

GST

(GOODS AND SERVICES TAX)

Registration under GST Law

Introduction

In any tax system registration is the most fundamental requirement for identification of tax payers ensuring tax compliance in the economy. Registration of any business entity under the GST Law implies obtaining a unique number from the concerned tax authorities for the purpose of collecting tax on behalf of the government and to avail Input tax credit for the taxes on his inward supplies. Without registration, a person can neither collect tax from his customers nor claim any input tax credit of tax paid by him.

Need and Advantages of Registration

Registration will confer the following advantages to a taxpayer:

- He is legally recognized as supplier of goods or services
- He is legally authorized to collect tax from his customers and pass on the credit of the taxes paid on the goods or services supplied to the purchasers/ recipients
- He can claim input tax credit of taxes paid on his purchases / procurements and can utilize the same for payment of taxes due on supply of goods or services
- Seamless flow of Input tax credit from suppliers to recipients at the national level.

Liability to Register

GST being a tax on the event of “supply”, every supplier needs to get registered. However, small businesses having all India aggregate turnover below Rupees 40 Lakh (in case of exclusive supply of goods) (Rupees 20 lakh if business is in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura and Uttarakhand) and Rupees 20 lakhs (in case of supply of services or in case of mixed supplies) (Rupees 10 lakh if business is in States of Manipur, Mizoram, Nagaland and Tripura) need not register. The small businesses, having turnover below the threshold limit can, however, voluntarily opt to register.

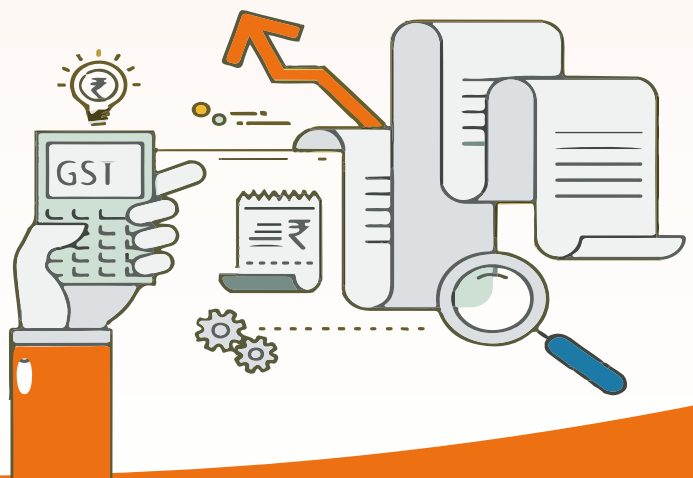
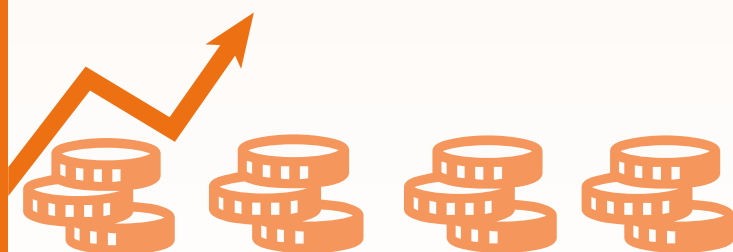
The aggregate turnover includes supplies made by him on behalf of his principals, but excludes the value of job-worked goods if he is a job worker. But persons who are engaged exclusively in the business of supplying goods or services or both that are not liable to tax or wholly exempt from tax or an agriculturist, to the extent of supply of produce out of cultivation of land are not liable to register under GST. Also, if all the supplies being made by a supplier are taxable under reverse charge i.e. where total tax is payable by the recipient of the goods and / or services, there is no requirement for such a supplier to register in light of notification No. 5/2017-Central Tax dated 19.06.2017. In GST, if the supplier supplies outside the State, he is required to take registration irrespective of the size of his turnover. However, this compulsion is relaxed for certain categories of suppliers like supplier of handicraft goods, supplier of services, supplier of job work services. If the turnover of the handicraft

supplier is less than specified threshold limit, they will not be required to register, even if they supply such goods outside the State. In such cases they will also not be required to obtain registration as a casual taxable person in other States for making supply of the handicraft goods. Also, small Suppliers of services, including job workers (except in relation to jewelry, goldsmiths' and silversmiths' wares) whose aggregate turnover is less than Rupees 20/10 lakh limit are exempted from registration, even if they supply services outside the State. Furthermore, persons supplying services through e-commerce operators are also entitled to avail the Rupees 20/10 lakh threshold exemption for registration.

Nature of Registration

The registration in GST is PAN based and State specific. Supplier has to register in each of such State or Union territory from where he effects supply. Area upto 12 nautical miles in the sea is considered part of the nearest coastal State where the nearest point of appropriate base line is located. Area beyond 12 nautical miles and upto 200 nautical miles, which is not covered under any Union Territory is considered as a separate Union territory for the GST law. A person registered in one State is considered 'unregistered person' outside the State. If a person has unit in SEZ or is a SEZ developer and also unit in domestic tariff Area (i.e. outside the SEZ) in the same State, then he has to take separate registration for his SEZ unit / as a SEZ developer as a separate place of business of him. If a supplier also wants to distribute credit to his same-PAN entities, then he will take separate registration as 'input service distributor' in addition to his registration as 'supplier'. Unlike service tax regime, the GST law does not have the facility of centralized registration for units across multiple states.

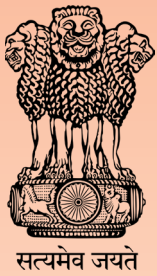
In GST registration, the supplier is allotted a 15-digit GST identification number called “GSTIN” and a certificate of registration in incorporating there in this GSTIN is made available to the applicant on the GSTN common portal. The first 2 digits of the GSTIN is the State code, next 10 digits are the PAN of the legal entity, the next two digits are for entity code, and the last digit is check sum number. Registration under GST is not tax specific which means that there is a single registration for all the taxes i.e. CGST, SGST/UTGST, IGST and cesses.



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A given PAN based legal entity would have one GSTIN per State, that means a business entity having its branches in multiple States will have to take separate State-wise registration for the branches in different States. But a person having multiple places of business in a State or Union territory may be granted a separate registration for each such place of business. Further a unit in SEZ or a SEZ developer needs to necessarily obtain separate registration. Every registered person is required to display his certificate of registration in a prominent location at his principal place of business and at every additional place of business. He is also required to display his GSTIN on the name board exhibited at the said places.

Generally, the liability to register under GST arises when you are a “supplier” within the meaning of the term, and also if your aggregate turnover in the financial year is above the specified exemption threshold. However, the GST law enlists certain categories of suppliers who are required to get compulsory registration irrespective of their turnover that is to say, the specified threshold exemption limit is not available to them. Some of such suppliers who need to register compulsorily irrespective of the size of their turnover are those who are, -

- Inter-state suppliers. However, persons making inter-state supplies of taxable services and having an aggregate turnover, to be computed on all India basis, not exceeding an amount of twenty lakh rupees (ten lakh rupees in States of Manipur, Mizoram, Nagaland and Tripura) are exempted from obtaining registration vide notification No. 10/2017-Integrated Tax dated 13.10.2017 as amended vide notification No. 03/2019- Integrated Tax dated 29.01.2019. Also, vide notification No. 03/2018-Integrated Tax dated 22.10.2018, the Inter-state suppliers of handicraft goods are exempted from compulsory registration till they cross the specified exemption threshold.
- A person receiving supplies on which tax is payable by recipient on reverse charge basis. This covers the reverse charge on receipt of notified goods or services under Section 9(3) of CGST Act and 5(3) of IGST Act, and not those under Section 9(4) of CGST Act and Section 5(4) of the IGST Act. The goods so notified are cashew nuts, bidi wrapper leaves, tobacco leaves, silk yarn and raw cotton supplied by agriculturist, used vehicles, seized and confiscated goods, old and used goods, waste and scrap supplied by Government. The services notified for reverse charge include import of service, Goods transport agency service, legal services provided by advocates, certain services provided by Government, services supplied by an insurance agent or recovery agent, services by way of granting sponsorship, inward ocean freight services etc. However if all the supplies being made by the supplier are taxable under reverse charge where no tax is payable by the supplier on goods or services or both, then there is no such requirement for such supplier to register in light of notification No.05/2017- Central tax dated 19.06.2017.
- Casual taxable person who is not having fixed place of business in the State or Union Territory from where he wants to make supply. However casual taxable persons making supplies of specified handicraft goods need not take compulsory registration and are entitled to the threshold exemption limit. Handicraft goods are specified in Explanation to notification No. 21/2018- Central Tax (Rate) dated 26.07.2018.
- Non-resident taxable persons who are not having fixed place of business or residence in India. ‘Non-resident taxable persons’ and ‘Casual taxable persons’ can make taxable supplies only after obtaining the registration and they have to deposit in advance the estimated tax liability at the time of applying for the registration. They are given registration with 90 days’ validity, which can be extended on need based basis for another 90 days.
- A person who supplies on behalf of some other taxable person (i.e. an Agent of some Principal). This covers ‘Consignment Agents’ or ‘C&F Agents’, and not ‘Commission Agent’. A commission agent does not affect supply; he only facilitates it. The scope of agent and principal has been clarified vide Circular No. 73/47/2018-GST dated 05.11.2018.
- An e-commerce operator, who is required to collect tax at source under section 52, who provide platform to the suppliers to make supply through it. Suppliers of goods who supply through such e-commerce operator who are liable to collect tax at source to the extent of 2% [1% CGST + 1% SGST/ UTGST or 2% IGST] while making payment to the respective supplier.

Persons supplying services through e-commerce operators need not take compulsory registration and are entitled to avail the threshold exemption as per notification No. 65/2017-Central Tax dated 15.11.2017 as amended vide notification No. 06/2019- Central Tax dated 29.01.2019. TCS shall not apply, where a person supplies his own product through his own website.

- Those e-commerce operators who are notified as liable for GST payment under Section 9(5) of the CGST Act, 2017. Service categories notified under this Section are broadly the services of transportation of passengers (e.g. by Ola, Uber etc); service of providing accommodation in hotels, inn, campsites; and housekeeping services like plumbing, carpentering etc.
- TDS Deductor. This covers the authorities notified under notification No. 33/2017-Central Tax dated 15.09.2017, who are mandated to deduct GST TDS @ 1% on payment made to supplier where value of such supply, under a contract, is more than Rs. 2.5 lakh. Such authorities are required to register separately as a TDS deductor irrespective of the turnover, the operation of tax deduction has been implemented w.e.f 1st October, 2018.
- Input service distributor. They need to separately register as ISD regardless of the turnover.
- Those supplying online information and data base access or retrieval services from outside India to a non-registered person in India. A simplified registration Scheme is provided for OIDAR service suppliers. Instead of State-wise registration, he will take single registration for entire India either himself or through his appointed agent in India, and will pay IGST. The registration to and other GST compliance by the OIDAR service providers is exclusively administered by the Principal Commissioner of Central Tax, Bengaluru West and all officers subordinate to him.
- A casual taxable person is one who has a registered business in some State in India, but wants to effect supplies from some other State in which he is not having any fixed place of business. Such person needs to register in the State from where he seeks to supply as a casual taxable person. A non-resident taxable person is one who is a foreigner and occasionally wants to effect taxable supplies from any State in India, and for that he needs GST registration. GST law prescribes special procedure for registration, as also for extension of the operation period of such casual or non-resident taxable persons. They have to apply for registration at least five days in advance before making any supply. Also, registration is granted to them or period of operation is extended only after they make advance deposit of the estimated tax liability. While Income Tax PAN is the basis of GST registration, the Registration to a non-resident taxable person is given on the basis of his valid passport (in case of individual) or the Tax Identification number (TAN) issued by the respective country (if it is incorporated business entity).

In respect of supplies to some notified agencies of United Nations organisation, multinational financial institutions and other organisations, a centralised unique identification number (UIN) is issued.

Standardization of Procedures

A total of 30 forms / formats have been prescribed in the GST registration rules. For every process in the registration chain such as application for registration, acknowledgment, query, rejection, registration certificate, showcase notice for cancellation, reply, amendment, field visit report etc., there are standard formats. This will make the process uniform all over the country. The decision making process will also be fast. Strict time lines have been stipulated for completion of different stages of registration process.

An application has to be submitted on line through the common portal (GSTN) within thirty days from the date when liability to register arose. The casual and non-resident taxable persons need to apply at least five days prior to the commencement of the business. For transferee of a business as going concern, the liability to register arises on the date of transfer.

The Proper Officer has to either raise a query or approve the grant of registration within three working days failing which registration would be considered as deemed to have been approved. The applicant would have to respond within seven working days starting from the fourth day of filing the original application. The proper officer would have to grant or reject the application for registration within seven working days thereafter.

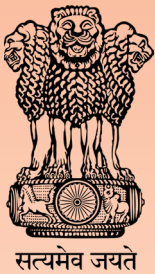
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Amendment of Registration

Except for the changes in some core information in the registration application, a taxable person shall be able to make amendments without requiring any specific approval from the tax authority. In case the change is for legal name of the business, or the State of place of business or additional place of business, the taxable person will apply for amendment within 15 days of the event necessitating the change. The proper officer, then, will approve the amendment within next 15 days. For other changes like name of day to day functionaries, e-mail ids, Mobile numbers etc. no approval of the proper officer is required, and the amendment can be affected by the taxable person on his own on the common portal. A functionality to update email and mobile number of the authorised signatory is available in the GST system. The taxpayers can get it done by the concerned jurisdictional tax authority. Generally, the amendments take effect from the date of application for amendment. Commissioner, however, has been given powers to permit amendments with retrospective effect.

Cancellation of Registration

The GST law provides for two scenarios where cancellation of registration can take place; the one when the taxable person no more requires it (voluntary cancellation), and another when the proper officer considers the registration liable for cancellation in view of certain specified defaults (Suo-moto cancellation) like when the registrant is not doing business from the registered place of business or if he issues tax invoice without making the supply of goods or services. The taxable person desirous of cancellation of Registration will apply on the common portal within 30 days of event warranting cancellation. He will also declare in the application the stock held on the date preceding to the date with effect from which he seeks cancellation. He will also work out and declare the quantum of dues of payments and credit reversal, and the particulars of payments made towards discharge of such liabilities.

Till 23.01.2018, the voluntary registration taken despite not being liable for obtaining registration could not be cancelled until expiry of one year. However, the rule has now been amended to allow voluntary registration to be cancelled any time. In all the aforesaid cases of cancellation, the proper officer, if satisfied, has to cancel the registration within 30 days from the date of application or the date of reply to notice (if issued, when rejection is concluded by the officer).

Suspension of Registration

i. Where a registered person has applied for cancellation of registration, the registration shall be deemed to be suspended from the date of submission of the application or the date from which the cancellation is sought, whichever is later, pending the completion of proceedings for cancellation of registration.

ii. Where the proper officer has reasons to believe that the registration of a person is liable to be cancelled under section 29, he may suspend the registration of such person with effect from a date to be determined by him, pending the completion of the proceedings for cancellation of registration.

iii. A registered person, whose registration has been suspended, shall not make any taxable supply during the period of suspension and shall not be required to furnish any monthly / quarterly return.

Revocation of Cancellation

i. When the registration has been cancelled by the Proper Officer (Superintendent of Central Tax) on his own motion and not on the basis of an application by the registered person, then the registered person, whose registration has been cancelled, can submit an application for revocation of cancellation of registration, in FORM GST REG-21, to the Proper Officer (Assistant or Deputy Commissioners of Central Tax), within a period of thirty days from the date of the service of the order of cancellation of registration at the common portal, either directly or through a Facilitation Centre notified by the Commissioner.

ii. However, if the registration has been cancelled for failure to furnish returns, application for revocation shall be filed, only after such returns are furnished and any amount due as tax, in terms of such returns, has been paid along with any amount payable towards interest, penalty and late fee in respect of the said returns.

iii. On examination of the application, if the Proper Officer (Assistant or Deputy Commissioners of Central Tax) is satisfied, for reasons to be recorded in writing, that there are sufficient grounds for revocation of cancellation of registration, then he shall revoke the cancellation of registration by an order in FORM GST REG-22 within a period of thirty days from the date of the receipt of the application and communicate the same to the applicant.

iv. However, if on examination of the application for revocation, if the Proper Officer (Assistant or Deputy Commissioners of Central Tax) is not satisfied then he will issue a notice in FORM GST REG-23 requiring the applicant to show cause as to why the application submitted for revocation should not be rejected and the applicant has to furnish the reply within a period of seven working days from the date of the service of the notice in FORM GST REG-24.

v. Upon receipt of the information or clarification in FORM GST REG-24, the Proper Officer (Assistant or Deputy Commissioners of Central Tax) shall dispose of the application within a period of thirty days from the date of the receipt of such information or clarification from the applicant. In case the information or clarification provided is satisfactory, the Proper Officer (Assistant or Deputy Commissioners of Central Tax) shall dispose the application as per para (iii) above. In case it is not satisfactory the applicant will be mandatorily given an opportunity of being heard, after which the Proper Officer (Assistant or Deputy Commissioners of Central Tax) after recording the reasons in writing may by an order in FORM GST REG-05, reject the application for revocation of cancellation of registration and communicate the same to the applicant.

vi. The revocation of cancellation of registration under the SGST Act or the UTGST Act, as the case may be, shall be deemed to be a revocation of cancellation of registration under CGST Act.

Physical Verification in Connection with Registration

Physical verification is to be resorted to only where it is found necessary in the subjective satisfaction of the proper officer. If at all, it is felt necessary, it will be undertaken only after granting the registration and the verification report along with the supporting documents and photographs shall have to be uploaded on the common portal within fifteen working days.

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