

# GST law

- [GST law](#)



## Are NGOs exempt from GST?

3 Tests:

- (a) covered under Exemption Notification as charitable activity
- (b) services covered under scope of supply
- (c) Aggregate value of goods and services threshold

1. The entity must be registered under Section 12A of the Income Tax Act, 1961
2. The services provided must be charitable in nature as defined under Notification no. 12/2017.
3. Aggregate turnover exceeds Rs.20 lakhs for services and Rs.40 lakhs for goods for normal cat state cases and Rs.10 lakhs for services and Rs.20 lakhs for Goods for special cat states

## What is “charitable activity” under GST?

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

- 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 under GST maybe browsed at: <https://taxguru.in/goods-and-service-tax/list-exempted-services-gst.html>**

## SGST/UGST and IGST

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

## 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 (One Nation One Tax) as follows:
  - The seller of exporting state in inter-state supply can set off the available credit in IGST, CGST and SGST/UTGST against the IGST payable
  - The buyer of importing state in inter-state supply can avail the credit of IGST paid on purchase from the output tax payable.
  - The exporting state transfers to the Centre the credit of SGST/ UTGST utilised for payment of IGST.
  - The Centre transfers to the importing state the credit of IGST used in payment of SGST/UTGST.

## Types of Supply

- 4 category-exempt, essential, regular and special
- Exempt supply
  - Supplies taxable at a NIL rate of tax-milk, grains, salt
  - Supplies that are wholly or partially exempted through notification
  - 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. Can avail ITC. LUT to be filed on GST portal by exporter for zero rate of GST
- Composite Supply-bundled and cannot be separated
- Mixed Supply

## Rates of Levy

- 0%-Exempted goods
- 5%-Essential goods
- 12%/18%-Standard goods
- 28%-Special goods
- Few lesser used GST rates such as 3% and 0.25%.
- Compensation Cess for items such as cigarettes, tobacco (called sin goods), aerated water, motor vehicles, rates widely varying from 1% to 204%.
- GST calculated on transaction/taxable value of supply of goods and services

## Time of supply

### **For goods**

Normal/forward charge supply-earlier of the following dates:

- The date of issuing of invoice
- The date of receipt of payment Reverse charge supply-earlier of the following dates:
- the date of receipt of goods (b) the date of payment (c) the date immediately after thirty days from the date of issue of invoice for goods by the supplier (60 days for services).

### **For Services**

- Date of issue of invoice by registered taxpayer or Date of receipt of payment whichever is earlier

## Place of Supply in GST

- GST is a destination-based tax i.e. goods/services will be taxed at the place where they are consumed and not at their origin.
- The state where goods/services consumed has right to collect GST
- The place where delivery terminates i.e. where the ownership is passed on determines the Place of Supply.
- Place of supply is crucial to decide whether transaction will be counted as intrastate or interstate and accordingly, levy of SGST, CGST & IGST will be determined.
- For Services, place will be the location of the registered taxpayer receiving the services

## Input Tax Credit (ITC)

- Under GST credit of taxes paid at previous stages is available as set-off from the output tax i.e. GST is truly value-added tax.
- This Input Tax (called Input Tax Credit (ITC)) can be reduced from the GST payable on the sales by the taxable person only after fulfilling some conditions i.e. Goods used for business (B2B), tax invoice, goods received, appears in GSTR 1 filed by seller, appears in buyer's GSTR 2B, etc
- The time limit to claim ITC against an invoice/debit note is earlier of two dates:
  - 30th November of the next financial year or date of filing annual returns in Form GSTR-9
- Input tax credit (ITC) of CGST and SGST/UTGST will be available through the supply chain
- Cross utilisation of credit will not be possible between centre and state levy, 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.

## Returns under GST- GSTR 1

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

The filing frequency of GSTR-1 is :

- **Monthly by 11th of every month-** If the business either has an annual aggregate turnover above Rs.5 crore or has not opted Quarterly Return Monthly Payment (QRMP) scheme.
- **Quarterly by 13th of the month following a quarter-** If the business has opted QRMP scheme.

## Returns under GST- GSTR 2A

- GSTR-2A is a view-only **dynamic** GST return for buyer of goods and services. It contains the details of all inward supplies (purchases) of goods and services from GST registered suppliers during a tax period.
- The data is auto-populated based on data filed by the corresponding suppliers in their GSTR-1 returns/ Invoice Furnishing Facility (IFF) by the QRMP taxpayer
- Since GSTR-2A is a read-only return, no action can be taken in it. It is referred by the buyers to claim accurate Input Tax Credit (ITC) across multiple tax periods. In case any invoice is missing, the buyer can communicate with the seller to upload it in their GSTR-1 in time.

## Returns under GST- GSTR 2B

- GSTR-2B is view-only **static** GST return for buyer of goods and services. It is available every month and contains constant ITC data for a reporting period 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
- 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.
- Invoice Management System (IMS) which provides recipient of invoice to accept, reject, keep pending introduced so that GSTR 2B is accurate.

## Returns under GST- GSTR 3B

- GSTR-3B is a self-declaration filed for furnishing summarized details of all outward supplies made, input tax credit claimed, tax liability ascertained and taxes paid. The sales and input tax credit details must be reconciled with GSTR-1 and GSTR-2B every tax period before filing GSTR-3B.
- The filing frequency of GSTR-3B is currently as follows:
  - Monthly, 20th of every month- For taxpayers with turnover in previous financial year above 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 turnover equal to or below Rs 5 crore and opted for QRMP scheme.

## Returns under GST- GSTR 7

- GSTR 7 is a monthly return to be filed by persons required to deduct TDS under GST.
- This return will contain details of TDS deducted, the TDS liability payable and paid and TDS refund claimed if any.
- The due date to file GSTR-7 is the 10th of every month

## Returns under GST- GSTR 9

- GSTR-9 is the annual return to be filed by all taxpayers registered under GST with turnover exceeding Rs. 2 cr. It is due by 31st December of the year following the relevant financial year.
- It contains the details of all outward supplies made, inward supplies received under different tax heads i.e. CGST, SGST & IGST and a summary value of supplies reported under every HSN code, along with details of taxes payable and paid.
- It is a consolidation of all the monthly or quarterly returns (GSTR-1, GSTR-3B) filed during that financial year.

## Returns under GST- GSTR 10

- GSTR-10 is to be filed by a taxable person whose registration has been cancelled or surrendered. This return is also called a final return and has to be filed within three months from the date of cancellation or cancellation order, whichever is earlier.

## GST under RCM

- Reverse-Charge means the liability to pay GST on the recipient instead of the supplier of goods or services
- The goods and services are notified under RCM. Goods include agricultural produce, supply from unregistered supplier, GTA, legal services etc.
- Tax under reverse charge can be paid through cash only without availing the benefit of ITC.
- The supplier must mention in tax invoice that tax is payable on reverse charge
- Compulsory registration if RCM applicable

## Composition scheme under GST

- Small taxpayers whose turnover is less than Rs. 1.5 crore for goods and Rs.50 lakhs for services can pay GST at a fixed rate of turnover for intrastate supply.
- No ITC available and tax paid by composition dealer. Hassle free

- No GST charged in invoice, issued marked as under composition scheme
- 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
- GSTR-4 is annual return to be filed by 30th April of the year following the relevant financial year.

## HSN and SAC

- HSN code and SAC code are the codes used to classify goods and services under GST regime.
- HSN means Harmonized System of Nomenclature code used for classifying goods under the GST
- The SAC code means Services Accounting Code is services under GST are classified
- HSN code has 8 digits and SAC code has 6 digits

## e Way Bill & e -Invoice

- EWay Bill is for movement of goods to be generated on the eWay Bill Portal ([ewaybillgst.gov.in](http://ewaybillgst.gov.in)).
- A GST registered person cannot transport goods via vehicle whose value exceeds Rs. 50,000 (Single Invoice/bill/delivery challan) without an e-way bill
- When an e-way bill is generated, a unique Eway Bill Number (EBN) is allocated and is available to the supplier, recipient, and the transporter.
- e-way bill contains part-A and Part-B, Part-A contain the details of goods while Part-B contain the details of transporter (Road , sea, Air). Part-B can also be generated by transport agency while Part-A is generated by seller only.
- e- invoice and e-way bill both can be generated from the portal for registered user with a separate registration.
- E- Invoice is mandatory for B2B if aggregate turnover is more than 5 Cr. The invoices raised are fed into IRP of GSTN within 30 days .

## What you need to do

- Check the taxpayer through Search Taxpayer tab on GST portal without login credentials. Search by PAN/GSTIN. It provides details of whether taxpayer is Active, goods and services in which it deals and also filing history
- Check HSN from GST portal from Services (user services) tab