

GOODS & SERVICE TAX (GST)

FREQUENTLY ASKED QUESTION ON INPUT TAX CREDIT (ITC)

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.

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.

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.

4. 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.

5. 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 TSGST 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.

6. 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 instalment.

7. 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.

8. 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.

9. 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.

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

Ans. A registered person cannot take ITC in respect of any invoice 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 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 TSGST Act].

11. 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 TSGST 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.

12. 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 TSGST Act].

13. 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.

14. 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 semifinished 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 semifinished 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.

15. 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 TSGST Rules.

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

17. 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.

18. 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, demerger, 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.

19. 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 TSGST Act, 2017).

20. 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.