

INPUT TAX CREDIT

under GST

JBNSC – 05.11.2017

CA Manish Dedhia
dedhia.manishca@gmail.com
9930883146

INPUT TAX CREDIT UNDER GST



INPUT TAX CREDIT UNDER GST

- There are 4 law relating to Goods and Service Tax passed by Central Government viz.
 - a. Central Goods and Services Tax Act, 2017 [CGST]
 - b. Union Territory Goods and Services Tax Act, 2017 [UTGST]
 - c. Integrated Goods and Services Tax Act, 2017 [IGST]
 - d. The Goods and Services Tax (Compensation to states) Act, 2017 [CESS]
- Each State assembly has passed <State name> Goods and Services Tax Act, 2017 [SGST]
- Input Tax Credit eligibility, availment & utilization has been specified under each of the act(s).
- Sections / Rules referred in the presentation are from Central Goods and Services Tax Act or Rules, however similar provisions are available in each of the other acts.

INPUT TAX CREDIT UNDER GST

Key Concepts :

- “goods” [S. 2(52)] means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.
- “Services” [S. 2(102)] means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.
- “capital goods” [S. 2(19)] means goods, the value of which is capitalised in the books of account of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business
- “input” [S. 2(59)] means any goods other than capital goods used or intended to be used by a supplier in the course or furtherance of business
- “input service” [S. 2(60)] means any service used or intended to be used by a supplier in the course or furtherance of business

INPUT TAX CREDIT UNDER GST

Key Concepts :

• “business” [S. 2(17)] includes :

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);

(c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;

(d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;

(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;

(f) admission, for a consideration, of persons to any premises;

(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

(h) services provided by a race club by way of totalisator or a licence to book maker in such club ; and

(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

INPUT TAX CREDIT UNDER GST

Chapter V of Central Goods and Service Tax Act, 2017 deals with Input Tax Credit

The basic requirements for availing Input Tax Credit viz. [S. 16]:

1. Credit available to registered person (RP).
2. RP should have received tax invoice or debit note or other prescribed tax paying document.
3. **Receipt of goods and / or services** either by recipient or by third party on its instruction of RP.
4. Tax so charged in invoice is paid to Government Treasury either by cash payout or utilizing ITC (matching of credit of GST 2A and GST 2). Provision credit available on reversible basis along with Int..
5. RP has furnished return as specified in Sec. 39 viz. GSTR – 1 / 4 , 2 & 3.
6. Goods receivable in lots or installments ITC allowed only after last lot or installment is received (i.e. credit on part receipt of goods will not be allowed).
7. Payment to supplier within 180 days else reversal of Input Tax Credit along with interest. Deemed payment in case of supplies specified in schedule I without consideration.

INPUT TAX CREDIT UNDER GST

Restriction in availing of input credit

1. ITC of Capital Goods available only if depreciation under Income Tax Act, 1961 is not taken on tax component included in the value of capital goods.
2. No credit for tax paid in pursuance of any order confirming fraud, willful misstatement or suppression of facts.

Restriction – Time Limit for availing of input credit

1. ITC can be claimed in the return for the month of September following financial year in which invoice was raised or filing of annual return whichever is earlier.
2. Time limit restriction not applicable on claiming of re-credit of reversal done on account of non payment to vendor within 180 days.

INPUT TAX CREDIT ALLOW ABILITY

- Input Tax Credit is not available in to following persons :
 - In case of person opts for payment of tax under marginal scheme – no credit is available
 - In case of person opts for composition scheme – no credit is available
- Partial Credit available
 - If goods and / or services used for taxable and non taxable supplies, credit restricted to the extent of proportionate to taxable supplies (taxable supplies includes zero rated supplies)
 - If goods and / or services used for business and non business purpose, credit restricted to the extent of proportionate to business purpose
 - In case of Banking Company including NBFC and Financial Institution, **credit restricted to the extent of 50% of eligible credit of monthly credit of inputs, capital goods and input services (optional but once opted need to carry till end of that financial year)**. Restriction of 50% not applicable on GST charged on transfer within same PAN (e.g. branch transfer).

BLOCK CREDIT – ITC NOT ALLOWED

- “Block Credit” [S. 17(5)] whole credit needs to be reversed :
 1. Motor vehicles and other conveyances except in business of supply of motor vehicles and other conveyances or Transport of goods or passengers or training of conveyance
 2. Food and beverages or outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except in business of supply of such goods
 3. Club membership, health, fitness center.
 4. Rent-a-cab, health insurance and life insurance except statutory obligation or is in business of supply of the same services
 5. Travel benefits extended to employees on vacation such as leave or home travel concession.
 6. Works contract service for construction of an immovable property (except plant & machinery or for providing further supply of works contract service)
 7. Goods and/or services for construction of an immovable property on own account

BLOCK CREDIT – ITC NOT ALLOWED

- “Block Credit” [S. 17(5)] whole credit needs to be reversed :
 7. Goods and/or services to dealers under composition scheme
 8. Goods and/or services used for personal use
 9. Goods and/or services received by a non-resident taxable person except for any of the goods imported by him.
 10. Goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples
 11. Any tax paid u/S 74 (fraud / misstatement), 129 (detention of goods), 130 (penalty on confiscation)

FOOD FOR THOUGHT

- Whether credit of repair or insurance of Motor Vehicle will be available ?
- Whether credit of Motor Vehicle will be available to Rent-a-cab operator who opts for 12% ?
- Whether credit for festival gifts to employee will be available ?
- Whether credit for festival gifts to customers, vendors, professionals, government officials, etc. will be available ?
- Whether credit of marketing expenses like logo printed t-shirt, pen, dairy distributed to various people be eligible ?
- Whether credit for cake given to member of club on his birthday not part of items benefit informed at the time of selling members will be allowed ?
- How much credit to be disallowed / blocked in case of Disposal / write off by way of gift after 2 years from the date of purchase ?
- Whether on sale of motor vehicle GST is payable specifically when credit of purchase not allowed ?

INPUT TAX CREDIT IN SPECIAL CIRCUMSTANCES [S. 18]

- a. **New Registration** on crossing specified limit of turnover - Input Tax Credit available of inputs held in stock on day immediately preceding the date from which he become liable to pay tax arise.
- b. **Voluntary Registration** - Input Tax Credit available of inputs held in stock on day immediately preceding date of grant of registration will be available.
 - In case of (a) & (b) Input tax credit will be available if invoice date is within 1 year of cutoff dates
- c. **Transfer of Composition Dealer to regular dealer** - Input Tax Credit available of inputs held in stock and Capital Goods on day immediately preceding the date from when Composition dealer become liable to pay tax under provision of sec. 9
Input Tax Credit of Capital Goods is subject to reduction @ 5% per quarter from date of invoice till dealer is required to pay tax under normal provision
- d. **Goods exempted being liable to tax (in case of registered person)** - Input Tax Credit available of inputs held in stock and Capital Goods on day immediately preceding the date from when exempt goods become taxable.
Input Tax Credit of Capital Goods is subject to reduction @ 5% per quarter from date of invoice till dealer is required to pay tax such exempt goods.
 - In case of (c) & (d) details for which credit to be claimed needs to be reported in GST ITC – 01 which will be verified with GSTR 1 or 4 and same to be certified by Chartered Accountant if the value of credit is more than Rs. 2 Lacs.

INPUT TAX CREDIT IN SPECIAL CIRCUMSTANCES [S. 18]

- e. **Change in Constitution** - on account of sale, merger, demerger, amalgamation, lease or transfer of business with specific provision for transfer of liability, unutilized input tax credit in the electronic credit ledger of the person can be transferred to the such new / other person.
 - Details to be reported in GST ITC – 02 by transferor and needs to be accepted by transferee. Details of GST ITC – 02 needs to be certified by Chartered Accountant.
 - Credit transferred in GST ITC – 02 should be accounted in the books of transferor
 - In case demerger credit shall be apportioned in the ratio of value of assets of new unit(s) as specified in demerger scheme
- e. **Regular dealer convert into Composition dealer** – Input tax credit in respect to capital goods held and / or inputs held in stock as on the date of exercise the option to become composition dealer needs to be reversed / paid. Credit of Capital Goods needs to be reversed for balance life of the Capital Goods (life of capital goods to be taken as 60 months).
- f. **All supplies of dealer become exempt** – Input tax credit in respect to capital goods held and / or inputs held in stock as on the date of change in taxability needs to be reversed / paid. Credit of Capital Goods needs to be reversed for balance life of the Capital Goods (life of capital goods to be taken as 60 months).
 - Credit in ledger cannot be carried forwarded in case of (f) & (g) above.

INPUT TAX CREDIT IN SPECIAL CIRCUMSTANCES [S. 18]

- h. Supply of Capital Goods – If input tax credit is availed, such credit amount to be paid as reduced by 5% per quarter from date of invoice till date of supply or actual GST on the transaction value whichever is higher. However if specified capital goods are sold as scrap GST to be calculated on transaction value to non related person at specified rate.

INPUT CREDIT - GOODS SENT FOR JOB WORK [S. 19]

Input Credit in case of Goods sent to Job Worker [S. 19, 143, R. 43] :

- (a) Principal can send to job worker without payment of tax (b) Principal can avail credit of goods directly sent to job worker - inputs / Capital Goods on fulfilment of procedure laid in S. 143 viz. :
 1. Intimation of such goods is made to concern officer
 2. Movement of goods should be on Challan which contains details as specified in Rule 55
 3. Goods are brought back to the principal's place of business within specified time viz. 1 year for input and 3 years for capital goods or
Goods are supplied from job work's premise directly within the specified time
 3. In case goods are transferred from job work's premises such premise should be included as additional place of business in registration of principal (exception job worker is registered u/s 25 or principal in dealing goods specified by notification by commissioner).
- In case goods are not returned within specified time, same will be treated as supply to job worker on the day goods were sent or received by job worker in case (a) or (b) respectively and thus GST needs to be paid along with interest. Specified goods are exception viz. moulds, dies, jigs, etc.
- Any waste / scrap generated during the job work needs to be supplied on payment of GST either by Job worker (if registered) else by principal.

INPUT TAX CREDIT TRANSFER – ISD [S. 20 & 21, R. 39]

- Input Service Distributor (ISD) needs to obtain separate registration under the category of ISD
- All the credits needs to be distributed by ISD in the same month
- ISD to file GSTR – 6 return disclosing the details of distribution
- Common credit needs to be distributed amongst operational recipient irrespective whether they make taxable supplies or not.
- The total credit distributed should not increase the total credit available for distribution
- Credit to be distributed by way of issuance of ISD invoice specifying invoice raise for distribution of credit only
- IGST credit to be distributed as IGST
- CGST & SGST credit to be distributed as (a) If recipient in same state – CGST & SGST (b) If recipient is in other state – IGST
- Invoice to be raise separately of eligible credit and Block credit invoice
- IGST, CGST & SGST should be distributed separately
- Error in calculation resulting into excess distribution of credit to any recipient shall be recovered along with interest and Short credit distributed can be transferred subject to total credit transferred by ISD does not exceed total credit available for transfer.
- If the credit in the hands of ISD is reduced or increase as a result of debit note or credit note the same shall be transferred to recipient in the month in which such debit note and credit note are disclosed in the return GSTR – 6

INPUT TAX CREDIT TRANSFER – ISD [S. 20 & 21, R. 39]

- Method of Distribution :

1. Credit attributable to specific recipient the same should be transferred to such recipient only
2. Credit attributable to more than one recipient or to all recipient shall be transferred on pro rata basis in the ratio of turnover of all such recipient to whom credit is transferable
3. Turnover –
 - a) Shall be turnover in preceding financial year
 - b) In case any one or more recipient does not have turnover in preceding financial year in that case turnover of last quarter for which details of turnover for all the recipient is available
 - c) Value of turnover shall include taxable as well as non taxable but shall not include taxes, duty levied under entry 84 of List I of the 7th Schedule to the Constitution and entry 51 & 54 of list II of the said schedule

INPUT TAX CREDIT – REVERSAL[R.42]

- Method of working reversal of Input Tax Credit required in case of inputs or input services under following situations :
 1. used for non business purpose
 2. used for exempt supplies
 3. used partly for business and partly for non business purpose (Common expenses)
 4. used partly for exempt and partly for taxable supplies (Common expenses)
- “Taxable supplies” (TS) shall includes Zero Rated supplies for purpose of this rule
- “Exempt supplies” (ES) means supply of any goods or services or both which attract nil rate of tax or which may be exempt from tax under section 11 or under section 6 of the Integrated Goods and Services Tax Act, and includes non taxable supply, RCM outward supply, securities, sales of land and building subject to schedule II (5) (b).

INPUT TAX CREDIT (ITC) – REVERSAL[R.42]

1. used for non business purpose (T1): Whole of the ITC of Inputs and Input services used or intended to be used specifically for non business purpose needs to be reversed.
 2. used for exempt supplies (T2): Whole of the ITC of Inputs and Input services used or intended to be used specifically for exempt supplies needs to be reversed.
 3. Used for business purpose and taxable supplies (T4) : No reversal of ITC of Inputs and Input services used or intended to be used specifically for business purpose and for taxable supplies i.e. full credit is allowed.
 4. Block credits (T3) : Whole of the ITC of inputs and input services which are Block Credits / ineligible credit [S. 17(5)] needs to be reversed.
- Invoice level details needs to be provided in GSTR 2 for T1, T2, T3, T4.

INPUT TAX CREDIT (ITC) – REVERSAL[R.42]

5. common credits (CC) : The balance ITC will be reversed on pro rata based on the turnover basis (i.e. Total Credit – T₁ – T₂ – T₃ – T₄)

(a) Reversal of common credit on account of used partly for exempt supplies (T₅) :

$$T_5 = E / F * CC$$

CC = Common Credit

E = Value of Exempt Supplies during the tax period

F = Total Turnover in the state during the tax period

- In case E / F details are not available for the tax period the details to be taken from last tax period for which details are available

INPUT TAX CREDIT (ITC) – REVERSAL[R.42]

5. common credits (CC) : The balance ITC will be reversed on pro rata based on the turnover basis (i.e. $\text{Total Credit} - T_1 - T_2 - T_3 - T_4$)
- (b) Reversal of common credit on account of used partly for non business (T6) : ITC to the extent of 5% of CC needs to be reversed.
- Total available credit would for any tax period would be : $\text{Total Credit} - T_1 - T_2 - T_3 - T_5 - T_6$
 - The above process to be done separately for CGST, SGST, IGST.
 - Effect of T_1, T_2, T_3, T_4 would be reflected in Electronic credit ledger. T_5 and T_6 shall be added as output liability of the RP.
 - The reworking to be done on after end of financial year and on or before 30th Sept. following the financial year for the whole financial year and necessary adjustment for the difference, if any, needs to be made in GSTR 2.
 - In case as a result of reworking additional reversal is required the same needs to be done along with interest from April of the financial year for which the working is done.
 - In case as a result of reworking excess reversal is done, the re-credit can be taken by disclosing appropriately same in GSTR 2

INPUT TAX CREDIT (ITC) – REVERSAL[R.42]

Particulars	Notation	Action	Amount	Remarks
Total Credit	(TC)		10,000	
ITC for non business purpose	T1	reversal	1,000	
ITC for exempt supply	T2	reversal	750	
ITC ineligible (S. 17(5))	T3	reversal	500	
ITC for taxable supply and business purpose	T4	allowed	7,000	
Balance ITC - Common Credit	CC		750	
ITC partly used for non business out of CC	T6	reversal	38	5% of CC
ITC partly used for exempt supply out of CC	T5	reversal	150	CC * TT / ES
Total Available credit for offset liability			7,563	
Total Turnover in state	TT		10,00,000	
Exempt supply	ES		2,00,000	

INPUT TAX CREDIT (ITC) – CG – REVERSAL[R.43]

- Input Tax Credit of Capital Goods will be available as mentioned below :
 - a) Capital Goods exclusively used for purpose of non business – Whole of the Input Tax Credit shall not be allowed (not to be credited in electronic credit ledger).
 - b) Capital Goods exclusively used for exempt goods supplies – Whole of the Input Tax Credit shall not be allowed (not to be credited in electronic credit ledger).
 - c) Capital Goods exclusively used for taxable goods supplies – Whole of the Input Tax Credit shall be allowed (credited in electronic credit ledger). Taxable goods supplies to include zero rated supplies.
 - d) Capital Goods use mentioned in a & b above changed to c – Input Tax Credit after reduction @ 5% per quarter from date of invoice till change in use shall be credited to electronic credit ledge).

INPUT TAX CREDIT (ITC) – CG – REVERSAL[R.43]

- Input Tax Credit of Capital Goods will be available as mentioned below :

- e) Capital Goods use mentioned in c above changed to common use – Input Tax Credit after reduction @ 5% per quarter from date of invoice till change in use shall be added to amount on which reversal needs to be calculated.
- Common use – partly for taxable supplies and partly for exempt supplies / non business.
- f) Capital Goods used partly for taxable supplies (common use) – Input Tax Credit shall be credited to electronic credit ledger, however pro rata reversal of ITC is required for each tax period which shall be added as output tax liability. Balance ITC as mentioned in (e) above needs to be added on change of use to the pool of ITC of common use capital goods for future working.

INPUT TAX CREDIT (ITC) – REVERSAL[R.42]

ITC relating to common use - "A"	Notation	No. of months	July '17	August '17	September '17		Total
Computer	purchased	60	10,000				10,000
Furniture	purchased	60		20,000			20,000
Add : ITC on change of use	Added	30			5,000		5,000
Total of ITC of CG relating to common use			10,000	20,000	5,000	-	35,000
Input Credit for the Tax Period							
Computer	Tr		167	167	167		500
Furniture	Tr			333	333		667
Add : ITC on change of use	Tr				83		83
Total of ITC of CG relating to common use for a tax period	Tm		167	500	583		1,250
Total Turnover	F		10,00,000	11,00,000	12,10,000		
Exempt Supplies	E		1,00,000	95,000	90,250		
Total of ITC of CG relating to exempt supplies	Te		17	43	44		103
Interest on (Te)			-	3	10		13
Total Amount to be added to output liability			17	46	54	-	116
E = aggregate value of exempt supplies made during the tax period							
F = total turnover of the registered person during the tax period							

INPUT TAX CREDIT (ITC) – REVERSAL[R.42]

Working of ITC to be added in "A" on change of use	Amount
Original ITC on CG - change of use	10,000
No. of Quarter from invoice date to change of use	10
Reduction @ 5% per quarter - Total reduction required	50%
ITC to be added in "A"	5,000

UTILISATION OF INPUT CREDIT

TYPE OF CREDIT	ADJ. – IGST	ADJ. – CGST	ADJ. – SGST
IGST	YES – 1 st	YES – 2 nd or 3 rd	YES – 2 nd or 3 rd
CGST	YES – 2 nd	YES – 1 st	NO
SGST / UTGST	YES – 2 nd	NO	YES – 1 st

TRANSITIONAL INPUT CREDIT

Situation	Eligible Credit	Remarks / Condition
Migration to GST – regular assessee, composition assessee	<ol style="list-style-type: none"> Credit carried forward in Return under old regime. Un-availed CENVAT credit of Capital Goods, not carried forward in return under old regime. 	<ol style="list-style-type: none"> Credit to be eligible under GST Person should have filed all returns (6m) Does not relate to notified exempt goods Person should not have opted for composition scheme
New registration under GST – (a) Not required to get registered under old law (b) dealing in exempt goods under old law (c) dealing works contract (d) First stage or second stage dealer	<ol style="list-style-type: none"> Input Tax in relation to Inputs held in stock on the 30.06.2017 if duty payment evidence available If evidence not available credit would be equal to 40% of Output tax if rate applicable is less than 9% else 60% of output tax. 	<ol style="list-style-type: none"> Inputs to be used for taxable supplies Credit is eligible to registered person (RP) RP is in possession of invoice or other prescribed documents as evidence of payment of duty Invoice is not prior to 01.07.2016 Supplier of service is not eligible for abatement
Invoices received after 30.06.2017 for goods or services received in GST regime	<ol style="list-style-type: none"> Input Tax Credit mentioned on invoice and paid 	<ol style="list-style-type: none"> Registered Person should be in possession of Invoice mentioning input tax credit Invoice should have been accounted on or before 30.07.2017
Services received by ISD prior to 01.07.2017	<ol style="list-style-type: none"> Input tax credit involved can be distributed although invoice date is after 30.06.2017 	
Reversal of credit on account of non payment to vendor	<ol style="list-style-type: none"> Input tax credit equal to reversal done under old law 	<ol style="list-style-type: none"> RP to make payment on or before 30.09.2017 to such vendor

Note : To claim credit form GST TRAN – 01 needs to be filed on or before due – currently 30.11.2017



Thanks

Manish Dedhia
99308831467
Dedhia.manishca@gmail.com