FAQ: GST for NGOs

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Q1. What are the criteria for a charitable trust to be exempted from GST?

There are certain criteria for a charitable trust or an NGO to be exempted from the Goods and Services Tax. The charitable trust or NGO must be registered under Section 12AA of the Income Tax Act, and the services provided by the charitable trust or the N

Q2. What is “charitable activity” under GST?

Notification no 12/2017 the term “charitable activity” has been explained. (Chapter 99 Sl. No.1)

“Charitable activities” –

(i) public health by way of,-

- Care or counselling of
  - Terminally ill persons or persons with severe physical or mental disability;
  - persons afflicted with HIV or AIDS;
  - persons addicted to a dependence-forming substance such as narcotics drugs or alcohol;
- Public awareness of preventive health, family planning or prevention of HIV infection;
- Advancement of religion, spirituality or yoga;
- Advancement of educational programmes or skill development relating to,-

    - Abandoned, orphaned or homeless children;
    - physically or mentally abused and traumatized persons;
    - prisoners; or
    - persons over the age of 65 years residing in a rural area;
- Preservation of environment including watershed, forests and wildlife;
- The exemption list services under GST maybe browsed at https://taxguru.in/goods-and-service-tax/list-exempted-services-gst.html

Q3. What about goods sold by a charitable trust?

Goods that are sold by a charitable trust is taxable. The charitable trust must pay the GST rate applicable while purchasing the supply.

Q4. Is GST applicable on training programs, camps, and events conducted by a charitable trust?

If a charitable trust is conducting training programs, yoga camps, or other programs that are not free for participants, it will be considered as a commercial activity and hence will be liable for GST. Even the donation received for such an activity will be liable for taxation under GST. Services provided by way of training or coaching in recreational activities relating to arts and culture, or sports by a charitable entity will be exempt from GST.

Q5. Are the events organized by charitable trusts exempt from GST?

If trusts are running schools, colleges or any other educational institutions specifically for abandoned, orphans, homeless children, physically or mentally abused persons, prisoners or persons over age of 65 years or above residing in a rural area, such activities will be considered as charitable activities and income from such supplies will be wholly exempt from GST.

Q6. What happens when a charitable trust rents out a religious place? Is there any GST on that?

GST law has chalked out GST exemptions, when a charitable trust rents out religious meant for general public (owned and managed by a registered charitable trust under 12AA of the Income Tax Act, 1961). GST will be exempted when:

- Rent out rooms are charged lesser than Rs.1,000 a day
- Kalyanamandapam or an open area is charged lesser than Rs.10,000 a day
- Rent out shops and other spaces for business are charged less than Rs.10,000 a month

Resource material for NGOs on GST

Key definitions under CGST Act 2017 for NGOs to know:

1. Section 2(84) defines the term “person” which include Trusts, Societies and all types of artificial juridical person
2. Sec 2(17) defines “Business” which includes any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
3. Section 2(28) defines “Consideration” as monetary value or payment for an activity. Payment is Not Consideration. The act of mere payment, and/or undertaking to pay arising out of a contract towards any assistance, without getting anything in return or supply in any form in return cannot be called as consideration
4. Section 7 (1) defines scope of supply to include:
    - all forms of supply of goods & services or both, such as sale, transfer, barter, exchange, license, rental, lease or disposal made/agreed to be made-VC/corpus not supply, no specified beneficiaries.
    - Consideration-provided a grant is linked to beneficiaries/implementing partner/ donor
    - in the course of furtherance of business-Grant is a legal obligation and not income. Also incidental activity would be excluded if primary activity is charitable
5. Levy & Collection-As per section 9(1) of CGST Act, Tax is leviable on the supply of Goods/Services or both on the value determined under section 15 and at such rates as prescribed under various schedules of the Act

Architecture of GST

1. GST is destination based consumption tax. Benefit of tax (STCG/ UTGST) will accrue to the consuming state
2. When supply of goods/services happens within a state called intra-state transactions, then both the CGST and SGST/UGST will be collected.
3. if the supply of goods or services happens between the states called inter-state transactions, then only IGST will be collected.

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Illustrated:

GST:

- *Intra-state movement*
  - *Central GST (CGST)*
  - *State GST (SGST)*
- *Inter-state movement*
  - *Integrated GST (IGST)*

How GST operates

- Dual tax regime in line with the federal structure of country
- Under GST regime there is a SEAMLESS (without any obstruction) credit flow in case of inter-state supplies as follows:

(a) The inter-state supplier in the exporting state is allowed to set off the available credit in IGST, CGST and SGST/UTGST against the IGST payable on inter-state supply made by him.

(b) The buyer of importing state in inter-state supply can avail the credit of IGST paid on purchase from the output tax payable.

(c) The exporting state transfers to the center the credit of SGST/ UTGST utilized for the payment of IGST.

(d) The Centre transfers to the importing state the credit of IGST used in payment of SGST/UTGST.

Type of supply

- Taxable supply-4 category-exempt, essential, regular and special
- Exempt supply

a. Supplies taxable at a ‘NIL’ rate of tax (0% tax)-milk, grains, salt

b. Supplies that are wholly or partially exempted from CGST or IGST, by way of a notification amending CGST/IGST Act

c. Non-taxable supplies– supplies that are not taxable under the Act-Alcoholic liquor for human consumption, petrol.

- Zero rated supply-exports, supply made to SEZ
- Composite Supply
- Mixed Supply

Rates of levy

- 0% (nil-rated)-Exempted goods
- 5%-Essential goods
- 12%-Standard goods
- 18%-Standard goods
- 28%-Special goods
- There are a few lesser-used GST rates such as 3% and 0.25%.
- Cess in addition to GST rates on the sale of some items such as cigarettes, tobacco (called sin goods), aerated water, petrol, and motor vehicles, rates widely varying from 1% to 204%.
- GST will be calculated on the value of supply of goods and services, which is the transaction value.

Input Tax Credit

- Under GST credit of taxes paid at previous stages is available as set-off from the output tax i.e. GST Act is truly value added tax.
- Input Tax applies only when GST paid by a taxable person on any purchase of goods/services that are used for business.
- This Input Tax can be reduced from the GST payable on the sales by the taxable person called Input Tax Credit (ITC) only after fulfilling some conditions i.e. Goods used for business, tax invoice, appears in GSTR 1 filed by seller, appears in buyer's GSTR 2B, etc
- The time limit to claim ITC against an invoice or debit note is earlier of two dates, given below:
  - The due date for filing GST returns for September of the next financial year.
  - The date of filing the annual returns in form GSTR-9 relating to that financial year.
- Input tax credit (ITC) of CGST and SGST/UTGST will be available through the supply chain
- Cross utilisation of credit will not be possible, i.e. CGST credit can't be utilised for payment of SGST/UTGST and UTGST/SGST credit can't be utilised for payment of CGST.
- Cross utilisation will be allowed between CGST/SGST/ UTGST and IGST. i.e. credit of IGST can be utilised for payment of CGST/SGST/UTGST and vice versa.

GSTR 1

- GSTR-1 is return to be furnished for reporting details of all outward supplies of goods and services made. Contains the invoices and debit-credit notes raised on the sales transactions for a tax period.
- Any amendments to sales invoices made, even pertaining to previous tax periods, should be reported.

  The filing frequency of GSTR-1 is :

  (a) Monthly, by 11th of every month- If the business either has an annual aggregate turnover of more than Rs.5 crore or has not opted into the QRMP scheme.

  (b) Quarterly, by 13th of the month following every quarter- If the business has opted into the QRMP scheme.

GSTR 2B

- GSTR-2B is again a view-only static GST return important for the recipient or buyer of goods and services. It is available every month, starting in August 2020 and contains constant ITC data for a period whenever checked back.

  ITC details will be covered from the date of filing GSTR-1 for the preceding month (M-1) up to the date of filing GSTR-1 for the current month (M). The return is made available on the 14th (after filing of GSTR-1 11th & 13th) of every month, giving sufficient time before filing GSTR-3B, where the ITC is declared.

  GSTR-2B provides action to be taken against every invoice reported, such as to be reversed, ineligible, subject to reverse charge, references to the table numbers in GSTR-3B.

GSTR 3B

- GSTR-3B is a monthly self-declaration to be filed, for furnishing summarized details of all outward supplies made, input tax credit claimed, tax liability ascertained and taxes paid.
- GSTR-3B is to be filed by all normal taxpayers registered under GST. The sales and input tax credit details must be reconciled with GSTR-1 and GSTR-2B every tax period before filing GSTR-
- 3B. GST reconciliation is crucial to identify mismatches in data, that may lead to GST notices in future or suspension of GST registration as well.

The filing frequency of GSTR-3B is currently as follows:

- Monthly, 20th of every month- For taxpayers with an aggregate turnover in the previous financial year of more than Rs.5 crore or have been otherwise eligible but still opted out of the QRMP scheme.
- Quarterly, 22nd of the month following the quarter for ‘X’ category of States and 24th of the month following the quarter for ‘Y’ category of States- For the taxpayers with aggregate turnover equal to or below Rs 5 crore, eligible and remain opted into the QRMP scheme.

GST under RCM

- Reverse-charge means the liability to pay tax by the recipient of the supply of goods or services or both instead of the supplier of such goods or services or both
- The goods and services are notified under RCM
- Tax under reverse charge can be paid through cash only without availing the benefit of ITC.
- The supplier must mention in his tax invoice whether the tax is payable on reverse charge
- Compulsory registration if opting for RCM

Composition scheme under GST

- Small taxpayers can pay GST at a fixed rate of turnover for intrastate supply. This scheme can be opted by whose turnover is less than Rs. 1.5 crore.
- No ITC available and tax paid by the composition dealer.
- No GST charged in invoice, issued marked as under composition scheme
- service providers can opt for composition scheme rendering services having aggregate annual turnover up to Rs. 50 lakh
- GSTR-4 is the annual return to be filed by the composition taxable persons by 30th April of the year following the relevant financial year.
- Rate of GST varies between 1%-manufacturer & trader, 5%- restaurants not serving alcohol and 6%-service provider
- GST paid quarterly by 18th of month following the quarter-CMP 09

HSN and SAC

HSN code and SAC code are the codes used to classify goods and services under the GST regime in India.

HSN means Harmonized System of Nomenclature code used for classifying the goods under the GST, Goods and Service Tax.

The SAC code means Services Accounting Code under which services fall under GST are classified.

HSN code has 8 digits and SAC code has 6 digits

E way bill and E invoice

- EWay Bill is an Electronic Way bill for movement of goods to be generated on the eWay Bill Portal (eqaybillgst.gov.in).
- A GST registered person cannot transport goods in a vehicle whose value exceeds Rs. 50,000 (Single Invoice/bill/delivery challan) without an e-way bill
- When an eway bill is generated, a unique Eway Bill Number (EBN) is allocated and is available to the supplier, recipient, and the transporter.
- eway bill contains part-A and Part-B, Part-A contains the details of goods while Part-B contains the details of transporter (Road , sea, Air). Part-B can also be generated by the transport agency while Part-A can be generated by the seller only.
- e-invoice and e-way bill both can be generated from the portal for registered users with a separate registration. E- Invoice is mandatory if aggregate turnover is more than 10 Cr from 1st October 2022.

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