

E-book (No. 1) on Transitional Provisions on Input Tax Credit

Abbreviations Used in the Document:

AP: Appointed day (i.e. 1.7.2017) GST: Goods and Services Tax
ITC: Input Tax Credit RP: Registered Person

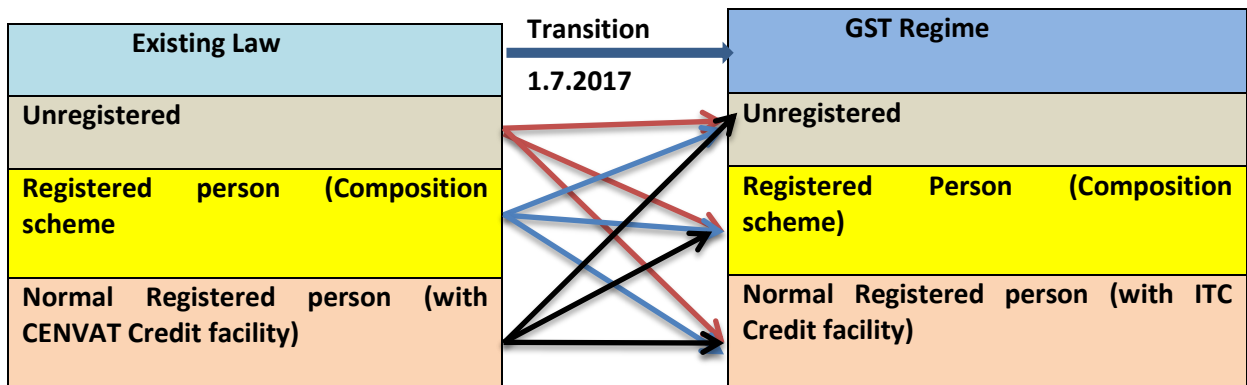
Note:

- In this document, the provisions of CGST Act, 2017 have been mentioned with reference to Central taxes namely, Central Excise duty or Service tax. However, for each of the situations discussed in this document, corresponding provision of SGST/UTGST Act, 2017 should also be seen with reference to State Taxes such as VAT, Purchase tax and Entry tax etc.
- Also take note of the fact that while some of the taxable persons under existing laws have separate registration for central taxes and state taxes, only one state-wise registration under GST regime is sufficient for the purposes of both CGST and SGST/UTGST.
- It may also be noted that for a registered person, during transition, situation (out of 10 situations explained in this document) may be different for the purpose of Central Taxes and state taxes. e.g. for state taxes, the person may be moving from RP category to RP category, while for central taxes, he may be moving from Unregistered to registered category. In such a case, for the purpose of ITC, the treatment or ITC eligibility criteria may be different for Central tax and state taxes.

1. Introduction:

In this document, various situations at the time of transition from the existing laws to GST laws on 1.7.2017 (the appointed day for transition) have been examined. At the time of transition, a registered/ unregistered person under existing law (in respect of Central Excise/service tax) may become into Unregistered/Registered Person category under GST Regime. Let us carefully see the following picture (see Picture-1):-

Picture-1



1.2 As far new status of person under GST laws *vis-a-vis* existing laws is concerned, nine situations of transition are theoretically possible as tabulated in the Table-1 given below:-

Table –I

Situation No.	Existing Law	Transition	GST Regime	Legal Provisions dealing with situation [also see the corresponding provisions of Concerned SGST/UTGST Act, 2017]
1.	Unregistered person	Transition	Normal Registered person (with ITC facility)	Section 22 of the CGST Act, 2017 read with Section 140 (3) of the CGST Act, 2017.
2.	Unregistered person	Transition	Registered person (Composition scheme)	Section 22 of the CGST Act, 2017 read with Section 10 and Section 140 (3) of the CGST Act, 2017.
3.	Unregistered Person	Transition	Unregistered Person	Sections 22 and 24 of the CGST Act, 2017
4.	Registered Person (composition Scheme)	Transition	Registered person (Composition Scheme)	Section 10 (1) of the CGST Act, 2017.
5.	Registered Person (Composition Scheme)	Transition	Normal Registered person (with ITC facility)	Section 140 (6) of the CGST Act, 2017.
6.	Registered Person (composition Scheme)	Transition	Unregistered	Section 29(1) (c) and section 29(5) of the CGST Act, 2017.
7.	Normal Registered Person	Transition	Registered Person (Composition Scheme)	Section 10(1) of the CGST Act, 2017.
8.	Normal Registered person.	Transition	Unregistered person	Section 29(1) (c) and section 29(5) of the CGST Act, 2017
9.	Normal Registered person	Transition	Normal Registered person	Section 140 (1) and Section 140(2) of the CGST Act, 2017

1.3: Each of the above said situations has been examined from the following viewpoints:-

- (i) Relevant provisions of CGST law/Rules applicable to each situation. [note that *each state/UT has identical provisions in their GST Act*]
- (ii) Registration- whether new registration required or migration of earlier registration number.
- (iii) Whether ITC availability during transition on existing stocks of inputs or inputs contained in semi-finished/ finished goods. If yes, how much? Whether ITC available subsequently?
- (iv) Issuance of Invoice/Bill of Supply.
- (v) Payment of GST tax by the supplier.
- (vi) Collection of tax by supplier from the recipient of supply - whether allowed or not allowed.

Situation 1: Person moving from Un-registered Person (under existing laws) to normal Registered Person (with ITC Credit facility under GST Laws):

Relevant Legal Provisions	<ul style="list-style-type: none"> • Section 22 of the CGST Act, 2017 read with Section 140(3) of the CGST Act, 2017. • Rule 1 (1), Rule 1(2)(b), Rule 1(3) and Rule 1(4)(a) of the GST Transition Rules. • <i>Also see the corresponding provision under GST Act and rules of the state in which the taxable person is located.</i>
Registration:	Required to apply for new registration in Form GST REG-1 before appointed

ITC:

day.

- Eligible for Tax credit contained in the inputs in stock or tax credit in respect of inputs contained in semi-finished/Finished goods in stock on 1.7.2017 subject to condition following conditions:
 - *such inputs or goods are used or intended to be used for making taxable supplies under CGST Act;*
 - *the said RP is eligible for input tax credit on such inputs under CGST Act;*
 - *the said RP is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;*
 - *such invoices or other prescribed documents were issued not earlier than 12 months immediately preceding the AP; and*
 - *the supplier of services is not eligible for any abatement under this Act:*
 - Declaration in **FORM GST TRAN-1** to be filed electronically on the common portal within 90 days of appointed day (i.e. 1.7.2017).
 - Required to specify the details of stock held on 1.7.2017 (Rule 1(2) (b) of GST Transition Rules).
 - In the case of registered person being a trader (other than manufacturer or supplier of services), then,
 - If he is in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then he can avail ITC of the amount of duty paid as per the invoice on such stocks of inputs or inputs contained in the semi-finished/ finished goods as available in balance on 1.7.2017 provided used for making taxable supplier
 - If not, then credit will be availed as per Rule 1(4) (a) of the GST Transition Rules as given below:-
 - **In case of intra-state supplies, @ 60%** of the Central Tax paid (in case GST rate is 18% or 28%) and @ 40% of the Central Tax paid (in case of rate of central tax is 5% or 12%).
 - **In case of inter-state supplies, @ 30%** of the Central Tax paid (in case GST rate is 18% or 28%) and @ 20% of the Central Tax paid (in case of rate of GST is 5% or 12%).
[Ref: Rule 1(4) (a) of the GST Transition Rules read with proviso to Section 140(3) of the CGST Act, 2017]
- [also see the identical transition rule issued by concerned State/UT]

Invoice:

Can issue Tax Invoice from 1st July, 2017 [tax invoice should contain all requisite information specified in GST Invoice Rules read with section 31 of the CGST Act, 2017].

Tax payment:	<p>IGST (to be paid in case of inter-state sales and CGST+SGST to be paid in case of intra-state sales] as per the schedules of rate prescribed for supply of goods and supply of services.</p> <p>Tax amount to be mentioned in the invoice and can be collected from the recipient of supply.</p>
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Situation 2: Transition from Unregistered Person (under existing laws) to Registered Person (Composition Scheme (under GST laws).

Relevant Provisions	Legal	<p>Section 22 of the CGST Act, 2017 read with section 10 of the CGST Act, 2017 read with Rule 3 to 7 of the GST Rules, 2017 (<i>notified vide notification No. 3/2017-Central Tax, dated 19.6.2017 (with effect from 22.6.2017).</i></p> <p><i>Also see the corresponding provisions under GST Act and rules of the State in which the taxable person is registered.</i></p> <p>The provision of section 140(1) and 140(2) of the CGST Act, 2017, which specifically excludes taxable person registered under Section 10 of the CGST Act, 2017 from eligibility of availing ITC on transition stock.</p>
Registration		<p>Required to apply for new registration in Form GST REG-1 before appointed day. Such person is required to exercise option to avail composition Scheme by giving <u>intimation</u> in FORM GST CMP-01 before <u>1.7.2017 (under Rule 3 of the GST Rules, 2017)</u>.</p>
ITC		<p>Not eligible for ITC on existing stocks of inputs, semi-finished goods and finished goods in stock on 1.7.2017.</p> <p>Not eligible for ITC on fresh supplies of inputs, input services and capital goods.</p> <p>Provisions dealing with transitional arrangement of ITC contained in Section 140(1) and Section 140 (2) excludes Composition Scheme RP from the benefit of Transitional ITC.</p>
Invoice		<p>Can issue only bill of supply. Also refer to <i>e-book on Composition Scheme</i> for further specific details.</p>
Tax payment and Tax collection from Recipient of supply:		<p>Tax to be paid at the rate prescribed as a percentage of turnover (for CGST and SGST) under Section 10 of the CGST Act, 2017 read with Rules 3 to 7 of the GST Rules, 2017 (<i>notified vide notification No. 3/2017-CT, dated 19.06.2017 (w.e.f. 22.06.2017).</i></p> <p>Separate rate of Central tax has been prescribed for manufacturer, specified service supplier, and other suppliers in terms of %age of turnover in a State/UT.</p> <p>Similarly, payment of State Tax also required as provided in the GST Act of the State in which the taxable person is registered.</p> <p>No GST can be collected from recipient of supply.</p>

Note: To know more about Composition Scheme, refer to e-book on composition levy Scheme.

Situation 3: Transition from Unregistered Person (under existing law) to Un-registered Person (under GST law).

Relevant Provisions	Legal	Section 22, 23 and 24 of the CGST Act, 2017 Section 32 of the CGST Act, 2017.
Registration:		<ul style="list-style-type: none">• <u>No registration</u> required under GST Laws.• Be sure that the supplier is not covered under section 22 specifying persons liable for registration under GST.• Also be sure that the person is not covered under category of persons as specified under section 24 of the CGST Act, 2017, who are required to register compulsory irrespective of value of aggregate turnover.
ITC:		<u>Not eligible</u> for ITC on existing stocks of inputs, semi-finished goods and finished goods in stock on 1.7.2017. Availment of ITC on inputs, input services and capital goods <u>not</u> allowed on fresh supplies received after 1.7.2017.
Invoice:		Normal invoice can be issued. Tax invoice under Section 31 of the CGST Act, 2017 not required.
Tax payment:		No liability of payment of tax [CGST/SGST/UTGST]. No tax representing GST can be collected from the recipient of supply [<i>Ref: section 32 of the CGST Act, 2017 which prohibits unauthorized collection of tax</i>].

Situation 4: Registered person (Composition scheme) under existing laws to Registered Person (Composition Scheme) under GST Laws.

Relevant Legal Provisions:	<p>Section 10 of the CGST Act, 2017 read with Rule 3 to 7 of the GST Rules, 2017 (<i>notified vide notification No. 3/2017-Central Tax, dated 19.6.2017 (effective from 22.6.2017)</i>)</p> <p>Section 140(1) and section 140(2) excludes Composition Scheme taxable person registered under Section 10 of the CGST Act, 2017 from availing ITC.</p>
Registration:	<p>Application for fresh registration not required. Existing taxpayer to be migrated to new system.</p> <p>However, registered person intending to avail Composition scheme is required to exercise option by giving intimation in FORM GST CMP-01 before 1.7.2017 (under Rule 3 of the GST Rules, 2017).</p>
ITC	<p>Not eligible for input tax credit on existing stocks of inputs, and inputs contained in semi-finished goods and finished goods in stock on 1.7.2017.</p> <p>Availment of ITC on inputs, input services and capital goods <u>not</u> allowed on fresh supplies received after 1.7.2017.</p>
Invoice:	<p>Can issue only Bill of Supply. Cannot issue tax invoice under Section 31 of the CGST Act, 2017.</p>
Tax payment:	<p>Tax to be paid at the rate prescribed as a percentage of turnover (for CGST and SGST) under Section 10 of the CGST Act, 2017 read with Rule 3 to 7 of the GST Rules, 2017 (<i>notified vide notification No. 3/2017-CT, dated 19.06.2017 (w.e.f 22.06.2017)</i>).</p> <p>Separate rate of Central tax has been prescribed for manufacturer, specified service supplier, and other suppliers in terms of %age of turnover in the State/UT.</p> <p>Similarly, payment of State Tax also required as provided in the GST Act of the State in which the taxable person is registered.</p> <p>No tax representing GST can be collected from the recipient of supply [<i>Ref: section 32 of the CGST Act, 2017 which prohibits unauthorized collection of tax</i>].</p>

Note: To know more about Composition Scheme, refer to e-book on composition levy Scheme.

Situation 5: From Registered Person (Composition Scheme) under existing laws to Normal Registered Person under GST laws.

Relevant Legal Provisions:	Section 140 (6) of the CGST Act, 2017
Registration:	Application for new registration not required. Existing taxpayer to be migrated to new system.
ITC:	<p>Credit of eligible duties allowed in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on 1.7.2017, subject to the following conditions:</p> <ul style="list-style-type: none"> (i) Such input or goods are used or intended to be used for making taxable supply under this Act. (ii) RP is not covered under section 10 (composition scheme) of this Act. (iii) RP is eligible for ITC on such inputs under this Act (iv) RP is in possession of the invoice or other duty payment documents in respect of inputs; (v) Such invoices are not more than 12 months old on the appointed day (not prior to 1.7.2016). <ul style="list-style-type: none"> • Declaration in FORM GST TRAN-1 to be filed electronically on the common portal within 90 days of appointed day (i.e. 1.7.2017) [Ref: Rule 1(1) of the GST Transition Rules] • Required to specify the details of stock held on 1.7.2017 (Ref: Rule 1(2) (b) of GST Transition Rules).
Invoice:	<p>Can issue Tax invoice under section 31 of the CGST Act, 2017.</p> <p>Amount of Tax paid must be indicated on the invoice as per Section 34 of the CGST Act, 2017</p>
Tax payment:	<p>IGST to be paid in case of inter-state sales and CGST+SGST to be paid in case of intra-state sales] at the rate prescribed for the supply of goods or supply of services in the schedule of rates notified under Section 9 of the CGST Act, 2017.</p> <p>Amount of Tax to be mentioned in the invoice and tax paid can be collected from the recipient of supply.</p>

Situation 6: Registered Person (composition Scheme) under existing laws to un-registered person under GST Laws.

Relevant Provision:	Legal	Section 29(1) of the CGST Act, 2017
Registration:		<p>Application for cancellation of registration to be filed under section 29(1) of the CGST Act, 2017.</p> <ul style="list-style-type: none"> • Be sure that the supplier is not covered under section 22 specifying persons liable for registration under GST. • Also be sure that the person is not covered under category of persons as specified under section 24 of the CGST Act, 2017, who are required to register compulsory irrespective of value of aggregate turnover.
ITC		<p>Not eligible for input tax credit on existing stocks of inputs, and inputs contained in semi-finished goods and finished goods in stock on 1.7.2017.</p> <p>Availment of ITC on inputs, input services and capital goods <u>not</u> allowed on fresh supplies received after 1.7.2017.</p>
Invoice:		Can issue any invoice, but not the taxable invoice under section 31 of the CGST Act, 2017.
Tax payment:		<p>No Tax is to be paid on supplies made.</p> <p>No tax representing GST can be collected from the recipient of supply [Ref: section 32 of the CGST Act, 2017 which prohibits unauthorized collection of tax].</p>

Situation 7: Normal Registered person (under existing laws) to Registered Person (Composition Scheme) under GST Laws.

<p>Relevant Legal Provisions</p>	<ul style="list-style-type: none"> • Section 10 of the CGST Act, 2017 read with Rule 3 to 7 of the GST Rules, 2017 (notified vide notification No. 3/2017-Central Tax, dated 19.6.2017 (effective from 22.6.2017) • Section 140(1) and section 140(2) excludes Composition Scheme taxable person registered under Section 10 of the CGST Act, 2017 from availing ITC. • Section 18(4) and section 18(5) of the CGST Act, 2017.
<p>Registration:</p>	<p>Application for fresh registration not required. Existing taxpayer to be migrated to new system. However, registered person intending to avail Composition scheme is required to exercise option by giving intimation in FORM GST CMP-01 before 1.7.2017 (under <u>Rule 3 of the GST Rules, 2017</u>).</p>
<p>ITC:</p>	<p>Not eligible for input tax credit on existing stocks of inputs, and inputs contained in semi-finished goods and finished goods in stock on 1.7.2017. Availment of ITC on inputs, input services and capital goods <u>not</u> allowed on fresh supplies received after 1.7.2017. Note: Input credit relating to inputs as such or input contained in the semi-finished goods/finished goods is required to be worked out and paid to the Government using credit lying in balance. If still there is balance in Input credit account, then it will lapse. If balance is not sufficient to pay for credit to be paid on stock on appointed day, then it is to be paid in cash.</p>
<p>Invoice:</p>	<p>Can issue bill of supply only.</p>
<p>Tax payment:</p>	<p>Tax to be paid at the rate prescribed as a percentage of turnover (for CGST and SGST) under Section 10 of the CGST Act, 2017 read with Rule 3 to 7 of the GST Rules, 2017 (notified vide notification No. 3/2017-CT, dated 19.06.2017 (w.e.f 22.06.2017)). Separate rate of Central tax has been prescribed for manufacturer, specified service supplier, and other suppliers in terms of %age of turnover in a State/UT. Similarly, payment of State Tax also required as provided in the GST Act of the State in which the taxable person is registered. No tax representing GST can be collected from the recipient of supply [Ref: <i>section 32 of the CGST Act, 2017 which prohibits unauthorized collection of tax</i>].</p>

Note: To know more about Composition Scheme, refer to e-book on composition levy Scheme.

Situation 8: Registered Person (under existing laws) to Un-registered person (under GST Laws)

Relevant Provisions	Legal	Section 18(4) and section 18(5) of the CGST Act, 2017.
Registration:		Application for cancellation of registration to be filed under section 29(1) of the CGST Act, 2017 and Section 29(5) of the CGST Act, 2017.
ITC:		<p>Not eligible for input tax credit on existing stocks of inputs, and inputs contained in semi-finished goods and finished goods in stock on 1.7.2017.</p> <p>Availment of ITC on inputs, input services and capital goods <u>not</u> allowed on fresh supplies received after 1.7.2017.</p> <p><i>Note: Input credit relating to inputs as such or input contained in the semi-finished goods/finished goods is required to be worked out and paid to the Government using credit lying in balance.</i></p> <p>If still there is balance in Input credit account, then it will lapse. If balance is not sufficient to pay for credit to be paid on stock on appointed day, then it is to be paid in cash.</p>
Invoice:		Can issue bill of supply only.
Tax payment:		<p>No tax to be paid.</p> <p>No tax representing GST can be collected from the recipient of supply [Ref: section 32 of the CGST Act, 2017 which prohibits unauthorized collection of tax].</p>

Situation 9: Registered person (with CENVAT facility under existing laws) to Registered Person (with ITC under GST Laws)

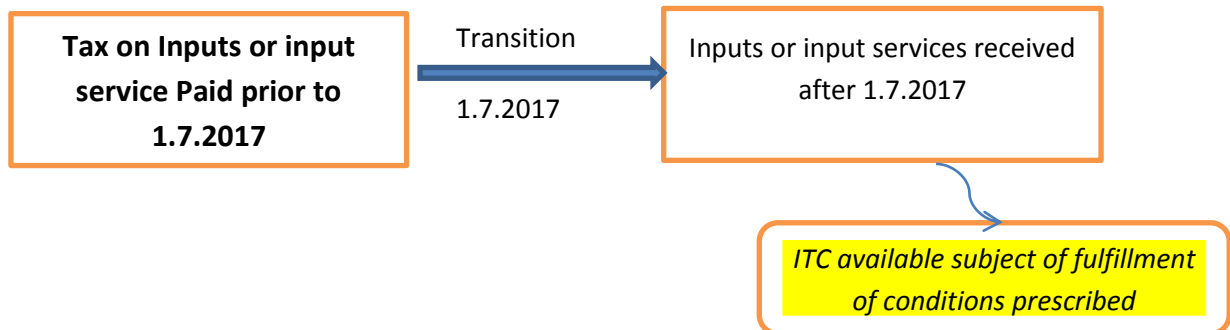
Relevant Provisions	Legal	Section 140 (1) of the CGST Act, 2017 and Section 140(2) of the CGST Act, 2017
Registration		Application for new registration not required. Existing taxpayer are to be migrated to new system.
ITC		<p>Credit lying in balance allowed to be carried forward as CGST credit. However, credit is not allowed in the following circumstances:-</p> <ul style="list-style-type: none"> • Where the said amount of credit is not admissible as input tax credit under CGST Act, 2017 • Where the registered person has not furnished all the returns required under the existing laws for the period of six months immediately preceding the appointed date. • Where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government. <p>Un-availed Credit on Capital goods</p> <ul style="list-style-type: none"> • RP is entitled to avail Credit of un-availed CENVAT Credit in respect of capital goods, not carried forward in a return furnished under existing laws. • Credit admissible only if the said credit was admissible under existing law and is admissible under CGST Act, 2017.
Invoice:		RP can issue taxable invoice under section 31 of the CGST Act, 2017. Amount of GST tax to be separately indicated in the Tax Invoice issued (under Section 33 of the CGST Act, 2017).
Tax payment:		From 1.7.2017, GST is to be paid at the rate prescribed (for CGST and SGST for intra-state supply or IGST in case of intra-state supply) @ the rates prescribed for supply of goods or supply of services as per schedule of rates notified under Section 9 of the CGST Act, 2017. Tax paid by RP can be collected from recipient of supply.

Situation 9 A: Registered person (manufacturing exempted & taxable goods or providing exempted & taxable services) under existing laws to Registered Person (with ITC).

Relevant Provisions	Legal	Section 140 (4) of the CGST Act, 2017.
Registration		Application for new registration not required. Existing taxpayer are to be migrated to new system.
ITC		<p>Credit lying in balance allowed to be carried forward as CGST credit. However, credit is not allowed in the following circumstances:-</p> <ul style="list-style-type: none"> • Where the said amount of credit is not admissible as input tax credit under CGST Act, 2017 • Where the registered person has not furnished all the returns required under the existing laws for the period of six months immediately preceding the appointed date. • Where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government. <p>Credit of CENVAT Credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods relating to exempted goods or services and held in stock on 1.7.2017 is available subject to following conditions:</p> <ul style="list-style-type: none"> ○ <i>such inputs or goods are used or intended to be used for making taxable supplies under CGST Act;</i> ○ <i>the said RP is eligible for input tax credit on such inputs under CGST Act;</i> ○ <i>the said RP is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;</i> ○ <i>such invoices or other prescribed documents were issued not earlier than 12 months immediately preceding the AP; and</i> ○ <i>the supplier of services is not eligible for any abatement under this Act;</i> <ul style="list-style-type: none"> • Declaration in FORM GST TRAN-1 to be filed electronically on the common portal within 90 days of appointed day (i.e. 1.7.2017). • Required to specify the details of stock held on 1.7.2017 (Rule 1(2) (b) of GST Transition Rules).
Invoice:		<ul style="list-style-type: none"> • RP can issue taxable invoice under section 31 of the CGST Act, 2017. • Amount of GST tax to be separately indicated in the Tax Invoice issued as per section 34 of the CGST Act, 2017.
Tax payment:		<p>From 1.7.2017, GST is to be paid at the rate prescribed (for CGST and SGST for intra-state supply or IGST in case of intra-state supply) @ the rates prescribed for supply of goods or supply of services as per schedule of rates notified under Section 9 of the CGST Act, 2017.</p> <p>Tax paid by RP can be collected from recipient of supply.</p>

2. Part A: ITC Related Transitional Provisions

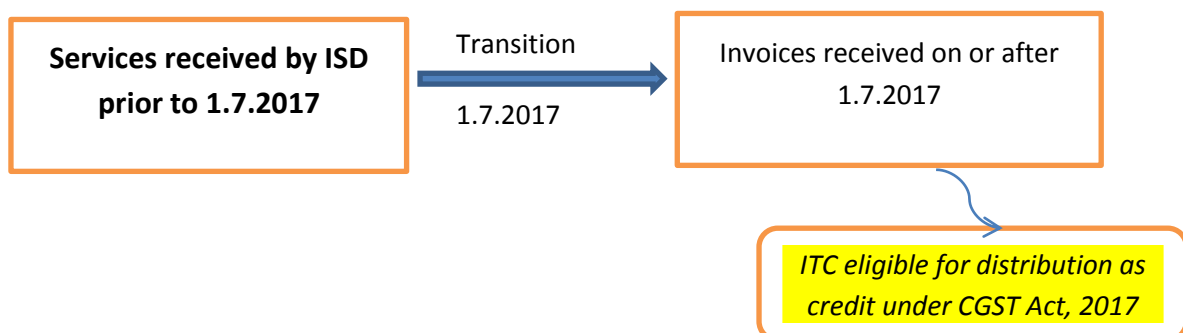
Situation A-1: Credit on Inputs or Input Services received after 1.7.2017, but tax/duty paid before 1.7.2017



Credit on such inputs or inputs services allowed under Section 140 (5) of the CGST Act, 2017 such to following conditions:

- The invoice or any other duty or tax paying document is recorded in the books of account of RP within a period of thirty days from 1.7.2017.
- The period of 30 days is extendable for further 30 days by Commissioner, on sufficient cause being shown.
- RP is required to furnish a statement in respect of credit taken under 140 (5) of CGST Act, 2017.

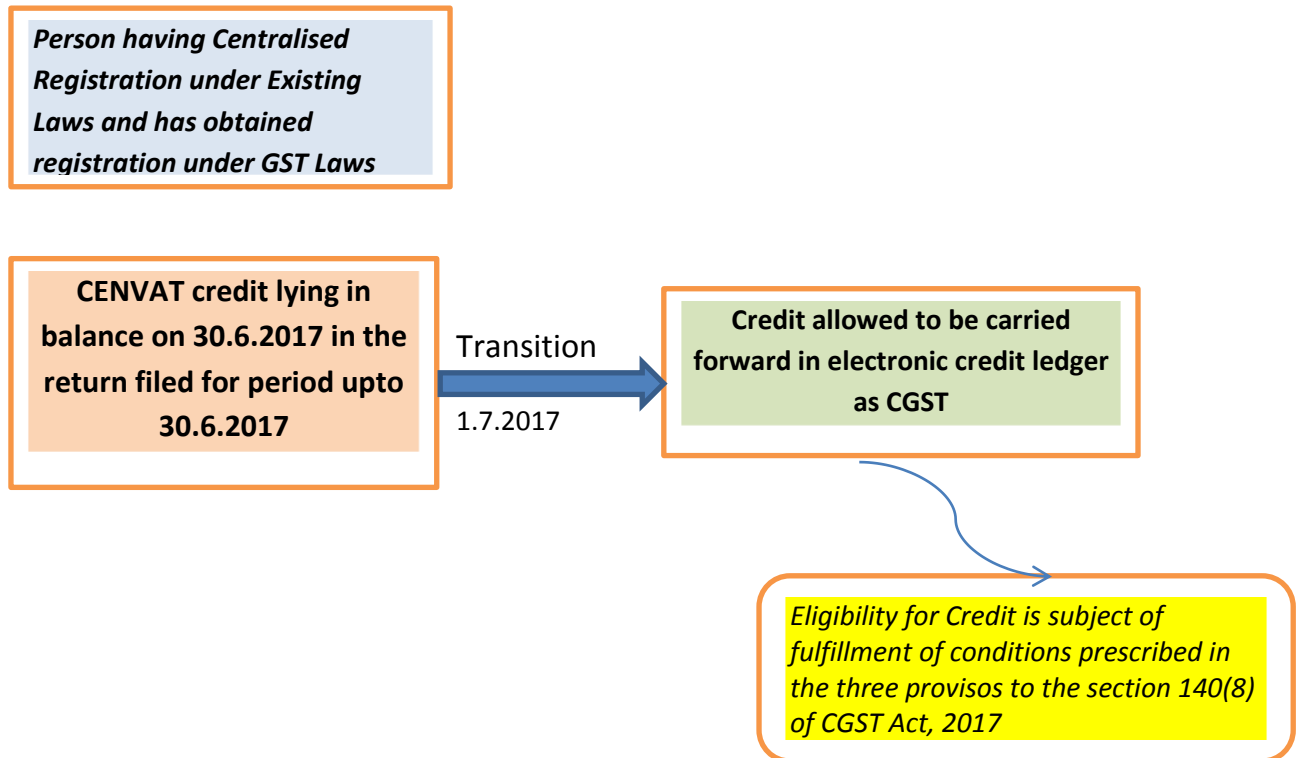
Situation A-2: Input Service Distributor [Ref: Section 140(7) of the CGST Act, 2017]



Any services received prior to 1.7.2017 by ISD, but Invoices received on 1.7.2017 or afterwards

- Input tax credit is eligible for distribution as credit under CGST Act, 2017.

Situation A-3: Registration of Person having Centralized Registration under Existing Laws: Carrying forward of CENVAT Credit on 30.6.2017 allowed in electronic Credit ledger on 1.7.2017.

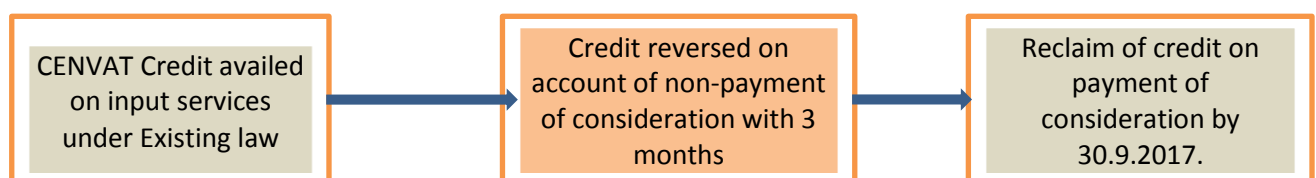


RP having centralized registration under Existing law, obtaining registration under GST law allowed to carry forward the CENVAT Credit lying in balance on 30.6.2017 subject to following conditions:-

- Return under existing law for period upto 30.6.2017 is filed within three months i.e. 30.9.2017 either as original return or revised return wherein credit so availed in electronic ledger is reduced from that claimed earlier. [ref: First proviso to section 140(8) of the CGST Act, 2017]
- Said amount should be eligible as ITC under CGST Act, 2017 [ref: Second proviso to section 140(8) of the CGST Act, 2017]
- Credit is allowed to be transferred to any of the RP having the same PAN for which Centralised registration was obtained earlier [Ref: Third proviso to Section 140(8) of the CGST Act, 2017]

Situation A-4: Reclaim of CENVAT Credit Availed on Input Services under Existing Laws, but reversed on account of non-payment of the consideration within 3 months.

Relevant Legal Provisions: Section 140 (9) of the CGST Act, 2017



3. Text of Relevant Provisions:

3.1 Section 18 (4) and 18(5) of the CGST Act, 2017: Availability of Credit in special circumstances

Section 18 (4): Where any registered person who has availed of input tax credit opts to pay tax under section 10 or, where the goods or services or both supplied by him become wholly exempt, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option or, as the case may be, the date of such exemption:

Provided that after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.

Section 18 (5): The amount of credit under sub-section (1) and the amount payable under sub-section (4) shall be calculated in such manner as may be prescribed.

3.2 Section 29 of the CGST Act, 2017: Cancellation of registration

Section 29. (1) The proper officer may, either on his own motion or on an application filed by the registered person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where,—

(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(b) there is any change in the constitution of the business; or

(c) the taxable person, other than the person registered under sub-section (3) of section 25, is no longer liable to be registered under section 22 or section 24.

.....

(5) Every registered person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock or capital goods or plant and machinery on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed:

Provided that in case of capital goods or plant and machinery, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods or plant and machinery, reduced by such percentage points as may be prescribed or the tax on the transaction value of such capital goods or plant and machinery under section 15, whichever is higher.

(6) The amount payable under sub-section (5) shall be calculated in such manner as may be prescribed.

3.3: Section 32 of the CGST Act, 2017: Prohibition of unauthorized collection of tax.

32. (1) A person who is not a registered person shall not collect in respect of any supply of goods or services or both any amount by way of tax under this Act.

(2) No registered person shall collect tax except in accordance with the provisions of this Act or the rules made thereunder.

3.4 : Section 140 of the CGST Act, 2017: Transitional Arrangements for Input Tax Credit.

140. (1) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, the amount of CENVAT credit carried forward in the return relating to the period ending with the day immediately preceding the appointed day, furnished by him under the existing law in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit in the following circumstances, namely:—

(i) where the said amount of credit is not admissible as input tax credit under this Act; or

(ii) where he has not furnished all the returns required under the existing law for the period of six months immediately preceding the appointed date; or

(iii) where the said amount of credit relates to goods manufactured and cleared under such exemption notifications as are notified by the Government.

(2) A registered person, other than a person opting to pay tax under section 10, shall be entitled to take, in his electronic credit ledger, credit of the unavailed CENVAT credit in respect of capital goods, not carried forward in a return, furnished under the existing law by him, for the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that the registered person shall not be allowed to take credit unless the said credit was admissible as CENVAT credit under the existing law and is also admissible as input tax credit under this Act.

Explanation.—For the purposes of this sub-section, the expression “unavailed CENVAT credit” means the amount that remains after subtracting the amount of CENVAT credit already availed in respect of capital goods by the taxable person under the existing law from the aggregate amount of CENVAT credit to which the said person was entitled in respect of the said capital goods under the existing law.

(3) A registered person, who was not liable to be registered under the existing law, or who was engaged in the manufacture of exempted goods or provision of exempted services, or who was providing works contract service and was availing of the benefit of notification No.

26/2012—Service Tax, dated the 20th June, 2012 or a first stage dealer or a second stage dealer or a registered importer or a depot of a manufacturer, shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iii) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of such inputs;
- (iv) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day; and
- (v) the supplier of services is not eligible for any abatement under this Act:

Provided that where a registered person, other than a manufacturer or a supplier of services, is not in possession of an invoice or any other documents evidencing payment of duty in respect of inputs, then, such registered person shall, subject to such conditions, limitations and safeguards as may be prescribed, including that the said taxable person shall pass on the benefit of such credit by way of reduced prices to the recipient, be allowed to take credit at such rate and in such manner as may be prescribed.

(4) A registered person, who was engaged in the manufacture of taxable as well as exempted goods under the Central Excise Act, 1944 or provision of taxable as well as exempted services under Chapter V of the Finance Act, 1994, but which are liable to tax under this Act, shall be entitled to take, in his electronic credit ledger,—

- (a) the amount of CENVAT credit carried forward in a return furnished under the existing law by him in accordance with the provisions of sub-section (1); and
- (b) the amount of CENVAT credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day, relating to such exempted goods or services, in accordance with the provisions of sub-section (3).

(5) A registered person shall be entitled to take, in his electronic credit ledger, credit of eligible duties and taxes in respect of inputs or input services received on or after the appointed day but the duty or tax in respect of which has been paid by the supplier under the existing law, subject to the condition that the invoice or any other duty or tax paying document of the same was recorded in the books of account of such person within a period of thirty days from the appointed day:

Provided that the period of thirty days may, on sufficient cause being shown, be extended by the Commissioner for a further period not exceeding thirty days:

Provided further that said registered person shall furnish a statement, in such manner as may be prescribed, in respect of credit that has been taken under this sub-section.

(6) A registered person, who was either paying tax at a fixed rate or paying a fixed amount in lieu of the tax payable under the existing law shall be entitled to take, in his electronic credit ledger, credit of eligible duties in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day subject to the following conditions, namely:—

- (i) such inputs or goods are used or intended to be used for making taxable supplies under this Act;
- (ii) the said registered person is not paying tax under section 10;
- (iii) the said registered person is eligible for input tax credit on such inputs under this Act;
- (iv) the said registered person is in possession of invoice or other prescribed documents evidencing payment of duty under the existing law in respect of inputs; and
- (v) such invoices or other prescribed documents were issued not earlier than twelve months immediately preceding the appointed day.

(7) Notwithstanding anything to the contrary contained in this Act, the input tax credit on account of any services received prior to the appointed day by an Input Service Distributor shall be eligible for distribution as credit under this Act even if the invoices relating to such services are received on or after the appointed day.

(8) Where a registered person having centralised registration under the existing law has obtained a registration under this Act, such person shall be allowed to take, in his electronic credit ledger, credit of the amount of CENVAT credit carried forward in a return, furnished under the existing law by him, in respect of the period ending with the day immediately preceding the appointed day in such manner as may be prescribed:

Provided that if the registered person furnishes his return for the period ending with the day immediately preceding the appointed day within three months of the appointed day, such credit shall be allowed subject to the condition that the said return is either an original return or a revised return where the credit has been reduced from that claimed earlier:

Provided further that the registered person shall not be allowed to take credit unless the said amount is admissible as input tax credit under this Act:

Provided also that such credit may be transferred to any of the registered persons having the same Permanent Account Number for which the centralised registration was obtained under the existing law.

(9) Where any CENVAT credit availed for the input services provided under the existing law has been reversed due to non-payment of the consideration within a period of three months, such credit can be reclaimed subject to the condition that the registered person has made the payment of the consideration for that supply of services within a period of three months from the appointed day.

(10) The amount of credit under sub-sections (3), (4) and (6) shall be calculated in such manner as may be prescribed.

Explanation 1.—For the purposes of sub-sections (3), (4) and (6), the expression “eligible duties” means—

- (i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;

- (ii) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;
- (iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;
- (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;
- (v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;
- (vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985; and
- (vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001, in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the appointed day.

Explanation 2.—For the purposes of sub-section (5), the expression “eligible duties and taxes” means—

- (i) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Goods of Special Importance) Act, 1957;
- (ii) the additional duty leviable under sub-section (1) of section 3 of the Customs Tariff Act, 1975;
- (iii) the additional duty leviable under sub-section (5) of section 3 of the Customs Tariff Act, 1975;
- (iv) the additional duty of excise leviable under section 3 of the Additional Duties of Excise (Textile and Textile Articles) Act, 1978;
- (v) the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985;
- (vi) the duty of excise specified in the Second Schedule to the Central Excise Tariff Act, 1985;
- (vii) the National Calamity Contingent Duty leviable under section 136 of the Finance Act, 2001; and
- (viii) the service tax leviable under section 66B of the Finance Act, 1994, in respect of inputs and input services received on or after the appointed day.

4. Applicable rules: GST Transition Rules.

4.1 Rule 1. Tax or duty credit carried forward under any existing law or on goods held in stock on the appointed day

(1) Every registered person entitled to take credit of input tax under section 140 shall, within ninety days of the appointed day, submit a declaration electronically in FORM GST TRAN- 1, duly signed, on the Common Portal specifying therein, separately, the amount of input tax credit to which he is entitled under the provisions of the said section:

Provided that the Commissioner may, on the recommendations of the Council, extend the period of ninety days by a further period not exceeding ninety days.

Provided further that where the inputs have been received from an Export Oriented Unit or a unit located in Electronic Hardware Technology Park, the credit shall be allowed to the extent as provided in sub-rule (7) of rule 3 of the CENVAT Credit Rules, 2004:

(2) Every declaration under sub-rule (1) shall:-

(a)

(b) in the case of a claim under sub-section (3) or the proviso thereto or clause (b) of subsection (4) or sub-section (6) or sub-section (8) of section 140, specify separately the details of stock held on the appointed day;

(c) ...

(3) The amount of credit specified in the application in **FORM GST TRAN-1** shall be credited to the electronic credit ledger of the applicant maintained in **FORM GST PMT-2** on the Common Portal.

(4) (a) (i) A registered person who was not registered under the existing law shall, in accordance with the proviso to sub-section (3) of section 140, be allowed to avail of input tax credit on goods (on which the duty of central excise or, as the case may be, additional duties of customs under sub-section (1) of section 3 of the Customs Tariff Act, 1975, is leviable) **held in stock on the appointed day in respect of which he is not in possession of any document evidencing payment of central excise duty.**

(ii) Such credit shall be allowed at the rate of sixty per cent. on such goods which attract central tax at the rate of nine per cent. or more and forty per cent. for other goods of the central tax applicable on supply of such goods after the appointed date and shall be credited after the central tax payable on such supply has been paid:

Provided that where integrated tax is paid on such goods, the amount of credit shall be allowed at the rate of thirty per cent. and twenty per cent. respectively of the said tax

(iii) The scheme shall be available for six tax periods from the appointed date.

(b) Such credit of central tax shall be availed subject to satisfying the following conditions, namely,-

- (i) such goods were not unconditionally exempt from the whole of the duty of excise specified in the First Schedule to the Central Excise Tariff Act, 1985 or were not nil rated in the said Schedule.
- (ii) the document for procurement of such goods is available with the registered person.
- (iii) the registered person availing of this scheme and having furnished the details of stock held by him in accordance with the provisions of clause (b) of sub-rule (2) of rule 1, submits a statement in FORM GST TRAN 2 at the end of each of the six tax periods during which the scheme is in operation indicating therein the details of supplies of such goods effected during the tax period.
- (iv) the amount of credit allowed shall be credited to the electronic credit ledger of the applicant maintained in FORM GST PMT-2 on the Common Portal.
- (v) the stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.
