**GOODS AND SERVICE TAX**

**BBA-N 603**

**UNIT-5**

**GST RETURN FILING PROCEDURE**

**GST RETURN FILING PERIOD**

There are various GST return filing periods that depend on the transactions and types of registration. Regular taxpayers, foreign non-residents, tax deductors and input service distributors need to file a monthly tax while Composition taxpayers need to file a quarterly return. Annual GST return is also there.

**THE PENALTY FOR NOT ADHERING TO GST PAYMENT DATES**

If an entity fails to file GST return within the due date, then a penalty and late fee (INR 100 a day and maximum of INR 5000) can be levied.

**GST RETURN FORMS**

There is a single GST return form for SGST, CGST, and IGST. However, there are different columns for each of them in the form.

**WHAT IS GSTR-1**

GSTR-1 is a GST return that includes a business name, GSTIN, dates of invoices issued in the last month, advances received against supplies of the future and revisions with regard to outward sales invoices regarding previous tax periods.

**GSTR-2**

This is another type of return that includes details of goods and services purchased by an entity paying GST return online. It is the responsibility of the seller to add all the information, you as a buyer just need to verify it.

**GSTR-3**

It includes information regarding the cash ledger, tax credit ledger, and liability ledger. It also includes details of payment of tax under SGST, CGST, and IGST. The details are filled by the seller, and the buyer just needs to verify. Here the taxpayer has the power to decide whether a refund for excess payment could be claimed or carry forward the credit.

**GSTR-4**

Small taxpayers who have a turnover of up to 75 lakhs need often opt for a compensation scheme. As a part of this scheme, a taxpayer pays taxes at a fixed rate. The fixed rate is 2 percent for manufacturers, 1 percent for suppliers and 5 percent for restaurant service sector. Such taxpayers need to file a quarterly return called GSTR-4. Some details need to be shared during GST online payment of quarterly return are the total value of supply done during the quarter, details of payment of tax and declaration of invoice-level purchase information.

**GSTR-9**

All the taxpayers of GST need to pay an annual return to ensure that there is complete transparency with regard to a taxpayers’ activity. While filing this GST return online, the taxpayer needs to provide details of all income and expenditure while regrouping them as per monthly returns. This tax return helps in correcting any short reporting of activities. The due date for this tax is 31st December of next financial year.



**GST RETURN FILING PROCEDURE**

* The process starts with you filing GSTR 1 for the sales made in a month. The due date will be on the 10th of next month.
* Then the buyer will view the sales made by you in GSTR 2A. In some cases, the buyer will approve the sales and file GSTR-2
* In case a buyer modifies the sales, the seller can see that in GSTR-1A and decide on whether he/she wants to approve or disapprove it.
* If the buyer and seller approve, GSTR-3 is generated, and taxes are paid. The due date for this is the 20th of next month.

**PROVISION OF REVISION**

There is no provision of revision when it comes to filing GST returns. If there are changes in the details that are submitted, the changes can be made by filling the amendment section of the GST return form the next time.

**ASSESSMENT OF TAX**

**Types of Assessment under GST**

* Self-assessment
* Provisional assessment
* Scrutiny assessment
* Best judgment assessment
* Assessment of non-filers of returns
* Assessment of unregistered persons
* Summary assessment

**Only self-assessment is done by the taxpayer himself. All the other assessments are by tax authorities.**



**Self-Assessment**

Every registered taxable person shall himself assess the taxes payable and furnish a return for each tax period. This means GST continues to promote self-assessment just like the Excise, VAT and Service Tax under current tax regime.

**Provisional Assessment**

An assessee can request the officer for provisional assessment if he is unable to determine value or rate.

Unable to determine **value** due to difficulty in:

* Calculating the transaction value
* Understanding whether certain receipts should be included or not

Unable to determine **rate of tax** due to difficulty in:

* Classifying the goods/services
* Identifying whether any notification is applicable or not

Provisions of Provisional Assessment

* **Requests for provisional assessments will be given in writing**
* The proper officer can allow paying tax on provisional basis at a rate or on a value specified by him.
* Order will be passed within 90 days from date of request.
* The taxable person has to issue a bond with a security promising to pay the difference between provisionally assessed tax and final assessed tax.
* **Provisional assessments will be followed by final assessments.**The proper officer can ask for information before final assessment.

**Time Limit for Final Assessments**

The final assessment will be done within 6 months of the provisional assessment. This can be extended for 6 months by the Joint/Additional Commissioner. However, the Commissioner can extend it for further 4 years as he seems fit.

**GST offences**

There are 21 offences under GST. For easy understanding, we have grouped them as:

**Fake/Wrong invoices**

* A taxable person supplies any goods/services without any invoice or issues a false invoice.
* He issues any invoice or bill without supply of goods/services in violation of the provisions of GST
* He issues invoices using the identification number of another bonafide taxable person

**Fraud**

* He submits false information while registering under GST
* He submits fake financial records/documents or files fake returns to evade tax
* Does not provide information/gives false information during proceedings

**Tax evasion**

* He collects any GST but does not submit it to the government within 3 months
* Even if he collects any GST in contravention of provisions, he still has to deposit it to the government within 3 months. Failure to do so will be an offence under GST.
* He obtains refund of any CGST/SGST by fraud.
* He takes and/or utilizes input tax credit without actual receipt of goods and/or services
* He deliberately suppresses his sales to evade tax

**Supply/Transport of goods**

* He transports goods without proper documents
* Supplies/transports goods which he knows will be confiscated
* Destroys/tampers goods which have been seized

**Others**

* He has not registered under GST although he is required to by law
* He does not deduct TDS or deducts less amount where applicable.
* He does not collect TCS or collects less amount where applicable.
* Being an Input Service Distributor, he takes or distributes input tax credit in violation of the rules
* He obstructs the proper officer during his duty (for example, he hinders the officer during the audit by tax authorities)
* He does not maintain all the books that he required to maintain by law
* He destroys any evidence

**Penalties and appeals under GST**

**Offences**

There are 21 offenses under GST. We have mentioned a few here. For the entire list of 21 offenses please go to our main article on offenses.

The major offenses under GST are:

* Not registering under GST, even though required by law. (Read our article for the list of those who have to register mandatorily under GST)
* Supply of any goods/services without any invoice or issuing a false invoice
* The issue of invoices by a taxable person using the GSTIN of another bona fide taxpayer
* Submission of false information while registering under GST
* Submission of fake financial records/documents or files, or fake returns to evade tax
* Obtaining refunds by fraud
* Deliberate suppression of sales to evade tax
* Opting for composition scheme even though a taxpayer is ineligible

**Penalty**

If any of the offenses are committed then a penalty will have to be paid under GST. The principles on which these penalties are based are also mentioned by law.

**For late filing**

Late filing attracts penalty called late fee. The late fee is Rs. 100 per day per Act. So it is 100 under CGST & 100 under SGST. Total will be Rs. 200/day\*. The maximum is Rs. 5,000. There is no late fee on IGST in case of delayed filing.

Along with late fee, interest has to be paid at 18% per annum. It has to be calculated by the taxpayer on the tax to be paid. The time period will be from the next day of filing to the date of payment.

**For not filing**

If you don’t file any GST return then subsequent returns cannot be filed. For example, if GSTR-2 return of August is not filed then the next return GSTR-3 and subsequent returns of September cannot be filed.  Hence, late filing of GST return will have a cascading effect leading to heavy fines and penalty (see below).

For the 21 offenses with no intention of fraud or tax evasion

An offender not paying tax or making short payments must pay a penalty of **10%** of the tax amount due subject to a **minimum** of Rs. 10,000.

Consider — in case tax has not been paid or a short payment is made, a minimum penalty of Rs 10,000 has to be paid. The maximum penalty is 10% of the tax unpaid.

For the 21 offenses with the intention of fraud or tax evasion

An offender has to pay a penalty amount of tax evaded/short deducted etc., i.e., **100%**penalty, subject to a minimum of Rs. 10,000.

Additional penalties as follows-

|  |  |  |  |
| --- | --- | --- | --- |
| **Tax amount involved** | **100-200 lakhs** | **200-500 lakhs** | **Above 500 lakhs** |
| Jail term | Upto 1 year | Upto 3 years | Upto 5 year |
| Fine | In all three cases |  |  |

Cases of fraud also face penalties, prosecution, and arrest.

**Inspection Under GST**

The Joint Commissioner of SGST/CGST (or a higher officer) may have***reasons to believe*** that **in order to evade tax**, a person has suppressed any transaction or claimed excess input tax credit etc. Then the Joint Commissioner can authorize any other officer of CGST/SGST (in writing) to inspect places of business of the suspected evader.

**Search & Seizure Under GST**

The Joint Commissioner of SGST/CGST can order for a search. He will order a search on the basis of results of inspection (or other reason) if he has ***reasons to believe***:

* There are goods which might be confiscated
* Any documents or books or other things which are hidden somewhere. Such items can be useful during proceedings

Such incriminating goods and documents can be seized.

**Goods in Transit**

The person in charge of a vehicle carrying goods exceeding Rs. 50,000 is required to carry the following documents:

* Invoice or bill of supply or delivery challan
* Copy of e-way bill (hard copy or via RFID)

The proper officer has the power to intercept goods in transit and inspect the goods and the documents.

If the goods are in contravention of the GST Act then the goods, related documents, and the vehicle carrying them will be seized. The goods will be released only on payment of tax and penalty.

Before confiscating the goods, the tax officer shall give an option of paying a fine instead of confiscation.

**Compounding of Offences Under GST**

Compounding of offenses is a shortcut method to avoid litigation. In case of prosecution for an offense in a criminal court, the accused has to appear before the Magistrate at every hearing through an advocate. This becomes expensive and time-consuming.

 In compounding, the accused is not required to appear personally and can be discharged on payment of compounding fee which cannot be more than the maximum fine as applicable under GST.

Compounding will save time and money. However, compounding under GST is not available for cases where the value involved exceeds 1 crore.

**Prosecution Under GST**

The prosecution is conducting legal proceedings against someone in respect of a criminal charge.

A person committing an offense with the **deliberate intention of fraud,**becomes liable to prosecution under GST, i.e., face criminal charges. A few examples of these offenses are:

* Issue of an invoice without supplying any goods/services- thus taking input credit or refund by fraud
* Obtaining refund of any CGST/SGST by fraud
* Submitting fake financial records/documents or files, and fake returns to evade tax
* Helping another person to commit fraud under GST

**Arrest Under GST**

If the Commissioner of CGST/SGST **believes** a person has committed a certain offense he can be arrested under GST by any authorized CGST/SGST officer (click here for the list of offenses for which one can be arrested).

The arrested person will be informed of the grounds for his arrest. He will appear before the magistrate within 24 hours in case of a cognizable offense (Cognizable offenses are those where the police can arrest a person without an arrest warrant. They are serious crimes like murder, robbery, counterfeiting).

**Appeals**

A person unhappy with any decision or order passed against him under GST can appeal against such decision.

The first appeal against an order by an adjudicating authority goes to the First Appellate Authority**.**

If the taxpayer is not happy with the decision of the First Appellate Authority they can appeal to the National Appellate Tribunal, then to the High Court, and finally to the Supreme Court.

To avoid the long process of appeal and litigation, a taxpayer may request for the advance ruling under GST. The taxpayer asks for clarification from GST authorities on GST treatment before starting the proposed activity. The tax authority gives a written decision (called advance ruling) to the applicant on the query.

**REFUND OF EXCESS GST**

**How to file refund under GST**

GST is all about a smooth flow of funds and compliances till the end. To facilitate such a smooth flow, it is imperative for the Government to provide for a hassle-free refund process. The current tax structure is cumbersome, and it takes months and sometimes years to get refunds from the Government’s kitty.

GST provides for a clearer and efficient invoice based tracking system, verifying the transactions on an individual basis, thus, allowing systematic checking of the same. It comes as a huge relief for manufacturers or exporters, especially those in a 100% EOU or Special Economic Zone, whose working capital gets tied up in this cumbersome refund process.

In this article, we’ve covered the GST refund process in detail to make your life easy.

There are certain events where refund arises. Let us check out the transactions in details.

* In case of exports (including deemed exports), where there is a cumulative balance of input credit arising out of such exports or under a claim of rebate.
* Where there is an excessive payment of tax due to an inadvertent mistake.
* When there is an accumulation of credit resulting due to the output tax being nil or exempted from tax.
* A refund may arise after a provisional assessment.
* Where an appeal is for a respondent, then the amount made as a deposit towards holding such appeal shall be refunded to the appellant
* Refund after investigation or findings by an adjudicating officer.
* Refund can be provided to foreign embassies or bodies of United Nations when the purchases are made by them.
* When there is an accumulation of credit resulting due to the output tax being of a lesser rate than the input.
* Suppliers receiving discounts or credits through the issuance of credit notes.
* GST paid by foreign or international tourists are subjected to refund.

The Government will not just give away the pending amount as a refund. The taxpayers have to make an application and follow the correct procedure for fetching the refund amounts in their bank accounts.

**Refund Application Process under GST**

The refund application has to be made in **Form RFD-01 (to be certified by a Chartered Accountant)** within a period of 2 years from the

“Relevant date.” This relevant date is different for different scenarios.

* When the goods are exported through air or sea, then relevant date shall be the date on which such ship or aircraft leaves India.
* When the goods are carried by a land vehicle, then relevant date shall be the date when the goods cross the land frontier of the country
* When goods are sent through post, then relevant date shall be the date of despatch of goods from the Post Office.
* When the supply includes services, and when the same is completed before receipt of payment, then relevant date shall be the payment receipt date.
* Similarly, when the services are performed after receipt of an advance, then relevant date shall be the invoice date.
* Where refund claim is made for excess input tax credit left unutilised, then relevant date shall be the end of the financial year for which such refund claim is being made.
* Where the goods are supplied for deemed exports, i.e. supply to SEZ or 100% EOU, the relevant date shall be the return filing date related to such deemed exports was filed.
* Where refund arises due to an order passed in favour of the appellant, then relevant date shall be the date of such order.
* Where tax was paid following a provisional assessment and refund now arises, then relevant date shall be date at which such tax was adjusted.
* When the person claiming refund is not the supplier, then relevant date shall be the date at which the goods are received by such person.
* For all other cases, relevant date shall be the date of payment of tax.

It is mandatory to keep in mind these relevant dates as failure to file refund applications within mentioned time can lead to blockage of credit.

Once the application made, an acknowledgement in **Form RFD-02** will be auto-generated for future references and sent across through an email and an SMS. In case the system finds some deficiencies in the refund application, then **Form RFD-03** shall be sent to the taxpayer to correct his application.

Moreover, there are certain documents that must be enclosed along with the electronic refund application. Where the refund application is below Rs. 5 lakhs, then a declaration shall be made by the taxpayer indicating that the amount of refund has not been utilised by or transferred to any other person. Where such application exceeds Rs. 5 lakhs, then apart from the declaration above, a document evidencing that the amount was paid by the taxpayer shall also be attached.

When the person filing refund claim is a United Nations’ body, Consulate or a foreign embassy, then the application for refund has to be filed within 90 days from the end of the quarter for which the goods or services were procured. The application should be made in **Form RFD-10**.

**Note**: There shall be no refunds where the amount of refund is less than Rs. 1,000/

**Scrutiny of the refund application**

As per norms, it would take about 30 days to process a refund application. Where the refund claim exceeds a prescribed amount, then the same shall be subjected to an audit process. If the same qualifies for a refund, then an order shall be passed to that extent, or if it meets the criterion for being “unjustly enriching” the taxpayer, then the amount shall be transferred to the Consumer Welfare Fund. The above declaration may be required to be certified by a Chartered Accountant.

**Refund Order**

When the taxpayer claims refund of monies arising out of exports of goods or services, then an authorised officer can issue a provisional refund order in **Form RFD-04** of an amount of 90% of the refund claim. Such a provisional refund can be made when the taxpayer:

* Has not been prosecuted for evading taxes for an amount exceeding Rs. 250 lakhs over a period of 5 years.
* Has a GST compliance rating of more than 5 out of 10.
* Has no appeal or review pending with respect to refunds.

Where the authorised officer feels that documents are in consonance with law, then he may pass a final order to that effect.

The Government shall maintain a cash ledger for the taxpayer. It will be constantly updated with the figures as mentioned or declared in the returns. The credit must match with the ledger or else the credit cannot be availed. It is similar in lines of Form 26AS in case of Income Tax, where the amount of TDS and TCS matches with the Form.

In all other cases, the refund application shall be processed within 60 days from the application date. Once the authorised officer adjudges the refund to be true, then he will issue a final order **in Form RFD-05**within a period of 60 days from the application date. If the officer fails to pass an order within the said 60 days, then the taxpayer shall receive an interest @ 6% p.a. for the period exceeding the expiry of 60 days until the receipt of refund.

When the refund has to be adjusted against the taxable amount, then Form RFD-06 shall be passed.

Other forms that are important for refund claims:

* RFD-07: this is a show cause notice for complete rejection of a refund application
* RFD-08: Payment advice
* RFD-09: In case of delayed payments, this is an order for interest on late payments.

**Refund of Input Tax Credit**

There are 3 cases against which a refund claim can be made with respect to input tax credit. All the above scenarios covered refund emanating from certain specified transactions.

* Input tax credit left unutilized when the goods or services being supplied are zero rated or exempted from GST.
* When input goods or services have a higher rate of tax and the same goods or services have a lesser output tax, then the accumulated input tax credit can be claimed as refund.
* In case of a partial reverse charge, where the input tax credit cannot be used completely against the output tax.

Furthermore, no refund against unutilized input tax credit can be given when:

* Input arises out of GST paid against goods exported out of India, that were taxable to excise duty
* The supplier has already availed the benefit of duty drawback paid with respect to excise duty.

The process is very thorough in itself and once followed properly, then availing refund can become very smooth and hassle free. It will change the face of the long drawn refund process and give a boost to the manufacturing or export industry. Those refunds, which usually took years to pass can now be taken in just 60 days. The strong IT system and forward thinking of the GSTN have enabled this initiative.