

Frequently Asked Questions in respect of GST – For internal circulation in MMTC

S No	Question	Answer
1	Which of the pre-GST regime taxes have been subsumed under GST?	<p>The GST has replaced the following taxes:</p> <p>(i) taxes levied and collected by the Centre:</p> <ol style="list-style-type: none"> Central Excise duty Duties of Excise (Medicinal and Toilet Preparations) Additional Duties of Excise (Goods of Special Importance) Additional Duties of Excise (Textiles and Textile Products) Additional Duties of Customs (commonly known as CVD) Special Additional Duty of Customs (SAD) Service Tax Central Surcharges and Cesses so far as they relate to supply of goods and services <p>(ii) State taxes subsumed under the GST are:</p> <ol style="list-style-type: none"> State VAT (including Works Contract Tax) Central Sales Tax Luxury Tax Entry Tax (all forms) Entertainment and Amusement Tax (except when levied by the local bodies) Taxes on advertisements Purchase Tax Taxes on lotteries, betting and gambling State Surcharges and Cesses so far as they relate to supply of goods and services
2	Who is liable to pay GST under the GST regime?	<p>Under the GST regime, tax is payable by the taxable person on the supply of goods and/or services. Liability to register under GST Act arises when the taxable person crosses the threshold limit, i.e. Rs.20 lakhs (Rs. 10 lakhs for NE States & hill states – total 11 states) except in certain specified cases where the taxable person is liable to get Registration in GST even though he has not crossed the threshold limit. If registration is taken then GST is to be charged from the first rupee. The CGST / SGST is payable on all intra-State supply of goods and/or services and IGST is payable on all inter-State supply of goods and/or services. The CGST /SGST and IGST are payable at the rates specified in the Schedules to the respective Acts.</p>
3	How will imports be taxed under GST?	<p>Imports of Goods and Services will be treated as inter-state supplies and IGST will be levied on import of goods and services into the country. The incidence of tax will follow the destination</p>

		principle and the tax revenue in case of SGST will accrue to the State where the imported goods and services are consumed. Full and complete set-off will be available on the GST paid on import of goods and services
4	How will Exports be treated under GST?	Exports will be treated as zero rated supplies. There are two methods in case of exports. 1. First one is where no tax will be paid on exports of goods or services, however a bond or LUT will be filed to the government for the value of tax before the supply. Credit of input tax will be available and same can be claimed as refund by the exporters. 2. Second method is where IGST is levied at the time of supply and paid from its own pocket in cash or through CENVAT to the government and thereafter the same can be recovered as refund from government by the exporter.
5	What is the taxable event under GST?	The taxable event under GST shall be the supply of goods and / or services made for consideration in the course or furtherance of business. It shall be governed by the Time of Supply as per section 12 & 13 read with the definition of supply under section 7 of GST Act. CGST & SGST will be levied on intra-state supplies while IGST will be levied on inter-state supplies. Reverse charge means the liability to pay tax is by the recipient of goods/services instead of the supplier. Reverse charge is applicable for both services as well as goods. As per section 9(4) of the CGST Act, the central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
6	What is Reverse Charge Mechanism?	Important Component: There are following elements which need to be present to trigger this section:- 1. There should be supply. 2. Supply should be in respect of taxable goods or services or both. 3. Supply must be by unregistered person. 4. Supply must be to registered person. Exemption: As per the notification, exemption shall be applicable where the aggregate value of such supplies of goods or service or both received by a registered person from any or all the suppliers, who is or are not registered, is upto five thousand rupees in a day.

		<p>Analysis: Exemption is on intra state taxable supply.</p> <ol style="list-style-type: none"> 1. There is a limit of transaction value of Rs. 5,000/- per day:- means in case of supply more than Rs. 5,000/- per day, whole of such supply shall be taxable under reverse charge 9(4). 2. Limit is in respect of all suppliers:- This should be noted that the limit is not respect to one supplier. <p>There is also a list of services provided by government on which reverse charge is applicable even if the above conditions are not fulfilled.</p> <p>Yes. The definition of input tax includes the tax payable under sub-section (3) of section 7 (Reverse Charge). The credit can be availed if such goods and/or services are used, or are intended to be used, in the course or furtherance of his business.</p>
7	Can GST paid on reverse charge be considered as input tax?	Yes. The definition of input tax includes the tax payable under sub-section (3) of section 7 (Reverse Charge). The credit can be availed if such goods and/or services are used, or are intended to be used, in the course or furtherance of his business.
8	What is time of supply of <u>service</u> in case of tax payable under reverse charge?	<p>In case of reverse charge, the time of supply of service shall be the earliest of the following dates—</p> <p>(a) The date of payment as entered in the Books of Accounts of recipient or date on which payment is debited in the bank account of recipient, whichever is earlier. OR</p> <p>(b) The date immediately after SIXTY days from the date of issue of invoice / other documents by the supplier (30 days for goods)</p> <p>If it is not possible to determine the time of supply under (a) or (b), the time of supply shall be the date of entry in the books of account of the recipient.</p>
9	What is time of supply of goods in case of tax payable under reverse charge?	<p>In case of reverse charge, the time of supply shall be the earliest of the following dates—</p> <p>(a) the date of receipt of goods OR</p> <p>(b) the date of payment as entered in the Books of Accounts of recipient or date on which payment is debited in the bank account of recipient, whichever is earlier</p> <p>(c) the date immediately after THIRTY days from the date of issue of invoice / any other document by the supplier (60 days for services)</p> <p>If it is not possible to determine the time of supply under (a), (b) or (c), the time of supply shall be the date of entry in the books of account of the recipient.</p>
10	How will the goods and services be classified under GST regime?	HSN (Harmonised System of Nomenclature) code shall be used for classifying the goods under the GST regime. Taxpayers whose turnover is above Rs. 1.5 crores but below Rs. 5 crores shall use 2 digit code and the taxpayers whose turnover is Rs. 5 crores and above shall use 4 digit code.

		Taxpayers whose turnover is below Rs. 1.5 crores are not required to mention HSN Code in their invoices. There is no concept of SAC's now as per law all SAC's will be termed as HSN's.
11	Whether supplies made without consideration will also come within the purview of Supply under GST?	Yes, but only those activities which are specified in Schedule I to the CGST Act / SGST Act. The said provision has been adopted in IGST Act as well.
12	Can the customer who buys from a taxable person who is under the composition scheme claim composition tax as input tax credit?	No, customer who buys goods from taxable person who is under composition scheme is not eligible for composition input tax credit because a composition scheme supplier cannot issue a tax invoice.
13	What is remission of tax/duty?	There is no concept of remission of tax/duty. But assessee is not allowed to take the ITC of goods lost/ destroyed and if availed then has to reverse the ITC so availed.
14	Whether remission is allowed for goods lost or destroyed before supply?	Remission of tax will apply only when tax is payable as per law i.e. taxable event should have happened and tax is required to be paid as per law. Under GST Law, levy is applicable upon supply of goods. Where goods are lost or destroyed before supply, taxable event does not occur in order to pay tax. Accordingly, question of remission of tax does not arise. Also there is no concept of remission of tax/duty. But assessee is not allowed to take the ITC of goods lost/ destroyed and if availed then has to reverse the ITC so availed.
15	Whether goods sent by a taxable person to a job-worker will be treated as supply and liable to GST?	As per section 143, goods can be sent by principal to job-worker without payment of tax. But there is a condition that goods must be received back within 1year (in case of capital goods it was 3 years). If goods are not received back then supply shall be deemed from the date of actual supply i.e. when the goods are sent to the job-worker.
16	Whether the job worker will have to be compulsorily registered?	No. A Job-worker would be a supplier of services, he would be required to obtain registration if his aggregate turnover exceeds the prescribed threshold. But if job worker is in a State/UT, other than that of Principal, his supply will be treated as Inter-state supply and thus registration under GST it will be mandatory for the Job workers. Example – If principal is in Delhi and Job-worker is in Gurgaon. Principal will move goods to job worker against delivery challan and job worker shall move goods to principal against tax invoice and shall charge IGST.
17	Whether the goods will be permitted to be supplied from the place of business of	Yes. But only in cases where the job worker is registered or the principal declares the place of business of the job worker as his additional place of business.

	a job worker?	
18	Whether the principal is eligible to avail input tax credit of inputs sent to job worker for job work?	Yes, the principal is eligible to avail the input tax credit on inputs sent to job worker for job work in terms of Section 19
19	What is the time period within which the inputs sent for job work has to be received back by the principal?	For Goods it is 1 Year and for capital goods it is 3 Years. If not received back within the prescribed time limit then it shall be treated as supply from the date they were sent. All the provisions of interest will be levied.
20	Whether principal has to reverse the input tax credit on inputs which have not been received back from the job worker within 180 days?	Yes, the principal has to reverse the credit along with interest on inputs which have not been received back from job worker within 180 days but he can reclaim the credit on receipt of inputs No, there is no concept of ITC reversal as that will amount to Supply from the date goods were sent and invoice has to be raised in that case.
21	Whether transfer of right to use goods will be treated as supply of goods or supply of service? Why?	Transfer of right to use goods shall be treated as supply of service because there is no transfer of title in such supplies. Such transactions are specifically treated as supply of service.
22	What is the mechanism to determine point of time when liability to pay GST arises on any transaction related to supply of goods and / or services.	The liability to pay GST on the goods [Sec 12(1)] / services [Sec 13(1)] shall arise at the time of supply as determined in terms of provisions of this section.
23.	What is the basis for determination time of supply in case of goods ?	Earliest of the followings: 1. Date of invoice by the supplier or the last date on which supplier is required to issue the invoice [under Sec 31(1) – before or at the time of removal of goods for supply to the recipient, where the supply involves movement of goods OR delivery of goods or making available thereof to the recipient, in any other case] with respect to the supply. 2. Date on which the supplier receives the payment with respect to the supply.
24	What is the basis for determination time of supply in case of Services ?	Earliest of the followings: 1. Invoice issued within prescribed time period – Date of issue of invoice by the supplier or

		<p>the date of receipt of payment, whichever is earlier; OR</p> <p>2. Invoice not issued with prescribed time period – Date of provision of service or the date of receipt of payment, whichever is earlier; OR</p> <p>3. Other – Date on which recipient shows the receipt of services in his books of account.</p> <p>NB: Prescribed Time U/s 31(2) -30 days in all cases / 45 days in case of banking company or a financial institution including a non-banking financial company from the date of supply of services.</p>
25	What happens if the taxable person files the return but does not make payment of tax?	In such cases, the return is not considered as a valid return. Section 27 (3) provides that the return furnished by a taxable person shall not be treated as valid return unless the full tax due as per the said return has been paid. It is only the valid return that would be used for allowing input tax credit (ITC) to the recipient. In other words, unless the supplier has paid the entire self-assessed tax and filed his return and the recipient has filed his return, the ITC of the recipient would not be confirmed. As per section 28, a taxable person who has not furnished a valid return shall not be allowed to utilize such credit till he discharges his self-assessed tax liability.
26	Where the goods against an invoice are received in lots or installments, how will a registered taxable person be entitled to ITC?	As per proviso to section 16(11), the registered taxable person shall be entitled to the credit upon receipt of the last lot or installment.
27	What would be the place of supply where goods are removed?	The place of supply of goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. (Section 5(2) of IGST Act)
28	What will be the place of supply where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle?	<p>In respect of goods, the place of supply shall be the location at which such goods are taken on board. (Section 5(5) of IGST Act)</p> <p>However, in respect of services, the place of supply shall be the location of the first scheduled point of departure of that conveyance for the journey. (Section 6(11) of IGST Act)</p>
29	Incidental Expenses Charged by the Supplier	The value of supply shall include incidental expenses, including commission, packing, charged by supplier to the recipient of a supply and any other amount charged for anything done by the supplier in r/o supply of goods or services or both at the time of, or before delivery of goods or supply of services [Sec 15(2)]