

Input Tax Credit

Q 1. What is input tax?

Ans. Input tax means the central tax (CGST), State tax (SGST), integrated tax (IGST) or Union territory tax (UTGST) charged on supply of goods or services or both made to a registered person. It also includes tax paid on reverse charge basis and integrated tax charged on import of goods. It does not include tax paid under composition levy.

Q 2. What is Input Tax Credit?

Ans. Input Tax Credit means the credit of input tax on the supplies of goods or services or both received by a registered person.

Q 3. Can GST paid on reverse charge basis be considered as input tax?

Ans. Yes. The definition of input tax includes the tax payable under the reverse charge.

Q 4. Does input tax includes tax (CGST/IGST/SGST) paid on input goods, input services and capital goods?

Ans. Yes, it includes taxes paid on input goods, input services and capital goods. Credit of tax paid on capital goods is permitted to be availed in one instalment.

Q 5. Is credit of all input tax charged on supply of goods or services allowed under GST?

Ans. A registered person is entitled to take credit of input tax charged on supply of goods or services or both to him which are used or intended to be used in the course or furtherance of business, subject to other conditions and restrictions.

Q 6. What are the conditions necessary for obtaining ITC?

Ans. Following four conditions are to be satisfied by the registered taxable person for obtaining ITC:

- (a) he is in possession of tax invoice or debit note or such other tax paying documents (such as bill of entry or any other document prescribed under the Customs Act, ISD invoice as prescribed in Rule 36(1) of the CGST Rules).
- (b) he has received the goods or services or both;
- (c) the supplier has actually paid the tax charged in respect of the supply to the government; and
- (d) he has furnished the return under section 39.

Q 7. Whether all particulars necessary in the documents- tax invoice or debit note or such other tax paying documents for claiming ITC?

Ans. If the said document does not contain all the specified particulars but contains the details of the amount of tax charged, description of goods or services, total value of supply of goods or services or both, GSTIN of the supplier and recipient and place of supply in case of inter-State supply, input tax credit may be availed by such registered person. (Proviso to Rule 36(2) of CGST Rules, 2018 inserted vide Notfn no.39/2018-Central Tax issued dated 04.09.18)

Q 8. Where the goods against an invoice are received in lots or instalments, how will a registered person be entitled to ITC?

Ans. The registered person shall be entitled to the credit only upon receipt of the last lot or installment.

Q 9. Can a person take input tax credit without payment of consideration for the supply along with tax to the supplier?

Ans. Yes, the recipient can take ITC. But he is required to pay the consideration along with tax within 180 days from the date of issue of invoice. This condition is not applicable where tax is payable on reverse charge basis.

Q 10. What would happen of the ITC taken by the registered person if he has not paid the consideration along with tax within 180 days from the date of issue of invoice?

Ans. The amount of ITC would be added to output tax liability of the person. He would also be required to pay interest. However, he can take ITC again on payment of consideration and tax.

Q 11. Can the recipient reclaim the credit; in case he makes the payment any time after 180 days?

Ans. Yes. The recipient shall be entitled to avail of the credit of input tax on payment made by him of the amount towards the value of supply of goods or services or both along with tax payable thereon.

Q 12. Is there any time limit for re-claiming the credit where payment is made after 180 days from the date of issue of invoice?

Ans. No. The time limit specified in section 16(4) shall not apply to a claim for re-availing of any credit, in accordance with the provisions of the Act or these rules, that had been reversed earlier.

Q 13. Certain supplies mentioned in Schedule I of the Act are deemed to be supplies even if made without consideration. Will the payment within 180 days' rule for credit apply even to such cases?

Ans. No. The value of supplies made without consideration as specified in Schedule I shall be deemed to have been paid for the purposes of the second proviso to section 16(2). (Proviso to Rule 37 of the CGST Rules, 2017)

Q 14. As per section 15(2)(b) of the CGST Act, 2017, any amount that the supplier is liable to pay in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both are added in the value of a supply. In such cases, no consideration is to be paid to the supplier. Whether ITC is available in such cases?

Ans. Value of supplies on account of any amount added in accordance with the provisions of section 15(2)(b) is deemed to have been paid for the purposes of the second proviso to section 16(2). Therefore, ITC is admissible. (Second Proviso to Rule 37 of CGST Rules, 2017)

Q 15. Who will get the ITC where goods have been delivered to a person other than taxable person ('bill to' - 'ship to' scenarios)?

Ans. It would be deemed that the registered person has received the goods when the goods have been delivered to a third party on the direction of such taxable person. So ITC will be available to the person on whose order the goods are delivered to third person.

Q 16. Who will get the ITC where services are provided by the supplier to a person on the direction of and on account of such registered person?

Ans. It would be deemed that the registered person has received the services where the services are provided by the supplier to any person on the direction of and on account of such registered person. [Explanation clause to Section 16(2)(b) inserted vide CGST(Amendment) Act, 2018]

Q 17. What is the time limit for taking ITC and reasons therefor?

Ans. A registered person cannot take ITC in respect of any invoice or debit note for supply of goods or services after the due date for furnishing the return under section 39 for the month of September following the end of financial year to which such invoice/invoice relating to debit note pertains or furnishing of the relevant annual return, whichever is earlier. So, the upper time limit for taking ITC is 20th October of the next FY or the date of filing of annual return whichever is earlier

The underlying reasoning for this restriction is that no change in return is permitted after September of next FY. If annual return is filed before the month of September, then no change can be made after filing of annual return.

However, in cases of new registration or where a person shifts from composition scheme to

regular tax payment or where an exempt supply become taxable, the time limit for taking ITC is one year from the date of invoice of inward supplies. [Section 18(2) of CGST Act]

Q 18. Where the registered taxable person has claimed depreciation on the tax component of the cost of capital goods under the provisions of the Income Tax Act, 1961, will ITC be allowed in such cases?

Ans. The input tax credit shall not be allowed on the said tax component in respect of which depreciation has been claimed.

Q 19. Is credit of tax paid on every input used for supply of taxable goods or services or both is allowed under GST?

Ans. Yes, except a small list of items provided in the law (under Section 17(5) of the CGST Act, 2017), the credit is admissible on all items. The list covers mainly items of personal consumption, inputs use of which results into formation of an immovable property (except plant and machinery), telecommunication towers, pipelines laid outside the factory premises, etc. and taxes paid as a result of detection of evasion of taxes.

Q 20. A taxable person is in the business of information technology. He buys a motor vehicle for use of his Executive Directors. Can he avail the ITC in respect of GST paid on purchase of such motor vehicle?

Ans. No. ITC on motor vehicles can be availed only if the taxable person is in the business of transport of passengers or goods or is providing the services of imparting training on motor vehicle or further supply of such vehicles.

Q 21. Sometimes goods are destroyed or lost due to various reasons? Can a person take ITC to the extent of such goods?

Ans. No, a person cannot take ITC with respect to goods lost, stolen, destroyed or written off. In addition, ITC with respect of goods given as gifts or free samples are also not allowed. [Section 17(5)(h) of CGST Act]

Q 22. Can a registered person get ITC with respect of goods or services used for construction of a building for business purposes?

Ans. No. ITC on goods or services by a person for construction of immovable property, other than plant and machinery, is not allowed. Plant and machinery cover only apparatus, equipment, and machinery fixed to earth by foundation or structural support, and excludes land and building, among other things.

Q 23. What is the ITC entitlement of a newly registered person?

Ans. A person applying for registration can take input tax credit of inputs held in stock and

inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of grant of registration. If the person was liable to take registration and he has applied for registration within thirty days from the date on which he became liable to registration, then input tax credit of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date on which he became liable to pay tax can be taken. This is subject to further condition that the invoices pertaining to such inward supplies should not be more than a year old.

Q 24. What is the eligibility of input tax credit on inputs in stock, input services and capital goods, lying in stock for a person who obtains voluntary registration?

Ans. The person who obtains voluntary registration is entitled to take the input tax credit of input tax on inputs in stock, inputs in semi-finished goods and finished goods in stock, held on the day immediately preceding the date of registration. This is subject to further condition that the invoices pertaining to such inward supplies should not be more than a year old.

Input service and capital goods lying in stock shall not be eligible for ITC. (Section 18(1)(b) of CGST Act, 2017)

Q 25. Where goods or services or both received by a taxable person are used for effecting both taxable and non-taxable supplies, whether the input tax credit is available to the registered taxable person?

Ans. The input tax credit of goods or services or both attributable only to taxable supplies can be taken by registered person. The manner of calculation of eligible credit is provided in the CGST Rules.

Q 26. If input tax credit is allowed only in respect of goods or services or both for effecting taxable supplies, would it not lead to loss of input tax credit on exempt supplies when exported?

Ans. No. Zero-rated supplies have been covered within taxable supplies for the purpose of allowing input tax credit. Moreover, IGST Act specifically allows availment of input tax credit for making zero rated supplies, notwithstanding that such supply may be exempt.

Q 27. A person paying tax under composition scheme crosses the threshold limit and becomes a regular taxable person. Can he avail ITC and if so from what date?

Ans. He can avail ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods (reduced by prescribed percentage points) on the day immediately preceding the date from which he ceases to be eligible for composition scheme. The manner of calculation of eligible credit is provided in

CGST Rules. This is subject to further condition that the invoices pertaining to such inward supplies should not be more than a year old.

Q 28. Mr. A, a registered person was paying tax under composition scheme upto 30th July, 2017. However, w.e.f 31st July, 2017, Mr. A becomes liable to pay tax under regular scheme. Is he eligible for ITC?

Ans. Mr. A is eligible for input tax credit on inputs held in stock and inputs contained in semi-finished or finished goods held in stock and capital goods (reduced by such percentage points as has been prescribed by the ITC Rules) as on 30th July, 2017. The Input Tax Credit on capital goods shall be claimed after reducing the tax paid on such capital goods by five percentage points per quarter of a year or part thereof from the date of invoice or such other documents on which the capital goods were received by him. This is subject to further condition that the invoices pertaining to such inward supplies should not be more than a year old.

Q 29. Mr. B applies for voluntary registration on 5th July, 2017 and obtained registration on 22nd July, 2017. Mr. B is eligible for input tax credit on inputs in stock as on.....

Ans. Mr. B is eligible for input tax credit on inputs held in stock and inputs contained in semi-finished or finished goods held in stock as on 21st July, 2017. This is subject to further condition that the invoices pertaining to such inputs should not be more than a year old. Mr. B cannot take input tax credit in respect of capital goods and input services.

Q 30. What would happen to the input tax credit availed by a registered person who opts for composition scheme or where the goods or services or both supplied by him become wholly exempt?

Ans. The registered person has to pay an amount equal to the input tax credit in respect of stocks held and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of exercise of option or date of exemption. The ITC on inputs shall be calculated proportionately on the basis of corresponding invoices on which credit had been availed by the registered person on such input. In respect of capital goods held in stock the input tax credit involved in the remaining useful life in months shall be computed on pro-rata basis, taking the useful life as 5 years. Assume capital goods have been in use for 4 years, 6 months and 15 days. The useful remaining life in months will be 5 months ignoring the part of the month. If ITC on such capital goods is taken as C, ITC attributable to the remaining useful life will be C multiplied by 5/60. This would be the amount payable on capital goods. The ITC amount shall be determined separately for integrated tax, central tax and state tax. The payment can be made by debiting electronic

credit ledger, if there is sufficient balance in the said ledger, or by debiting electronic cash ledger. If any balance remains in the electronic credit ledger, it would lapse.

Q 31. Is there any restriction on period for availment of ITC?

Ans. In cases of new registration, change from composition to normal scheme, from exempt to taxable supplies, the concerned person cannot avail ITC after the expiry of one year from the date of issue of tax invoice relating to such supply.

Q 32. What happens where the details of inward supplies furnished by the recipient do not match with the outward supply details furnished by the supplier in his valid return?

Ans. In case of mismatch, the communication would be made to the both parties. If the mismatch is not rectified, then the amount will be added to the output liability of recipient in the return for the month succeeding the month in which discrepancy is communicated.

Q 33. What will be the tax impact when capital goods on which ITC has been taken are supplied by taxable person?

Ans. In case of supply of capital goods or plant and machinery on which input tax credit has been taken, the registered person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, as reduced in the manner prescribed under sub-rule 6 of rule 44 of the CGST Rules, 2017, or the tax on the transaction value of such capital goods or plant and machinery, whichever is higher. But in case of refractory bricks, molds and dies, jigs and fixtures when these are supplied as scrap, the person can pay tax on the transaction value.

Q 34. Whether input tax credit can be taken on payment of tax after adjudication?

Ans. Input tax credit cannot be availed by a registered person in respect of any tax that has been paid in pursuance of any order where any demand has been confirmed in cases of evasion by reason of any fraud, willful misstatement or suppression of facts. (Rule 36(3) of the CGST Rules, 2017)

Q 35. How can Input Tax Credit be utilized?

Ans. The ITC available in the electronic credit ledger can be used for payment towards output tax under the CGST/SGST/IGST Act(s).

The CENVAT credit of central excise duty or service tax wrongly carried forward as transitional credit or the arrears of central excise duty, service tax can be recovered as central tax liability through the utilization of amounts available in the electronic credit ledger.

Any other amount be it interest, penalty, fees or tax on input supplies (supplies under RCM)

etc has to be paid in cash only through the utilization of the amount available in electronic cash ledger (Section 49(3) of the CGST Act, 2017)

The different amounts of input tax credits available in the electronic credit ledger of the registered person shall be utilized as under:

(a) integrated tax shall first be utilised towards payment of integrated tax and the amount remaining, if any, may be utilised towards the payment of central tax and State tax, or as the case may be, UT tax, in that order;

(b) the central/ State/ UT tax shall first be utilised towards payment of central/ State/ UT tax and the amount remaining, if any, may be utilised towards the payment of integrated tax;

The input tax credit on account of State/UT tax shall be utilised towards payment of integrated tax only where the balance of the input tax credit on account of central tax is not available for payment of integrated tax; (The CGST (Amendment) Act, 2018)

The input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully towards such payment. (Section 49A of CGST Act, 2017 inserted vide the CGST(Amendment) Act, 2018)

(c) the central/ State tax shall not be utilised towards payment of State/ Central tax.

Q 36. What are the supplies included in exempt supplies?

Ans. 'Exempt Supplies' for the purpose means all supplies other than taxable and zero-rated supplies and specifically include the following:

- Supplies liable to tax under reverse charge mechanism;
- Transactions in securities;
- Sale of land; and
- Subject to Para 5(b) of Schedule II, sale of building.

However, the "value of exempt supply" shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule (Sale of Land / building). [The CGST (Amendment) Act, 2018]

Q 37. Where goods or services received by a registered person are used partly for the purpose of business and partly for other purposes, whether the input tax credit is available to the person?

Ans. The input tax credit of goods or services or both attributable only to the purpose of business can be taken by registered person. The manner of calculation of eligible credit is provided in rule 42 of the CGST rules.

Q 38. Are there any special provisions in respect of banking companies?

Ans. A banking company or a financial institution including a non-banking financial company engaged in supply of specified services would either avail proportionate credit or avail 50% of the eligible input tax credit.

The option once exercised cannot be withdrawn in the same year. The restriction of 50% will not apply to the tax paid on supplies made by one registered person to another registered person having the same PAN.

Q 39. A banking company or a financial institution including a non-banking financial company engaged in supply of specified services supplies non-business supplies and exempted supplies. How should it avail credit in case it chooses the 50% option?

Ans. 50% of the eligible credit only can be taken. Thus, the credit of tax paid on inputs and input services used for non-business purposes should not be availed. Besides, ITC that are not eligible in terms of Section 17(5) should also not be availed. 50% of the remaining credit is admissible and can be availed.

Q 40. Whether input tax credit on motor vehicles admissible?

Ans. Motor Vehicles for transportation of Goods: Input tax credit is admissible for motor vehicles meant for transport of goods

Motor Vehicles for transportation of persons: Input tax credit on motor vehicles for transportation of persons having approved seating capacity of not more than 13 persons is not allowed except when they are used for making the following taxable supplies, namely: -

- ? further supply of such motor vehicles;
- ? transportation of passengers; or
- ? imparting training on driving such motor vehicles

Q 41. Whether tax paid on repairs, maintenance and insurance of Motor Vehicles used for the purpose of business is eligible for ITC?

Ans. The ITC on repairs, maintenance and general insurance of those motor vehicles is blocked if the ITC is blocked under Section 17(5)(a) of the CGST Act 2017.

Motor Vehicles for transportation of Goods: ITC on repairing, maintenance and insurance of motor vehicles for transportation of goods is admissible with no restrictions.

Motor Vehicles for transportation of persons: Thus, ITC on repairing, maintenance and insurance of motor vehicles for transportation of persons carrying more than 13 persons will be admissible. However, for motor vehicles for transportation of persons carrying up to 13 persons will be admissible only if it is used for transportation of passengers, further supply of such motor vehicles and imparting training on driving. [Section 17(5) (ab) as substituted vide the CGST (Amendment) Act, 2018]

Q 42. What would be input tax eligibility in cases where there is a change in the constitution of a registered person ?

Ans. The registered person shall be allowed to transfer the input tax credit that remains unutilized in its electronic credit ledger to the new entity, provided that there is a specific provision for transfer of liabilities. (Section 18(3) of the CGST Act, 2017)

Q 43. What are the conditions to be fulfilled for transfer of ITC in respect of sale, merger or amalgamation etc.?

Ans. The conditions to be fulfilled in case of transfer of credit on account of sale, merger, amalgamation, de-merger, lease, transfer of business are as under:

- (a) Form GST ITC-02 containing the details of the sale, merger, amalgamation, de-merger, lease, transfer of business be furnished
- (b) A certificate issued by a practicing Chartered/ Cost Accountant certifying that the sale, merger, amalgamation, de-merger, lease, transfer of business has been done along with a provision for transfer of liabilities
- (c) Transferee to accept the details submitted in GST ITC-02. Post acceptance, the credit specified in Form GSTR ITC-02 will be credited to the electronic credit ledger of transferee.
- (d) The inputs and capital goods so transferred are to be accounted in the transferee's books
- (e) In case of demerger, the ITC shall be apportioned in the ratio of the value of assets of the new units as specified in the demerger scheme.

Q 44. How to determine the credit attributable to exempt supplies in cases where the inputs/ input services are used for effecting exempt as well as taxable supplies?

Ans. The credit attributable to exempt supplies is to be determined as under:

$$D1 = (E/F) \times C2$$

Where D1 = Credit attributable to exempt supplies

E = aggregate value of exempt supplies (all supplies other than taxable and zero-rated supplies)

F = total turnover of the person during the tax period

C2 = Common Credit i.e. Total input tax in a period reduced by:

T1 - Tax attributable exclusively for non-business purpose

T2- Tax attributable exclusively for exempt supplies

T3- Ineligible credits as per Section 17(5)

T4- Tax attributable exclusively for other than exempted supplies but including zero rated supplies

(Section 17(2) & (3) read with Rule 42 of the CGST Rules, 2017)

Q 45. Whether Schedule III activities (Activities considered as neither supply of goods nor supply of services) be considered as exempt supplies in terms of section 17(2) of the CGST Act, 2017?

Ans. No. An explanation clause has been inserted in section 17(3) of the CGST Act, 2017 explaining that the expression “value of exempt supply” shall not include the value of activities or transactions specified in Schedule III, except those specified in paragraph 5 of the said Schedule. (The CGST (Amendment) Act, 2017; Notn for implementation date is yet to be issued)

Q 46. How to determine the credit attributable to non-business purposes where the common inputs/ input services are used for non-business as well as business purposes?

Ans. The credit attributable to non-business purpose will be equal to 5% of Common Credit. (Rule 42(j) of the CGST Rules, 2017).

Q 47. Whether input tax credit of tax paid on ‘works contract service’ or on goods or services used for construction of immovable property (other than plant and machinery)? If yes, to what extent?

Ans. Yes, subject to the condition that such construction of immovable property is not capitalised. [Explanation to section 17(5)(d) of CGST Act]

Q 48. Whether a non-resident taxable person can take input tax credit of tax paid on goods and services, procured by him locally?

Ans. No. He can take input tax credit of tax paid only on goods and services imported by him.

Q 49. Whether the principal can take input tax credit of tax paid on input goods or capital goods, which are not received by him but sent directly to his Job-worker?

Ans. Yes, subject to some conditions and restrictions. In such cases the condition of receipt of goods, prescribed under Section 16(2)(b) of CGST ACT, shall not apply.

Q 50. What are the conditions/restrictions in cases where the inputs or capital goods are sent directly to Job-worker?

Ans. When the Principal sent the inputs or capital goods directly to Job-worker and take input tax credit in respect of the same, then the inputs (after completion of Job-work or otherwise) are required to be brought back or supplied from the place of business of Job-worker, within a period of one year from the date of receipt by the Job-worker. If he fails to comply with this condition, then it shall be deemed that these inputs had been supplied by the principal to job worker on the day when the said inputs were sent out. In case of capital

goods, the period, for bringing the same back, shall be three years and if the same are not brought back within three years then such capital goods shall be deemed to have been supplied by principal to job-worker on the day when the said capital goods were sent out.