

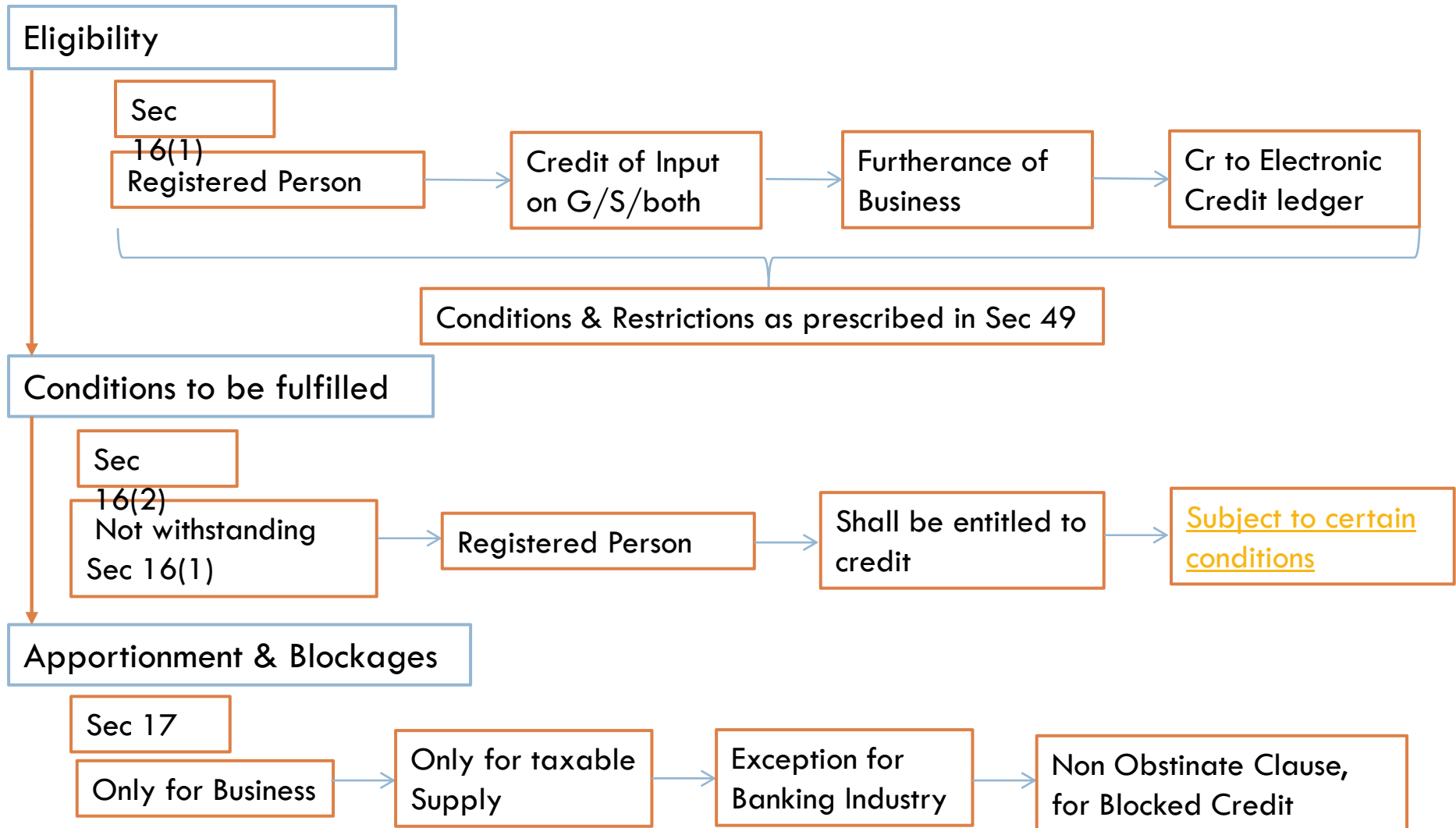


ISSUES IN ITC

H DAVE & CO.
CHARTERED ACCOUNTANT

H Dave & Co.

ITC-Free flow of Credit



Sec 43A- CG Amendment Act,2018

- (1) Non obstinate clause to Sec 16(2),37 & 38, R.P. shall in the returns furnished U/s 39(1) verify, validate, modify, delete the details of supplies furnished by the supplier
- (2) Non obstinate clause to Sec 41,42,43, procedure for availing input tax credit by recipient & verification thereof shall be prescribed
- (3) Procedure for furnishing the details of outward supplies by the supplier, for the purpose of availing ITC by the recipient shall be such as may be prescribed
- (4) Procedure for availing ITC, not furnished under sub section 3 shall be as prescribed which shall include maximum amt of ITC which can be availed, not exceeding 20% of ITC available, on the basis of details furnished by the supplier
- (5) The amount of tax specified on outward supplies under sub section 3, shall be deemed to be tax payable by him
- (6) The recipient & supplier shall be jointly and severally be liable to pay tax or pay ITC availed, in relation to outward supplies furnished under subsection 3 or 4, but return not furnished
- (7) Recovery proceedings shall be initiated unless the amount exceeds Rs. 1000
- (8) The procedure, safeguards and threshold of the tax amount in relation to outward supplies, shall be prescribed, the details of which can be furnished under sub section 3 by registered person
 - i) Within 6 months of taking the registration
 - ii) Who has defaulted in payment of tax and where such default has continued for more than 2 months from the date of payment of such default amount

Sec 49 & 49A & B-Manner of Utilization of ITC

ITC- Self Assessed- In the return- shall be credited to Electronic Credit ledger- which shall be as per Sec 41 or sec 43A- Claim of ITC & Provisional Acceptance & Utilization towards Self assessed Output Tax Liability

INPUT TAX	OUTPUT TAX
IGST	IGST CGST SGST/UTGST
CGST	CGST IGST
SGST/UTGST	SGST/UTGST IGST- <u>to be utilized when CG Credit balance is NIL-Sec 49(5)(C)/(D)-AG(Amd)Act,2018</u>

49A-CGST (Amendment Act,2018)-ITC of CGST/SGST or UTGST shall be utilized for IGST/CGST/STGST or UTGST **only after IGST has been first fully been utilized**

49B-CGST (Amendment Act,2018)-Govt on recommendation of council- shall determine order & manner of utilization of IGST/CGST/SGST or UTGST which shall be subject to clause (e) & (f) of Sec 49(5)

ITC Issue on addition of Sec 49A

As per Old provisions

	Tax Liability	ITC
IGST	100(Ip)	200(Ic)
CGST	100(Cp)	50(Cc)
SGST	100(Sp)	50(Sc)

Ip = ₹ 100
Ic = ₹ 100
Paid by Cash= ₹ 0

Cp = ₹ 100
Cc = ₹ 50
Ic = ₹ 50
Paid by Cash= ₹ 0

Sp = ₹ 100
Sc = ₹ 50
Ic = ₹ 50
Paid by Cash= ₹ 0

As per New provisions(49A)

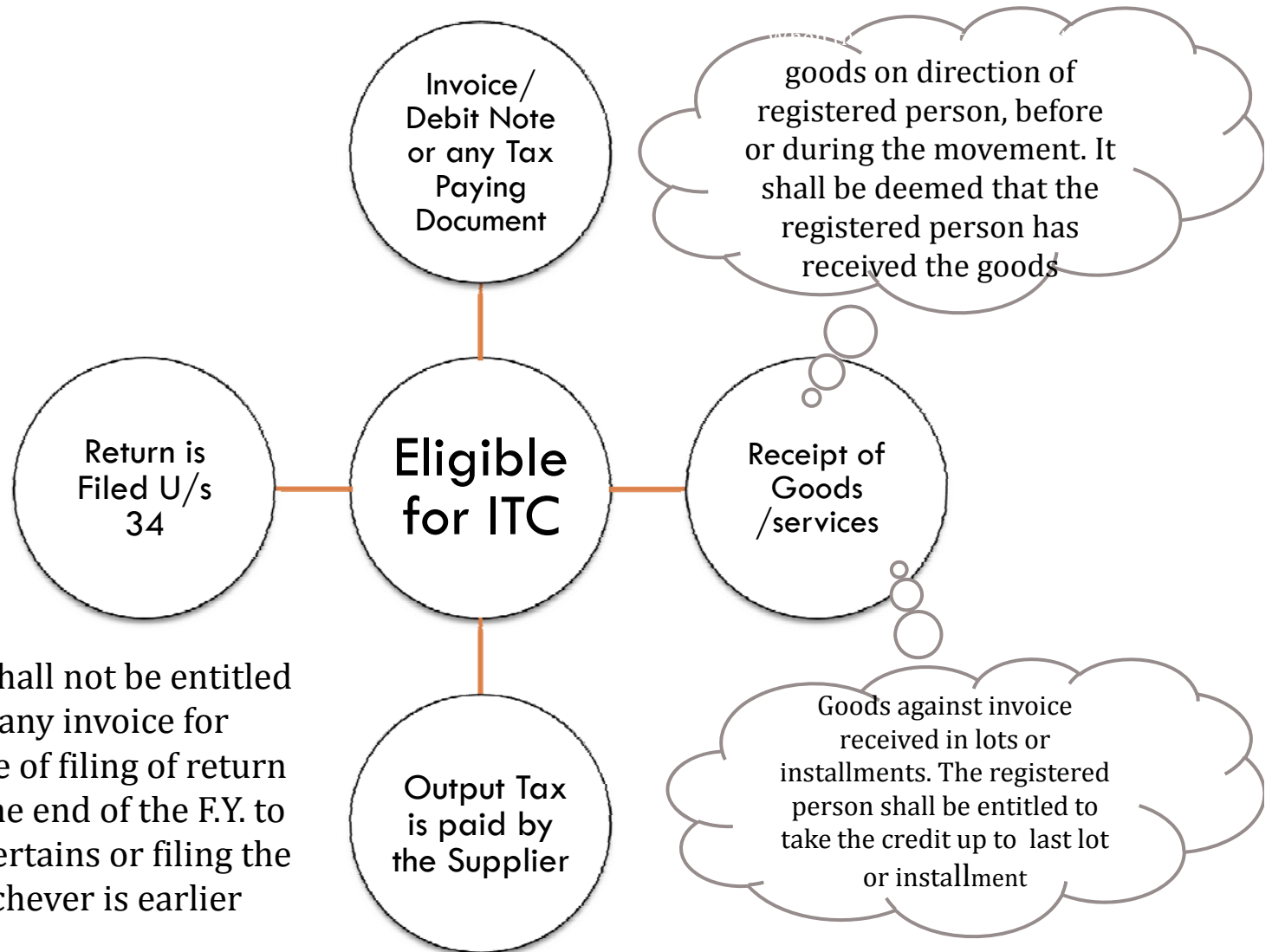
	Tax Liability	ITC
IGST	100(Ip)	200(Ic)
CGST	100(Cp)	50(Cc)
SGST	100(Sp)	50(Sc)

Ip = ₹ 100
Ic = ₹ 100
Paid by Cash= ₹ 0

Cp = ₹ 100
Ic = ₹ 100
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Sp = ₹ 100
Sc = ₹ 50
Paid by Cash= ₹ 50

Sec 16(2) (4)- Conditions



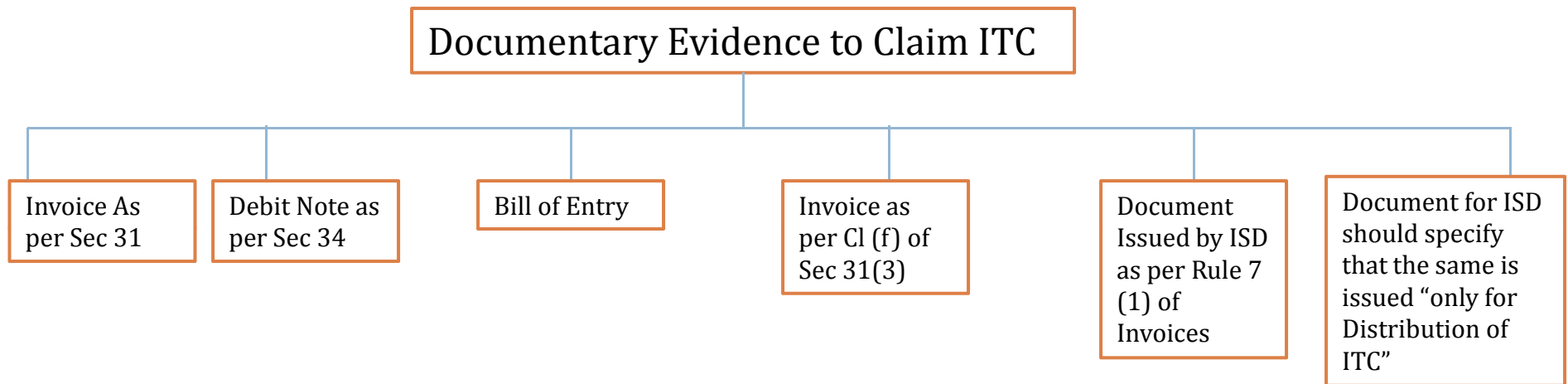
Registered Person shall not be entitled to ITC, in respect of any invoice for supply after the date of filing of return for Sept following the end of the F.Y. to which the invoice pertains or filing the Annual return, Whichever is earlier

ITC Issue on Passing of Onus



- Onus to identify genuinity of your vendor is shifted on you
- Onus of ensuring that your vendor shall file the returns, is shifted on you
- With GSTR-2 yet to streamlined, is it right to check the availability of credit on the basis if GSTR-2A
- Increase is overall administration cost for MSME
- Lack of linking of Icegate & GSTN, leads to non availability of IGST paid on imports in GSTR-2, which leads to rejection of credit & even refund, how far is this correct?
- Dis balance in chargeability of tax and availment of credit- Principle of Natural justice

Documentary Evidence & Conditions



- ITC to be Availed by Registered Person only of all particulars as prescribed in CHP VI are Contained in the said Document, and such relevant information is furnished in **FORM GSTR-2**-There are almost 17 points to be covered for ensuring that all the points are available to take the credit
- Proviso-Not all details but, amt of tax, description of goods or service, Value of goods or service, GSTIN of recipient & Supplier, place of supply in case of inter state, than ITC can be availed- N/n-39/2018 dated 04.09.2018
- No ITC- on Tax Paid- in pursuance to any demand raised on account of fraud, willful misstatement or suppression of facts

Reversal of ITC on Non- Payment of Consideration



Recipient

Availed ITC in Inward Supply of Goods or services or Both

Within 180 days

Fails to make a payment of value of supply along with Tax Amount



Supplier

Shall furnish the details of such supply and the amount of ITC Availed in GSTR-2 for the month immediately following completion of 180 days as output tax liability along with Interest starting for the period of the date availing credit till the date amount added to output tax Liability

PROVISO- the value of supplies made without consideration as specified in SCH I shall be deemed to be paid for the purpose of Second Proviso to Sec 16(2)

Sec 17- Apportionment

Sec 17(1)- Apportionment-
Business Usage

ITC on the Input

Input Used for Business Purpose

Input Used for (Other) personal
Purpose

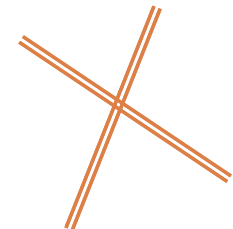
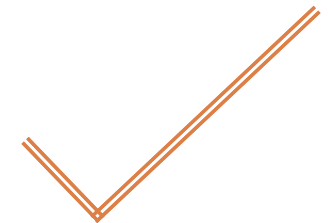
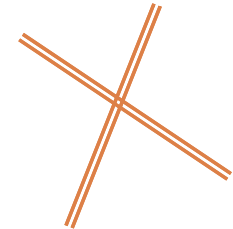
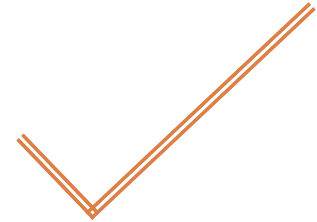
Sec 17(2)- Apportionment-
Exempted/ Zero Rated- Special
Provision - Banking

ITC on the Input

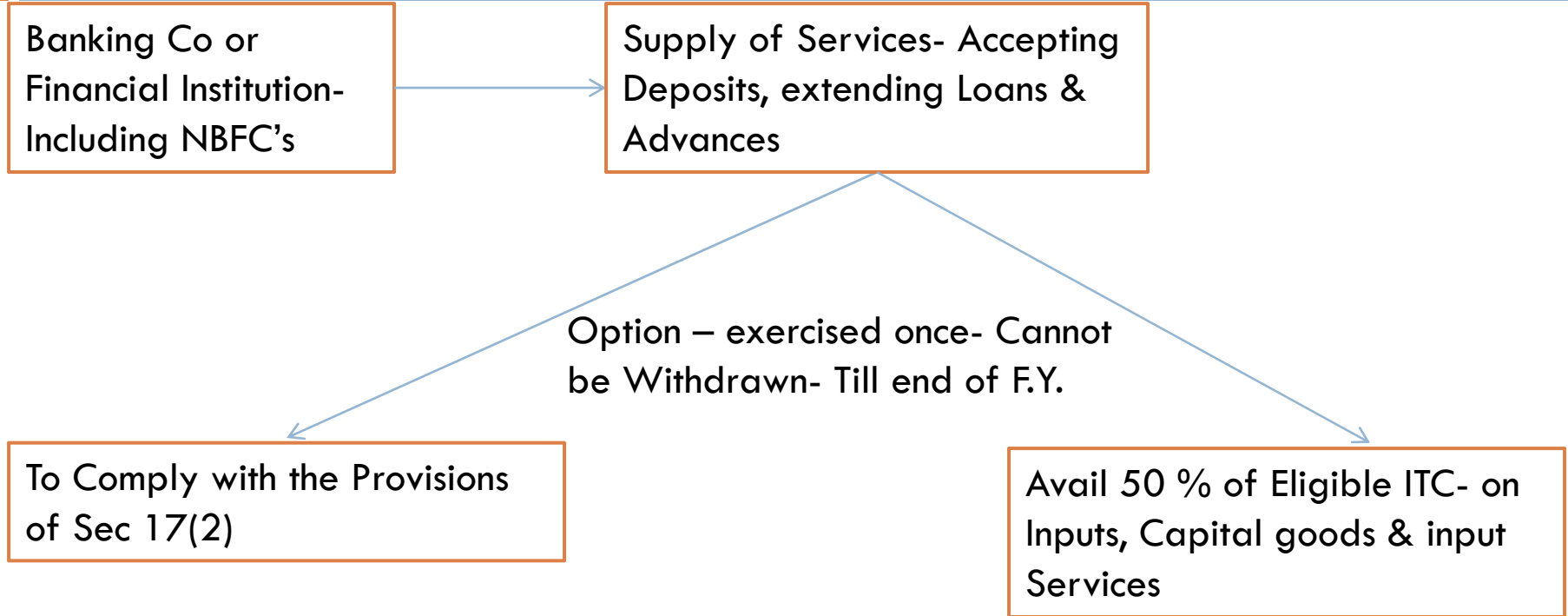
Input Used for affecting –
Taxable Supplies (incl Zero
Rated)

Input Used for affecting –
Exempted Supplies

* Exempted Supplies- Supplies on which liability under RCM, transactions in securities, sale of land, sale of building, Transactions specified in Sch III (2018 Amendment)



Sec 17- Banking & Financial Institution



Determination of Input tax in certain Cases & Reversal Thereof

Step 1:- To Determine Common Credit in respect of Input or Input Services for Taxable as well as Exempt Supplies

Particulars	Denotation	
Total Input Tax on Input & Input Services	T	
Less:- ITC on Input and Input Services , intended to be used for the Purpose other than Business	(T1)	<div style="border: 1px solid orange; padding: 5px; width: fit-content;"> Shall be determined and declared by the Registered Person at Invoice Level in Form GSTR 2 </div>
Less:- ITC on Input and Input Services, intended to be used exclusively for Exempt Supplies	(T2)	
Less: - ITC on Input on which the credit is not Available u/s 17(5)	(T3)	
Input Tax Credit Credited to Electronic credit Ledger	C1	
Less:- ITC on Input and Input Services used exclusively in relation to Taxable Supplies (Incl Zero rated Supplies)	(T4)	
Common Credit	C2	

Determination of Input tax in certain Cases & Reversal Thereof

Step 2:- To calculate ITC attributable to Exempted Supplies (D1) shall be

$$D1 = (E/F) * C2$$

E= Aggregate Value of Exempted Supplies, that is, all supplies other than Taxable and Zero rated Supplies, during the Tax Period &

F= Total Turnover of the registered Person during the Tax Period

PROVISO

Where No T/o for the Period is available, than the Value of E/F shall be calculated as per the Values of “E” & “F” for the last Tax Period for which the details of T/O are Available, previous to the month during which the said value of E/F is to be Calculated

Aggregate Value of Exempted Supplies and Total T/o shall exclude the amount of any duty or tax levied under :-

- Duties of excise on tobacco
- Duties of excise on alcoholic liquor for human consumption, opium, Indian Hemp other narcotic drugs

Determination of Input tax in certain Cases & Reversal Thereof

Step 3:- If Common Inputs and Input Services are used partly for Business & Partly for Non- Business purpose, than Credit for Non- Business purpose (D2) shall be

$$D2 = C2 * 5\%$$

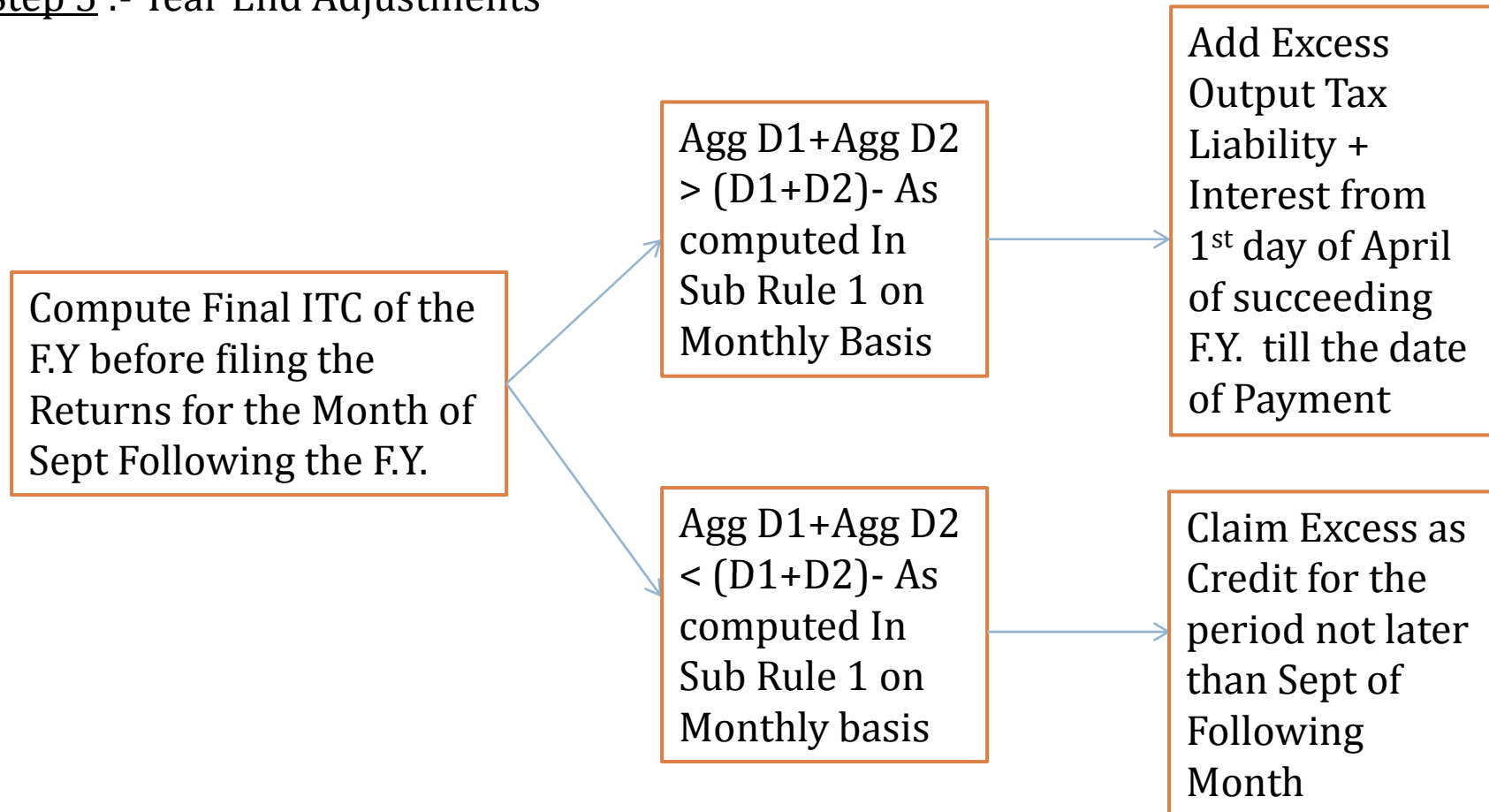
Step 4: - ITC attributable for the purpose of business and for effecting taxable supplies including Zero Rated Supplies (C3) shall be

$$C3 = C2 - (D1 + D2)$$

- C3 shall be computed for CGST, SGST, UTGST, IGST
- D1 & D2 too be added to Output Tax liability of the registered person subject to Input and input services partly used for the purpose of other than business and partly for effecting exempt supplies has been identified and segregated at invoice level and included in T1 & T2 respectively and balance in T4

Determination of Input tax in certain Cases & Reversal Thereof

Step 5 :- Year End Adjustments



Determination of ITC in case of Capital Goods & Reversal

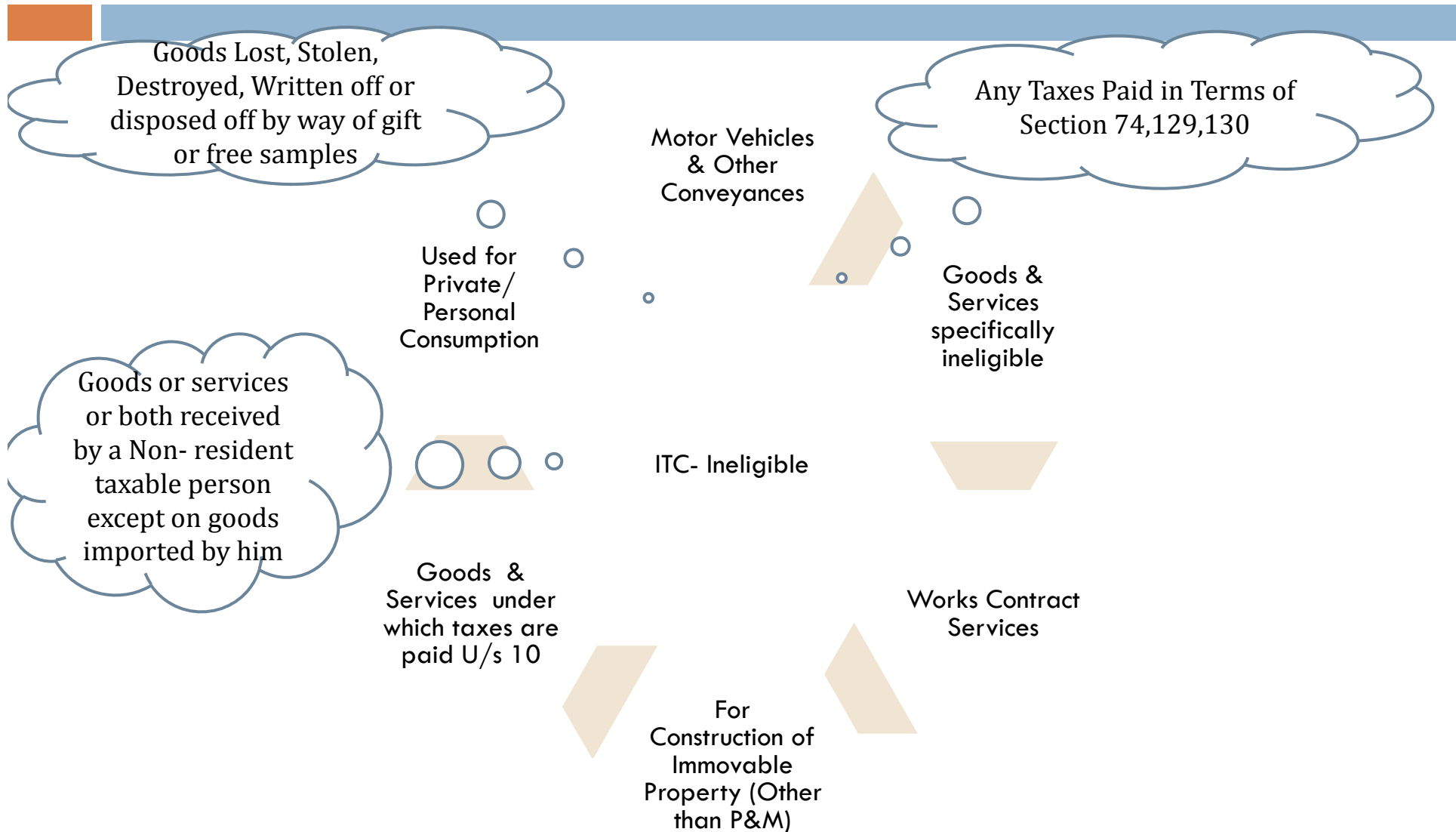
This Rule is Applicable to the Capital Assets which attract the provisions of Sec 17 (1)& (2)

ITC on Capital Good	ITC+D
Less:- Tax Component on which Dep is Taken { Sec 16(3)}	(Dep)
ITC on Capital Good	ITC
ITC on Cap Goods used for Non- Business or for Exempted Supplies- GSTR 2 (a)	Not Eligible for Credit
ITC on Cap Goods used for effecting Taxable Supplies (Incl Zero Rated)- GSTR 2 (b)	Eligible For Credit
Determination of Common Credit	Steps as follows

Determination of ITC in case of Capital Goods & Reversal

Particulars	Denotation
ITC on capital Goods (Used Partly Used for the Purpose of Business & Partly Used for Non- Business or Partly for effecting Taxable Supplies (Incl Zero Rated) & Partly for Effecting Non- Taxable Supplies- "COMMON CREDIT"- "Having Useful Life of 5 Years"- Not Covered in (a) & (b)	A
If ITC contains certain Capital Goods which were previously covered under (a) subsequently being a part of common credit than reduced at the rate of 5% per quarter or Part Thereof	-5% per Qtr
The Aggregate of all "A", shall be common credit in respect of Capital Goods for Tax Period	Tc
Amount Attributable to Common Credit over the Residual Life, denoted by Tm is	Tc/60
Aggregate of all the Tc's shall be "Tr", which being a summation of Common credit attributed towards exempted supplies (computed separately for CGST/SGST/IGST/UTGST) – Such Te shall be paid along with Interest	Te= (E/F)* Tr

Sec 17 - Blockage



Exception to Motor Vehicles- as per Earlier Act

- For Making Taxable Supplies
 - Further supply of such vehicles or conveyances; OR
 - Transportation of Passengers; OR
 - Imparting training on driving, flying, navigating such vehicles or conveyances

- For Transportation of Goods

Motor Vehicles- As per CGST (Amendment) Act,2018

- Motor vehicles for transportation of persons having approved seating capacity of not more than thirteen persons (including the driver), Except when they are used for making the following taxable supplies, namely:—
 - Further supply of such motor vehicles; or
 - Transportation of passengers; or
 - Imparting training on driving such motor vehicles;
- Vessels and aircraft except when they are used for making the following taxable supplies, namely:—
 - Further supply of such vessels or aircraft; or
 - Transportation of passengers; or
 - Imparting training on navigating/flying of such vessels/aircraft; or
 - For transportation of goods;
- Services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft except for
 - Where the motor vehicles, vessels or aircraft are used for the purposes above;
 - Used by the recipient in manufacture of such vehicles;
 - In the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him

Goods & Services- Specifically Ineligible

- ❑ Food & Beverages
- ❑ Outdoor Catering
- ❑ Beauty Treatments
- ❑ Health Services
- ❑ Cosmetic & Plastic Surgery
- ❑ Leasing, renting or hiring of motor vehicles
- ❑ Rent-a- cab/Life Insurance/ Health Insurance- Exception-
When Obligatory by the Employer
- ❑ Membership of club, Health & Fitness centers
- ❑ Travel benefits extended to employees on vacation such as leave or home travel concession

Except when such inward supply of goods or services of particular category is used by the registered taxable person for making the outward taxable supply of the same category of goods or services or both or as an element of taxable or composite supply

Issues in Apportionment & Blockage

- Conditional probabilities to avail the credit
- Matching of ITC along with GSTR-2A
- A manufacturer has provided an extended guarantee to its clients for a period of 10 years from the date of purchase. Now, by the end of 5th year the client claims for the extended Guarantee and asks for the replacement of product, whether the manufacturer can claim the ITC on raw material purchased for manufacture such a replaced product, or whether ITC has to be reversed
- Distributor of goods, buys 3 vehicles which are used for transportation of medicines to Pharmacist. Whether he is eligible for credit on such vehicles
- Car Dealer, procured 100 vehicles from manufacturer, out of which 2 vehicles are kept for test drive basis and not sold, if the credit available on such 2 vehicles

Sec 18- ITC in Special Circumstances

Sr. No.	Registration / Eligible Person	Credit on	As on	Restrictions/ Conditions
1	Within 30 days of Liabe to register & Pay Taxes {Sec 18(1)}	Inputs in Stock or input in Semi- Finished or Finished Goods	Immediately preceding the date of which liable to register	Credit not allowed on the Goods/ Services after 1 year from the Tax Invoice Date {Sec 18(5)}
2	Voluntary registration {Sec 18(2)}	Inputs in Stock or input in Semi- Finished or Finished Goods	Immediately preceding the date on which registered	
3	Ceases to Pay Composition Tax {Sec 18(3)}	Inputs in Stock or input in Semi- Finished or Finished Goods & Capital goods	Immediately preceding the date on which liable to pay tax under regular Scheme	Credit on Capital goods shall be reduced by % points as prescribed
4	Exempted supplies becomes taxable Supply {Sec 18(4)}	Inputs in Stock or input in Semi- Finished or Finished Goods & Capital goods (exclusively relatable to such exempted supply)	Immediately preceding the date on which supply becomes taxable	

Credit for Special Circumstances

Conditions/ Procedure to Claim Credit in cases Mentioned U/s 18(1)

- File FORM GST ITC-01, electronically within 30 days of becoming eligible u/s 18(1)
- The declaration shall specify the details with regards to input lying in the Stock or input contained in semi- finished or finished goods lying in the Stock or capital Goods of date immediately preceding the date liable to tax under the circumstances as specified in Sec 18(1)
- Certification by Practicing Accountant or Cost Accountant is compulsory, if the claim in aggregate on account of Central Tax, State Tax, & Integrated Tax exceeds Rs. 2 Lacs
- ITC claimed with respect to supplier of exempted supplies becoming a supplier of Taxable Supplies or in respect of supplier earlier registered under Composition Scheme now registered as Regular Supplier against the corresponding details furnished in FORM GSTR-1 or FORM GSTR-4

Sec 18-Switch Over/ Change in Constitution

Sec 18(7)- Switch Over from regular to Composition/ Product Becomes Exempt

ITC on the Input held in Stock or semi- finished or finished goods & capital goods (reduced by %)

Day immediately preceding the date of switch over

After such payment ITC in the Electronic Ledger Account Shall Lapse

Pay an amount Equivalent to ITC in the Electronic Credit ledger Account or Cash Ledger

Sec 18(6)- Change in Constitution

Change in Constitution

Sale/ Merger/ De-Merger/Amalgamation/ Lease or Trf of Business

Credit that remains unutilized in the BOA

Transferred to such sold/ merged/demerged/amalgamated/ leased or transferred business

Manner of Reversal in Switch Over/ Cancellation

Conditions/ Procedure to Reverse the Credit in case of Switch Over or Cancellation of Registration

- File FORM GST ITC-03 in case of Switch Over or GSTR-10 in Case of Cancellation
- The declaration shall specify the details with regards to input lying in the Stock or input contained in semi- finished or finished goods lying in the Stock, the ITC shall be calculated proportionately on the basis of the corresponding invoices on which the credit has been availed
- For Capital Goods, the credit involved in the remaining residual life in months shall be computed in pro-rata, taking residual life of 5 years
 - Eg:- Capital goods have been used for 4 years, 6 months & 15 days, so residual life is 5 Months(ignoring part of the month), so if ITC is “C”, than ITC attributable to residual life is $C \times \frac{5}{60}$
- If Invoice is Not available related to inputs of stock lying- estimate the amount based on prevailing market price of the goods on the effective date of Occurrence of Swicth Over or Cancellation & Should be certified by Chartered/ Cost Accountant

ITC- Capital Goods Sec- 16(3) & 18(10)

ITC on Capital Goods= Tax Component, only and only if Depn is not claimed on tax Component

Reversal of Credit on Sale of Capital Goods

Supply of Capital Goods on which ITC Taken

Pay an Amount = Credit Taken

Reduced by

Percentage Point
as Prescribed

Whichever If Higher

Tax on Transaction Value (Sec
15(1) of Capital Goods

Proviso- In case of refractory bricks, moulds and dies, jigs & Fixtures are supplied as scrap , the taxable person may pay tax on Transaction Value as determined U/s 15(1)

Queries of Participants

Sr. No.	Query Raised	Reply
1	<p>The Invoice of the service/goods provider has the valid GST number of both, i.e. provider as well as the receiver. The service/goods provider has filed the GST 3B</p> <ul style="list-style-type: none">a. But not filed the GST 1b. Has filed GST 1 but not included the receiver's GST in the said returnc. Has categorically denied to include the receiver's GST in the return GST 1	<p>In all the cases, ITC so claimed needs to be reversed and the interest @18% needs to be paid</p>
2	<p>ITC -04for jobwork. What should be the description, unit details and taxable value when the goods are returned from job worker table 5</p>	<p>Revised form vide Notification 39/2018- Sr No-9 has been substituted against the original form, the new form is yet to be changed in the system and hence date is extended till 31/3/19 for july-17 to Dec-18</p>

Schedule III- Neither Supply of goods or services

- Services by an employee to the employer in the course of or in relation to his employment.
- Services by any court or Tribunal established under any law for the time being in force.
- (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities; (b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or (c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
- Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
- Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
- Actionable claims, other than lottery, betting and gambling. Explanation.—For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.

Thank You
for your interest.....

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Proprietor
H Dave & Co.

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