



Standardised PPT on Revised Model GST Law (Nov 2016)

INDIRECT TAXES COMMITTEE

THE INSTITUTE OF CHARTERED ACCOUNTANTS OF INDIA



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Some Basic Concepts



GST: Objective

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- Usher in single rate of tax
- Uniform tax across the country
- Reduce cascading effect of taxes
- Principle of ‘consumption-based taxation’



Components of GST

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Central GST (CGST) - Levy on **supply of ALL** goods and/ or services within a particular State, by the Central Government

State GST (SGST) - Levy on **supply of ALL** goods and/ or services within a particular State, by the respective State Government

Integrated GST (IGST) – Levy on **ALL inter-State supplies** of goods and/ or services, by the Central Government



Concept of CGST, SGST and IGST

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- Leviable on Supply of Goods and Services
- Levy on transaction value with set-off of input tax
- Backed by Goods and Services Tax Network (GSTN)



Possible rate structure

Exempt Supplies: Nil-rate, zero percent supplies

Zero-Rated Supplies: Exports and supplies to SEZ

Supplies taxable at 5%

Supplies taxable at 12%

Supplies taxable at 18%

Supplies taxable at 28%



Section 3 - Meaning and scope of supply

Section 3(1)(a)	Section 3(1)(b)	Section 3(1)(c)	Other matters
All forms of supply of goods and/ or services, - for a consideration - in the course or furtherance of business such as: - sale, - transfer, - barter, - exchange, - license, - rental, - lease or - disposal	Importation of service, - for a consideration - whether or not in the course or furtherance of business	Supplies specified* - To be treated as supplies <i>made without a consideration</i> <u>*Schedule I:</u> 1. Permanent transfer/ disposal of business assets for which ITC availed 2. Supplies between related persons/ distinct persons in the course or furtherance of business 3. Supply of goods by principal (or agent) to agent (or principal) 4. Importation of service from a related person or from any of his other establishments outside India, in the course or furtherance of business.	<ul style="list-style-type: none">• Composite Supply• Mixed Supply



Meaning and Scope of Supply

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- Supply comprises:
 - Included supplies
 - Implied supplies (Sch I)
 - Excluded supplies (Sch III & IV)
- Chargeability to tax:
 - Forward charge on supplier
 - Reverse charge on imports
 - Lateral charge (e-commerce)
- Supply characterization:
 - Composite supply or
 - Mixed supply

- Cases to consider:
 - *Purpose* of supply – business or not
 - Same *forms of supply* apply to services
 - Supply by casual taxable person
 - ISD or inter-branch service transfer
 - Intra-State stock transfer
 - Free samples and warranty are supplies *for consideration*
 - Material supplied for job-work
 - Sch II not exhaustive but specific
 - No supply, no tax but no credit too

Principles Determining Supply as inter-State or intra-State



Section 3 of IGST Act, 2016 – Principles to determine a supply as an inter-State Supply

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Determination of supply of goods and/ or services as Inter-State supply

➤ **CRITICAL factors: Where the below 2 are in DIFFERENT STATES**

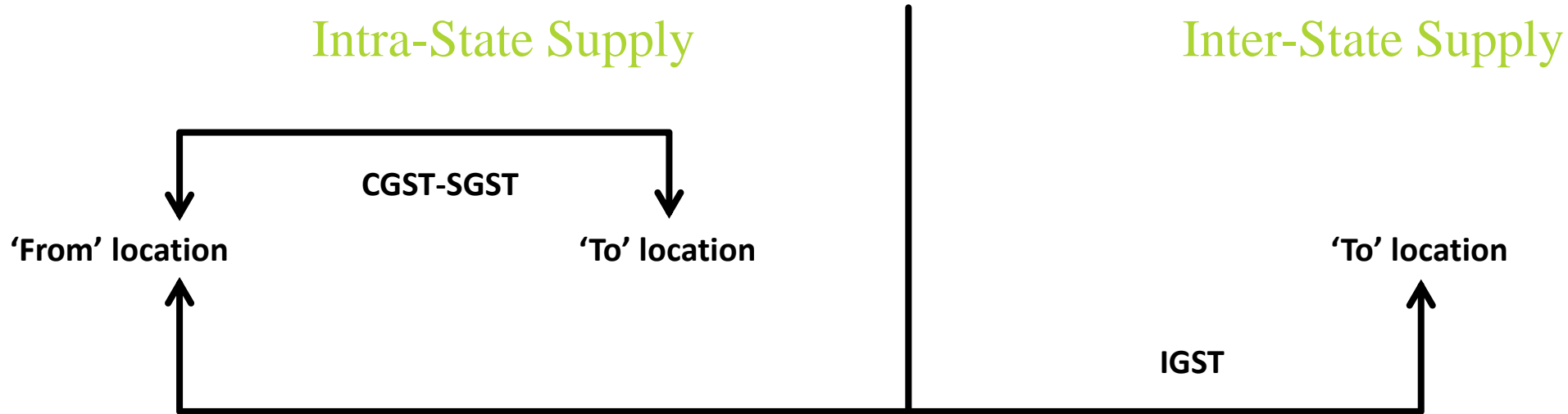
a) **Location of the supplier** and

b) **Place of supply** determined u/s 7,8, 9 or 10 of IGST Act

➤ **Specific INCLUSIONS:**

- Supply of **goods in the course of import**, till they cross the customs frontiers of India
- Supply of **services in the course of import**
- Supply when **place of supply is outside India** but supplier is in India
- Supply to or by a **SEZ** developer or an SEZ unit
- **Residuary supply:** Any supply in the taxable territory and which is **not an intra-State supply** (*E.g.: Supply of goods from within a Union Territory (“UT”) without Legislature*)

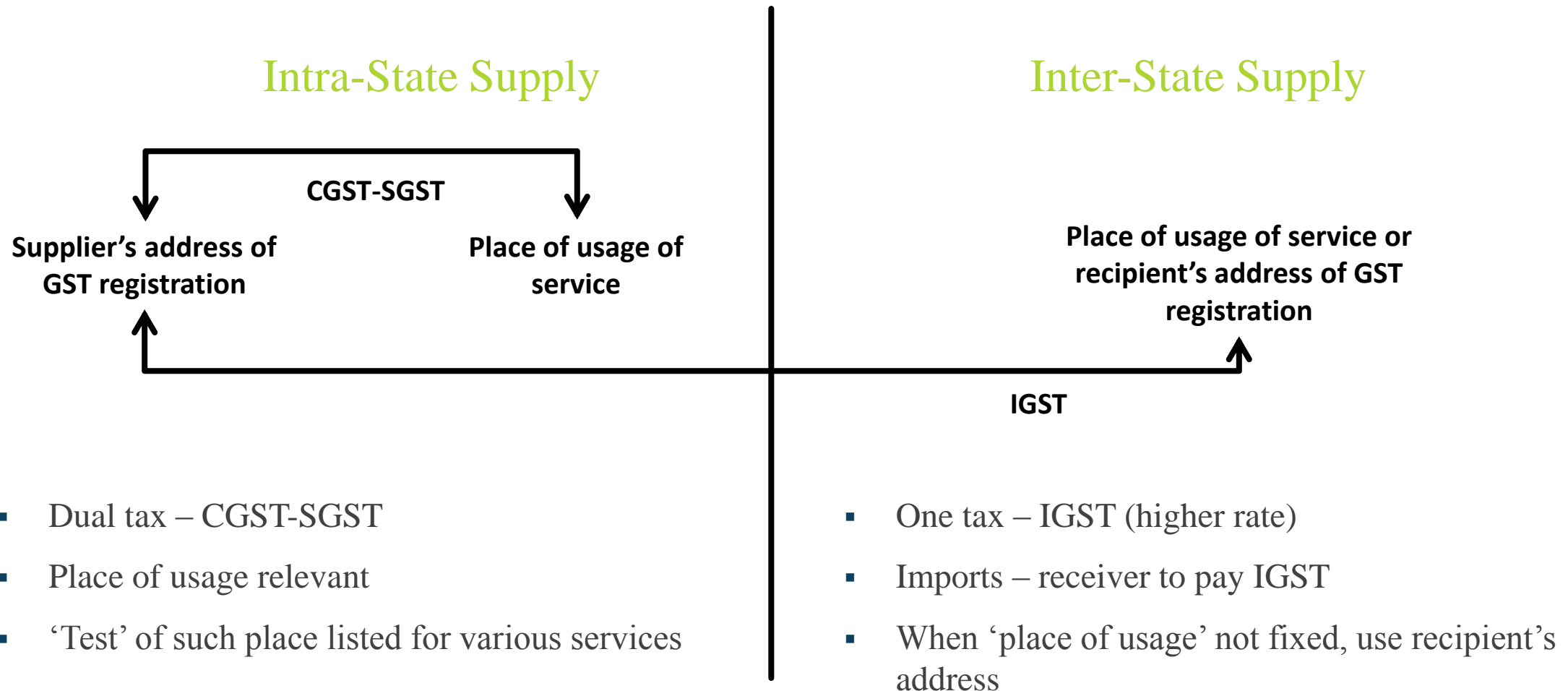
GST on Goods



- Dual tax – CGST-SGST
- Registered office not relevant; location of goods is relevant
- Intra-State supply, if 'from' and 'to' in one State

- One tax – IGST (higher rate)
- Movement for 'delivery' relevant; even stock-transfer taxable
- Imports – basic customs + IGST

GST on Services





Section 4 of IGST Act, 2016 – Principles to determine a supply as an intra-State Supply

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Determination of supply of goods and/ or services as Intra-State supply

➤ **CRITICAL factors: Where the below 2 are in the SAME STATE**

a) **Location of the supplier** and

b) **Place of supply** determined u/s 7,8, 9 or 10 of IGST Act

➤ **Specific EXCLUSIONS:**

- Supplies to or by a **SEZ** developer/ SEZ unit;
- Importation of **goods** till they cross the customs frontiers of India.



Illustrations

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Supply	Supplier	Place of Supply	Result
Goods	Karnataka	Tamil Nadu	Inter-State (IGST)
Services	Pondicherry	Kerala	Inter-State (IGST)
Goods	Chandigarh*	Chandigarh*	Inter-State (IGST)
Services	Chandigarh*	Punjab	Inter-State (IGST)
Goods	Punjab	Chandigarh*	Inter-State (IGST)
Goods	Delhi	Delhi	Intra-State (CGST/SGST)
Services	Rajasthan	Rajasthan	Intra-State (CGST/SGST)

Note: Chandigarh is a UT without Legislature;

Explanation to Section 2(2) provides that the term “State” includes a UT with Legislature (Of the 7 UTs, Delhi and Pondicherry are the only 2 UTs with Legislature). In case of a Union Territory if it adopts the legislature of a particular State say Punjab, then it will be intra-State supply.

Chapter – III of CGST Act



Levy & Collection

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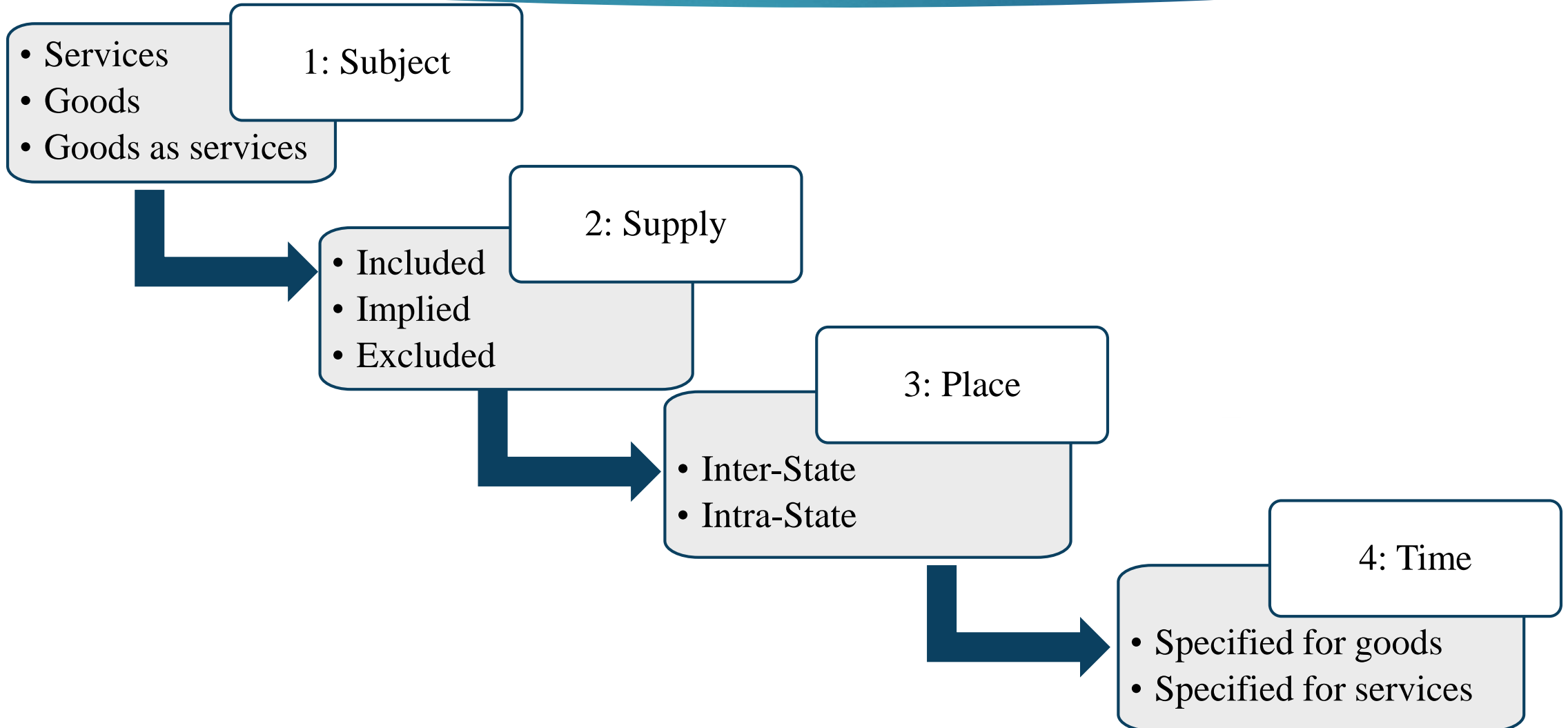
- **Goods** means every kind of movable property and:
 - **Includes** actionable claim
 - **Excludes** money and securities
 - *NO specific exclusion for intangible property*

- **Services** means anything other than goods :
 - **Includes** transactions in money – in relation to use / conversion
 - **Excludes** money and securities



Levy & Collection

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Levy & Collection

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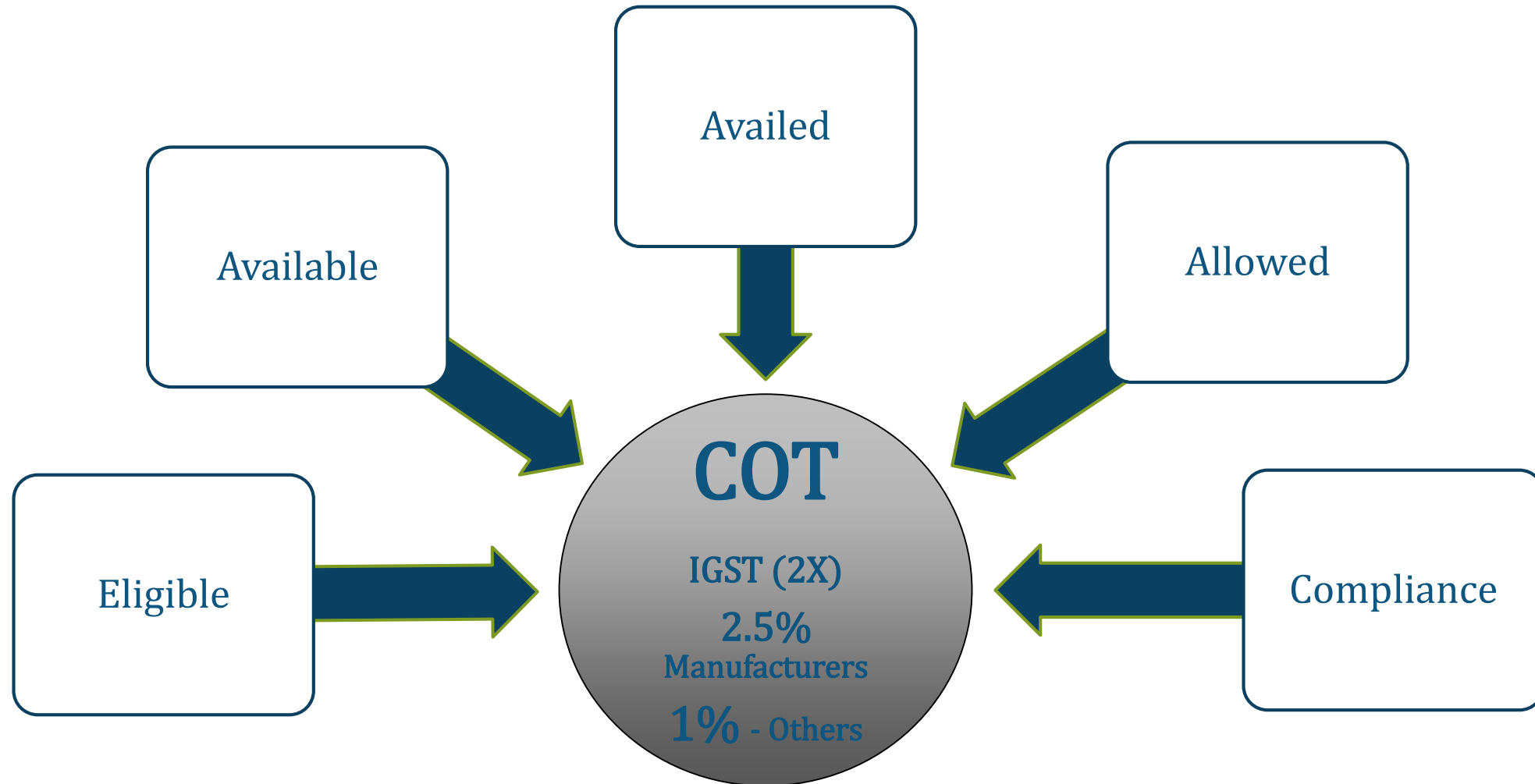
Description	Composite Supply	Mixed Supply
Naturally bundled	Yes	No
Supplied together	Yes	Yes
Can be supplied separately	No	Yes
One is predominant supply for recipient	Yes	No
Other supply is not 'aim in itself' of recipient	Yes	No
Each supply priced separately	No	No
All supplies are goods	Yes	Yes
All supplies are services	Yes	Yes
One supply is goods and other supply is services	Yes	Yes

While, the above tests could be guiding principles in determining as to whether a supply is composite or mixed supply the end user test could be adopted as one of the criteria; Every supply will have to be independently analysed.

Composition Levy



Composition Levy – Sec. 9 of Model GST Law





Composition Levy – Sec. 9 of Model GST Law

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- Optional Scheme
- Pay an amount in lieu of tax; minimum rate to be:
 - 2.5% of the turnover in case of manufacturers;
 - 1% of the turnover in other cases
- No tax to be collected; No Input Tax Credit available
- Conditions for Composition:
 - Permission of Proper Officer required
 - Registered persons
 - Aggregate Turnover < Rs. 50 Lakhs (all-India basis for taxable persons having same PAN – *who shall also opt for composition*) but excludes Sch III & IV
 - Aggregate turnover = Value of all supplies (taxable + non-taxable + exempt + exports) – Value of (RCM supplies* + inward supplies) – taxes under GST

* *RCM supplies refers to value of supplies on which tax is levied on reverse charge basis*



Composition Levy – Sec. 9 of Model GST Law

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- No composition option in the following specific cases:
 - **Services supplied:**
 - Any/ all services (includes goods treated as *supply of services* by Sch II)
 - **Goods supplied:**
 - Non-taxable goods
 - Inter-State outward supplies
 - Through e-commerce operators
 - Notified goods manufactured by the supplier

- If aggregate turnover (all India basis) of preceding FY exceeds 50 Lakhs (*If during the FY, the aggregate turnover exceeds 50 Lakhs, no composition from the following day.*)

Taxable Person



Taxable Person means:

- Person registered under the Act; or
- Person who is liable to be registered under Schedule V
- Distinct persons: A person who has obtained/ is required to obtain:-
 - 2/more registrations (for each business vertical within the same State) shall be treated as distinct persons in respect of such registrations.
 - Registration in a State: An establishment in such State and establishments in other States shall be treated as distinct persons.
 - States is the smallest registered unit in GST (except where separate registrations are obtained by business verticals)



Schedule V

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- **Threshold: Aggregate turnover exceeding Rs.20 Lakhs in a financial year**
 - Aggregate turnover = All-India turnover
 - Threshold shall be 10 Lakhs in case of supplies made from Special Category States (NE, Uttarkhand and J&K) and shall be liable for registration in such State
 - Turnover includes supplies made on behalf of principal(s)
 - In case of job-work, direct dispatch from the place of job-worker shall be considered as a supply by the principal (and not by the job-worker)
 - Registration from every State from which any taxable supply is made
- **Liability to register shall not arise where:**
 - Person engaged exclusively in the business of supplying non-taxable supplies, or wholly exempt supplies
 - Person is an agriculturalist, for the purpose of agriculture.



Schedule V

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- **Special cases: Liability to register**
 - Every person who is registered under any of the laws that are subsumed into GST, on the day immediately preceding the appointed day
 - Shall be liable to register w.e.f the appointed day
 - Where a business carried on by a taxable person is transferred to another person
 - Such transferee – liable to register w.e.f the date of transfer
 - In case of transfer pursuant to the sanction of a scheme/ arrangement between 2/more companies, by an order of the High Court
 - Such transferee – liable to register w.e.f the date of order effective date of such scheme/ arrangement



Schedule V

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Mandatory registration irrespective of threshold in the below cases:

- Casual taxable persons;
- Non-resident taxable person;
- Person making an inter-State supply (outward supply);
- Person required to pay tax under reverse charge mechanism;
- Persons who supply goods and/ or services on behalf of another registered taxable person (whether as agent or otherwise);
- Notified persons required to deduct tax u/s 46;
- Persons required to collect tax u/s 56 i.e., e-commerce operators;
- Persons required to pay tax on the supply of notified services effected through it [u/s 8(4)];
- Persons who supply goods and/ or services [other than supplies u/s 8(4)] through e-commerce operators who are required to collect tax u/s 56
- Input service distributors;
- Persons supplying online information & database access or retrieval services from a place outside India to an unregistered person;

Exemptions



Exempt supplies, non-taxable supplies and zero-rated supplies

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- Section 2(44) – “exempt supply” means supply of any goods and/ or services
 - which are not taxable (do not include Sch III & IV)
 - and includes such supply of goods and/ or services
 - which attract nil rate of tax; or
 - which may be exempt from tax under Section 11

- Section 2(100) – “non-taxable supply” means a supply of goods or services which is not chargeable to tax under this Act

- Section 16(1) of IGST Act – “zero-rated supply” means any of the following taxable supply of goods and/or services, namely -
 - a) Export of goods and/or services
 - b) Supply of goods and/or services to a SEZ developer or an SEZ unit



Exemptions provided to certain persons

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- Schedule IV of Model GST Law provides indicative list of services provided by Central/ State Governments, Local authorities, Governmental Authorities
 - These shall not be shall be treated as **“neither a supply of goods nor a supply of services”**
- Examples:
 - Issue of passport, visa, driving license, birth certificate or death certificate
 - By a Government or a local authority to individuals
 - In discharge of its statutory powers
 - Services towards currency, coinage & legal tender, and foreign exchange by Government to any person
 - Services by a Government or local authority in the course of discharging any liability on account of any tax levied by such Government or local authority.



Power to grant exemptions: Sec. 11 Model GST Law

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Central or State Government, based on the recommendation of the Council

S.11 (3)

On taxable goods and/ or services of any specified description

Considers it necessary

Is satisfied that it is necessary,
in the public interest

For the purpose of clarifying the
scope or applicability of A or B

S.11 (1)

S.11 (2)

By Notification - A

By Special Order – B

By Notification

Exempt Generally

Exempt

Insert an explanation in A or B, as
the case may be, within 1 year (such
clarification to have retrospective
effect)

- Absolutely (not optional);
or
- Subject to conditions

Under exceptional
circumstances, explicitly
specified in such Order

- Whole Tax; or
- Part tax

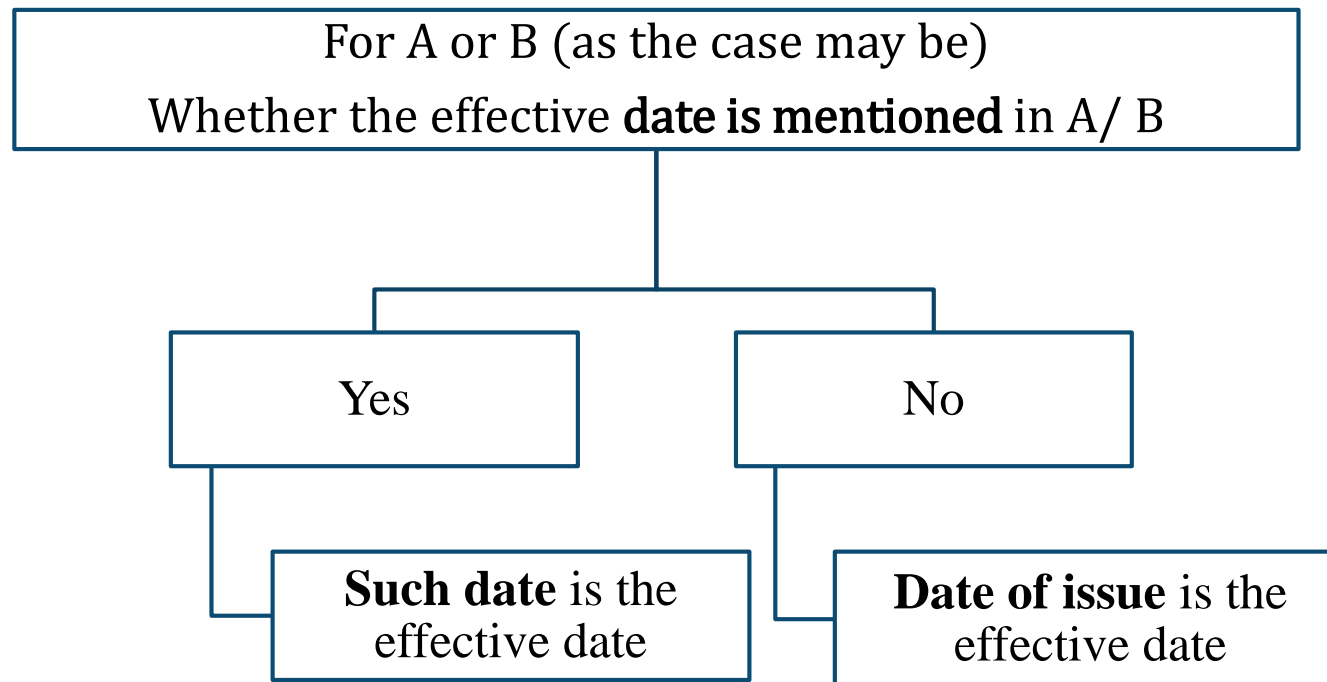
Whole Tax



Power to grant exemptions: Sec. 11 Model GST Law

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Note: For the purpose Section 11, the effective date or date of issue of the Notification or Order, as the case may be, is determined as under:





Sec. 11 – Illustration I

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Notification issued u/s 11(1): Conditional, partial exemption

- The tax payable by a registered taxable person under Section 8, on the supply of aluminium ingots, sows, billets and wire rods made, in the course of intra-State trade or commerce, to a recipient, being a registered taxable person, shall be calculated @ 1% subject to the condition that the recipient uses such goods as inputs in the manufacture of other goods

Notification dt. 01.05.2017



Sec. 11 – Illustration II

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Notification issued u/s 11(1): Absolute exemption

- Exemption to following taxable services from tax leviable thereon:
 - Services provided to the United Nations or a specified international organization
 - Services by a veterinary clinic in relation to health care of animals or birds

- This notification shall come into force on the 1st day of June, 2018

Notification No. 25/2018 dt. 20.05.2018



Sec. 11 – Illustration III

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Special Order issued u/s 11(2)

Order: Whereas the recent floods and landslides has caused extensive damage to public and private property in the State of Assam and has adversely affected the life of the common man in the State. There is a need to provide support to ensure sustenance for the local population by revival of the hospitality industry; And whereas taxable supply in the State of Assam is chargeable to GST; Now therefore, in exercise of the powers conferred by sub-Section (2) of Section 11 of the CGST Act, the Central Government being satisfied that it is necessary so to do, that the circumstances of exceptional nature as mentioned above, hereby exempts the following taxable services supplied to any person in the State of Assam, from the whole of GST leviable thereon under Section 8 of the said Act, namely:-

- Services by way of renting of a room in a hotel, inn, guest house, club, campsite or other commercial place meant for residential or lodging purposes
- Services provided in relation to serving of food or beverages by a restaurant

This exemption order is applicable for the above mentioned taxable services supplied during the period 1st July, 2017 to 31st July, 2017.

Exemption Order dt.17.09.2017

Time of Supply



Sec.12(2): Time of Supply of Goods

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As per Section 12(2) of CGST ACT, time of supply of goods shall be **earlier of invoice/ payment, i.e., –**

Actual **date of issue of invoice** by the supplier

Due date for issue of invoice by the supplier [Section 28*]:

- **Supply involves movement:** Time of removal of goods for supply
- **Sale on approval basis:** Earlier of time at which it becomes known that the supply has taken place OR 6 months from date of removal
- **Other cases:** Delivery of goods/ making available to the recipient or
- **Notified categories of supplies:** Time to be specified by Rules

Date on which **payment is entered in the books of supplier**

Date on which **payment is credited** to the supplier's bank a/c

**Where payment is received in advance, the Supplier shall issue a receipt voucher, and NOT a tax invoice*



Sec.13(2): Time of Supply of Services

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As per Section 13(2) of CGST ACT, time of supply of services shall be **earlier of invoice/ payment, i.e., –**

Actual **date of issue of invoice** by the supplier

Due date for issue of invoice by the supplier [Section 28*]:

- Before/ after the supply of service, but within 30 days
- **Notified categories of supplies:** Any other prescribed document shall be deemed to be the tax invoice

Date on which **payment is entered in the books of supplier**

Date on which **payment is credited** to the supplier's bank a/c

**Where payment is received in advance, the Supplier shall issue a receipt voucher, and NOT a tax invoice*



Sec.12: Time of Supply- Continuous Supply of Goods

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Section 28(4): Due date for issue of invoice in case of **continuous supply of goods – involving successive statement of accounts (SOA) or successive payments:**

In case of successive statements of accounts

Before/ at the time of issue of each SOA

In case of successive payments

Before/ at the time of receipt such each payment

Examples for Continuous Supply of goods u/s 12(2) read with Section 28(4)

Successive issue of SOA	Successive receipt of payments	Due date for issue of invoice
5-Jul-17	-NA-	5-Jul-17
-NA-	10-Jul-17	10-Jun-17



Sec.13: Time of Supply – Continuous Supply of Services

Section 2(31) “continuous supply of services” means a supply of services which is:

- provided, or agreed to be provided, continuously or on recurrent basis,
- under a contract, for a period exceeding three months with periodic payment obligations
- and includes supply of such service as the Central or a State Government may, whether or not subject to any condition, by notification, specify;

Section 28(5) prescribes due date for issue of invoice in case of continuous supply of services:

Where the due date of payment is ascertainable from the contract:	• Within 30 days of recipient becoming liable for payment
Where the due date of payment is not ascertainable from the contract, time of supply shall be earliest of-	• Within 30 days of receipt of each payment
Where the payment is linked to the completion of an event:	• Within 30 days of completion of event

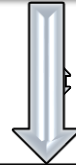
Note: Government may notify supplies that shall be treated as continuous supply of goods (or services).



Sec.13: Time of Supply – Supply of Services Ceases Before Its Completion

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Section 28(6): In a case where the supply of services **ceases under a contract before the completion of supply**:



Such services shall be deemed to have been provided at the time when supply ceases **AND** invoice shall be issued to the extent of supply effected



Time of Supply of Goods / Services- Reverse Charge –S-12(3)/S- 13(3)

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Date on which **payment is entered in the books of recipient**

Date on which **payment is debited** to the recipient's bank a/c

Where tax liable to be paid on reverse charge basis, the time of supply of goods/services shall be **earliest** of–

31st day (in case of goods, and 61st day in case of services) from the date of issue of invoice by supplier

Note: This factor is not relevant in case of services from a supplier being an associated enterprise outside India

Where it is not possible to determine time of supply in the **3 other cases: Date of entry in the books of account of the recipient**

Note: On the date of receipt of goods (or services) from a supplier being an unregistered person, the recipient shall issue an invoice [Section 28]



Time of supply in case of supply of voucher—

Date of issue – *If supply is identifiable at the point of issue of voucher*

Date of redemption of voucher – *Other cases*

Note: Voucher - not to be separately taxable

Voucher – can be for goods or services



Residual Provision- Sec 12(5)/S- 13(5)

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Where it is not possible to determine the time of supply under any of the circumstances discussed, it shall be determined as:

Due date for filing of such return

– If periodical return has to be filed

Date on which the CGST / SGST is paid – *Other cases*



Section 14: Change in rate of tax in respect of supply of goods or services

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Date of supply of goods or services	Date of invoice	Date of receipt of payment	Time of supply	Rate of tax
(1)	(2)	(3)	(5)	(4)
Before	After	After	Earlier of (2) and (3)	New
Before	Before	After	(2)	Old
Before	After	Before	(3)	Old
After	Before	After	(3)	New
After	Before	Before	Earlier of (2) and (3)	Old
After	After	Before	(2)	New

Value of Supply



Value of Taxable Supply

Value of supply of goods and/or services on which CGST/SGST is to be discharged shall be the **'Transaction Value'**, where

- Supplier and recipient of supply are unrelated
- Price is actually paid/ payable – AND price is the sole consideration for the supply

Section 2(84) of the CGST Act deems the persons below to be “related persons”:

- Officers / Directors of one another's business
- Partners in business
- Employer – employee
- A person directly/ indirectly owns/ controls/ holds 25 of shares of both the persons
- One directly/ indirectly controls the other
- Both are directly/ indirectly controlled by a third person
- Together, they directly/ indirectly control a third person
- Members of the same family
- Sole agent / distributor of the other



Transaction Value INCLUDES:

- Amounts charged by supplier to recipient in respect of any **taxes, duties, cesses, fees and charges levied** under any statute, other than taxes paid under GST regime;
- **Amount incurred by Recipient** which is liable to be paid by the Supplier;
- Charges by Supplier to Recipient being:
 - **Incidental expenses** (e.g.: packing, commission)
 - **Charges for anything done by the Supplier** at the time or before the supply, in respect thereof
 - **Interest/ late fee/ penalty** for delayed payment of consideration
 - **Subsidies directly linked to price** – for supplier receiving the subsidy (excluding Central and State Govt subsidies; i.e., Government subsidies will not be included in transaction value)

Transaction Value EXCLUDES discount:

- **Before/ at the time of supply**
 - **Single condition:** Such discount is duly recorded in the invoice
- **After the supply: Cumulative conditions:**
 - Agreement establishing discount entered into before/ at the time of supply
 - Discount specifically linked to relevant invoices
 - ITC reversed by the recipient to the extent of discount



A. Where value cannot be determined u/s 15(1), i.e., when:

1. Price is not the sole consideration
2. Supplier-recipient are related persons: Recourse to Rules even if the Supplier-Recipient relationship:
 - Did not influence the price;
 - Precedes agreement to the supply;
 - Has no bearing on pricing;
 - Has no bearing on Agreement to the Supply;
 - Has no relevance to the Supply;
 - Was to meet with different criteria or purpose;

(Rules will apply both ways – supplier to recipient and recipient to supplier)

B. In case of notified supplies

Place of Supply of Goods/ Services



Place of Supply of Goods – Sec 7 IGST (other than goods imported/ exported)

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Section 7(2)

Supply involves movement of Goods

Location of goods at the time at which movement terminates for delivery to recipient

Section 7(3)

Goods supplied on direction of the third person

Principal Place of Business of the third person (i.e., address in Registration Certificate)

Section 7(4)

Supply does not involve movement of Goods

Location of goods at the time of delivery to the recipient

Section 7(5)

Goods are assembled or installed at site

Place of installation or assembly

Section 7(6)

Goods supplied on board a conveyance e.g. vessel, aircraft, train, vehicle etc.

Location at which such goods are taken on board

Where none of the above rules apply, place of supply would be determined in the manner to be prescribed



Place of Supply of Goods – Sec 8 IGST (goods imported into/ exported from India)

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- **Export of goods:** Means taking goods out of India to a place outside India;
- **Import of goods:** Means bringing goods into India from a place outside India;

Section	Situation	Place of supply
8(1)	Goods imported into India	Location of importer
8(2)	Goods exported from India	Location outside India

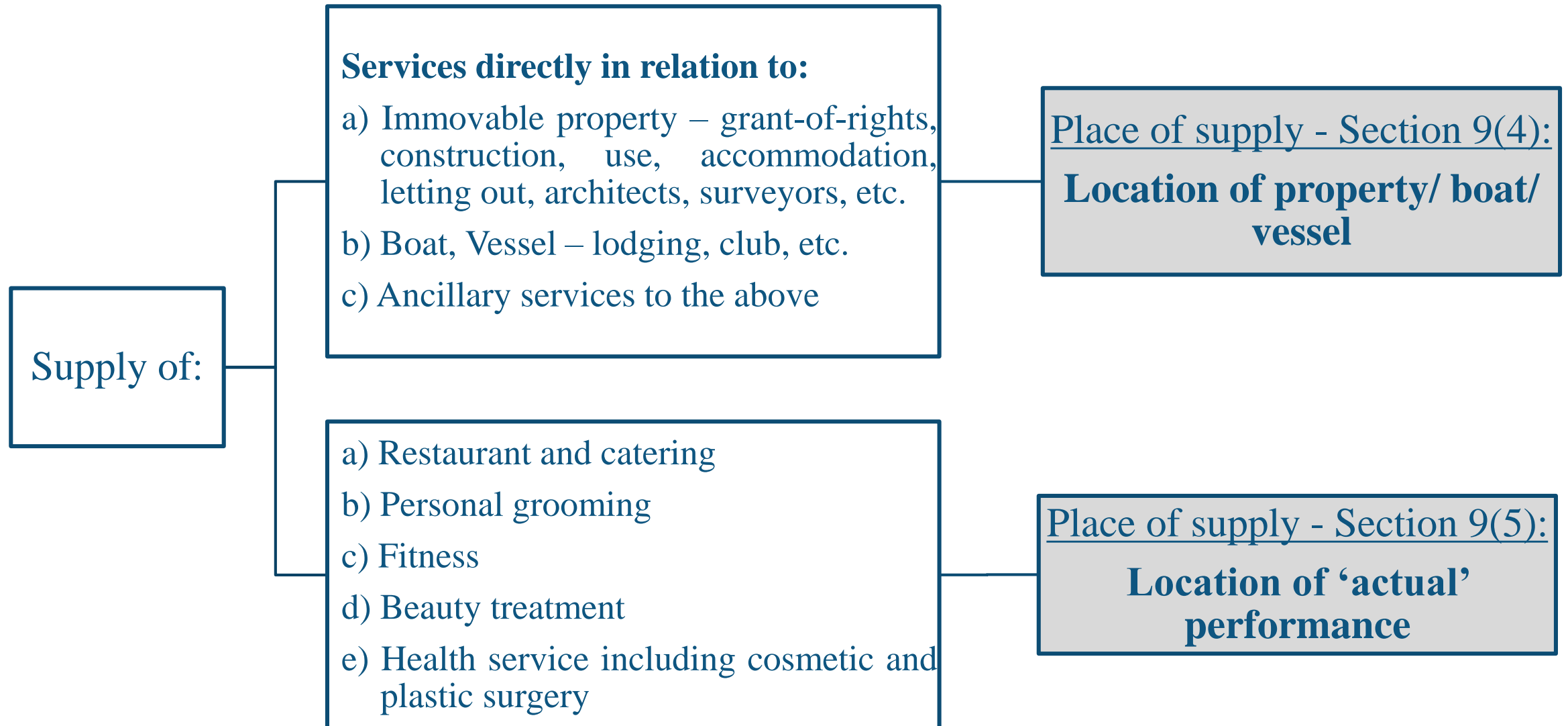
*Note: Section 5 provides that **IGST shall be levied** on goods imported into India as per Section 3 of Customs Tariff Act*

- *Point of taxation - When duties of customs are levied on the said goods*
- *Value - As determined as per Customs Act*



Place of Supply of Services – Sec 9 IGST (where supplier & recipient are in India)

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Place of Supply of Services – Sec 9 IGST (where supplier & recipient are in India)

S. 9(6): Supply of Services of Training and Performance Appraisal

Registered recipient:
Location of recipient

Unregistered recipient:
Place of 'actual' performance

S. 9(7): Supply of Services for admission to:
a) Cultural & artistic
b) Sporting
c) Scientific & educational
d) Entertainment event
e) Amusement Park
f) Services ancillary to above

**Venue of event/
park**

S. 9(8): Supply of:
a) Organising cultural, arts, sports, educational, scientific, entertainment, conference, fair exhibition or similar events
b) Services ancillary to above

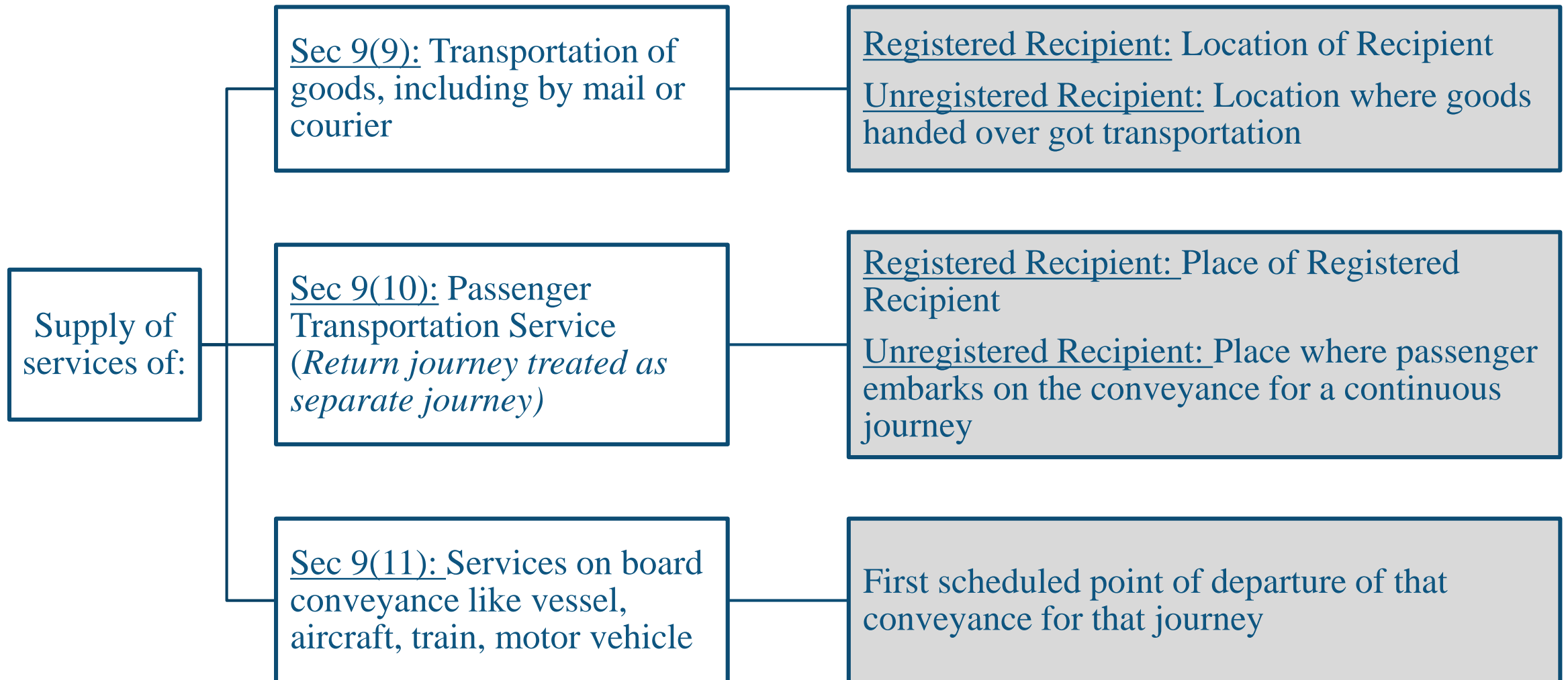
Registered recipient:
Location of recipient

Unregistered recipient:
Venue of event



Place of Supply of Services – Sec 9 IGST (where supplier & recipient are in India)

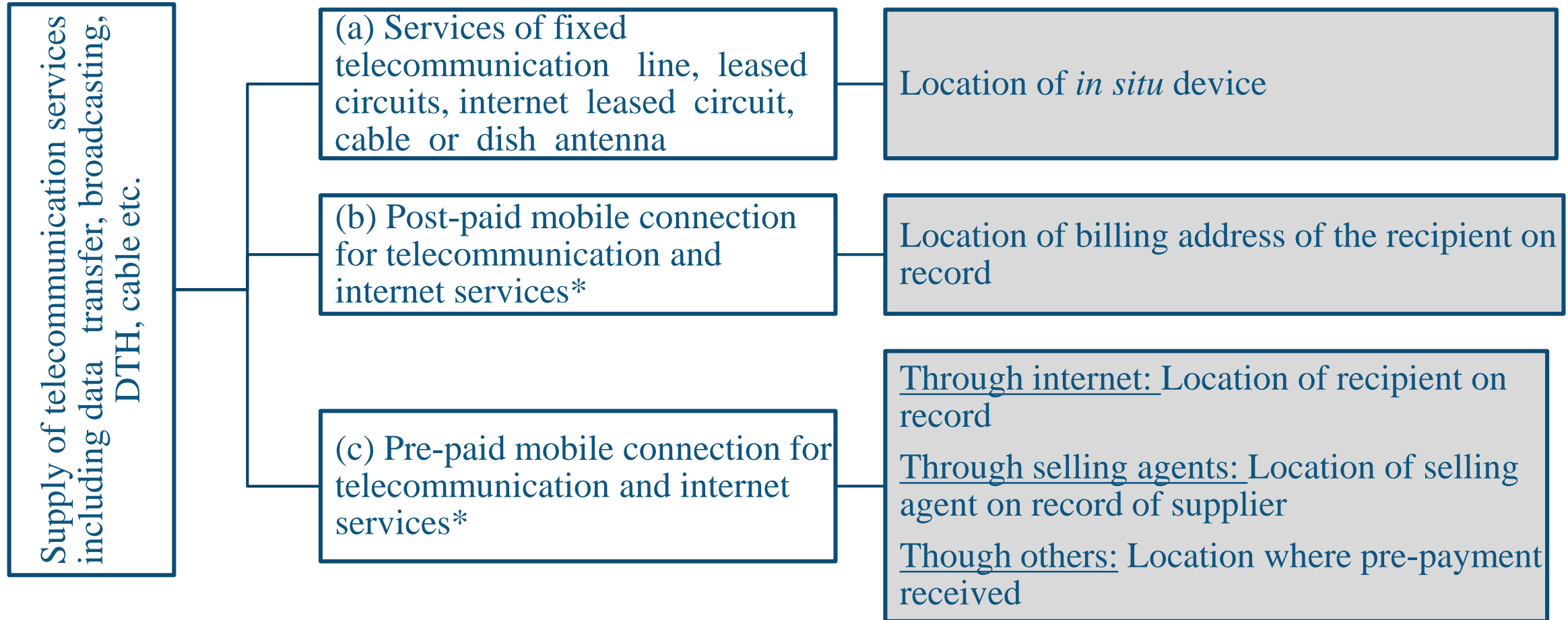
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Place of Supply of Services – Sec 9(12) IGST (where supplier & recipient are in India)

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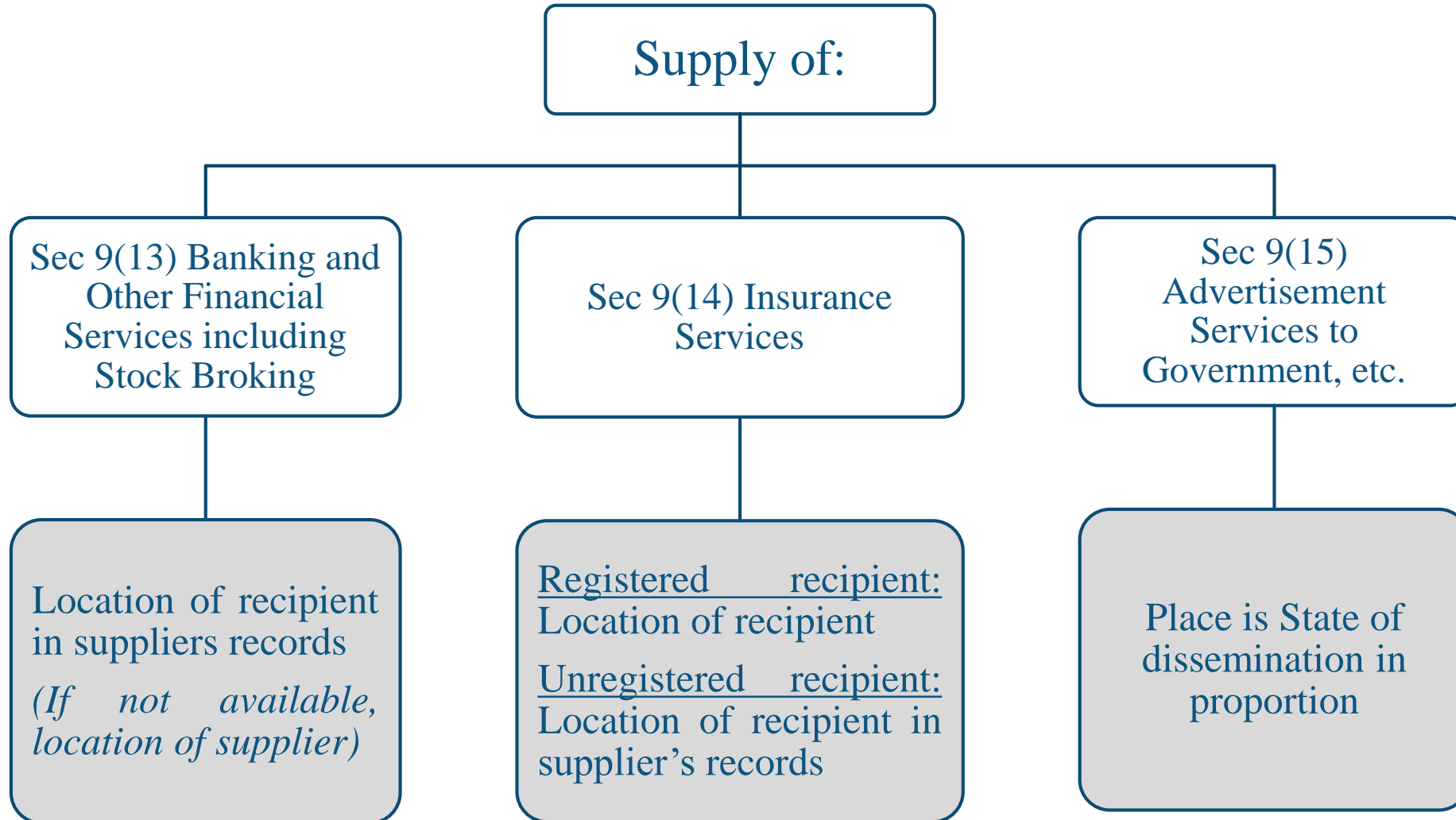


- In cases not covered in (b) and (c), address of recipient on records shall be the place of supply;
- Where no address of the recipient available in records, location of the supplier shall be the place of supply



Place of Supply of Services – Sec 9 IGST (where supplier & recipient are in India)

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Place of Supply of Services – Sec 9 IGST (where supplier & recipient are in India)

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For Supply of any
other Service,
Place of supply is:

**Section 9(2): Registered recipient:
Location of recipient**

**Section 9(3)(a): Unregistered recipient:
Address in supplier's records**

**Section 9(3)(b): Unregistered recipient:
Location of supplier if address not available**



Place of Supply of Services – Sec 10 IGST (where supplier or recipient is outside India)

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Services i.r.o goods required to be made physically available by recipient

&

Services requiring physical presence of receiver/ person acting on his behalf

Location where services actually performed

Services supplied directly in relation to immovable property

Location of such immovable property (or where it is intended to be located)

Service by way of admission to/ organising an event, etc. and ancillary services

Place where the event is actually held

Banking services to account holders, intermediary services, hiring of means of transport (other than aircraft & vessels) upto 1 month

Location of supplier

Transportation of goods (other than by way of mail/courier)

Destination of the goods

Where none of the above rules apply, place of supply would be determined in the manner prescribed



Place of Supply of Services – Sec 10 IGST (where supplier or recipient is outside India)

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Passenger
transportation
service

Place where
passenger
embarks on the
conveyance for
a continuous
journey

Service provided
on board a
conveyance

First
scheduled
point of
departure of
that
conveyance
for that
journey

Online information
and database
access or retrieval
services

Location of
recipient

Residuary

**Location of
the recipient;**

*If not
available in
the ordinary
course of
business,
location of
supplier*

**To prevent double
taxation/ non-
taxation,** or for the
uniform
application of
rules, CG has
power to notify
services/
circumstances

Place of
effective use
and
enjoyment of
a service

Concept of Input Tax Credit



Concept of ITC

63

- “Input tax” means IGST (including that on import of goods), CGST and SGST;
- Charged on any supply of goods or services to him and;
- Includes the tax payable under sub-section (3) of section 8,
- Excludes the tax paid under section 9



Principles on Input Tax Credit

64

- System for a seamless flow of credit
- Extends to inter-State supplies
- Credit utilization would be as follows:

Credit of:	Allowed for Payment of		
	IGST	CGST	SGST
IGST	✓ (1)	✓ (2)	✓ (3)
CGST	✓ (2)	✓ (1)	
SGST	✓ (2)		✓ (1)

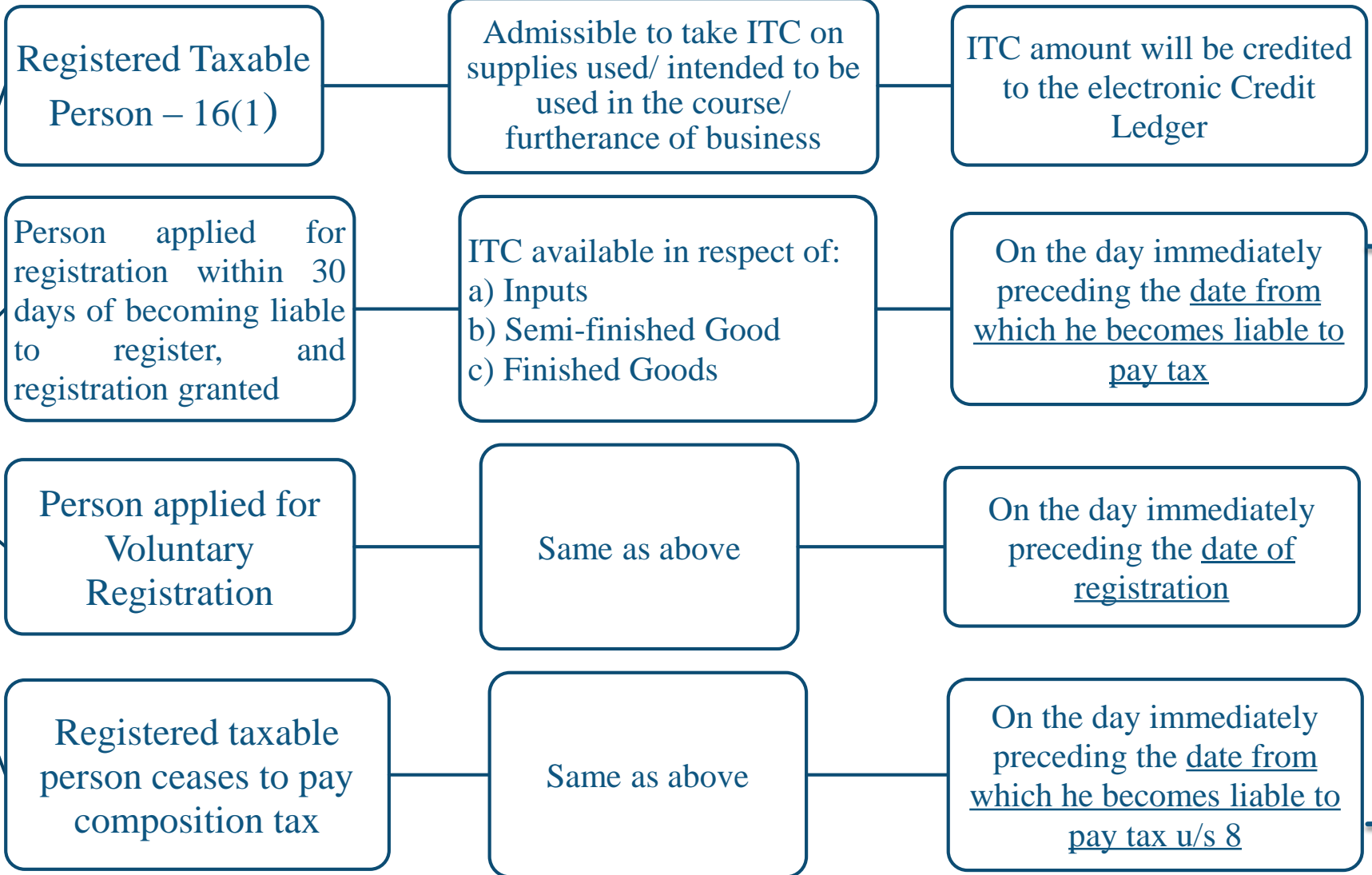
**The numbers represent the order of utilization of credit*

- Expectation: Accumulation of unutilized GST credits would be avoided except in cases of exports



Eligibility & Time Limit for Availing ITC

Eligibility and Time Limit of ITC Availment



Earlier of :

1. **Annual Return filing Date**
2. **Return filing date for September of the following F.Y.**

One Year from the date of issue of tax invoice 18(5)



Conditions for Availment of ITC by a Registered Taxable Person

66

Basis - **tax invoice/debit note issued by a registered supplier**, or other prescribed taxpaying document

Goods and/or services have been received*

Tax actually paid by the supplier to the credit of the appropriate Government, either in cash or by utilization of ITC

He has furnished the monthly return in Form GSTR-3 under Section 34

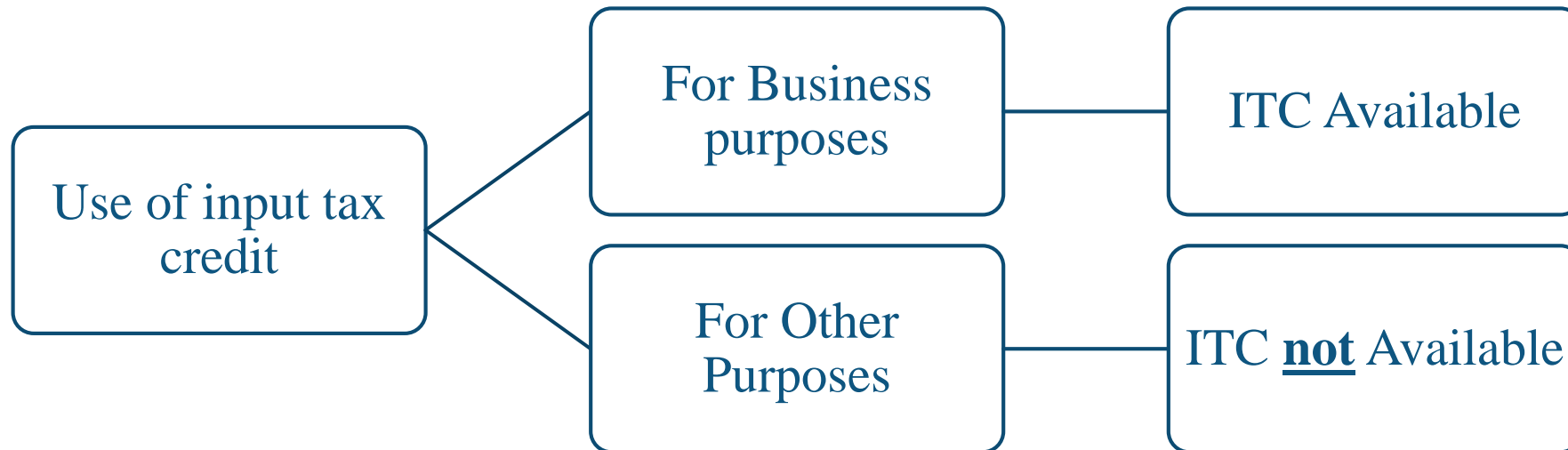
***Note:**

- Credit only upon receipt of the last lot/ instalment in case of goods received in lots/ instalments.
- Goods deemed to be received by a taxable person when the supplier delivers the goods to the recipient/ any other person, on the direction provided by the taxable person to the supplier.
-



ITC on the Basis of use of Inputs

67

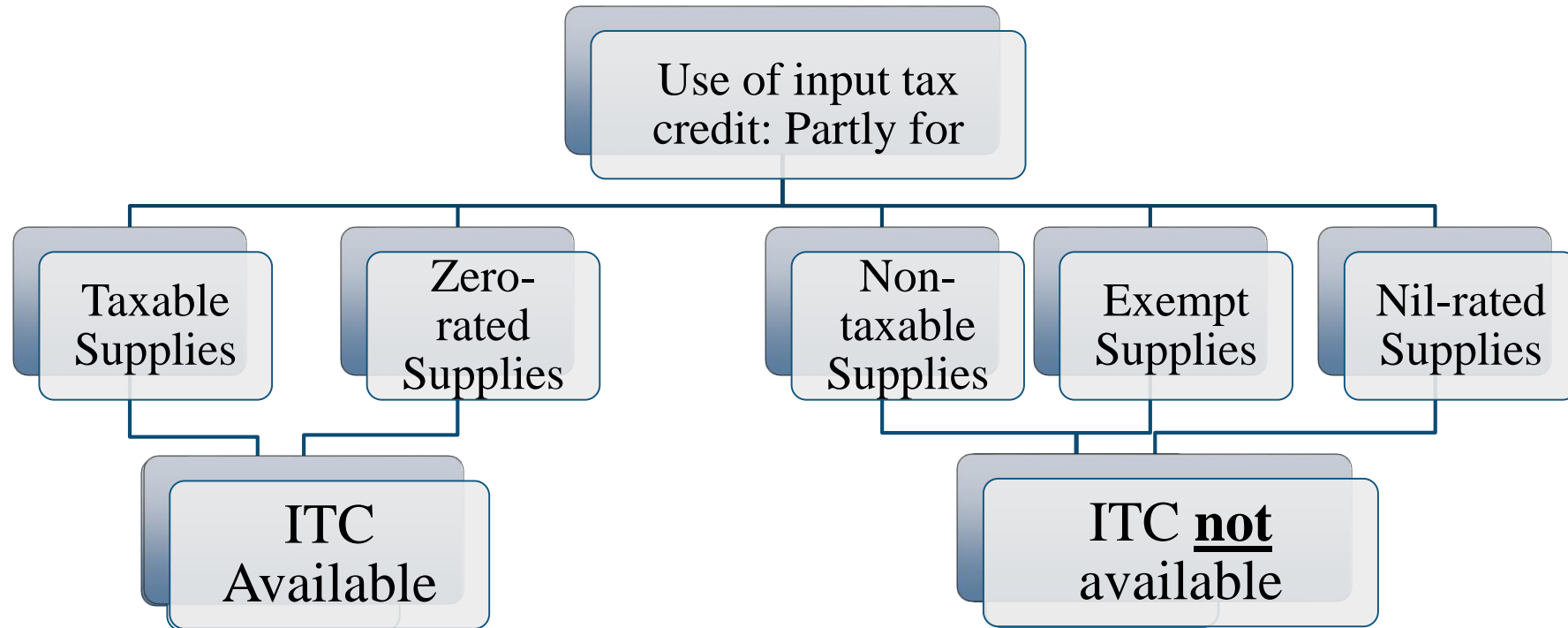


** Attribution of ITC to be made as per the manner prescribed in the notification to be issued by the Govt.*



ITC on the Basis of use of Inputs

68



Note: Attribution of ITC to be made as per the manner prescribed in the notification to be issued by the Govt.

Alternative to apportionment between taxable & exempt supplies in case of **banking companies & financial institutions**:

- **Yearly option** to avail a standard rate of 50% of eligible ITC on inputs, capital goods and input services on a **monthly basis**



ITC in case of Capital Goods

69

Depreciation claimed on Tax component of the cost of capital goods under IT Act

ITC not Available

Example:

Cost of asset	= Rs. 100
Tax-10%(say)	= <u>Rs. 10</u>
Total Cost	<u>Rs. 110</u>

If Depreciation charged on
Rs.100
ITC Available

If Depreciation charged on
Rs.110
ITC not Available

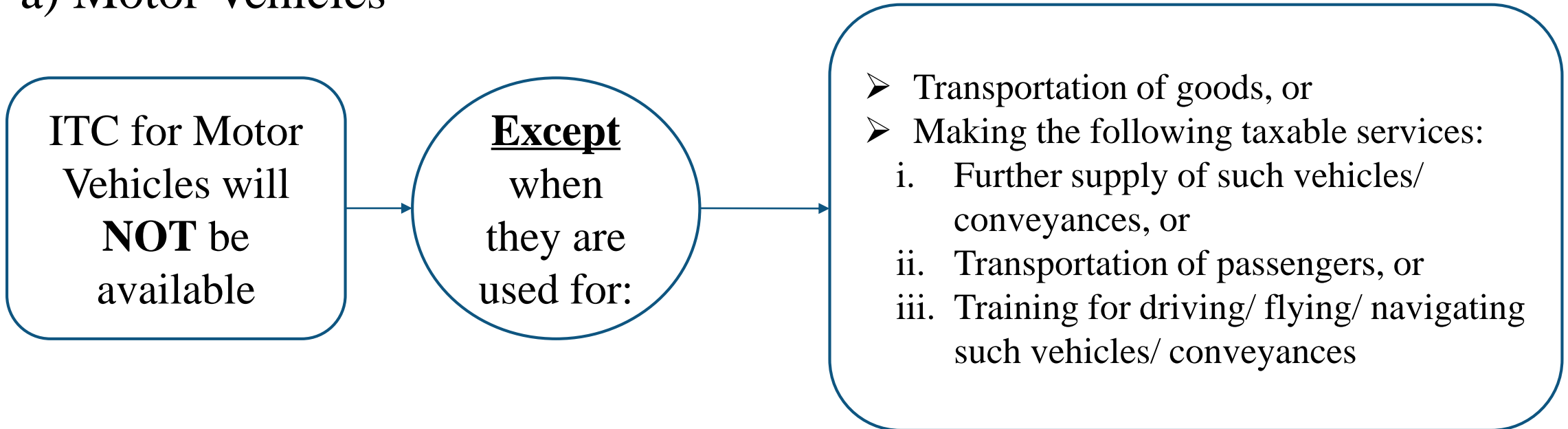


Restrictions on ITC : Sec 17(4)

Blocked credits

70

a) Motor Vehicles



Note: Where any amount has been paid on goods and/or services, in lieu of tax, under composition scheme, no credit on such amount would be allowed.

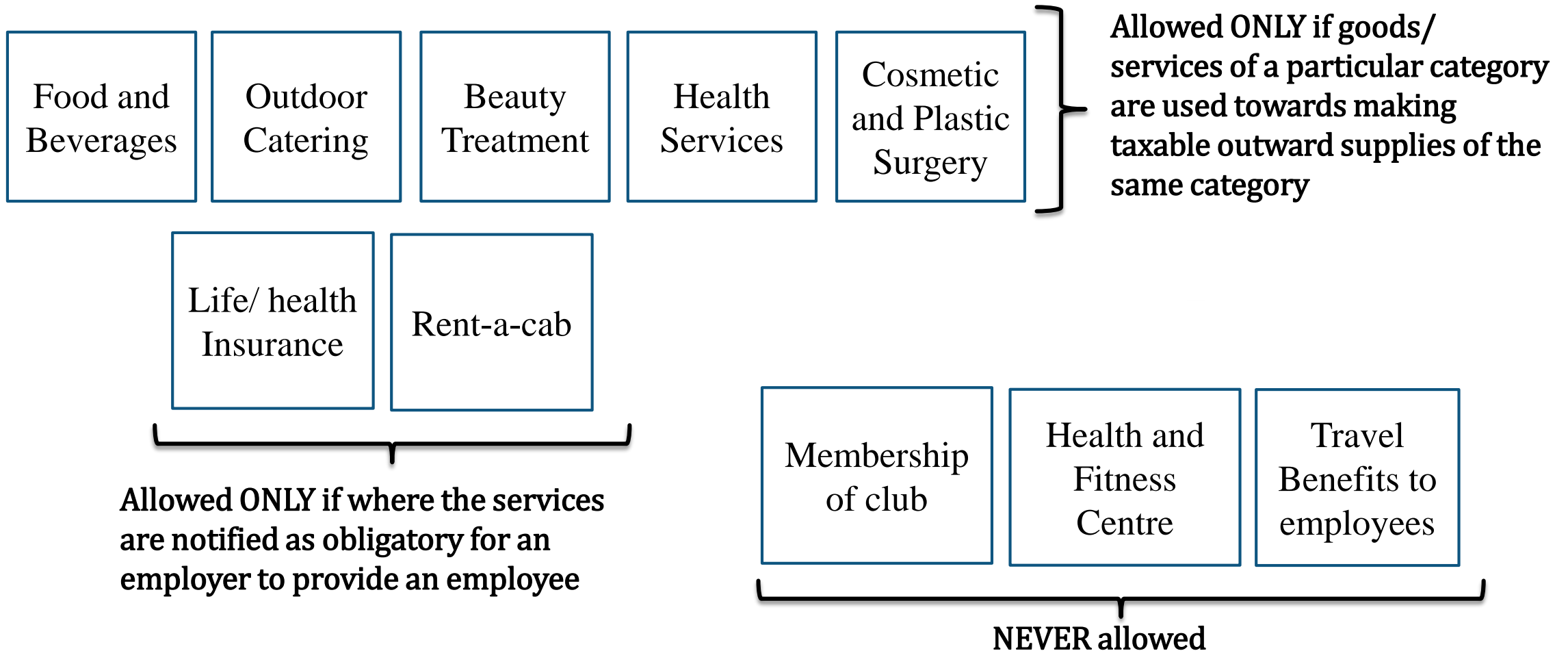


Restrictions on ITC : Sec 17(4)

Blocked credits

71

b) Supply of goods and services being:





Restrictions on ITC : Sec 17(4)

Blocked credits

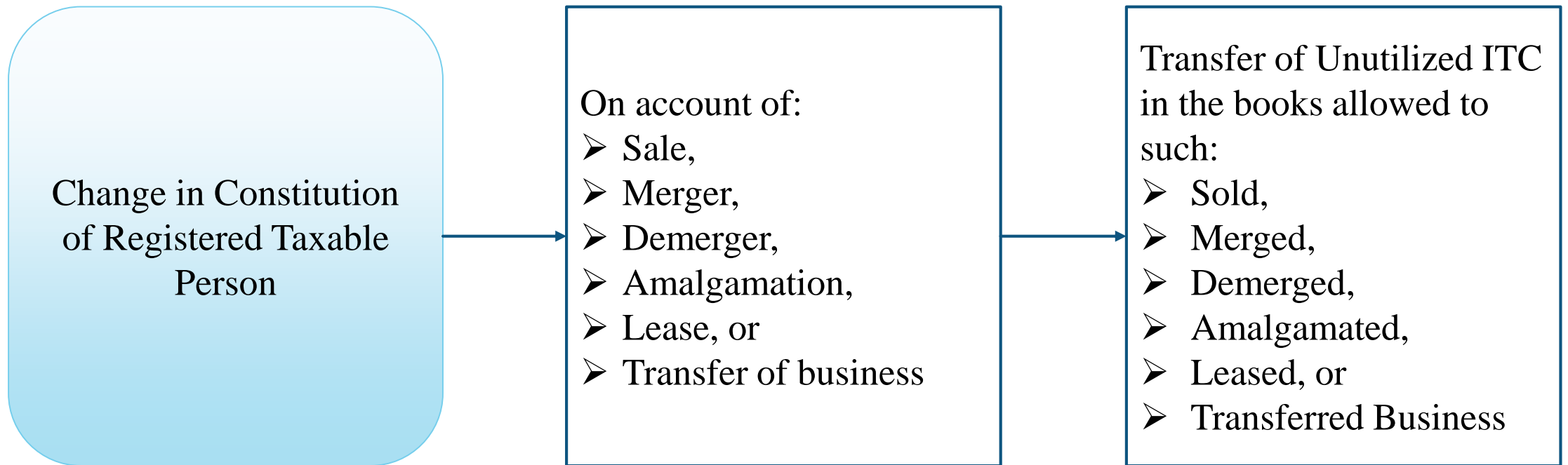
72

c) Construction of Immovable Property (other than plant & machinery)

Works contract services, except where it is an input service for further supply of works contract service

Goods or services received by a taxable person for construction of an immovable property on his own account *even when used in course or furtherance of business;*

ITC not Available





Switching from regular to over composition- Pay and Exit

74

Eligible credit under earlier law carried forward in the return

Amount equivalent to the credit of input tax in respect of input held in stock or input contained in semi-finished goods or finished goods held in stock as on appointed day

Such amount shall be payable by debiting the electronic credit ledger or cash ledger

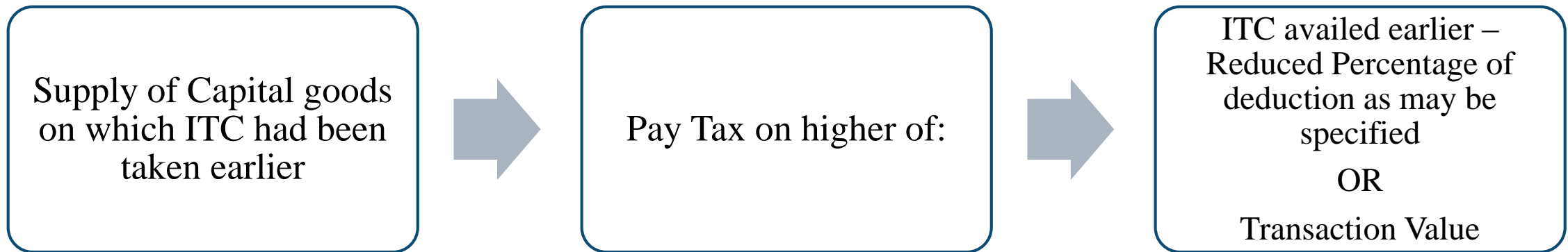
Balance in electronic credit ledger shall lapse



Supply of Capital goods on which ITC already taken

75

- If the **recipient of services** fails to pay (**value + tax**) within **3 months** from date of invoice, (**ITC availed + interest**) shall be added to his output tax liability

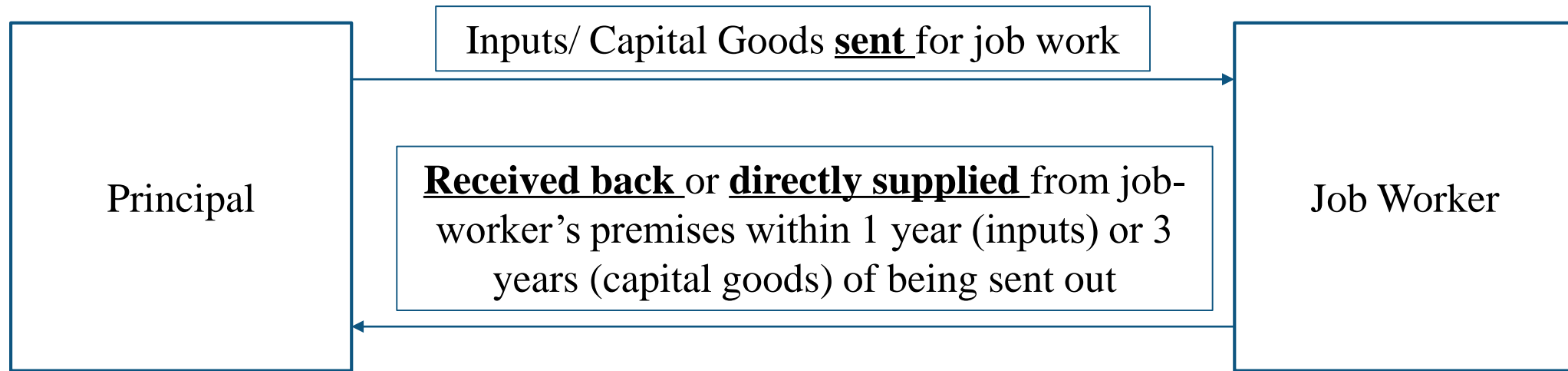


Note: Any credit wrongly taken shall be subjected to the recovery provisions



ITC in respect of goods sent for job work- Sec. 20

76



ITC available if the conditions and restrictions under job work are satisfied

If not received/directly supplied in time: Principal to pay ITC availed + **Interest**.
He can reclaim this ITC on receiving back such inputs/ capital goods.



Input Service Distributor – Sec. 21

77

- ITC is distributed to supplier of goods and/or services of same entity having the same PAN
- Deemed as ISD is a supplier of Service for distributing credit
- Common Services used at for

Office /
Corporate
office of
Supplier

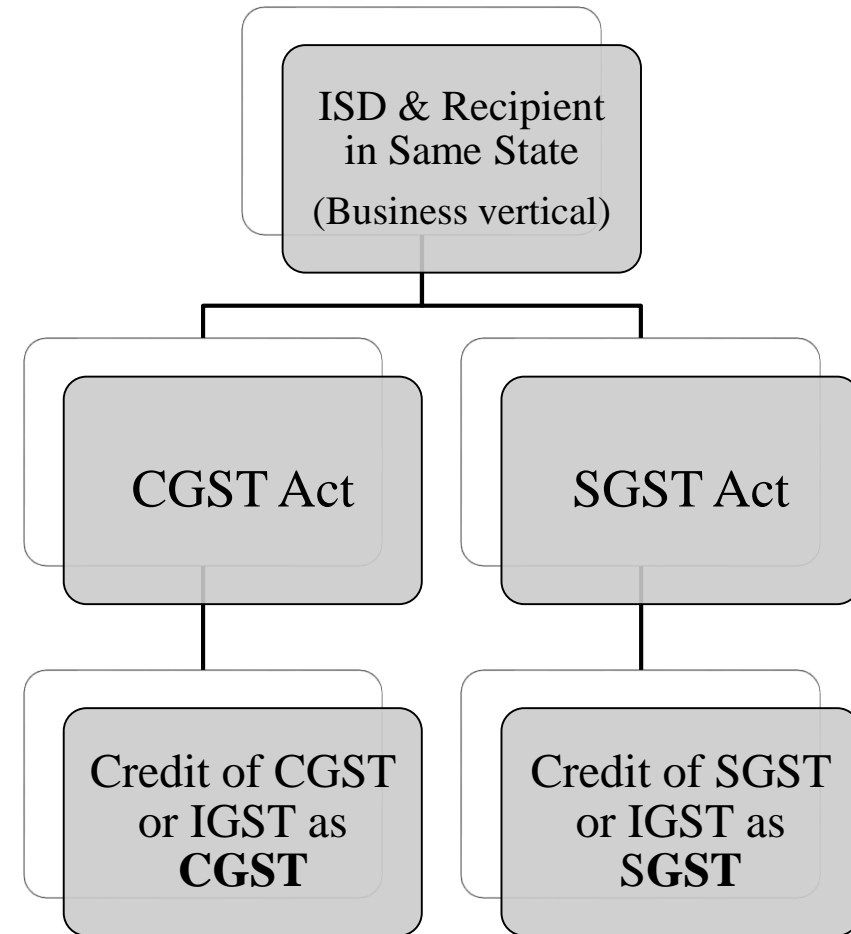
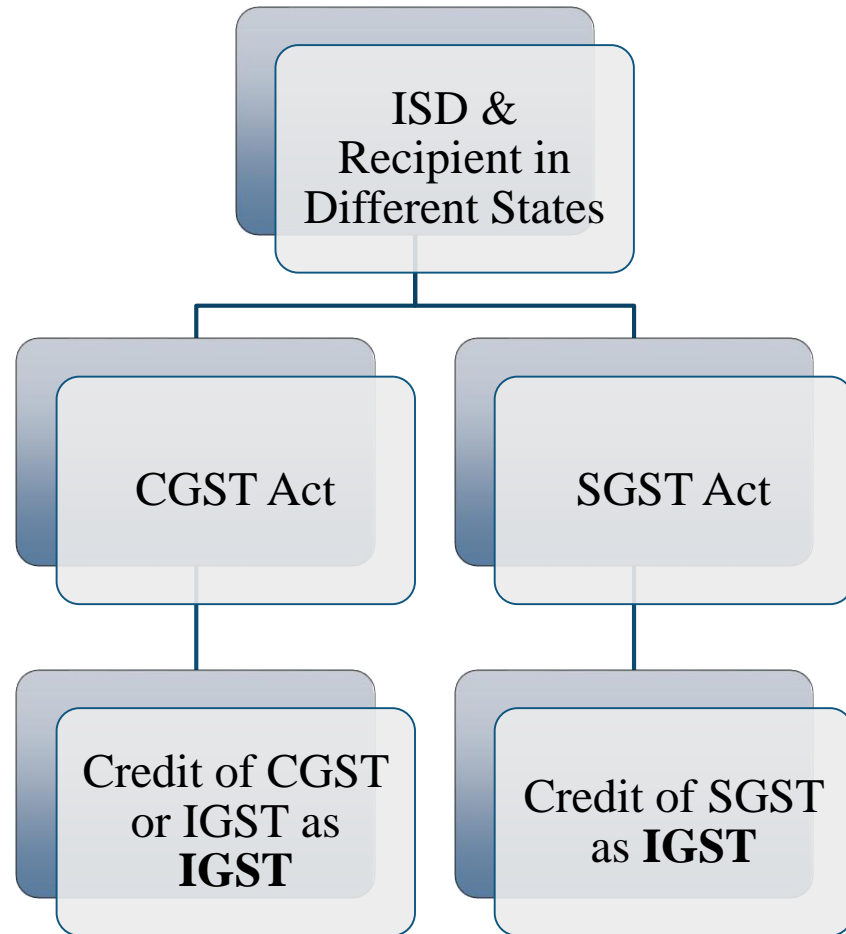
→ Distribution of Credit where ISD and recipient are located in **different State** under CGST ACT **or** **SGST ACT**

→ Distribution of Credit where ISD and recipient are located in **within State** under CGST ACT **or** **SGST ACT**



Input Service Distributor

78





Conditions to distribute credit: Input Service Distributor

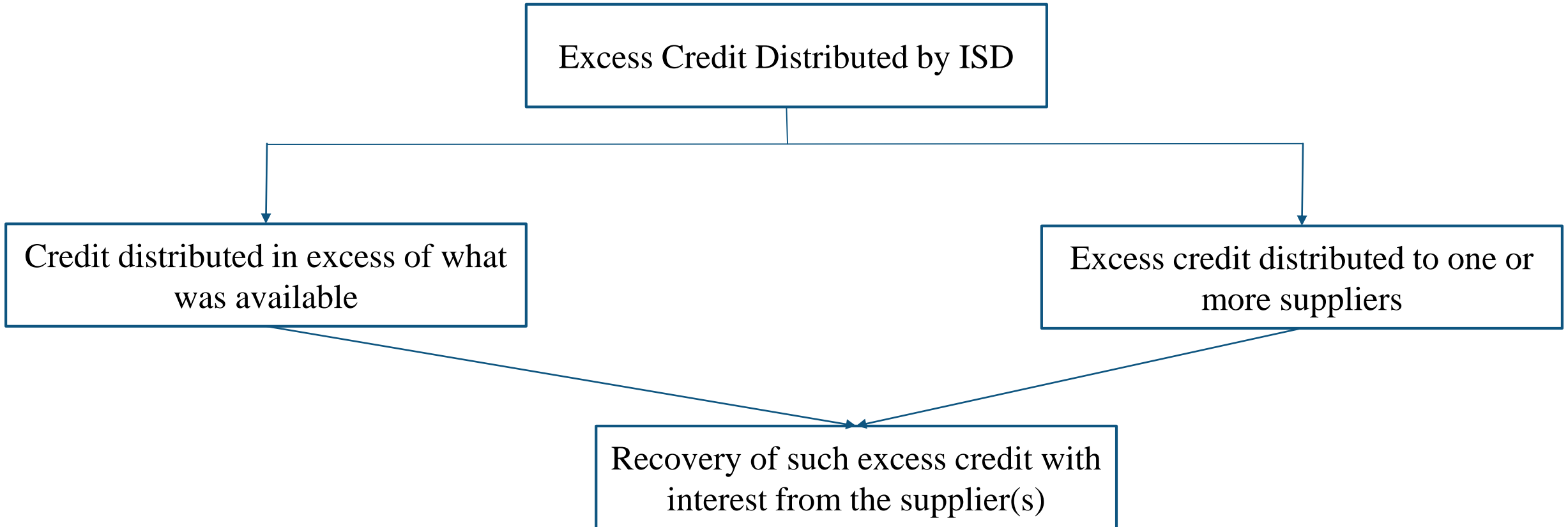
79

- Credit distributed to recipient through prescribed documents containing prescribed details. Such document should be issued to each of the recipient of credit.
- Credit distributed should not exceed the credit available for distribution
- Tax paid on input services used by a particular location (registered as supplier) has to be distributed only to that location.
- Credit of tax paid on input service used by more than one location who are operational is to be distributed to all of them based on the pro rata basis of turnover of each location in a State to aggregate turnover of all such locations who have used such services



Excess Credit distributed by Input Service Distributor

80



Registration



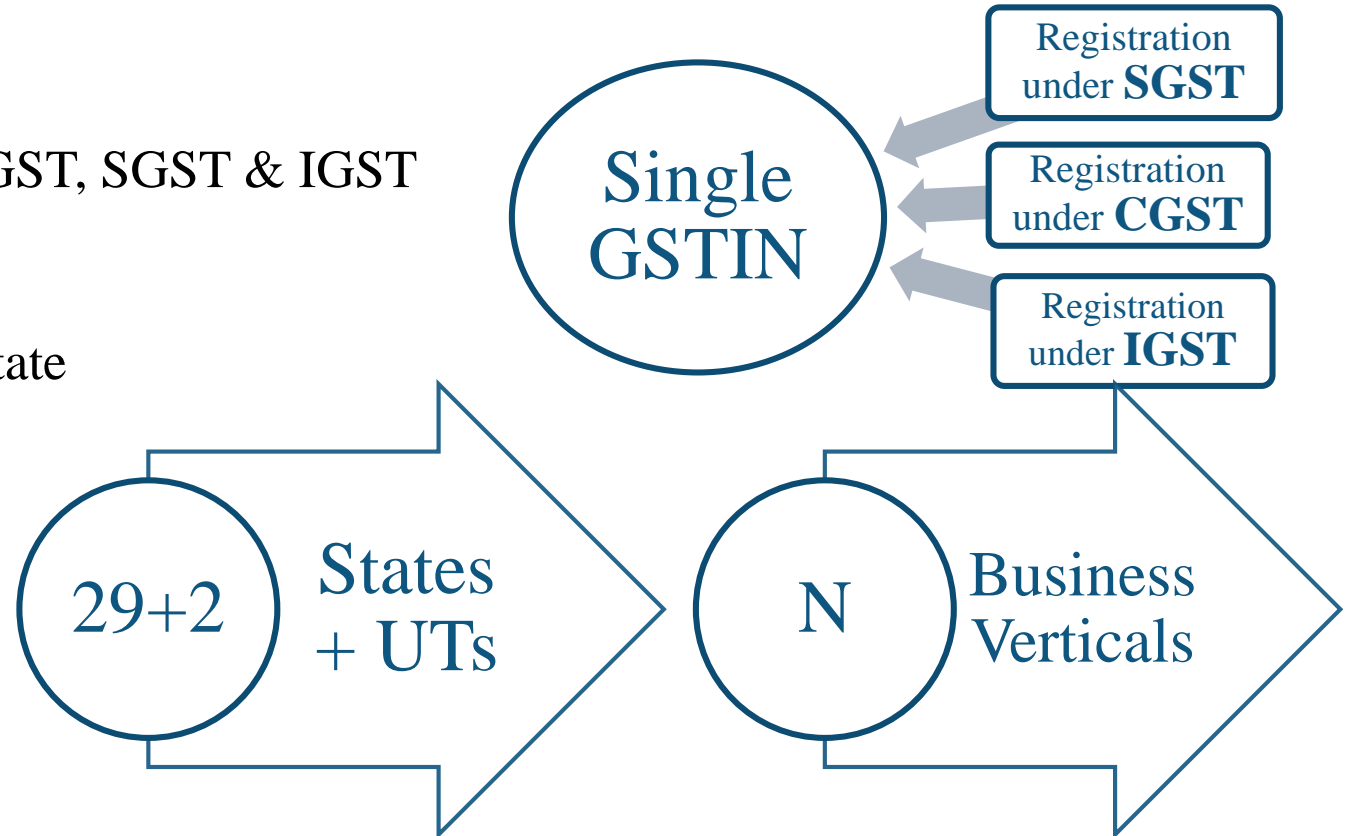
Registration Structure under GST – Sec 23

- Three Acts applicable on every Person under GST – Central GST Act, (State) GST Act, Integrated GST Act.

- Registrations required by every person:
 - Simultaneous registration under CGST, SGST & IGST

- Separate registration required for each State

- Total possible registrations for one PAN



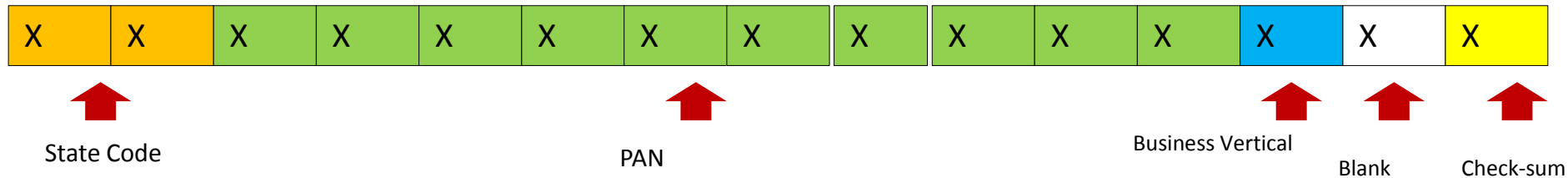
- Possible separate registrations for each *business vertical* within a State as defined u/s 2(18)



Registration Structure under GST – Sec 23

83

- PAN based Registration: PAN will be mandatory (except for Non-Resident)



- Place of Registration - “from where” Supplier makes a taxable supply of goods and/ or services
- Provision for Voluntary Registration
- Central/State Government specify persons exempted from obtaining registration
- Auto generation of provisional registration for existing assessee based on enrolment
- Proper officer has powers for *suo moto* registrations in case of unregistered persons



Process to obtain Registration – Sec 23

84

- **Schedule V** provides for persons liable for registration
- Application to be filed online within 30 days
- Application can also be filed through TRP or FC
- Scanned documents to be attached
- Status of the Application – Acceptance / Query
- Rejection only after giving opportunity of being heard
- Rejection of Application under CGST will be a deemed rejection under SGST and vice-versa
- Deemed Approval, if no query



Failure to Register

- If person newly applying for registration fails to apply for registration within 30 days from the date on which he becomes liable to registration – ITC credit in respect of goods held in stock or contained in finished or semi-finished goods held in stock will not be available.

Casual Taxable Person

- Person who occasionally undertakes transactions involving supply of goods and/or services in the course or furtherance of business, in a taxable territory **where he has no fixed place of business.**



Registration Provisions, Non-Resident Taxable Person – Sec 24

86

Registration

- Person who occasionally, undertakes transactions involving supply of goods and services, **and who has no fixed place of business in India.**

Time period

- Certificate of Registration issued to such persons shall be valid only for a period of 90 Days. [Can be extended maximum by further 90 days]

Advance Deposit

- They shall be required to make advance deposit of estimated tax liability net tax at the time of registration.



Amendment in Registration – Sec 25

87

- Any change in registration has to be informed
- Proper officer may approve/reject amendment
- No rejection without giving an opportunity of being heard
- Rejection of amendment under CGST will be a deemed rejection under SGST and vice-versa



Cancellation of Registration – Sec 26

Reasons for cancellation

88

- Transfer of business or discontinuation of business
- Change in the constitution of business. (Partnership Firm may be changed to Sole Proprietorship due to death of one of the two partners, leading to change in PAN)
- Persons no longer liable to be registered under Schedule V (Except when he is voluntarily registered)
- Where registered taxable person has contravened provisions of the Act
- A composition supplier has not furnished returns for 3 consecutive tax periods/ any other person has not furnished returns for a continuous period of 6 months
- Non-commencement of business within 6 months from date of registration by a person who has registered voluntarily.
- Where registration has been obtained by means of fraud, willful statement or suppression of facts, the registration may be cancelled with retrospective effect.



Cancellation of Registration – Sec 26

89

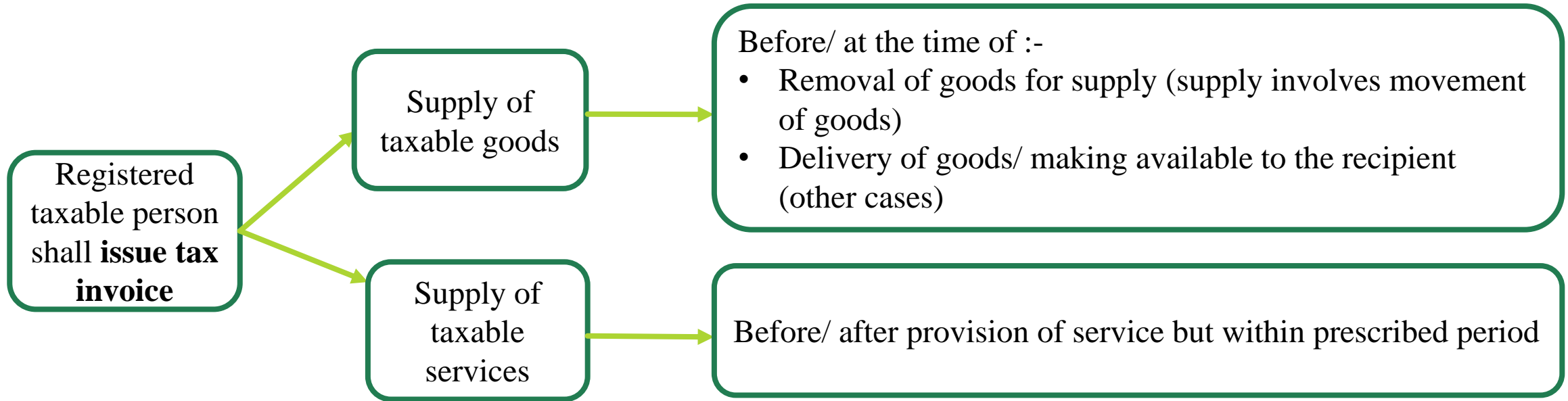
- Cancellation can be done by Proper Officer suo motu or on application made by the registered taxable person
- Retrospective cancellation in case of fraud, wilful misstatement or suppression of fact
- Liability to pay tax before the date of cancellation will not be affected
- Cancellation under CGST Act will be deemed cancellation under SGST Act and vice-versa
- Substantial penalty in case registration obtained with fraudulent intentions
- Notice of hearing and opportunity of being heard is a MUST before cancellation.
- Application for revocation or cancellation of registration shall be made within 30 days of date of service of cancellation order. (Sec 27)

Tax Invoice, Debit & Credit Notes



Tax Invoice – Sec 28

91



- a) Revised invoices may be issued against the invoice already issued during the period starting from the effective date of registration till the date of issuance of certificate of registration **within one month from date of issuance of certificate of registration.**
- b) Composition dealers to issue a bill of supply instead of tax invoice
- c) Tax invoice is deemed to include a document issued by an ISD u/s 21 and a revised invoice
- d) Amount of tax to be prominently indicated in all documents relating to assessment, tax invoice and other like documents (Sec 30)



Tax Invoice – Sec 28

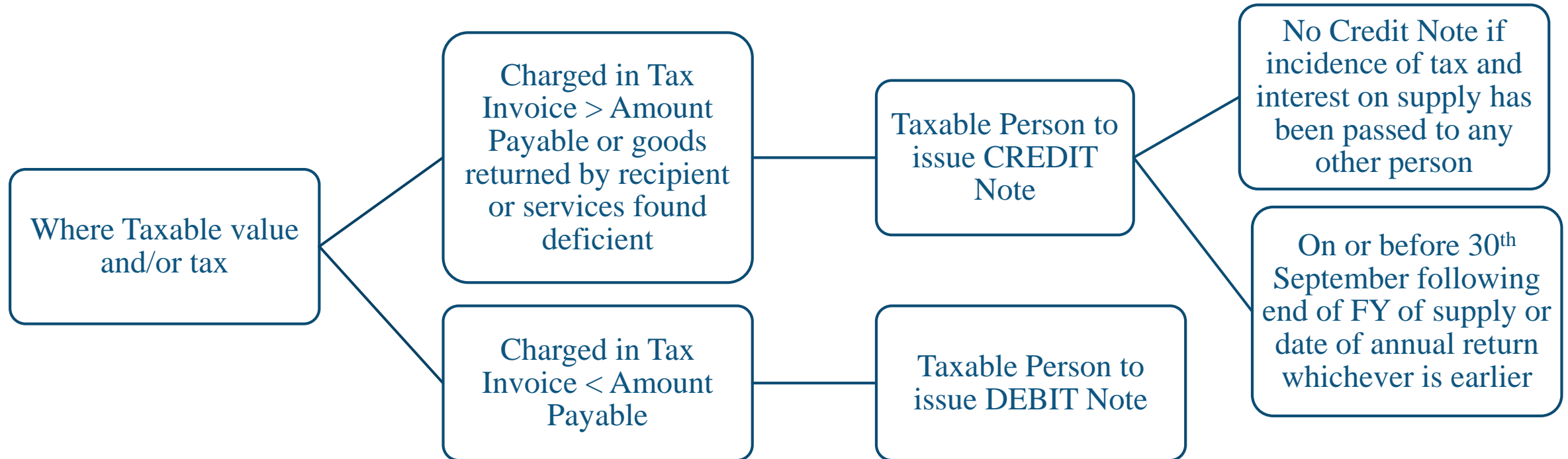
92

- e) For receipts of advances on supply of goods/ services: **Receipt voucher/ other prescribed document**
- f) In case of RCM, if goods/ services are received from an unregistered person, the registered taxable person shall issue an **invoice**
- g) In case of continuous supply of goods where successive statements of accounts/ payments are involved, **invoice shall be issued before or at the time of each such statements/ payment.**
- h) In case of continuous supply of services
 - **Due date ascertainable** – invoice to be issued before/ after payment is liable to be made by recipient but within prescribed period (whether or not payment received)
 - **Due date not ascertainable** – invoice to be issued before/ after each such time supplier receives payment but within prescribed period
 - **Payment linked to completion of an event** – invoice to be issued before/ after time of completion of that event but within prescribed period



Credit/ Debit Notes– Sec 31

93



* Registered taxable person issuing Debit/ Credit notes to declare its details in the return for the month during which such notes are issued /received or in the return for any subsequent month but not later than September following the end of F.Y. of supply, or the date of filing of the relevant annual return, whichever is earlier, and the tax liability shall be adjusted in the manner specified in this Act.

Returns



Returns under GST

95

RETURN FORM	PARTICULARS	DUE DATE	APPLICABLE FOR
GSTR1	Outward Supplies	10 th of the next month	Normal/ Regular Taxpayer
GSTR2	Inward Supplies	15 th of the next month	Normal/ Regular Taxpayer
GSTR3	Monthly return [periodic]	20 th of the next month	Normal/ Regular Taxpayer
GSTR4	Return by compounding tax payers	18 th of the month next to the quarter	Compounding Taxpayer
GSTR5	Return by non resident tax payers [foreigners]	a) 20 days after the end of a tax period or b) within 7 days after expiry of registration whichever is earlier.	Foreign Non-Resident Taxpayer
GSTR6	Return by input service distributors	13 th of the next month	Input Service Distributor
GSTR7	TDS return	10 th of the next month	Tax Deductor
GSTR8	Annual return	31 st December next FY	Normal/ Regular Taxpayer, Compounding Taxpayer
Ledgers	ITC ledger, cash ledger, tax ledger	On a continuous basis	



Outward & Inward Supplies – Return (GSTR 3)

96

Consolidated Return of Outward Supplies and Inward Supplies Return

OUTWARD SUPPLIES includes [goods &/or services]

Zero Rated Supplies & exports	Inter-state/Intra-state supplies & goods return	Debit notes, credit notes and supplementary invoice	Details to be furnished by 10th day succeeding the tax period
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INWARD SUPPLIES includes [goods &/or services]

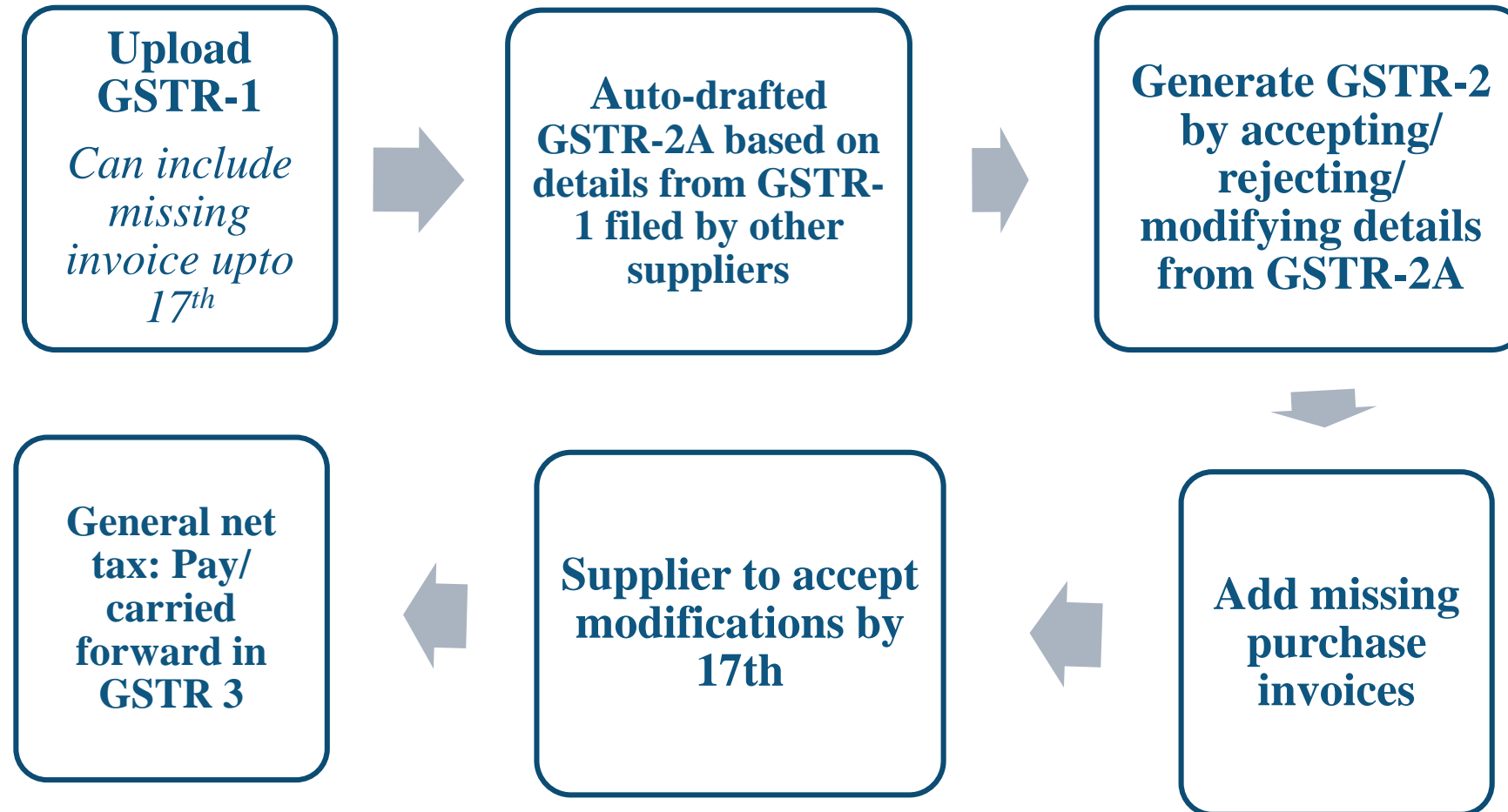
Credit notes, debit notes	Inward supplies of goods &/or services subject to RCM	Inward supplies of goods &/or services subject to IGST	Details to be furnished by 15th day succeeding the tax period
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Note: Non resident taxable person, ISD & registered person opting composition scheme - not required to file return of Inward Supplies



Returns Process

97





GST Returns – Important Points

98

- Every registered taxable person to furnish returns
- Submission of return - Through online mode
- Return to be filed even if there is no business activity during the return period
- Error or omission may be rectified - No specific provision for revision prescribed
- B2B transactions proposed on invoice level – GSTIN, Invoice No. & date, Value, Description, rate of tax and value of Tax.
- B2C invoice wise only for transaction above specified limit
- HSN Codes – Goods and Accounting Codes - Services
- Separate Tables for Debit / Credit Notes / Input Service Distributor Credit / TDS etc.
- Common e-Return for CGST, SGST & IGST



Matching

Details of inward supply furnished by a receiver to be matched with details of output supplies furnished by corresponding supplier

Credit details of matching supplies only to be accepted - manner to be prescribed

Reversal

Details not matching resulting in excess to be communicated to both supplier & receiver

Details communicated but not rectified by supplier to be added to the output tax liability of recipient

Duplication resulting in excess also to be added to output tax liability of recipient

Reclaim

Recipient entitled to reduce output tax liability if supplier rectifies the return within prescribed timelines



First Return

Every registered taxable person who has made outward supplies between date of liability to register to date of grant of registration

Filed after grant of registration

Annual Return

Every registered dealer to furnish annual return by 31st December except:

- ISD
- casual taxable person
- Person deducting tax
- Non-resident taxable person

Reconciliation statement to be furnished along with the statutory audited report and annual return

Final Return

Every registered dealer opting for cancellation to furnish a final return To be furnished within 3 months from date of cancellation or date of cancellation order, whichever is later



GST Return – Important Points

101

RECTIFICATION

Rectification allowed till September 30 or date of filing of annual return

NON FILLING

Cancellation of registration for non filing of returns for 3 consecutive tax periods

BLACK LISTING OF DEALERS

Compliance rating to be introduced. Fall below the prescribed level would lead to blacklisting

PENALTY- NON FILING OF RETURN

Late Fees: INR 100 per day subject to a maximum of INR 5,000

Late Fee - Annual Return INR 100 per day subject to a maximum of 0.25 % of the aggregate turnover of the defaulter

Payment Process under GST



Types of Payments under GST

103

- For Supply of Inter-state / Intra State: -
 - CGST = A/c of the Central Govt.
 - SGST = A/c of concerned State Govt.
 - IGST = Components of both CGST & SGST

- Tax Deducted at Source (TDS) & Tax Collected at Source (TCS)

- Additionally wherever applicable: Interest, Penalty, Fees and Any other payment



Persons liable for Payment

104

- Generally, Supplier is liable to pay the tax
- In Other cases like:
 - Imports and other notified supplies, liabilities may be imposed on the recipient under the reverse charge mechanism (RCM)
 - By third person for example in case of :
 - ✓ E-Commerce = Operator is responsible for TCS
 - ✓ Contractual Payments = Government / Other notified entities are responsible for TDS



Mode of Payment

105

- Principal tax liability: Debit to Electronic Credit Ledger of the Taxpayer maintained on the “Common Portal – Only”;
- Interest, Penalty and Fees cannot be paid by debiting the Electronic Credit Ledger;
- Cash may be deposited by making E-Payment (Internet Banking, Credit Card – pre registration with the portal, Debit Card, RTGS / NEFT) at any authorized branches of Banks to accept GST payments.
- The cash deposited would be as a debit to the Electronic Cash Ledger of the Taxpayer maintained on the “Common Portal”.



- Input tax credit balance uploaded from return filed under earlier laws would be auto populated in this ledger;
- ITC would be of stock of Inputs, Semi-finished goods & Finished goods on the relevant date, from which Taxpayer becomes liable;
- ITC on inward supplies from Registered Tax Payers;
- ITC distributed from Input Service Distributor (ISD);
- Permissible ITC on stock held upon conversion from composition scheme;
- ITC eligible on payment made on reverse charge basis.



Concept of Electronic Focal Point Branch (E-FPB)

107

- E-FPB are branches of authorized banks designated to collect payment of GST.
- Each authorized bank will nominate only one branch as its E-FPB for pan India Transactions.
- The E-FPB will have to open accounts under each major head for all governments.
- Total 33 accounts (one each for CGST, IGST and one each for SGST for each State/UT with legislature) will have to be opened.
- Any amount received by such E-FPB towards GST will be credited to the appropriate account held by such E-FPB.
- For NEFT/RTGS Transactions, RBI will act as E-FPB



Time of Payment

108

On occurrence of any one of the following events, GST payment would become due (earliest of the following):

- Receipt of advance
- Issuance of Invoice
- Completion of Supply



Due Date of Making Tax Payment

109

- CGST/ SGST/ IGST Payment Date = 20th of the Succeeding Month
 - Normal Taxpayer on Monthly Basis
 - Composition Taxpayer on Quarterly Basis
- TDS/ TCS payment on 10th of the succeeding month on monthly basis
- Credit to the account of Government will be considered as date of deposit of Tax.



Payment Process

110

- Only electronically generated Challan from GSTN for all 3 modes of payment
- Unique 14-digit Common Portal Identification Number (CPIN) for each challan
- Challan can be generated by Taxpayer, authorized representative or Departmental officers
- Single challan for all four types of taxes
- System of electronic Personal Ledger Account (cash ledger) on GSTN for each taxpayer
- RBI to act as aggregator and anchor of flow of fund and information about receipts
- Automation and transparency in flow of information
- E-scroll (statement of tax payment) facility will be provided by RBI



Payment Process

111

- Use of only system generated challans – no re-digitization in the entire work flow
- CPIN to be generated by GSTN - to be used as a key identifier up till receipt by Bank
- CIN to be generated by collecting Bank - to be used as a key identifier
- Accounting Authorities to play a paramount role in reconciliation
 - Accounting on the basis of RBI data,
 - Reconciliation on the basis of GSTN and bank data



Reconciliation of Receipts under Payment Process

112

- Use of only system generated challans – no re-digitization in the entire work flow
- CPIN to be generated by GSTN - to be used as a key identifier up till receipt by Bank
- CIN to be generated by collecting Bank - to be used as a key identifier
- Accounting Authorities to play a paramount role in reconciliation
 - Accounting on the basis of RBI data,
 - Reconciliation on the basis of GSTN and bank data

Refunds



Refund – Important Points – Sec. 48

114

- In case of refund arising from earlier law, it will be adjudicated as per earlier law.
- No refund shall be granted if the amount is less than Rs.1000/-
- Refund application has to be made within 2 years from the relevant date.
 - ❖ Time limit of 2 years not applicable on refund of balance in electronic cash ledger.
 - ❖ Such refund can be claimed only in returns furnished u/s 34
- Refund allowed only in cases of:
 - ❖ Exports (including zero-rated supplies)
 - ❖ Credit accumulation as a result of inverted duty structure on output supplies other than nil rated and fully exempt



Situation of Refund	2 years from below Relevant Date
On account of excess payment	Date of payment of GST
On account of Export of Goods	Date on which proper officer gives an order for export known as “LET EXPORT ORDER
On account of Export of Services	Date of BRC
On account of finalization of provisional assessment	Date of the finalization order
In pursuance of an appellate authority’s order in favour of the taxpayer	Date of communication of the appellate authority’s order



Refund – Situations & Relevant Time Period

116

Situation of Refund	2 years from below Relevant Date
On account of no/less liability arising at the time of finalization of investigation proceedings	Date of communication of adjudication order or order relating to completion of investigation
On account of accumulated credit of GST in case of a liability to pay service tax in partial reverse charge cases	Date of providing of service
On account of refund of accumulated ITC due to inverted duty structure	Last day of the financial year



- Documents Required for Application of Refund
 - Documents evidencing tax payments required to be enclosed with the refund application
 - Copy of proof of deposit of tax & invoices & Documents evidencing export
 - A CA Certificate may be called for evidencing that the tax burden has not been passed on to the buyer. (“unjust enrichment”)

- Interest on Refund
 - Refund application to be processed within 60 days from the date of application
 - For refunds made after 60 days from date of application – interest at the rate as may be recommended by the GST Council.



Withholding of Refund by Department

118

- If Taxpayer has not submitted his return(s)
- If any dues are pending to be paid by the Taxpayer or if cases are pending with the Appellate Authority / Tribunal / Court for Tax, Interest or Penalty
- Refund will be on hold if Commissioner is of the opinion that grant of refund will adversely affect on revenue in case appeal is filled by either party however opportunity of hearing will be granted.
- Further refund will be adjusted against any dues of taxes, interest , penalties, fees of existing regime and GST tax regime.
- On receipt of refund application and on receipt of all documents, 90% provisional refund will be granted. The balance amount will be granted within 60 days from the date of application



Withholding of Refund by Department

119

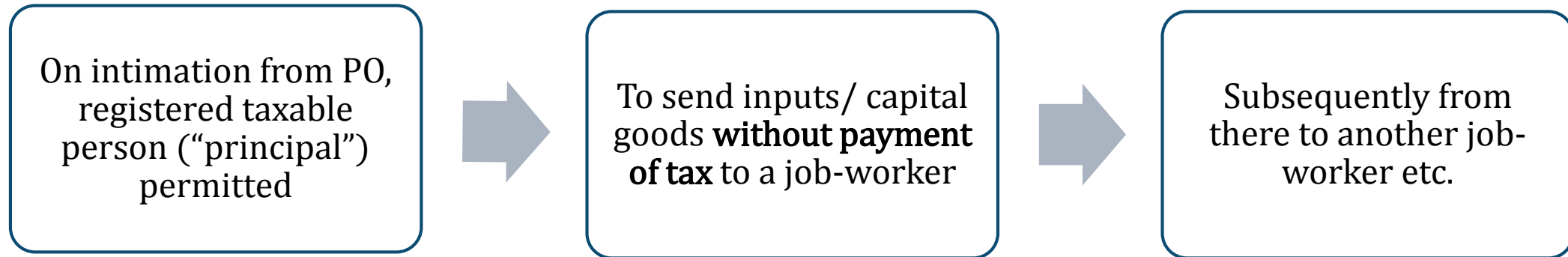
- If Taxpayer has not submitted his return(s)
- If any dues are pending to be paid by the Taxpayer or if cases are pending with the Appellate Authority / Tribunal / Court for Tax, Interest or Penalty
- Commissioner / Board can withhold refund if granting such refund will adversely affect revenue as per Section 38(9) of Model GST Law

Job Work



Sec. 55: Special procedure for removal of goods for certain purposes

121



Principal, after completion of job-work or otherwise, can :-

- Bring back inputs/ capital goods (other than moulds and dies, jigs and fixtures, or tools) to any place of business without payment of tax for further supply **within one year/ three years of their being sent out**
- Directly supply inputs/ capital goods (other than moulds and dies, jigs and fixtures, or tools) from job-worker premises on payment of tax within India or without payment of tax for export **within one year/ three years of their being sent out**



Sec. 55: Special procedure for removal of goods for certain purposes

122

- Direct supply from job-worker premises not permitted unless such premise is declared as an additional place of business of the ‘principal

- Direct Supply is permitted if:
 - Job-worker is registered under the GST laws
 - Principal is engaged in supply of certain goods (to be notified)

- ‘Principal’ is responsible for payment of tax and accountability of the goods.

- If inputs/ capital goods (other than moulds and dies, jigs and fixtures, or tools) are **not received back** by the principal within one or 3 years of their being sent out
 - Deemed that such inputs/ capital goods had been supplied by principal to job-worker on the day when they were sent out

- Any waste/ scrap generated during job-work may be supplied by job-worker directly from his place of business on payment of tax by job-worker if he is registered. If job-worker is unregistered, Principal will have to pay tax

E-Commerce



- “Electronic Commerce” means supply of goods and/ or services including digital products over digital or electronic network
- “Electronic commerce operator” means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce
- Section 8(4) provides that categories of services may be notified where tax shall wholly be paid by e-commerce operators. All provisions of the GST law shall apply to such e-commerce operators as if such persons is liable to pay tax
- Every e-commerce operator, not being an agent, has to collect 1% of net value of taxable supplies where consideration is to be collected by the operator
 - Net value = **aggregate value of goods/ services** [other than those notified u/s 8(4)] made during the month **less returns** during the month



Compliances for e-commerce operators

- TCS to be paid to credit of appropriate government;
- To furnish a statement of such outward supplies of goods and / or services, electronically
- Both payment and statement to be made/ filed within 10 days from the end of the month in which the collection is made
- Statement to contain details of amounts collected, supplier-wise in respect of all supplies effected through the website / url of the e-commerce operator during the calendar month:

Tax credit for the concerned supplier

- Amount remitted by e-commerce operator treated as tax paid by the supplier
- Supplier eligible to claim credit of the same in the electronic cash ledger.



Verification of the statement filed by the e-commerce operator

- details of the supplies furnished by the e-commerce operator to be compared with corresponding outward supplies;
- Discrepancies, if any, to be communicated to both
- Discrepancy, if not rectified by supplier, to be added to output liability of supplier for the month succeeding the one in which the same was communicated.

Additional powers to the tax office

- Any officer not below Joint Commissioner may call for details like supplies of goods and / or services, stock of goods etc. from supplier through notice
- Details to be furnished within 15 working days from the date of notice.
- For non-compliance, penalty of upto Rs. 25,000

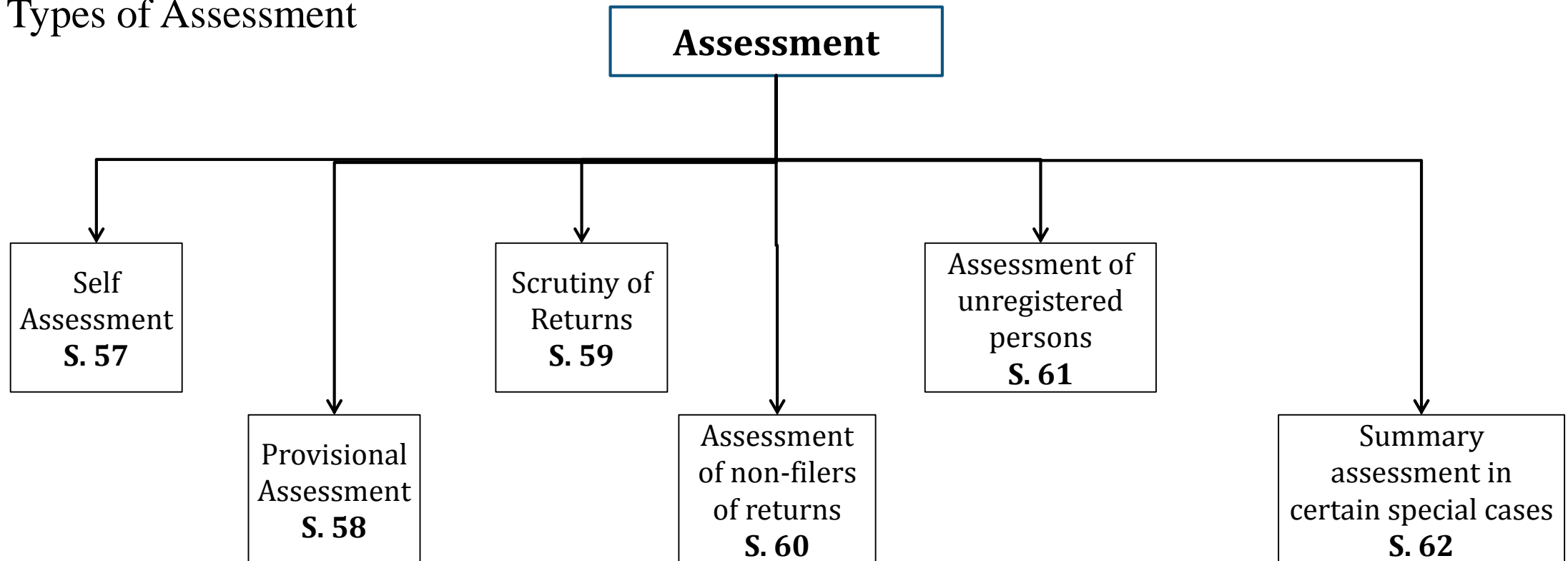
Assessments



Assessment : Meaning & Types

128

- Assessment means determination of tax liability
- Types of Assessment





Self Assessment

129

- Every Registered taxable person
- Himself assesses the tax payable
- Furnish the return for each tax period



Provisional Assessment

130

- Ambiguity in Value & rate of tax
- Execution of security bond as may be prescribed
- Officer may permit to pay tax provisional basis.
- Final assessment to take place within six months
- The balance payable or refund due to be settled



Scrutiny of Returns

131

- Scrutinize the return to verify the correctness
- Discrepancy noticed to be intimated
- On submission of acceptable explanation: No further action required
- Unsatisfactory explanation: Appropriate action will be initiated



Best Judgement Assessment

132

- Also called Assessment for Non-filers of Returns

- Registered taxable person
 - fails to file returns and
 - fails to respond to notice

- Assessed by Proper Officer based on the information available to the best of his judgment

- On filing of return within 30 days on receipt of assessment order
 - Best Judgment order deemed to be withdrawn



Assessment of Unregistered Person

133

- Taxable person fails to take registration
- Assess to the best of his judgment
- Serving of show cause notice & opportunity of personal hearing
- The assessment to be made with in 5 years from the due date for filing annual return



Summary Assessment

134

- Having evidence and delay may adversely effect the revenue
- In the interest of revenue and with due permission
- Application filed or on his own motion Addl. / Joint Commissioner
- If the order is erroneous; Addl./Joint Commissioner may withdraw such order

Audit under GST



What is Audit?

136

- Section 2(14): “Audit” means :
 - examination of records, returns and other documents maintained or furnished by the taxable person under this Act or rules made thereunder or under any other law for the time being in force to verify, inter alia,
 - the correctness of turnover declared, taxes paid, refund claimed and input tax credit availed, and
 - to assess his compliance with the provisions of this Act or rules made thereunder



Kinds of Audits under GST

137

Audit by tax
authorities

Special Audit

Annual Audit
by CA/CWA

CAG Audit



Audit by tax authorities

138

- Commissioner of CGST / SGST or any officer authorized
- Audit of taxable person
- At the place of taxable person or in their office
- Guidelines for audit
- Taxable person to provide the required information & facility
- Result of audit to be intimated and further action will be taken



Special Audit

139

- Proceedings pending before Dy. / Asst. Commissioner
- Nature & complexity of the case
- In the interest of revenue
- Correct value and eligible ITC
- Direct the taxable person to be subject to special audit
- Nominated by the Commissioner of CGST / SGST
- Time limit & audit conclusion



- As per Section 53, every registered taxable person whose turnover during a financial year crosses the threshold limit shall get his accounts audited by
 - Chartered Accountant or
 - Cost Accountant

- Contents of the audit report

- Other particulars and reconciliation

- Time limit



Power of CAG to call for information

On the request of CAG, the PO shall furnish information, records and returns required for the conduct of audit

Demand & Recovery



Determination of tax not paid or short paid or erroneously refunded

143

Section 66: Applicable in case of non-payment or short payment of tax without fraud or willful-misstatement.

Section 67: Applicable in case of non-payment or short payment of tax with fraud or willful-misstatement

Proper officer to issue a Show Cause Notice in both cases

Mere statement containing the non-payment or short payment can be served for subsequent periods instead of detailed show cause notice, only if the grounds raised are identical to the ones raised in the previous year.

Time limit for the proper officer to issue notice – at least 3 months prior to issuance of order

Time limit for the proper officer to issue notice – at least 6 months prior to issuance of order

Time limit for the proper officer to issue an order is within **three years from the due date / actual date of filing of annual return.**

Time limit for the proper officer to issue an order is **within five years from the due date / actual date of filing of annual return**



Determination of tax not paid or short paid or erroneously refunded

144

Section 66:	Section 67:
No issue of Show Cause Notice where:-	
Voluntary payment of Tax + Interest as per section 45 made before issue of notice either <ul style="list-style-type: none">• As per the ascertainment of the defaulter or;• As per the ascertainment of the proper officer;	Voluntary payment of Tax + Interest as per section 45 + 15% of tax as penalty made before issue of notice either <ul style="list-style-type: none">• As per the ascertainment of the defaulter or;• As per the ascertainment of the proper officer;
However amount paid as per the ascertainment of the defaulter falls short, the Department can issue a notice for the tax still payable.	



Determination of tax not paid or short paid or erroneously refunded

145

Section 66:	Section 67:
Case where all proceedings are deemed to be concluded after issue of SCN:	
Payment of Tax + Interest as per section 45 made within 30 days of issue of notice. No penalty	Payment of Tax + Interest as per section 45 + 25% of tax as penalty made within 30 days of issue of notice
Payment of Tax + Interest as per section 45 +(10% of tax or Rs.10,000 w.e.h) as penalty made after 30 days of issue of notice	Payment of Tax + Interest as per section 45 + 50% of tax as penalty made within 30 days of communication of order

w.e.h means Whichever is Higher



General provisions relating to demand of tax: Sec 68

146

- Where the service of a notice or an issue of the order has been stayed by an order of a Court or Tribunal, such period of stay shall be excluded from the period of 5 or 3 years accordingly.
- When a notice has been issued under clause (1) of sub-section (B) but the charges of fraud, suppression and misstatement of facts to evade tax are not sustainable or not established, the tax is to be determined only for the normal period of 3 years.
- Where any order is required to be issued in pursuance of direction of Tribunal/ Court, such order shall be issued within 2 years from date of communication of such order
- Opportunity of personal hearing has to be granted when requested in writing by the person chargeable with tax or where any adverse decision is proposed to be taken against the person.
- Personal hearing can be adjourned when sufficient cause is shown in writing. However, such adjournment can be granted for a maximum of 3 times



General provisions relating to demand of tax: Sec 68

147

- The relevant facts and basis of the decision shall be set out in the order.
- The amount of tax + interest + penalty shall not be more than what is mentioned in the order and the grounds shall not go beyond what is mentioned in the notice.
- When the Tribunal/ Court/ Appellate authority modifies the amount of tax, correspondingly interest and penalty shall also be modified.
- Interest shall be payable in all cases whether specifically mentioned or not.
- If the order is not issued within the time limits of 3/5 years then the proceedings shall be deemed to be concluded
- Where any amount of tax in accordance with a return furnished under section 34 remains unpaid, either wholly or partly, or any amount of interest payable on such tax remains unpaid, the same shall be recovered under the provisions of section 72.



Tax collected but not deposited with the Central or State Government: Sec 69

148

- Any amount collected as tax but not remitted to the Central/State Government is required to make the payment forthwith regardless of whether the related supplies are taxable or not.
- Proper Officer has to serve a notice
- The person is permitted to make representation against the notice served on him. The person is given an opportunity of being heard where a request is made by him in writing.
- The Proper Officer shall determine the amount due from the person and pass an order within one year from the date of issue of notice.
- There is no time limit to commence proceedings under this section.
- Under the present tax laws, similar provision exists in Central Excise Law(11D) , Customs Law (28B) as well as Service Tax Law (73A).
- Similar provision also exists in all most all the state VAT Acts



Tax wrongfully collected and deposited with the Central or a State Government: Sec 70

149

- Taxable person has paid CGST/SGST considering a transaction to be intra-state supply
 - Subsequently held to be inter-state supply
 - Allowed refund of CGST/SGST paid, subject to conditions
- A taxable person who has paid IGST on a transaction considered by him to be an inter-state supply
 - Subsequently held to be an intra-state supply
 - Not be required to pay any interest on the amount of CGST/SGST payable.
- As set off of CGST/SGST is not allowed against IGST, in case the supplier files refund application then, he may not get the refund due to the application of the principle of unjust enrichment. Furthermore, the subsequent payment of integrated GST may become a cost to the supplier who may not be able to recover the same from its receiver



Initiation of recovery proceedings: Sec 71

150

- Amount payable in pursuance of an order passed shall be paid within a period of **ninety days** from the date of service of order
- In the interest of revenue, PO may require the taxable person to make such payment within a shorter period
 - Reasons to be recorded in writing



Recovery of Tax : Sec 72

151

Recovery modes to collect/recover any amount payable under GST laws but not paid:

- Adjust demand from any money under the control of the PO/ any specified officer to the taxpayer.
- Detain and sell any goods belonging to the taxpayer and under the control of the Proper Officer .
- Recovery from any other person who owns money to the tax payer by way of issue of notice
- Detain any movable or immovable property belonging to or under the control of the taxpayer to recover the amount due and sell it after 30 days in case of non-recovery;
- Prepare a Recovery Certificate specifying the amount due and send it to the concerned district Collector in respect of the tax payer. The Collector shall then proceed to recover the amount specified there under from the tax payer as if it were an arrear of land revenue.
- File an application to the appropriate Magistrate, who shall then proceed to recover the amount specified thereunder from the taxpayer as if it were a fine imposed by him.



Bar on recovery proceedings: Sec 73 & Payment of tax and other amount in instalments: Sec 74

152

- Sec 73: No recovery proceedings are to be initiated against the order of demand against which appeal is filed
- Sec 74: If a tax payer **makes an application** to either **extend the time for payment or allow payment of any amount due** (other than the amount due as per the liability self-assessed in any return) in **monthly installments** (not exceeding 24), the jurisdictional Commissioner/Chief Commissioner may, for reasons to be recorded in writing, allow to do so **subject to payment of interest** with such restrictions and conditions as may be prescribed.
- Default in payment of **any one installment** on its due date would result in the whole outstanding balance payable on such date becoming due and becoming payable forthwith and liable for recovery.



Transfer of property to be void in certain cases: Sec 75

153

- Where a person, after any amount has become due from him,
 - (i) creates a charge on or
 - (ii) parts with his property by way of sale, mortgage, exchange or any other mode of transfer in favour of any other person with the intention of defrauding the government revenue,

Charge or transfer shall be void as against any claim in respect of any tax or other sum payable by such tax payer.

- However, this provision shall not affect any such charge or transfer if it is made
 - (i) for adequate consideration and without notice of the pendency of proceedings against/ amount(s) payable by the taxpayer, or
 - (ii) with the previous permission of the tax officer



Tax to be first charge on property: Sec 76

154

- Amount payable by a taxable person on account of tax, interest or penalty shall be the first charge on the property of such person
- This provision also covers any other person since there are many provisions in the CGST Act, which provide for creating a liability or recovery from a person other than the taxable person like a legal representative, member of partitioned HUF etc.



Provisional attachment to protect revenue in certain cases: Sec 77

155

- **During the pendency of any proceedings**, the jurisdictional Commissioner may order provisional attachment of any property, including bank account, belonging to the taxpayer
 - Manner prescribed
 - Order to be in writing

If he is of the opinion that such **provisional attachment** is necessary for the purpose of protecting the interest of the Government revenue.

- Such provisional attachment shall cease to have effect after the expiry of 1 year from the date of the provisional attachment order.



Continuation and validation of certain recovery proceedings: Sec 78

156

Notice is served for recovery of government dues from a taxable person and upon any appeal, revision application there is :-

- Enhancement of Govt. dues
 - Commission shall serve another notice on the taxable person, in respect of the enhanced amount.
 - If notice of demand is already served on taxable person before such appeal, revision or any other proceedings, then recovery of enhanced amount would be continued from the stage at which the initial proceedings stood. There is no need to issue a fresh notice of demand to the extent already covered by earlier notice.



Continuation of certain recovery proceedings: Sec 78

157

- Reduction of Govt. dues
 - Commissioner not required to serve fresh notice of demand upon the taxable person. He shall intimate such reduction to taxable person and also to appropriate authority with whom recovery proceedings are pending
 - Any recovery proceedings are initiated prior to the disposal of such appeal, revision application or other proceeding may be continued in relation to the amount so reduced from the stage at which such proceedings stood immediately before such disposal

Inspection, Search, Seizure & Arrest



Power of Inspection, Search & Seizure : Sec 79

159

For initiating the proceedings Joint Commissioner or any superior officer should have a 'reason to believe' that the assessee has done any of the following:

suppressed any transaction of supply of goods or services or

supply information relating to stock in hand or

claimed excess input tax credit or

has contravened any of the statutory provisions of this act or rules made thereunder

Then the Proper Officer can:

Inspect: any place of business of the assessee who has evaded the tax or of the transporter who transported such tax evading goods or godown/warehouse operator in which such tax evading goods or accounts relating thereto has been stored.

Search & Seize: the goods or any documents or books or things which are liable for confiscation and which will be instrumental in the proceedings under this act during the enquiry period

Seal or Break: open the door of any premises, storage, box or receptacle where goods, books of accounts etc. are concealed and when access to the same is denied to the said officer



Power of Inspection, Search & Seizure : Sec 79

160

- Custodian of seized documents is entitled to take photocopy or extract, in presence of GST officers.
- Seized goods shall be released on execution of bond/ furnishing security of such quantum as may be prescribed or on payment of applicable tax, interest and penalty
- The officer is bound to issue the notice within 6 months of such seizure else seized goods are liable to be returned
 - Competent authority may extend the notice period of 6 months for a further period of 6 months for sufficient causes
- Disposal permitted of goods which are of perishable or hazardous nature, or of depreciating value by passage of time or there is constrained for storage immediately after the seizure.
- Officer to maintain inventory of Goods seized.
- Provisions of Code of Criminal Procedure, 1973 relating to search and seizure to apply and powers conferred to 'Magistrate' to be possessed by CGST/ SGST Principal Commissioner or Commissioner.



Power of Inspection & Arrest : Sec 80 & 81

161

- The Central Govt. or State Govt. may require the person in charge of the conveyance carrying any consignment of goods exceeding the specified value to carry prescribed documents which need to be produced for verification when vehicle is intercepted by Proper Officer.
- The person committing an offence of tax evasion or repletion of tax evasion (as provided u/s 92) may be arrested by officer on authorization from the Commissioner of CGST/SGST
- The person so arrested is required to be produced before magistrate within 24 hours in case of cognizable offences.
- In case of non-cognizable and bailable offences the Assistant/Deputy Commissioner may grant the bail.



Power to issue Summons & Access to Business premises : Sec 82 & 83

162

If deemed fit, any person may be summoned by authorized CGST/ SGST Officers either to give evidence or to produce a document or any other thing in any inquiry as considered necessary.

For the purposes of carrying out any audit, scrutiny, verification and checks as may be necessary to safeguard the interest of revenue authorized CGST/ SGST Officers may access any business premises to inspect: books of a/c documents, computers, computer programs, computer software etc. and such other things as he may require and which may be available at such premises

On demand by the audit officer/ CA/ CMA nominated by the Dept. for conducting the audit, the person needs to produce the records related to GST, trial-balance, audited financial reports, IT Reports etc. within 15 working days from the date of demand.

All officers of other governmental dept. like Police, Revenue, Customs etc. are required to assist the CGST/SGST officers, if they are called upon to do so by Commissioner of CGST/SGST (sec 65).

Offences & Penalties



Offences & Penalties: Sec 85

164

Nature of Offence

- Supplies any goods without invoice
- Issues invoice without supply of goods
- Collects tax amount but does not pay the same into the appropriate government treasury
- Collects tax in contravention of the Act
- Fails to deduct or collect tax and also fails to pay it to the appropriate governments
- Takes input tax credit without receipt of goods
- Obtains refund by fraud
- Manipulates financial records
- Fails to get registered
- Gives false information
- Transports taxable goods without documents
- Fails to maintain books of accounts.
- Fails to provide information and required documents.
- Takes or distributes credit in violation
- Obstructs or prevents a officer in discharge of duty
- Suppresses turnover
- Tampers or destroys evidence
- Disposes or tampers goods detailed or seized etc

Prescribed Penalty

Higher of following:
1. Rs. 10,000/-; or
2. An amount equivalent to the amount of tax evaded/not deducted/collected or input tax credit availed or distributed or refund claimed in the matter



Nature of Offence	Prescribed Penalty
<ul style="list-style-type: none">Registered taxable person repeatedly making short payment of tax.Short payment of taxes in 3 returns during any 6 consecutive tax periods would be deemed to be an offence committed 'repeatedly'.	<p><u>Higher of following:</u> 1. Rs. 10,000/-; <u>or</u> 2. 10% of tax short paid</p>
<ul style="list-style-type: none">Applicable <u>to any person</u> who aids or abets any of the offences specified in clauses (i) to (xxi) of sub-section 85(1); orWho acquires possession of, or deals with any goods which he knows or has reason to believe are liable to confiscation;Receives any supply of services in contraventionFails to appear before GST officer to honour the summons;Fails to issue invoice or record it	<p><u>Rs. 25,000/-</u></p>



General Discipline related to Penalty : Sec 87

166

- No Penalty for minor breach/mistake where the tax involved is less than Rs. 5,000/- and are easily rectifiable.
- No penalty will be imposed without issuing SCN or giving personal hearing
- Penalty cannot be levied suo-moto on contravention. Reasonable explanation needs to be provided by the Officer
- For voluntary disclosure of non-payment of tax – consideration while levying penalty
- S-87 will not apply, where the penalty is expressly prescribed under the Act as either a fixed sum or expressed as a fixed percentage



Detention, seizure and confiscation of goods and/ or conveyances: Section 89 & 90

167

Sec No.	Nature of Offence	Repercussion
89	<p>Applicable to any person who:</p> <ul style="list-style-type: none">• Transports or stores any goods while in transit in violation of provision of Act; or	<p>Detention/ seizure of goods and conveyance used for transport of goods. Can be released on</p> <ul style="list-style-type: none">• payment of tax and penalty(100% of tax) where owner comes forward OR• In all other cases, Payment of tax and penalty (50% of value of goods-tax paid)
90	<p>Applicable to any person who:</p> <ul style="list-style-type: none">• Supplies/receives goods in contravention of any of the provisions of this Act leading to evasion of tax; OR does not account for any goods on which he is liable to pay tax OR supplies goods liable to tax without having applied for the registration OR contravenes provisions of this Act with intent to evade payment of tax OR uses conveyance as means of transport for carriage of taxable goods in contravention of this Act	<p>All such goods and/ or conveyance shall be liable to confiscation and the person shall be liable to penalty under section 85</p> <p>Option to pay fine in lieu of confiscation</p>

Prosecution and Compounding of Offences



PROSECUTION – Sec 92

- Provides for power to initiate legal proceedings against the offenders who commits any of the 13 enlisted offences
- Offences include clandestine removal of goods, retention of collected taxes beyond 3 months,

Amount of Tax Evaded	Period of Maximum Imprisonment & Fine
Exceeding Rs. 250 Lakhs	5 Yrs. and Fine
Exceeding Rs. 100 Lakhs upto Rs. 250 Lakhs	3 Yrs. and Fine
Exceeding Rs. 50 Lakhs upto Rs. 100 Lakhs	1 Yr. and Fine
Commits/ abets in the commission of certain specified offences	Imprisonment up to 6 months and/ or fine
In case of repetition of Offence	5 Yrs. and Fine

without any specific and special reason as recorded in the order by the court the term of the **imprisonment** should **not** be **less than 6 months**.

All offences are non-cognizable and bailable except the cases where tax evasion is more than Rs. 100 Lakhs.



Prosecution & Compounding of Offences :: Sec 93, 94, 95 & 96

170

- Offences under this Act to be tried only before the Court of Judicial Magistrate First Class or above only with prior approval of designated authority. (Sec 93)
- Obligation cast on the offender to prove the absence of *mens-rea*, else its implied that offence committed intentionally with guilty mind. (Sec 94)
- Statement recorded during the course of investigation or enquiry relevant to prove the truthfulness of the facts when (Sec 95):
 - Made by person not available during proceedings
 - court admits that statement as evidence after examining the person making the statement as witness.
- Offence committed by Company : person-in-charge such as Director, Secretary, Manager etc., considered guilty and liable for punishment along with company
- Offence Committed by Partnership Firm, Limited Liability Partnership, Hindu Undivided Family or Trust : Partner/ Karta of Family/ Managing Trustee of the Trust deemed to be guilty.
 - If proved that person was unaware or took suitable precautions to prevent offence – No punishment



Compounding of Offences : Sec 97

171

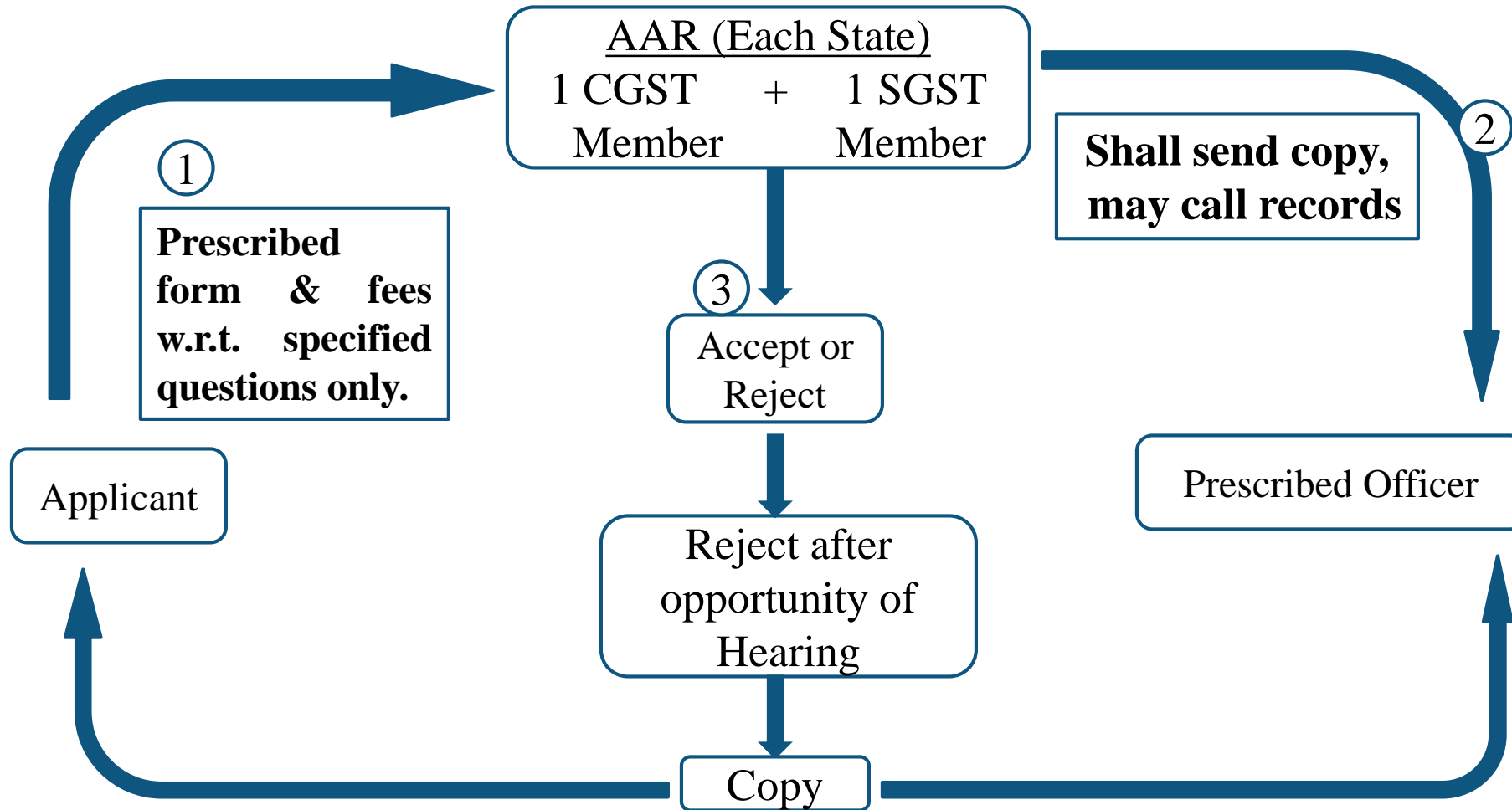
- Compounding is available only one time in respect of certain specified offences
- Compounding is not available for the subsequent time in respect of other offences and offences under SGST & IGST, if in the previous compounding case, value of supplies exceeds Rs. 1 Crore.
- Compounding is not permissible in case the offence is also an offence under Narcotics Act, FEMA or any other law like IPC etc.
- A person convicted for an offence under this Act cannot apply for compounding
- A person accused of committing certain specified offences cannot apply for compounding
- Minimum Compounding amount = Rs. 10,000/- or 50% of tax involved whichever is higher.
- Maximum compounding amount = Rs. 30,000/- or 150% of tax whichever is higher

Advance Ruling



Application for Advance ruling – Sec: 113,114 & 116

173

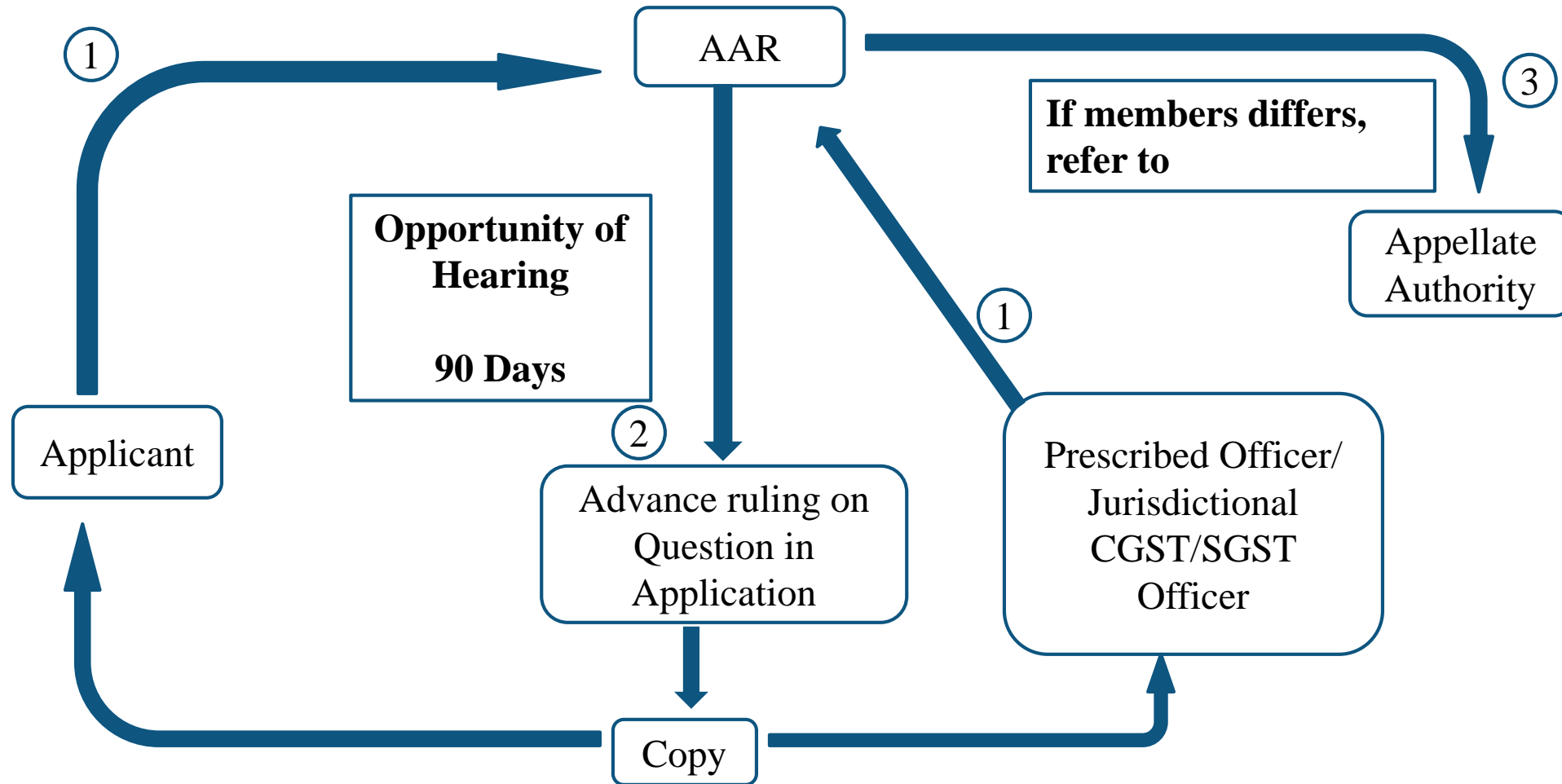


* Not to admit if already before/decided by any Adjudicating or Appellate Authority.



Procedure for Advance ruling – Sec: 117

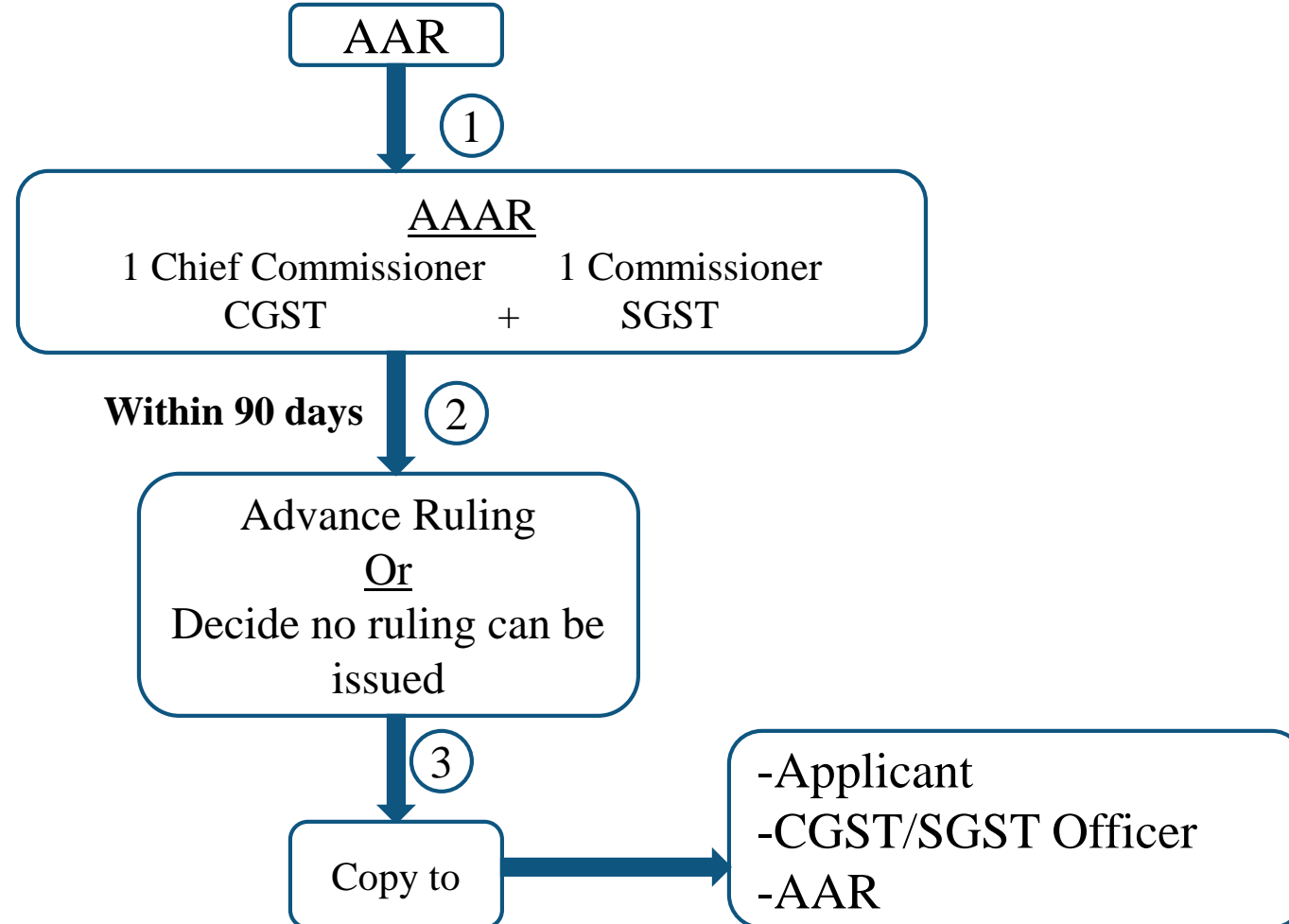
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Appellate Authority for Advance ruling – Sec: 115 & 117

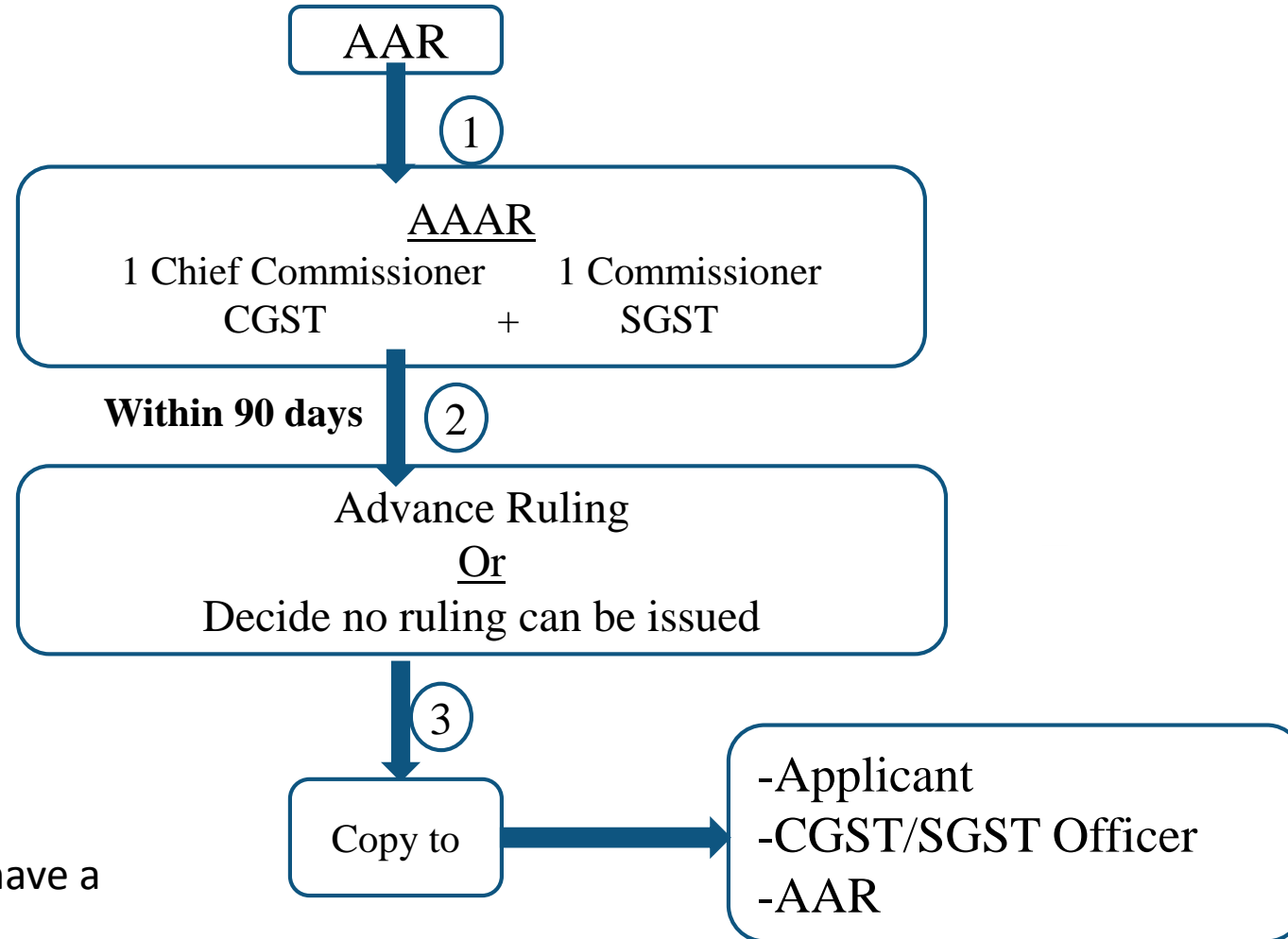
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Appellate Authority for Advance ruling – Sec: 115 & 117

176

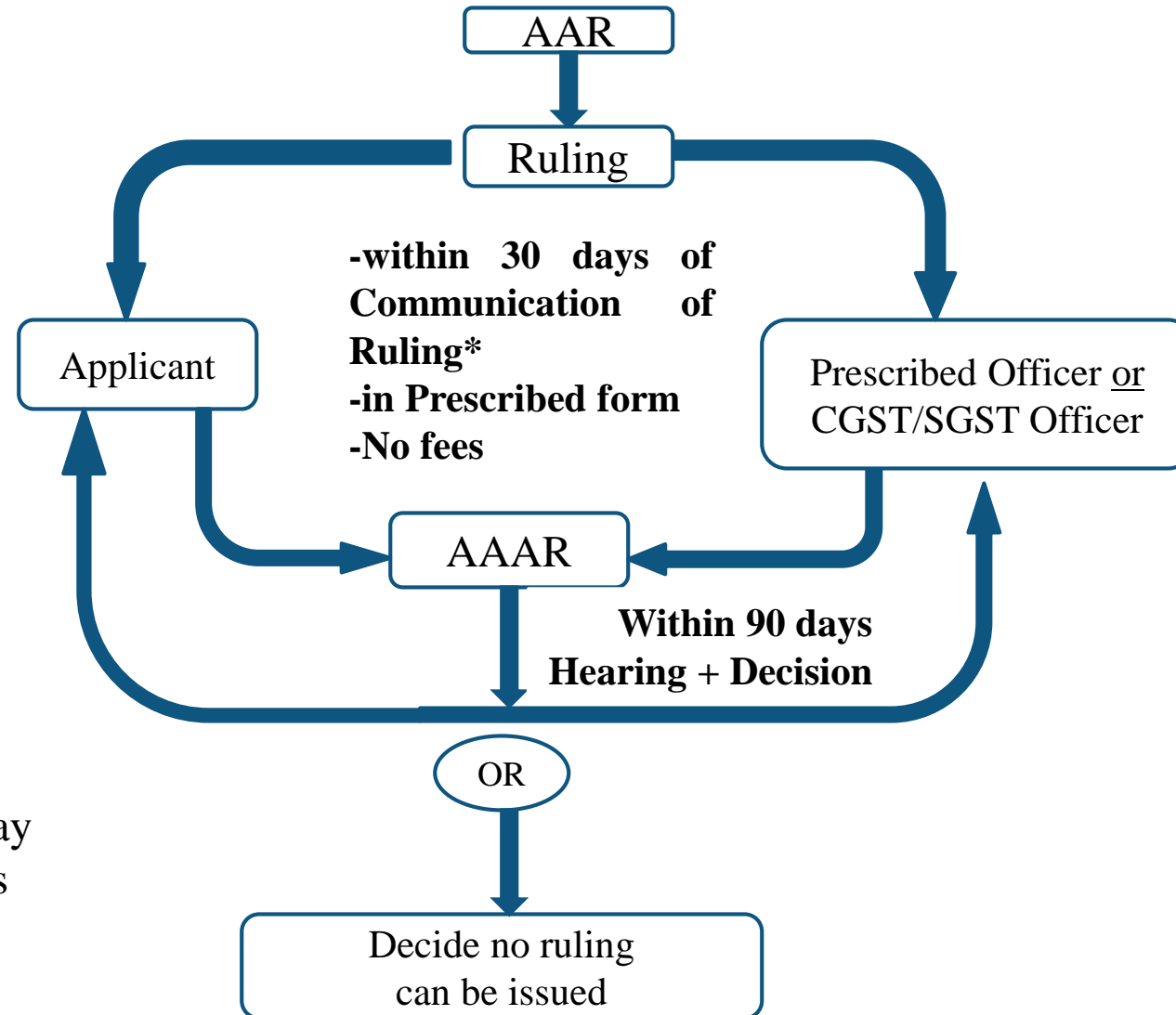


Note: Rulings pronounced will only have a prospective effect



Appellate Authority for Advance ruling – Sec: 118 & 119

177



***Note:** Appellate Authority may allow further period of 30 days



Rectification of Advance ruling – Sec: 120

178

AAR or AAAR may rectify the ruling brought to its notice

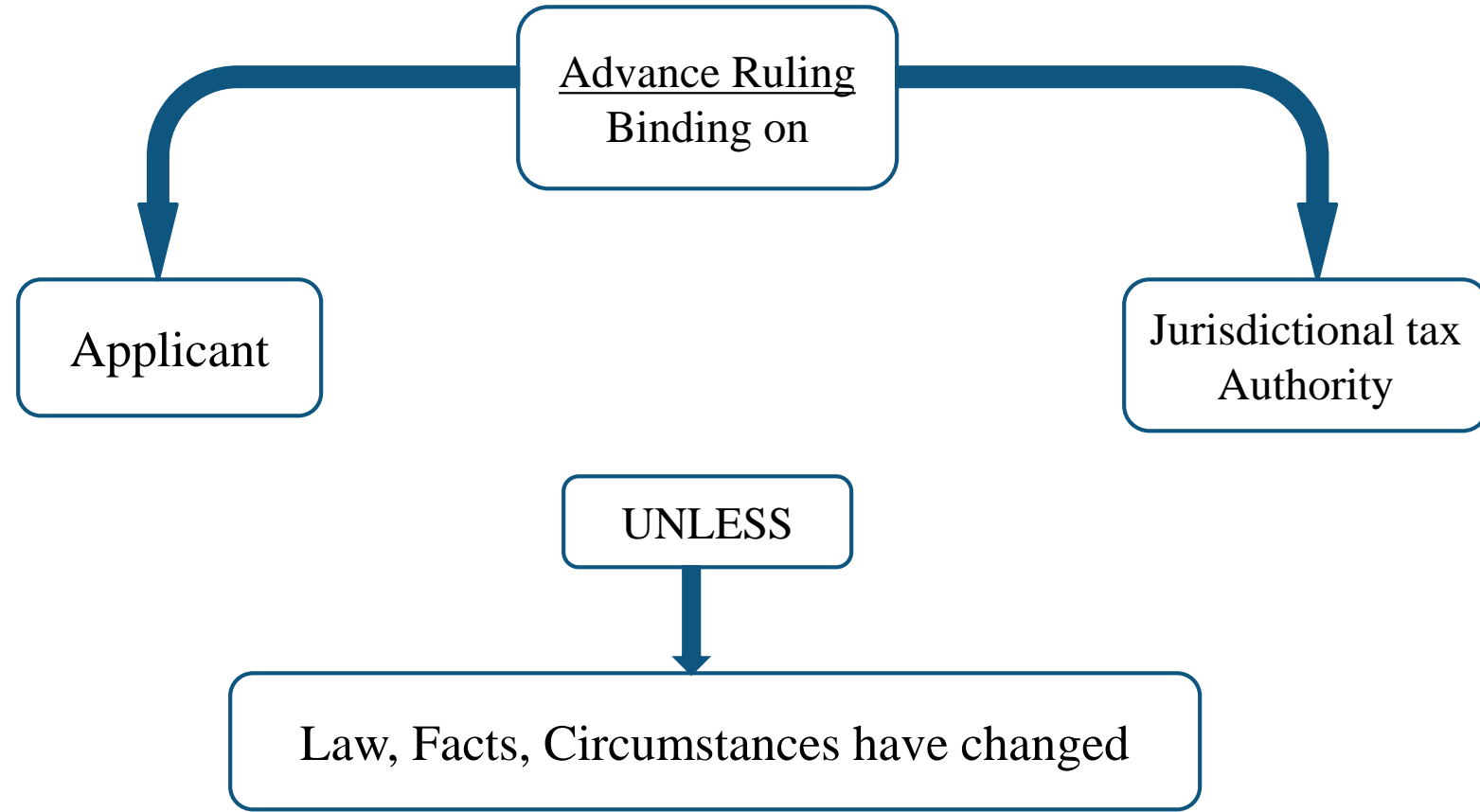
- For mistake apparent from record.
- Either on own motion or if brought to notice by prescribed/ jurisdictional CGST/ SGST officer or applicant
- Opportunity of being heard if prejudicial to Applicant/ Appellant

Rectify mistake apparent from record within 6 months of date of order

Note:- Not to amend substantive part of the order



Applicability of Advance ruling – Sec:121





Ruling void *ab initio* – Sec: 122

180

- If AAR/AAAR finds ruling obtained by the applicant /appellant by fraud / misrepresentation / suppression of facts.
- By order declare advance ruling as void-ab-initio, after giving an opportunity of being heard

Note:- All provisions of the Act shall apply after excluding period in between date of ruling and this order



Power / Procedure of AAR/ AAAR– Sec: 123 & 124

181

- Deemed to be civil court.
- Proceedings treated as judicial proceedings.
- Power to enforce attendance, examining on oath, issuing commission, compelling production of books/records.
- Power to regulate its own procedure

Presumption as to Documents



Documents – Sec 125

183

If any of the following documents are tendered as evidence by prosecution, then the Court shall presume that contents of such document are truthful and is signed or handwritten by the particular person or is executed or attested by the person who is supposed to execute so.

Documents produced by any person under the Act;

Documents seized from the custody or control of any person under the Act;

Documents received from outside India during the course of proceedings.



Deemed Documents for purpose of the Act & admissible under proceedings *without requirement of production of original document*:

- A microfilm document or reproduction of images contained in such microfilm;
- A facsimile (Fax) copy of document;
- Computer printed documents;
- Any information stored on device or media such as CD, Pen drive etc. or printout thereof.

Miscellaneous Provisions



Delegation Of Powers – Sec156

Instruction to GST Officers – Sec 157

186

Delegation Of Powers – Sec 156

- The Competent Authority may, by notification in the Gazette may delegate the power exercisable by one Authority to another.

Instruction to GST Officers – Sec 157

- For maintaining uniformity in implementation of GST, Competent Authority may issue instructions and thereafter all the persons employed under the Act shall comply with such orders or instructions.
- No order requiring GST Officer to make a particular assessment in a particular manner;
- No order interfering the work of First Appellate Authority .



Removal Of Difficulties– Sec 158

Rounding Off Tax– Sec 159

187

Removal Of Difficulties– Sec 158

- To remove any difficulty, CG/ SG shall pass an order in official gazette.
- Order shall be passed upto 2 yrs. from the date on which such difficulty has arisen.
- Orders shall be presented before Parliament or State Legislature.

Rounding Off Tax – Sec 159

- Rounding off must be done for every part of the tax contained in the invoice.
- Applicable for assessee, department and appellate authorities.

If amt. contains a part of the rupee	Effect
More than or equal to 50 paise	Must be increased to one rupee
Less than 50 paise	Ignored



Service of Notice – Sec 159

188

- Directly or through a messenger to: Taxable Person, his authorized person i.e. manager, advocate, adult family member etc.
- Post or courier with acknowledgement due;
- SMS / facsimile/ email/ dashboard of taxpayer
- Publication in a newspaper circulating in the locality of taxpayer's last known residence or business;
- Affixing such communication at a place to attract attention at his last known address;
- In case none of the above modes seems practicable, affixing a copy on the notice board of the authority making such issue.
- Every communication shall be deemed to have been served on the date on which it is tendered/ published/ copy thereof is affixed.
- Communication through registered post shall be deemed to be received at normal period taken by such posts, unless the contrary is proved



Publication Of Rules And Notifications And Laying Of Rules Before Parliament/ State Legislature– Sec 162

189

- All Rules made and notifications issued under the Act shall be published in the Official Gazette.
- Rules, notifications, orders made under specified sections, shall be laid before Parliament or State Legislature (in session) for a total period of 30 days.
- Above shall not include orders relating to goods or services or both of strategic, secret, individual or personal nature.



Repeal & Saving – Sec 164

190

- Clause relating to repeal/ saving ensures that rights, liabilities etc. created under old laws are intact.

- The (State) General Sales Tax/Value Added Tax Act, the Central Excise Act 1944, and the Central Excise Tariff Act 1985 will apply only in respect of goods included in the entry 84 and entry 54 of the Union List and the State List respectively

- Repealed Acts:
 - The Entry Tax Act,.....
 - The Entertainment Tax,
 - The Luxury Tax Act,
 - Duty of Excise on Medicinal and Toilet Preparation Act,
 - Chapter V of the Finance Act, 1994.

Transitional Provisions



Officers under the existing laws to be subsumed into GST

To be appointed as GST Officer / Competent Authority under the respective Act

Provided they are continuing in office as on appointed day

Central / State Government may issue order / make rules for smooth transition into GST



Migration of Existing Taxpayers to GST

193

Every registered person under the earlier law having valid PAN will be issued a provisional registration certificate (PRC)

Such PRC will be valid for six months or for such extended period

Final RC will be issued by Central / State Government on furnishing of the prescribed information

The PRC issued to a person not liable for registration under GST shall be deemed to have been cancelled upon filing application

Person who is eligible to pay tax under composition scheme and who has been issued a PRC, may opt to pay composition tax in the time and manner prescribed. In case he does not pay tax under composition, he shall be liable to pay tax at usual rates



Carry forward of CENVAT Credit

194

Registered taxable person other than composition dealer

Allowed carry forward of Input tax/ CENVAT credit – through a return

Such credit must be eligible under earlier law and GST law

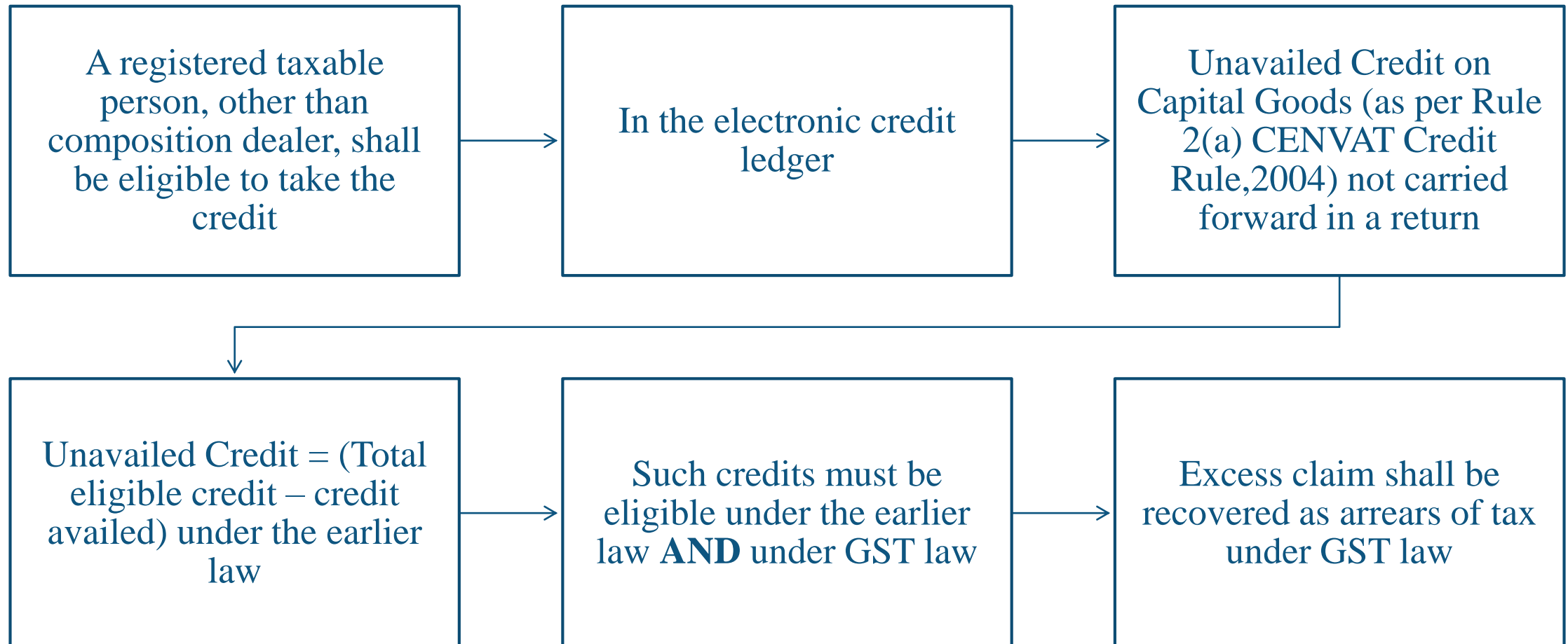
Credit can be taken in the electronic credit ledger (CGST)

Excess credit taken will be recovered as arrears of tax under GST law



Unavailed CENVAT Credit on Capital goods

195





Credit of eligible duties and taxes on input held in stock

196

Person eligible for input tax credit

- Person not liable to be registered under the earlier law
- Person engaged in manufacture/ sale of exempted goods, provision of exempted services
- Person providing works contract service and availing abatement under notification no. 26/2012
- First/ Second stage dealer, importer

Credit available on

- Inputs held in stock and inputs contained in semi-finished goods or finished goods held in stock as on appointed day
 - ✓ Above benefit not available for input services
- Such credit can be taken in the electronic credit ledger

Conditions

- Goods must be used or intended to be used for taxable supply
- The taxable person passes on the benefit of such credit to recipients by way of reduced prices
- Eligible to take the credit under GST law
- Such person should be in possession of invoice or other prescribed document
- Invoice or other document should be within 12 months from the appointed day
- Excess claims will be recovered as arrears of tax under GST law



Credit of eligible duties and taxes on input held in stock

197

A registered taxable person who was engaged in the **manufacture of exempted and non-exempted goods under Central Excise** will be entitled to take the following amounts of CENVAT credit in his electronic credit ledger:-

- Amount c/f in return furnished under earlier law
- Amount of eligible duties contained in inputs held in stock and inputs contained in semi-finished goods/ finished goods held in stock on the appointed day relating to exempted goods/ services



Credit of eligible duties and taxes on inputs/ input services during transit

198

CGST

- A registered taxable person is entitled to take credit in electronic credit ledger of eligible duties and taxes on inputs/ input services **received on/ after the appointed day** but the **duty/ tax has been paid before the appointed day**
 - Condition: Invoice/ any other duty/tax paying document recorded in the books of accounts within 30 days from the appointed day

SGST

- A registered taxable person shall be entitled to take credit in his electronic credit ledger of VAT and Entry tax on inputs **received on/ after the appointed day** but **tax has been paid before the appointed day**
 - Condition: Invoice/ other tax paying document recorded in the books of accounts within 30 days from the appointed day



Credit of duties and taxes on inputs held in stock on switching over from composition scheme

199

Person eligible for input tax credit

- A registered taxable person who was paying tax under composition scheme

Credit available on

- Inputs held in stock and inputs contained in semi-finished goods or finished goods held in stock as on appointed day
 - ✓ Above benefit not available for input services
- Such credit can be taken in the electronic credit ledger

Conditions

- Person not paying taxes under composition scheme under GST law
- Goods must be used for taxable supply
- Otherwise eligible to take the credit under earlier law and under GST law
- Such person should be in possession of invoice/ other prescribed document
- Invoices/ other prescribed document was not issued earlier than 12 months preceding appointed day



Exempted goods returned to the place of business on or after the appointed day

200

Tax not payable when

- Exempted goods were removed/ sold under the earlier law (not prior to six months from appointed day);
- **Such goods** are returned to the said place of business within six months from the appointed day; and
- **Such goods** are identifiable to the satisfaction of proper officer

Tax payable when and by whom

- Goods are liable for payment of taxes under GST; and
- **Such goods** are returned after six month from the appointed day
- Tax shall be payable by the person returning the goods



Duty (Tax – SGST law) paid goods returned to the place of business on or after the appointed day

201

Tax not payable when

- Duty/ tax - paid goods were removed/ sold under the earlier law not being prior to six month from appointed day;
- **Such goods** are returned to the said place of business within six months from the appointed day; and
- **Such goods** are identifiable to the satisfaction of proper officer

Tax payable when and by whom

- Goods are liable for payment of taxes under GST; and
- **Such goods** are returned after six month from the appointed day
- Tax shall be payable by the person returning the goods



Inputs removed for Job work and returned on or after the appointed day

202

Tax not payable when

Goods were removed/ dispatched as such or after partial processing for job work under the earlier law prior to appointed day;

Such goods are returned within six months or within the extended period (2 months) from the appointed day to the said factory/to the said place of business

Tax payable when and by whom

Goods are liable for payment of taxes under GST; and

Such goods are returned after six month from the appointed day;

Tax shall be payable by job worker, if goods are **returned after six months** or after the extended period;

Tax shall be payable by manufacturer , if goods are **not returned within six months** or within the extended period

Applicability of the exemption

Manufacturer and Job worker should declare details of inputs held in stock by the job worker on behalf of the manufacturer on the appointed day



Semi-finished goods removed for Job work and returned on or after the appointed day

203

Tax not payable when

Semi-finished goods were removed/dispatched for processing under the earlier law prior to appointed day; and;

Such goods are returned within six months or within the extended period (2 month) from the appointed day to the said factory/to the said place of business

Tax payable when and by whom

Goods are liable for payment of taxes under GST

Such goods are returned after six month or extended period from the appointed day

Tax shall be payable by person returning the goods, if the goods are returned after a period of six months or extend period

Tax shall be payable by manufacture / person dispatching the goods, if the goods are not returned within six month or extended period

Applicability of the exemption

Manufacturer and Job worker should declare details of inputs held in stock by the job worker on behalf of the manufacturer on the appointed day



Finished goods removed for carrying out certain processes and returned on or after the appointed day

204

Tax not payable when

Finished goods were removed without payment of duty /dispatched for processing under the earlier law prior to appointed day; and

Such goods are returned within six months or within the extended period from the appointed day

Tax payable when and by whom

Goods are liable for payment of taxes under GST;

Such Goods are returned after six month or extended period from the appointed day; and;

Tax shall be payable by person returning the goods;

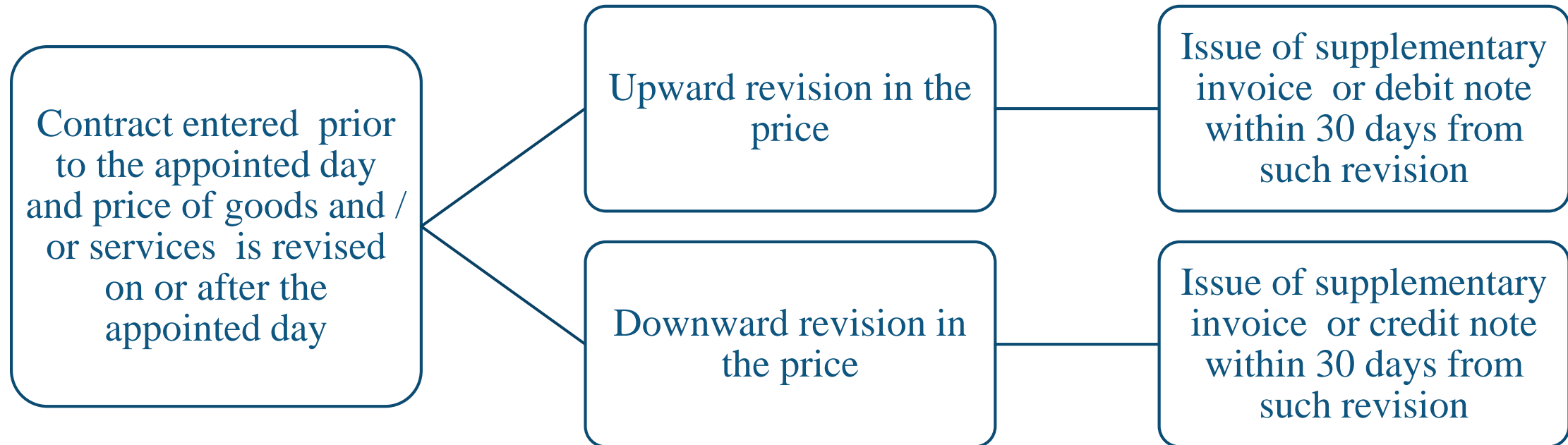
Dispatches of goods from other premises

Manufacturer or person dispatching the goods may transfer goods from such other place within six month on payment of taxes in India or export without payment of tax



Issue of supplementary invoice, etc. where price is revised in pursuance of a contract

205



Note - Taxable person shall be allowed to reduce his tax liability, if the recipient of invoice or credit note has reduced his input tax credit corresponding to such reduction of tax liability.



Pending refund claims to be disposed off under earlier law

206

Refund claim of duty/tax and interest and any other amount due under earlier law

Application to be filed before the appointed day

Refund proceeding will be in terms of earlier law other than Section 11B (2) of Central Excise Act, 1944

Eligible refund to be paid in cash and if fully or partially rejected; balance to lapse (CGST)

Eligible refund to be paid in terms of provision of law and if fully or partially rejected; balance to lapse (SGST)



Refund claims filed in respect of goods/ services exported & services not provided

207

- **Goods/ services exported** before/ after appointed day & claim of refund of duty/ tax paid under earlier law filed after appointed day
 - Disposed of in accordance with earlier law
 - In case claim of refund rejected partly/ fully, amount rejected will lapse
 - No refund allowed in cases where the same amount had been c/f as Cenvat credit under this Act as on the appointed day
- **Services not provided**, however tax deposited under earlier law & claim of refund filed after appointed day
 - Disposed of under earlier law
 - Any amount that accrues eventually will be paid in cash



Claim of CENVAT Credit to be disposed off under the earlier law

208

Proceedings of appeal revision, review or reference relating to claim of input tax / CENVAT credit will be disposed of in accordance with earlier law;

Inadmissible Credit to be recovered as arrears of tax under GST law

Not eligible for claim of input tax credit under GST law

Admissible CENVAT credit to be refunded in cash (CGST)

Admissible input tax credit to be refunded in accordance with provision earlier law (SGST)



Finalization of proceedings relating to output duty liability

209

Proceeding of appeal revision, review or reference relating to any output duty liability initiated before appointed date disposed of in accordance with earlier law

Any amount payable to be recovered as arrears of tax under GST law

Not eligible for claim of input tax credit under GST law

Admissible amount to be refunded in cash (CGST)

Admissible amount to be refunded in accordance with provision of earlier law (SGST)



Treatment of the amount recovered or refunded in pursuance of assessment or adjudication proceedings

210

Assessment or adjudication proceedings instituted under earlier law against recovery of tax, interest or penalty whether before or after the appointed day

Amount payable to be recovered as arrears of tax under GST law

Not eligible for claim of input tax credit under GST law

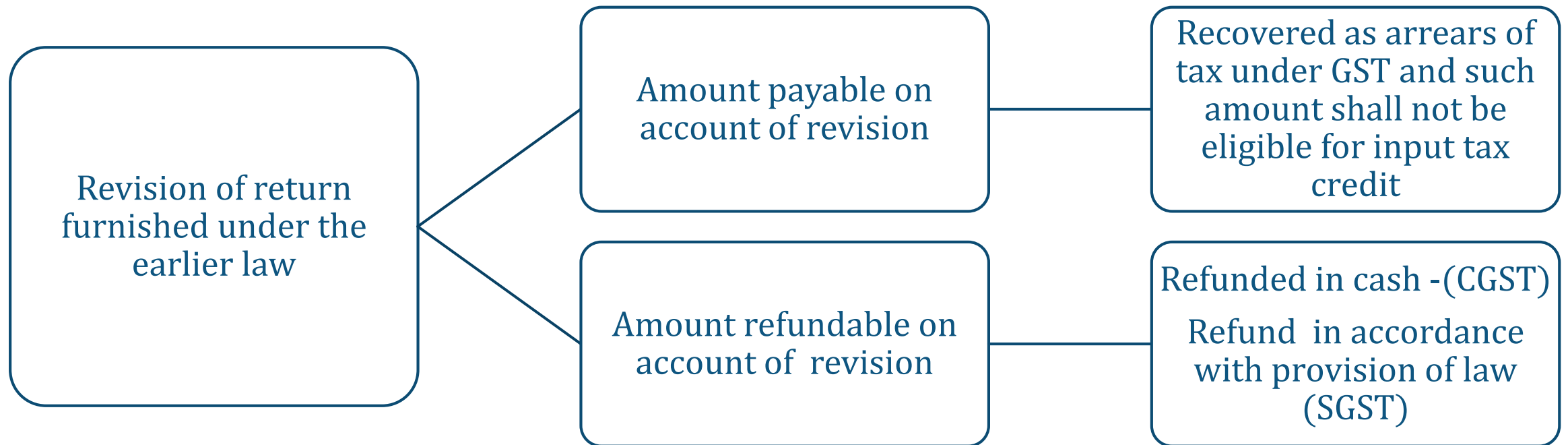
Admissible amount to be refunded in cash (CGST)

Admissible amount to be refunded in accordance with provision of earlier law (SGST)



Treatment of amount recovered or refunded pursuant to revision of return

211





Treatment of long term construction / works contracts

212

Goods and / or services supplied on or after appointed day



Contract entered prior to the appointed day

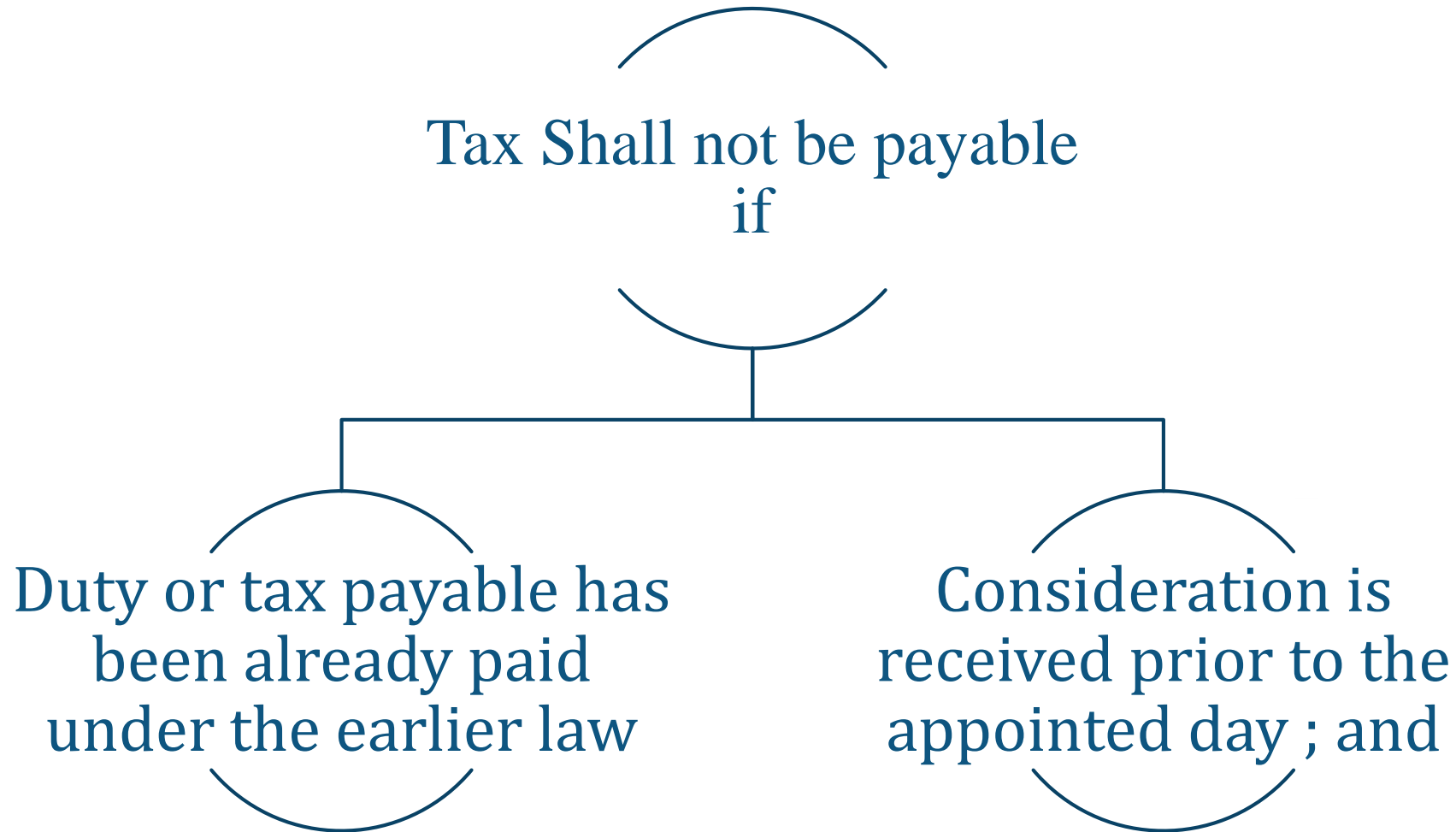


Liable for payment of taxes under the GST law



Progressive or periodic supply of goods or services

213





Taxability of supply of goods and services in certain cases

214

To the extent that **point of taxation arose before the appointed day**, tax on goods and services will be payable under earlier law

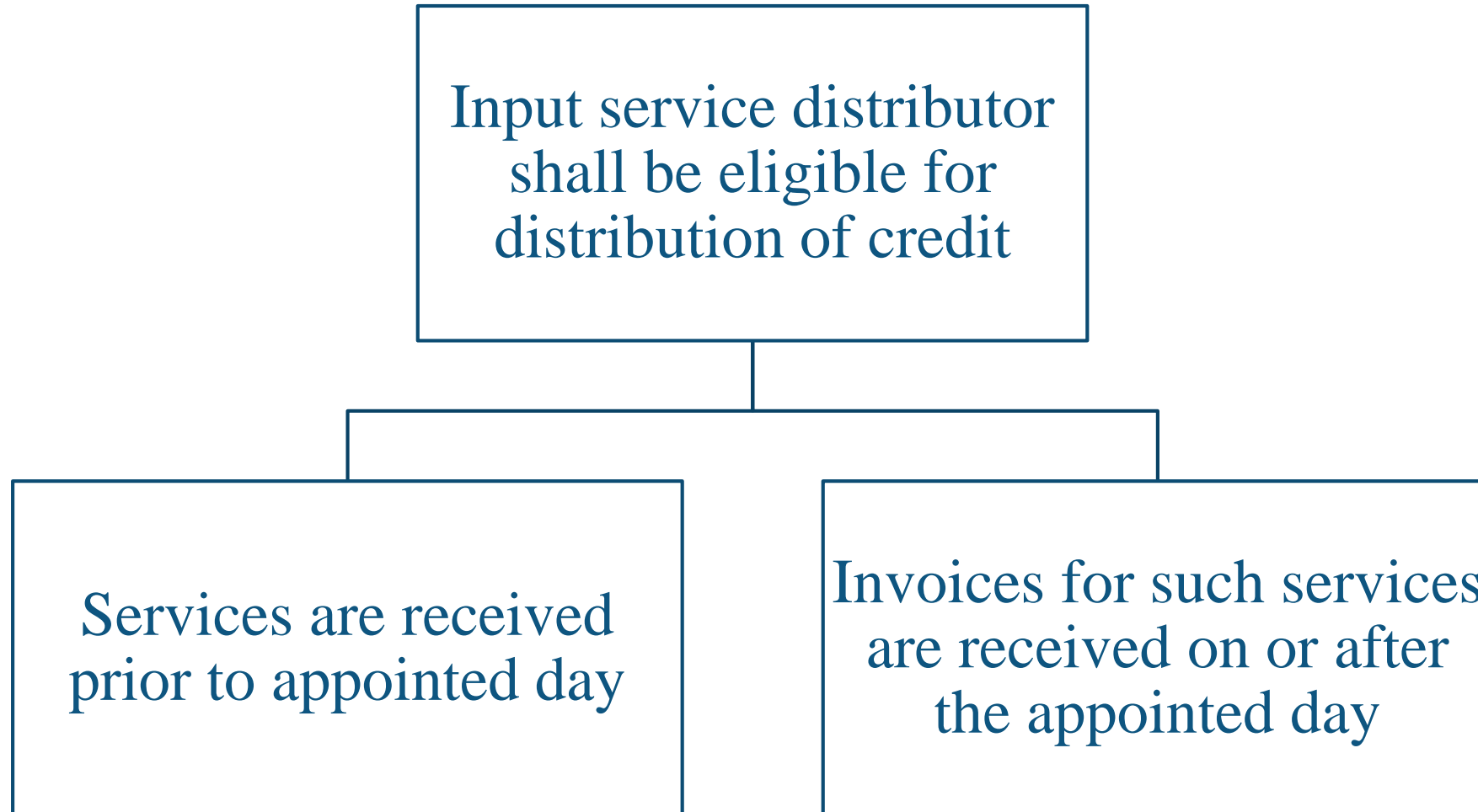
Provisions to apply notwithstanding anything contained in Time of Supply of Goods and Services

If portion of such supply not covered by this Section - such portion liable to GST



Credit distribution of service tax by ISD (CGST)

215





Transfer of unutilised Cenvat credit by a person having centralised registration

216



For the period ending with the day immediately preceding the appointed day

- If the taxable person files an original/ revised return within 3 months of the appointed day
- Credit will be allowed if credit amount is reduced from that claimed earlier

Note:

1. Only those credits which are admissible under GST laws will be allowed
2. Credit may be transferred to any registered taxable person having the same PAN for which centralised registration was obtained under earlier law



Tax paid on goods/ capital goods lying with agent to be allowed as credit (SGST)

217

Person eligible for input tax credit

Agent is eligible for taking credit on tax paid goods

Credit available on

Any goods/ capital goods belonging to the Principal; and

Such goods are lying at the premises of Agent as on the appointed day

Conditions

Agent must be a registered taxable person under GST

Details of goods lying must be declared by the Agent and Principal

Invoices pertaining to such goods must be within twelve months from the appointed day; and

Principal either reversed or **should not** have availed credit



Goods sent on approval basis returned on or after the appointed day (SGST)

218

Tax not to be payable when

- Goods sent on approval basis under earlier law prior to six months from the appointed day;
- **Such goods** are returned within six months or within the extended period from the appointed date

Tax to be payable when and by whom

- Goods are liable for payment of taxes under GST; and
- **Such goods** are returned after six month or within the extended period from the appointed day
- Tax shall be payable by person returning the goods, if the goods are returned after a period of six months or extended period of time from the appointed day
- Tax shall be payable by **person who has sent goods on approval basis**, if the goods are **not returned within the six months** or extended period of time from the appointed day



**TDS shall not be made
when**

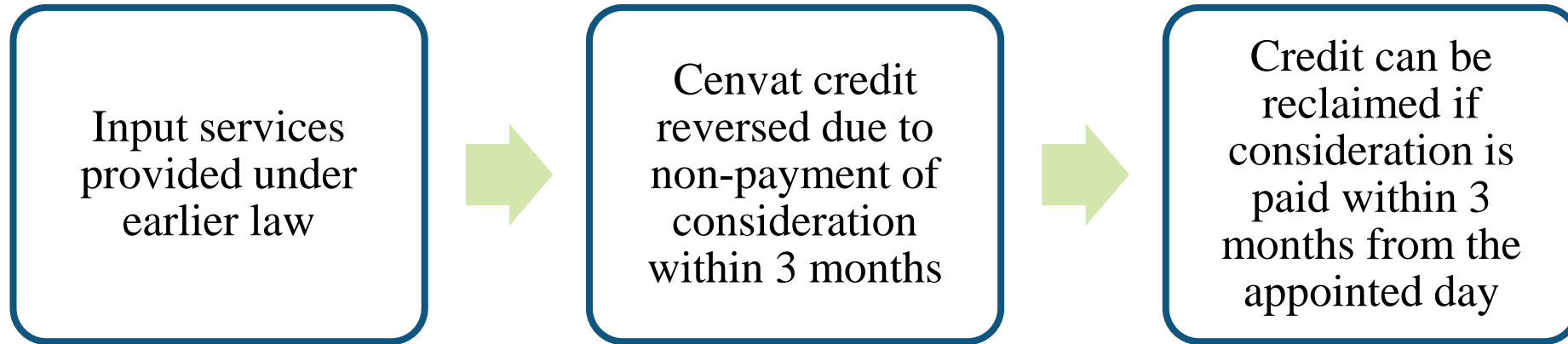
Invoices are issued before
the appointed day

Payment of such invoices
is made on or after the
appointed day



Availing credit in certain cases

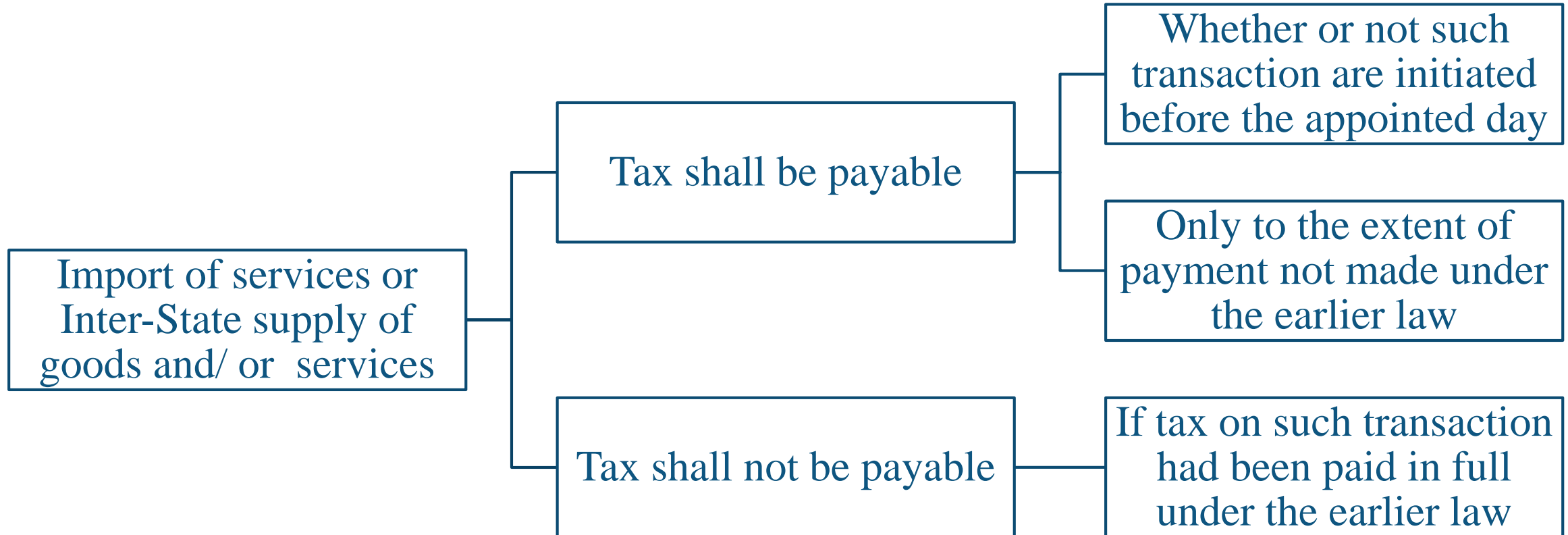
220





Import of service or Inter-State supply of goods and / or services (IGST)

221

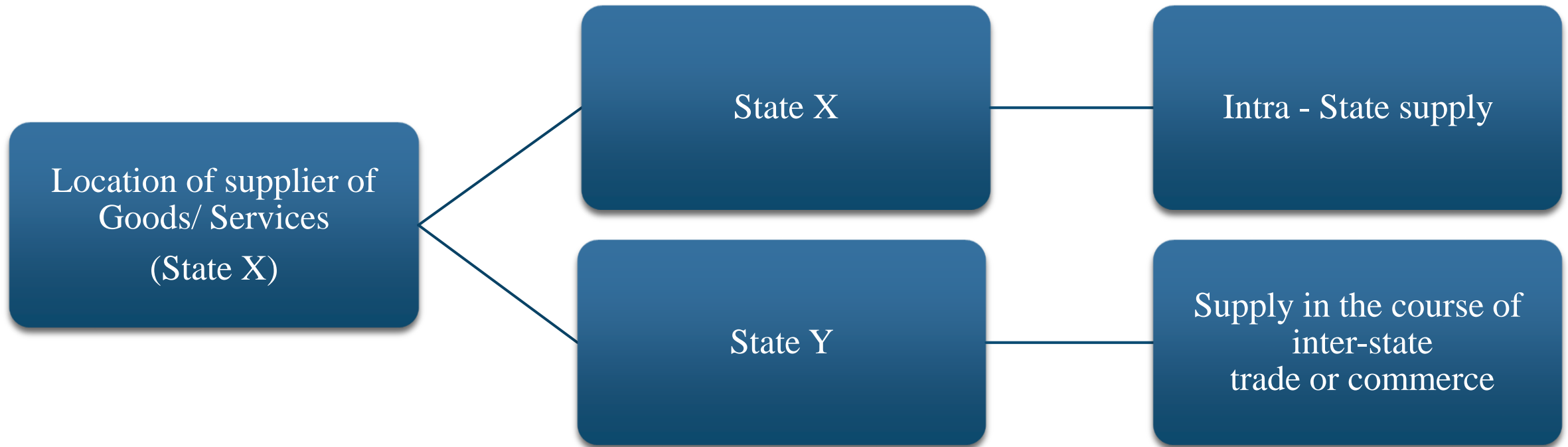


IGST Provisions



Principles for Determining Supply of Goods and/or Services - Sec 3 & 4

223



* Subject to provisions of Section 7,8,9,10 relating to place of supply of goods and/ or services



Levy and Collection of IGST – Sec 5

224

- To be levied on all interstate supplies of goods and / or services
- Supplies to be in the course of inter- State trade or commerce
- Value determined u/s 15 of CGST Act (Value of taxable supply)
- At the rates notified by CG – 5%, 12%, 18%, 28%
- Rates not to exceed 28%
- To be paid by every taxable person
- IGST on goods imported will be levied and collected as per Section 3 of Customs Tariff Act at point when duties are levied on value determined as per the said Act
- CG has the power to specify the categories of supply of goods and/ or services on which RCM shall apply
- CG has power to specify categories of services on which tax will be paid by e-commerce operators as if such services are supplied by such operators



Transfer of ITC under IGST - Sec 14

225

- On utilization of IGST ITC for payment of CGST, IGST so utilised shall be transferred by Central Government from IGST account to CGST account
- On utilization of IGST ITC for payment of SGST, IGST so utilised shall be transferred by Central Government from IGST account to SGST account of the appropriate state
- IGST account shall get reduced to the said extent



Provisions of CGST ACT applicable to IGST- Sec 17

226

- Registration (Section 23, 24, 25, 26, 27)
- Valuation
- Time of supply of goods [Section 12], Time of supply of services [Section 13]
- Change in rate of tax in respect of supply of goods or services (Section 14)
- Input tax credit and utilization thereof [Section 16, 17, 18, 19, 20; Section 13, 14 of IGST Act also applies]
- Distribution of input tax credit by ISD (Section 21)
- Job work (Section 55)
- Accounts and records (Sections 53, 54), Payment (Sections 44, 45)
- TDS at 2 % of payment made/credited to supplier (Section 46) & TCS at 2% of value of net supplies (Section 56)
- Return (Sections 32 - 43)



- Audit (Section 63, 64, 65)
- Assessment (Sections 57 - 62)
- Adjudication (Section 66, 67), Demands (Sections 66, 67, 68, 69, 70), Refunds (48, 49)
- Interest
- Recovery of tax (Sections 71, 72, 73)
- Offences and penalties (Sections 85 - 91)
- Inspection (Sections 79, 80), Search and seizure (Sections 79)
- Prosecution and power to arrest (Sections 92), Compounding (Section 97)
- Appeals (Sections 98 - 108), Review
- Advance ruling and compounding (Sections 113 - 122)

Note: No corresponding section for the term 'review' is noticed under the Act. However this word has been used in conjunction with the word 'appeal' and 'revision' at many places under the Act.



- Power to make Rules lies with Central Government based on recommendation of GST Council

- Rules may be made for:
 - a. Settlement of Cases (in accordance with Chapter XII)
 - b. For prescribing all or any matters under provisions of IGST Act

- GST Council has powers given under Article 279A of the Constitution.



Refund of IGST wrongfully collected and deposited - Sec 19

229

- ▶ A taxable person has considered a supply to be inter-State supply and paid IGST on the same. The transaction is subsequently found to be intra-State supply
 - ▶ He will be granted refund of the amount of IGST paid
 - ▶ Manner and conditions to be prescribed

- ▶ A taxable person has considered a transaction to be intra-State supply and paid CGST/ SGST on the same. The transaction is subsequently held to be inter-State supply
 - ▶ He is not required to pay interest on IGST payable



Refund of IGST paid on supply of goods to outbound tourist

230

- IGST paid on supplies to outbound tourists will be refunded if such goods are taken out of India
 - Conditions and safeguards to be prescribed
 - Refund allowed only if the goods which are supplied are obtained from a registered taxable person who has complied with all requirements, including those relating issue of invoices



If Import of Services made after appointed day:

<p><u>Even if initiated before appointed day, tax liability under IGST</u></p>	<p><u>If tax had been paid in full under earlier law, no tax under IGST</u></p>	<p><u>If tax had been paid in part under earlier law, “balance amount of tax” under IGST</u></p>
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If Inter State supply of goods made after appointed day:

<p>Even if initiated before appointed day, tax liability under IGST</p>	<p>If tax had been paid in full under earlier law, no tax under IGST</p>	<p>NOTE :</p> <ol style="list-style-type: none"><i>1. The words “Tax paid” appear to mean “Tax admitted to be due”.</i><i>2. The word “received” used in the “Explanation” appears to mean “issued” per se Invoice.</i>
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Classes of Officers under IGST & their Appointment- Sec 22 & 23

233

- There are 9 classes of officers with 17 officers and a general class.
- The Board is the only authority empowered to appoint officers under the Act.
- However, the Board may authorise specified Officer for appointing officers below the rank of Assistant Commissioner of IGST.
- The ranks of officer are illustrative and the Board may appoint other class of officers.
- The Board may appoint such persons as it may think fit to be officers under the IGST Act.
- The Board may authorize :-
 - a) Principal Chief Commissioner /Chief Commissioner
 - b) Principal Commissioner / Commissioner
 - c) Additional / Joint or Deputy /Assistant Commissionerto appoint officers of IGST below the rank of Assistant Commissioner of IGST Act

Thank You



For any Clarification, Please Contact

Indirect Taxes Committee of ICAI

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