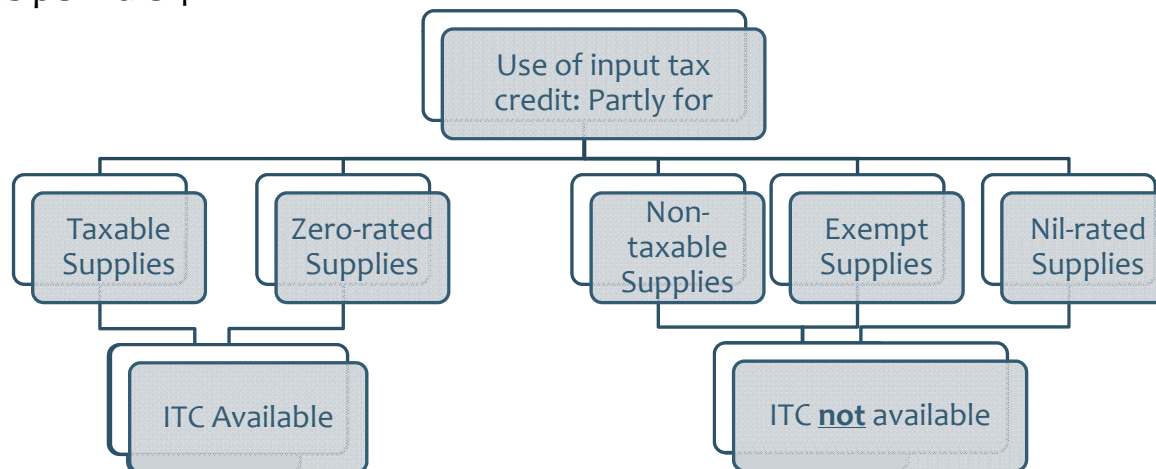
- When Goods are received in installments, ITC can be claimed only when the last lot is received.
- No ITC will be allowed if depreciation has been claimed on tax component of a capital good
- A person registered under composition scheme in GST cannot claim ITC.
- ITC Allowed on receipt of goods or services or both upto;
 - Before due date of furnishing return for month of September following financial year
 - Furnishing of Annual returnWhichever is earlier

DOCUMENTS REQUIRED FOR CLAIMING ITC– RULE 36(1)

- What a Registered person should maintain ?
 1. Invoice issued under section 31
 2. Invoice issued under section 31(3) (f) I,e under section 9 (3) & (4) – subject to payment of tax
 3. Debit note issued as per section 34
 4. Bill of Entry
 1. ISD Invoice / Credit note / any document
- Other Supporting things required for claiming ITC
 - ITC is only available if the person claiming is “REGISTERED”
 - All applicable particulars mentioned in Chapter VI of CGST Rules are mentioned in the Invoice
 - Return in Form GSTR-2 is filed - Rule 36(2)
 - ITC is not available in pursuance to Fraud / Willful Mis-statement / Suppression of Facts – Rule 36(3)

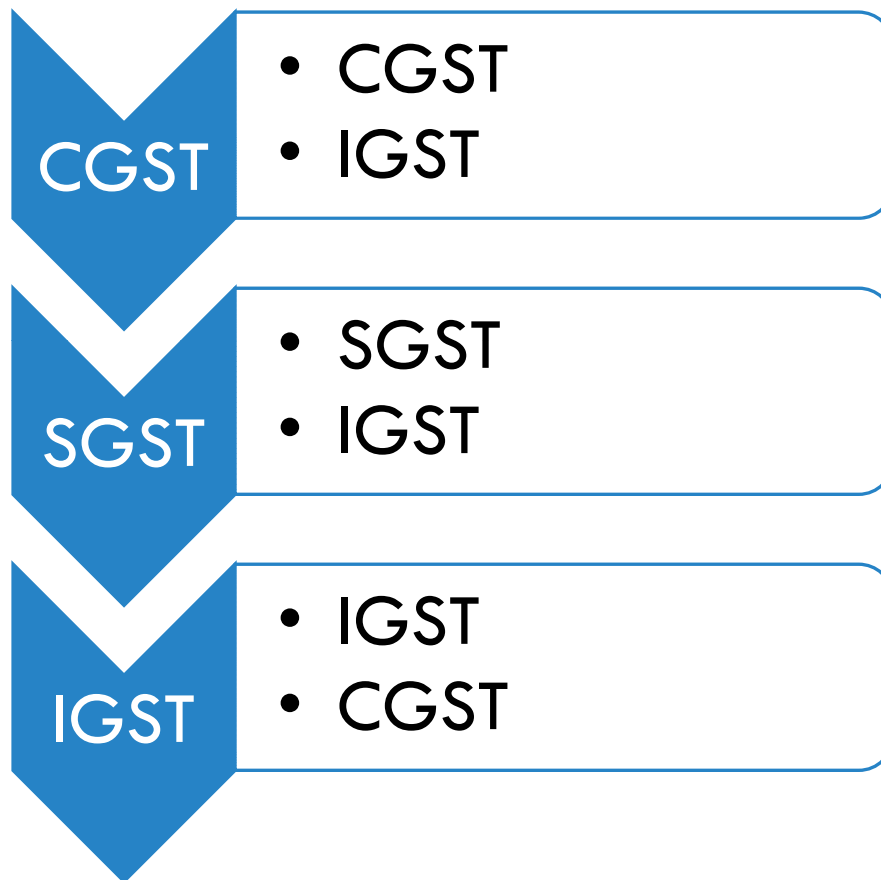
APPORTIONMENT OF CREDIT AND BLOCKED CREDIT-SEC 17

- Section 17 (1) ITC can be claimed only for business purposes, However ITC will not be available for goods or services exclusively used for
 - Personal Use
 - Exempt supplies
 - Supplies for which ITC is specifically not available
- Section 17(2)- Partly Taxable and Partly Exempted – ITC claimed attributed to taxable supply as per Rule 42



- Section 17(4) -Apportionment between taxable and exempt supplies in case of banking companies and financial institutions:
 - Avail a standard rate of 50% of eligible ITC on inputs, capital goods and input services on a monthly basis
 - 50% shall not be applied on tax paid on supplies made by one registered person to another registered person having same PAN

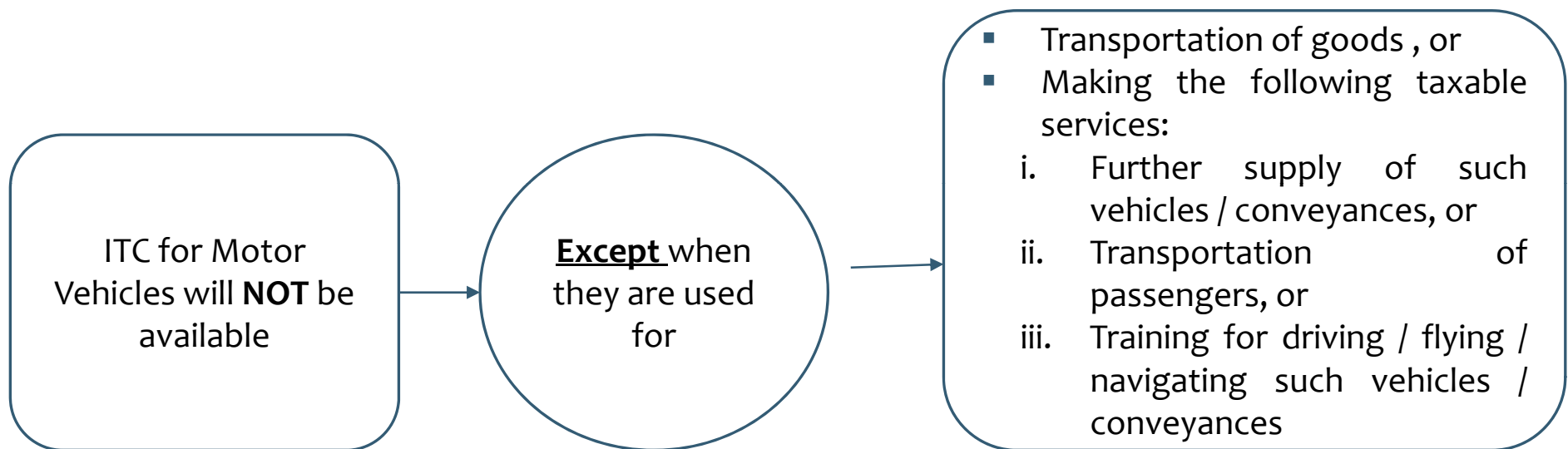
MECHANISM FOR UTILIZATION OF CREDIT



- Credit to be first utilized for payment of respective tax and balance for payment of other taxes
- Cross utilization of CGST, SGST is not permissible

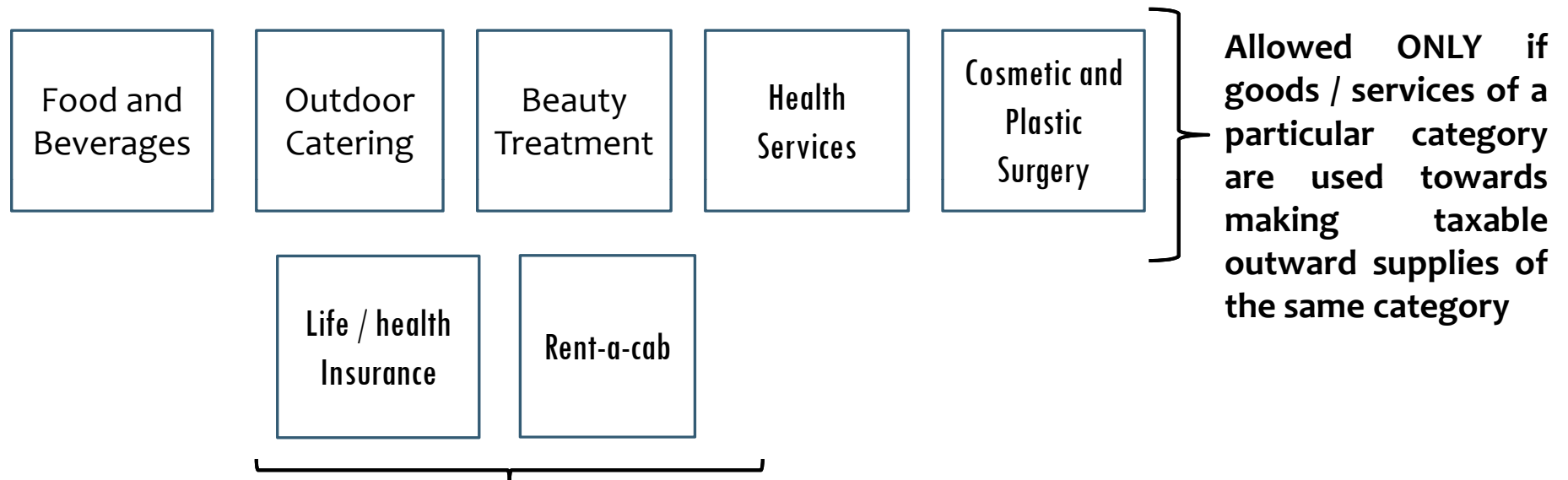
RESTRICTIONS OF ITC SEC 17(5) - BLOCKED CREDIT

a) Motor Vehicles:

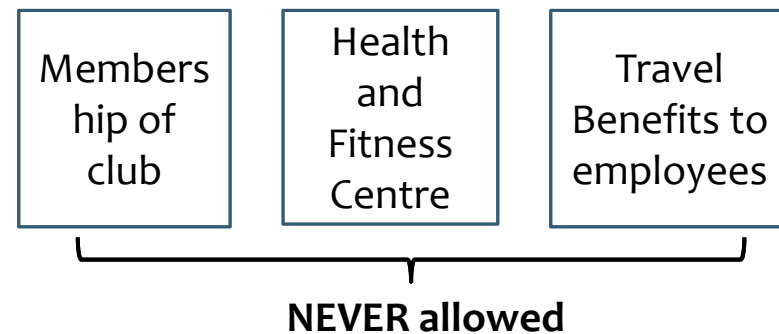


RESTRICTIONS OF ITC SEC 17(5)- BLOCKED CREDIT

b) Supply of goods and services being:

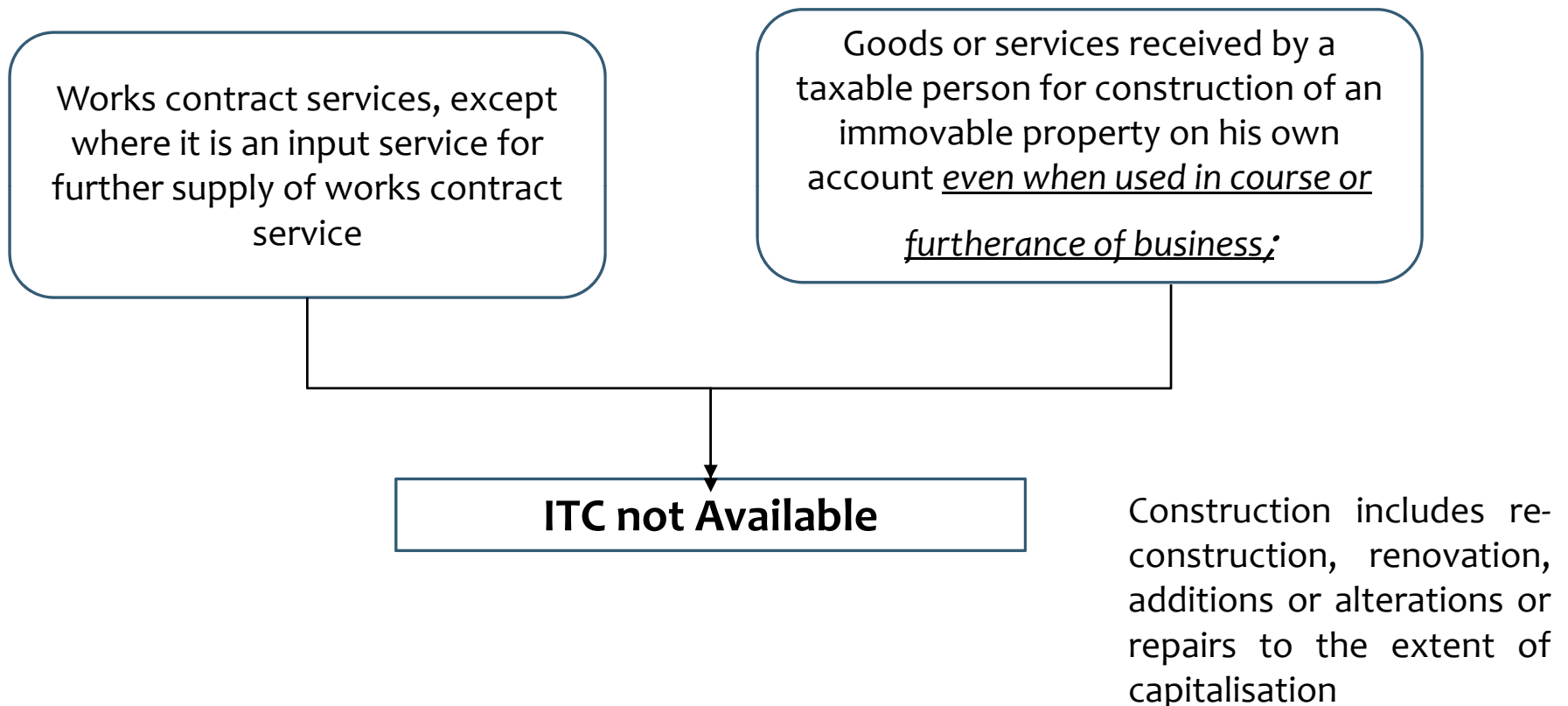


Allowed **ONLY** if where the services are notified as obligatory for an employer to provide an employee or services of a particular category are used towards making taxable outward supplies of the same category



RESTRICTIONS OF ITC SEC 17(5)- BLOCKED CREDIT

c & d) Construction of Immovable Property (other than Plant & Machinery) :



RESTRICTIONS OF ITC SEC 17(5)- BLOCKED CREDIT

- Taxes on supply of goods or services paid under composition scheme.
- Goods or services or both received by a non-resident taxable person except on goods imported by him, shall not be allowed
- Goods or services or both used for personal consumption
- Goods lost, stolen, destroyed, written off or disposed of by way of gift or free supplies and
- Any tax paid in accordance with the provisions of sections 74, 129 and 130.

Plant and machinery means means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes— (i) land, building or any other civil structures; (ii) telecommunication towers; and (iii) pipelines laid outside the factory premises.

- Section 18 provides for entitlement of ITC & reversal of ITC on inputs in stocks and contained in finished goods or work in progress and capital goods;
 - At the time of registration/Voluntary registration,
 - On coming into regular tax paying status by exiting composition levy,
 - On coming into tax paying status on account of exempt supply becoming taxable supply.

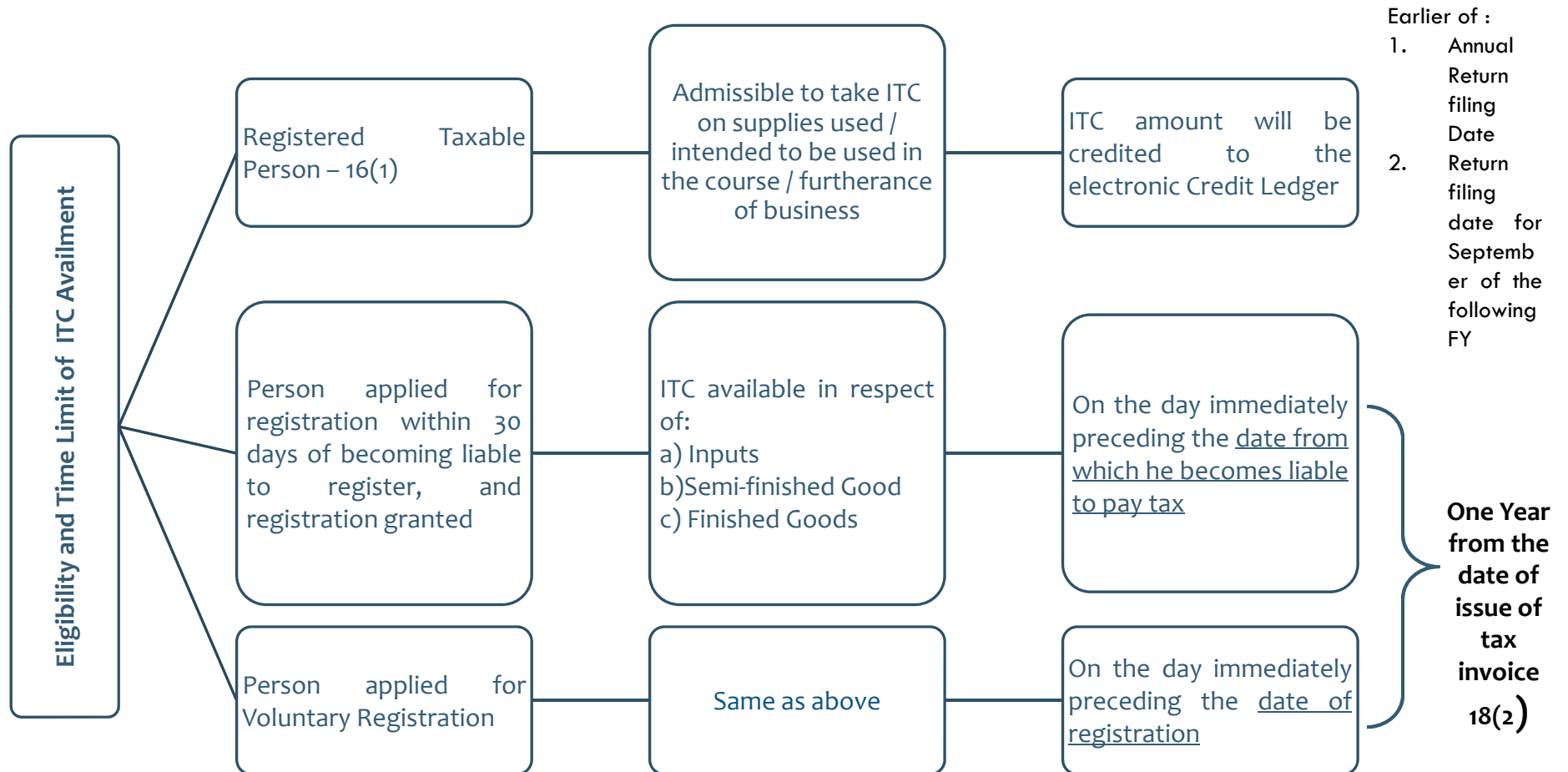
- Invoice later than one year from date of issue of invoice in respect of Inputs in stock held in Finished Goods & WIP will not be eligible for ITC.

- Unutilized ITC in electronic credit ledger can be transferred to successor in case of change in constitution of a registered person.

- In case of taxable supply coming into Exempt tax bracket or opting to pay tax under sec 10 then ITC on input held as stock, semi finished goods, finished goods needs to be paid /reversed as per Rule 42

- In case of supply of capital goods or plant and machinery, ITC needs to be reversed as per prescribed method mentioned in Rule 43.

CREDIT IN SPECIAL CIRCUMSTANCES-SEC 18



Eligibility of ITC in case of New Registration – Sec 18(1)

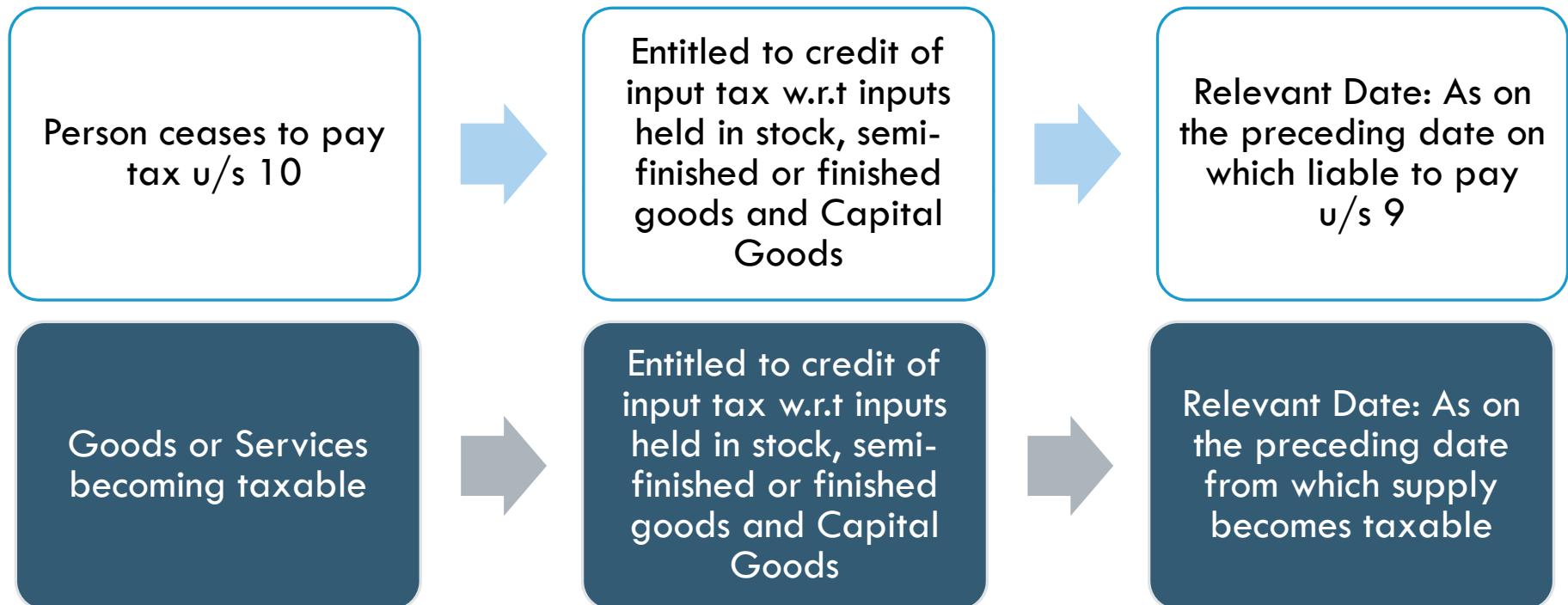
Person liable for registration u/s 25(1)

Who applies for registration within 30 days

Entitled to credit of input tax w.r.t inputs held in stock, semi-finished or finished goods

Relevant Date: As on the preceding date on which he becomes liable to pay tax

Switching from Composition /Exempt Supply to Normal Tax / Taxable Supply Sec 18(1)

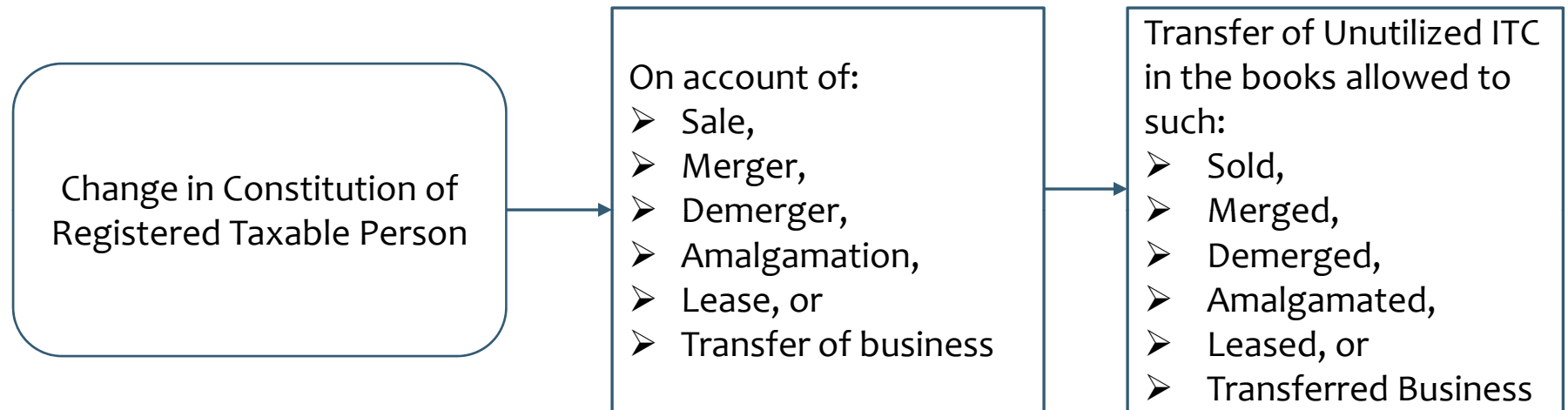


Credit on Capital Goods to be available after reducing 5% per quarter of a year or part from the date of invoice or such other document on which capital goods were received by taxable person

Condition for claiming credit switching from Composition /Exempt Supply to Normal Tax / Taxable Supply Sec 18(1)

- Purchase invoice should not be earlier than 1 year from the relevant date
- Declaration in Form GST ITC-01 to be filed within 30 days from the date of him becoming eligible
- Details of Inputs held in stock / semi finished or finished goods and capital goods to be furnished in Form GST ITC-01 within 30 days from the relevant date
- Declaration in Form GST ITC-01 to be certified by a practicing Chartered Accountant or Cost Accountant if the value of credit claimed exceeds Rs. 2,00,000

ITC – Change in Constitution of Taxable Person Sec 18(1) and Rule 40



- ITC shall be apportioned in the ratio of value of assets of the new units in case of demerger scheme
- Transferor to submit certificate from a practicing Chartered Accountant certifying whether the sale / merger / de-merger / amalgamation / lease / transfer has been done with specific provision for transfer of liabilities
- Transferee shall accept the details furnished by transferor and on such acceptance unutilized credit specified in Form GST ITC-02 shall be credited to his Electronic Credit Ledger

ITC – Switching from regular to Composition pay Sec 18(4)

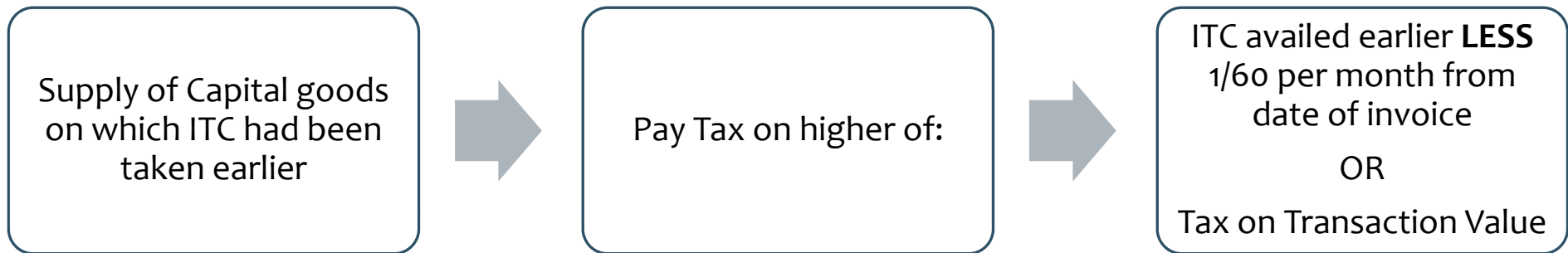
Eligible credit under earlier law carried forward in the return

Amount equivalent to the credit of input tax in respect of input held in stock or input contained in semi-finished goods or finished goods held in stock and capital goods as on appointed day

Such amount shall be payable by debiting the electronic credit ledger or cash ledger

Balance in electronic credit ledger shall lapse

ITC – Switching from regular to Composition pay Sec 18(4) and Rule 44



- Credit of Capital Goods as provided to a person switching from composition to regular scheme and a person whose exempt supply becomes taxable supply (Section 18 (1)(c) and (d), shall be claimed after reducing such tax by 5% per quarter from the date of issue of invoice;
- A declaration within 30 days shall be furnished in all the scenarios as specified in Section 18 (1) for details relating to inputs, semi-finished, finished and capital goods as the case may be;
- CA/CMA certificate is necessary in case claim for input tax exceeds 2 lakhs;

The value of capital goods shall be the invoice value reduced by 1/60th per month or part thereof from the date of invoice

MANNER OF REVERSAL – RULE 42

I. *Reversal of credit where inputs or input services are used partly for business purposes or partly for effecting exempt supplies – Rule 42*

- Total input tax in a tax period to be denoted as ‘T’
- Amount of input tax used exclusively for the purposes other than business ‘T1’
- Amount of input tax used exclusively for effecting exempt supplies ‘T2’
- Amount of blocked credit as per Section 17 (5) ‘T3’
- Amount of input tax to be credited to electronic credit ledger ‘ $C1 = T - (T1 + T2 + T3)$ ’
- Amount of input tax used exclusively for effecting taxable and zero rated supplies ‘T4’
- T1, T2, T3, T4 to be determined at invoice level in GSTR-2
- Common Credit “ $C2 = C1 - T4$ ”
- Credit attributable towards exempt supplies “ $D1 = C2 * (E/F)$ ”

where

- ‘E’ is the aggregate value of exempt supplies, that is, all supplies other than taxable and zero rated supplies, during the tax period, and
- ‘F’ is the total turnover of the registered person during the tax period:
- Credit attributable towards non business purpose “ $D2 = C2 * 5\%$ ”

MANNER OF REVERSAL – RULE 42

- Remaining credit available for business purpose and for taxable and zero rated supplies “ $C_3 = C_2 - (D_1 + D_2)$ ”;
- C_3 to be computed separately for CGST, SGST, UTGST and IGST;
- D_1 and D_2 shall be added to output tax liability provided invoice wise segregation has been made;
- Credit calculated on provisional basis shall be computed finally before due date of filing returns for the month of September following the end of the FY to which credit relates;
- In case amount calculated exceeds the provisional calculation the differential amount shall be added to the output tax liability and interest from the month of April of next FY till the date of payment to be paid;
- In case amount finally calculated is short of the provisional calculation, the differential amount shall be taken as credit in the month of September.

MANNER OF REVERSAL – RULE 42

Terms used in Rule	Particulars	Amount
T	Total Input Tax of Input and Input Services	500
T1	ITC for Non Business	100
T2	ITC for Exempt Supply	50
T3	ITC of Blocked Credits	25
$C1 = T - (T1 + T2 + T3)$	Valid ITC in ECL	325
T4	ITC for Taxable Supply	200
$C2 = C1 - T4$	Common ITC	125
E	Value of Exempt Supplies	2,000
F	Aggregate Turnover	5,000
$D1 = E/F * C2$	Value of ITC for Exempt Supply (From Common ITC)	50
$D2 = C2 * 5\%$	Value of ITC for Non Business Purpose (From Common ITC)	6.25
$C3 = C2 - (D1 + D2)$	Eligible ITC from Common ITC	68.75
$T4 + C3$	Total Eligible ITC for Use	268.75

MANNER OF REVERSAL – RULE 43

II. *Reversal of credit where capital goods are used partly for business purposes or partly for effecting exempt supplies: Rule 43*

- Amount of input tax in respect of capital goods used exclusively for non business purposes or used for effecting exempted supplies shall be indicated in GSTR-2 and shall not be credited in ECL
- Amount of input tax in respect of capital goods used exclusively for effecting taxable supplies including zero rated supplies shall be indicated in GSTR-2 and shall be credited in ECL
- Amount of input tax for remaining capital goods shall be denoted as 'A' and useful life shall be taken as 5 years
- In case where capital goods subsequently used for business purposes or for effecting taxable supplies including zero rated supplies, input tax credit shall be included in A after reducing 5% for every quarter
- The aggregate amount of A shall be denoted as T_c
- Input tax attributable to common capital goods " $T_m = T_c/60$ "
- Input tax at the beginning of tax period for capital goods having remaining residual life during tax period 'Tr' which is aggregate of T_m of all capital goods

MANNER OF REVERSAL – RULE 43

- Amount of credit attributable towards exempted supplies “ $T_e = (E/F) * T_r$ ”, where,
- ‘E’ is the aggregate value of exempt supplies, that is, all supplies other than taxable and zero rated supplies, during the tax period, and
- ‘F’ is the total turnover of the registered person during the tax period:
- Amount of T_e along with applicable interest shall be added to output tax liability during every tax period of the residual life of the concerned capital goods
- T_e to be computed separately for CGST, SGST, UTGST, IGST

For the purpose of this rule –

1. “capital goods” shall include “plant and machinery” as defined in the Explanation to section 17;
2. for determining the value of an exempt supply as referred to in sub-section (3) of section 17:-
 - a) the value of land and building shall be taken as the same as adopted for the purpose of paying stamp duty; and
 - b) the value of security shall be taken as one per cent. of the sale value of such security.

- A principal Manufacturer may send goods for further processing to a job worker.
- In case of Job work principal manufacturer will be allowed to take credit of tax paid on the purchase of such goods sent to job work.
- ITC allowed when goods are sent to job worker in both the cases;
 - From Principals' place of business
 - Directly from the place of supply of the supplier of such goods
- However, to enjoy ITC, the goods sent must be received back by the principal within 1 year (3 Years for capital Goods).
- In case input (or Capital Goods) are not received back from job worker or supplied from the place of job worker within 1 year (year)
 - IT Shall be deemed to be supplies made to job worker
 - ITC shall be reversed and paid to government
 - ITC shall be re-availed if input (or capital Goods) received from job worker.
- Period of 3 years or 1 year shall be counted from the date of receipt of goods by job worker when directly
- Period of 3 years or 1 year shall be counted from when input or capital goods sent out to job worker.

- ITC is distributed to supplier of goods and / or services of same entity having the same PAN
- Input service Distributor (ISD) shall distribute ITC paid on input service by way of issue of document containing amount of Input Tax.
- Credit distributed to recipient through prescribed documents containing prescribed details. Such document should be issued to each of the recipient of credit
- Amount of Such credit distributed shall not exceed amount available for distribution.
- Tax paid on input services used by a particular location (registered as supplier) has to be distributed only to that location.
- Credit of tax paid on input service used by more than one location who are operational is to be distributed to all of them based on the pro rata basis of turnover of each location in a State to aggregate turnover of all such locations who have used such services
- Section 21 if Excess credit distributed by ISD then should recover the such excess credit with interest from supplier

QUESTIONS FOR DISCUSSION

1. CA Firm in Mumbai is auditing a company in Gujarat. For this purpose, auditors visited plant office Rajasthan and avail hotel accommodation services in Rajasthan from XYZ Hotel. XYZ hotel will charge CGST + SGST of Rajasthan. Whether CA Firm in Maharashtra is eligible to take credit of Rajasthan?
2. One of the condition for availing ITC is possession of Tax Invoice, Debit Note issued by Registered supplier under Section 16(2), what about issue of receipt voucher by supplier in case of advance payment made for goods and services?
3. Whether ITC is available in case a consolidated debit note is raised by customer against supplies made under various sales invoices?
4. Whether credit of repair or insurance of Motor Vehicle will be available i.e. restrictions on ITC of motor vehicle also applies to repairs / insurance?
5. In cases of service charges such as AMC, Annual membership fees, Annual subscription for E-magazines, Insurance premium etc. wherein consideration is paid in advance and corresponding Invoice / Debit note is raised by supplier upfront. Actual supply is spread over a period?

Issue herein when credit of GST paid on such transaction can be availed?

QUESTIONS FOR DISCUSSION

6. Coffee beans / Tea-bags purchases for coffee machine to serve coffee to employees or staff of the company whether the ITC should be allowed?
7. Whether ITC available in case of Goods distributed as free samples?
8. Whether dealer is eligible to claim ITC when engaged in Supply of partly taxable and partly exempted goods and services?
9. What will be situation in case of construction company who has booked the flat on or before 30th June 2017 and booking is cancelled by the customer by 31 December 2017. whether there will be any change in taxability if the booking is cancelled in March 2018 or in May 2018?
10. Buy 1 get 1 scheme- Whether ITC available?

QUESTIONS FOR DISCUSSION

11. Is the carried forward KKC (Krishi Kalyan Cess) from service tax return for the period ending June 2017 to Electronic Credit ledger under GST considered as admissible input tax credit?
12. Whether company obtained new registration is eligible for input tax credit prior to the date of registration?
13. Where services were received prior to 30th June 2017 and invoice is also raised by vendor upto 30th June 2017. Company had filed service Tax Return within due date and CENVAT Credit transferred through Trans 1. However, payment couldn't be done within 90 days. Now company has paid to vendor in March 2018. What is eligibility of ITC under GST OR Service tax Act needs to be referred?
14. There was tax liability under RCM in service tax era but not paid till 30th June 2017 if the service tax return is filed on 14 August 17 what will be ITC eligibility if RCM liability is paid on
 - i. 13 August 17 or
 - ii. 30th September 2017 or
 - iii. 31 December 17 or
 - iv. 31 March 2017

QUESTIONS FOR DISCUSSION

15. Whether 50% availment of ITC by Banking Company is before or after disallowance of inputs or inputs services u/s/ 17(5)?
16. Whether ITC on expenses in the nature of works contract (other than plant and machinery) not capitalized in books of account but debited to profit and loss account can be rightly availed ?
17. Whether ITC for Foods and / or beverages would be available wherein the said amount is charged or treated as a part of taxable composite of mixed outward supplies?
18. Whether CGST levied in one state can be availed against liability of CGST of another state?
19. In case company has purchased goods say computer and accessories thereof and transferred to branches located in different states . The vendor has supplied goods in ho in Mumbai and raised composite invoice on all the good. Whether HO will transfer the credit to branches is such provision available in GST Law?
20. What is time limit for re-availing input tax credit against tax invoice?

QUESTIONS FOR DISCUSSION

21. What will be situation in case registered person has HO at Mumbai and manufacturing units and business operations in various other states. The invoices for common service are raised by vendors on head office where there is no output tax liability. How to utilize that ITC. Whether registered person can claim refund at ITC at HO or Can transfer to respective branch by cross-charge or can transfer credit by ISD?
22. What will be situation in case input or capital goods sent by principal to job worker are not returned within time line specified section 143
23. If composition dealer switches to normal registration or vice versa then what is eligible of ITC on capital asset of company.



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