



# TRANSITIONAL PROVISIONS UNDER GST

GST shall subsume number of taxes currently levied under Central or State level. In the GST Regime manufacturer, wholesaler, trader or service provider shall be put on the same pedestal.

Every registered person shall be allowed to carry forward its Input Tax Credit [ITC] on goods or services or both available with him on the day immediately preceding the appointed day and shall be eligible for set-off against output tax liability under GST regime subject to certain conditions and restrictions.

To ensure the smooth transition of the current Indirect Tax Regime to the Goods and Services Tax Regime, Government has made specified Transitional Provisions.

For the sake of convenience it is presumed that **01.07.2017** shall be the appointed day i.e. the day from which GST shall be implemented.

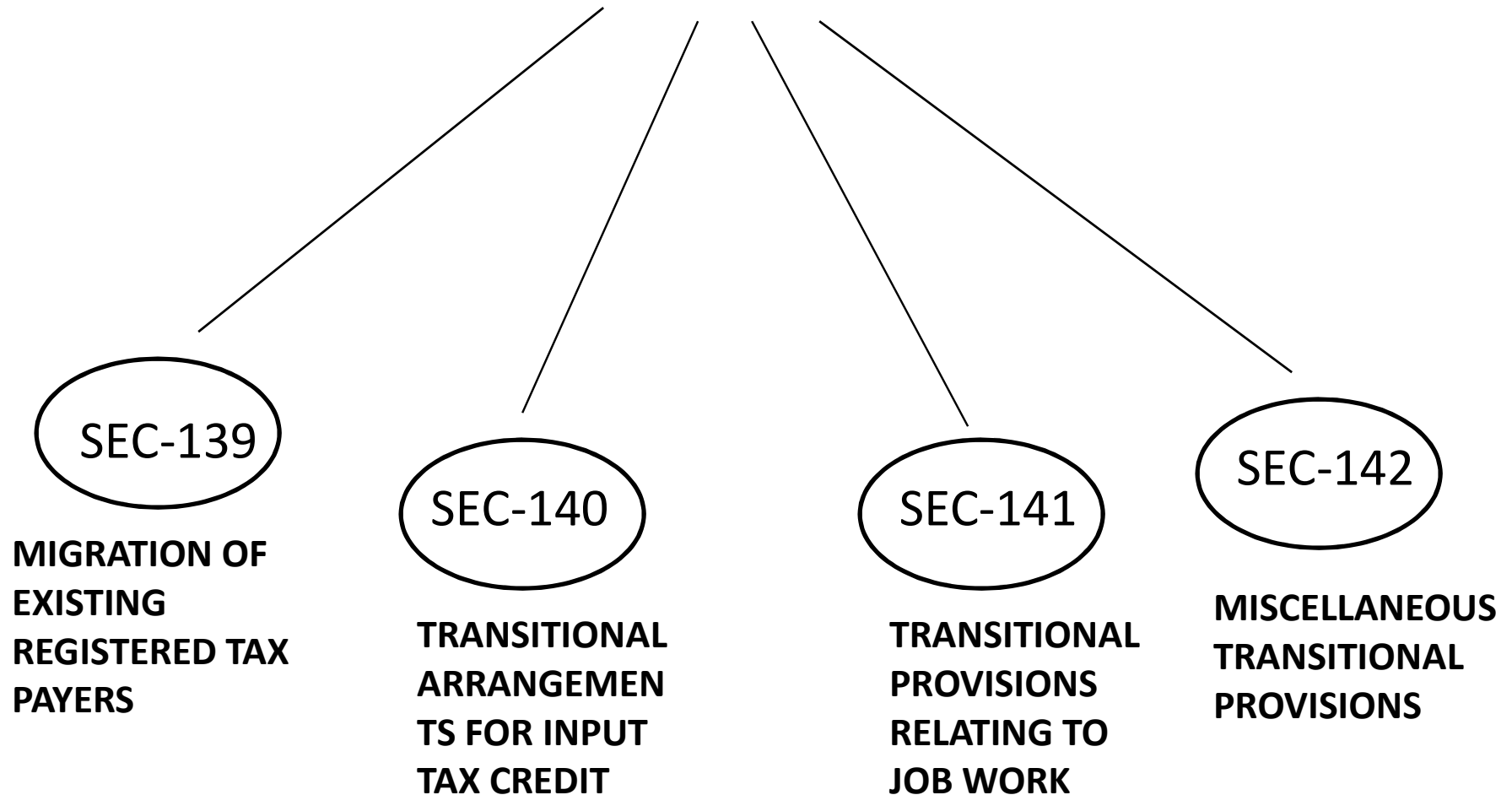
# TRANSITIONAL PROVISIONS UNDER GST

## Options before Existing Dealers:

The existing dealers whose turnover is less than Rs. 20 Lakh (or Rs. 10 Lakh in the special category states), as the case may be, but registered under existing VAT laws with the respective state Government/s have following two broad options:

1. To seek migration under GST Regime. In this option, the dealers have to comply with transitional provisions.
2. Not to migrate under GST Regime due to any reason such as, enhanced threshold exemption under GST etc. In this option, the ITC available with the dealers on the appointed date shall lapse as they shall not qualify as taxable person in GST.

# Relevant Sections of the CGST/SGST Act for Transitional Provisions



# MIGRATION OF EXISTING REGISTERED TAX PAYERS

[SECTION 139 of CGST ACT, 2017]

On the appointed day, every person registered under any of the earlier laws and having a valid PAN shall be issued a certificate of registration **on a provisional basis**.

Every person to whom a certificate of registration (issued **on a provisional basis**) shall, within the aforesaid period, furnish such information as prescribed under the Transitional Provisions Rules, 2017.

Cancellation of certificate of registration (issued **on a provisional basis**) if such person fails to furnish information within the aforesaid period.

# **TRANSITIONAL ARRANGEMENTS FOR INPUT TAX CREDIT.**

## **[Section 140 of CGST ACT, 2017 read with transitional rules]**

### **140(1) read with sub rule 1 of Rule 1**

- **Carry forward of tax credit claimed in tax returns**
- As per sub rule 1 of Rule 1 ,a declaration should be filed **within 90 days** from the appointed day in **FORM GST TRAN-1**
- Commissioner may further extend the for not exceeding 90 days.
- Application shall specify separately
  - Value of claims under section 3, 5(3), 6 and 6A and section 8(8) of the Central Sales Tax Act, 1956 made by the applicant (credit i.r.o. sale or purchase in case of interstate trade or import/export)
  - Serial number and value of declarations in Forms C and/or F and Certificates in Forms E and/or H or Form I specified in rule 12 of the Central Sales Tax (Registration and Turnover) Rules, 1957 submitted by the applicant in support of the above mentioned claims

### **140(2) read with sub rule 2 (a) of Rule 1**

- **Carry forward of un availed CENVAT Credit in relation to capital goods**
- Declaration under sub rule 1 shall specify separately the following:
  - Tax /duty availed or utilized by way of input tax credit under the existing laws till the appointed day
  - Tax /duty yet to be availed or utilized by way of input tax credit under existing laws

### **140 (3) read with sub rule 2 (b) of Rule 1**

- **Carry forward of tax credit by a registered person, who was not liable to be registered under the existing law but same has become taxable under GST.**
- Declaration under sub rule 1 shall specify the details of the stock held o the appointed day

# TRANSITIONAL ARRANGEMENTS FOR INPUT TAX CREDIT.

## **[Section 140 of CGST ACT, 2017 read with transitional rules]**

### **PROVISO TO SECTION 140(3) READ WITH SUB RULE (4) (a)**

- (i) A RTP who was not registered earlier will be allowed to avail of input tax credit on goods 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  
**60%- such goods which attract central tax at the rate of 9% or more**  
**40%-other goods**  
on supply of such goods after the appointed date and shall be credited after the **central tax** payable has been paid.  
Provided that where **integrated tax** is paid on such goods, the amount of credit shall be allowed at the rate of **30% and 20% respectively.**
- (iii) The scheme shall be available for six tax periods from the appointed date.

### **SUB RULE (4) (b)**

**Such credit under Rule 4 (a) of central tax shall be availed subject to satisfying the following conditions :**

- (i) Such goods were not unconditionally exempt or not nil rated .
- (ii) Document for procurement of such goods is available .
- (iii) The registered person availing of this scheme and having furnished the details of stock held by him , submits a statement in **FORM GST TRAN 2 at the end of each of the six tax periods** indicating therein the details of supplies of such goods effected during the tax period.
- (iv) 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) Stock of goods on which the credit is availed is so stored that it can be easily identified by the registered person.

## **TRANSITIONAL ARRANGEMENTS FOR INPUT TAX CREDIT.**

### **[Section 140 of CGST ACT, 2017 read with transitional rules]**

#### **140(4) read with sub rule 2 (b) of Rule 1**

- **Carry forward of tax credit by a registered person, who was engaged in the manufacture of taxable as well as exempted goods or provision of taxable as well as exempted service but which are liable to tax under GST.**
- Declaration under sub rule 1 shall specify the details of the stock held on the appointed day

#### **140(5) read with sub rule 2 (c) of Rule 1**

- **Tax credit 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.**
- Following details to be furnished are :
  - Name of the supplier, Serial number and date of issue of the invoice by supplier or any document on the basis of which credit of input tax was admissible .
  - Description and value of the goods or services,
  - Quantity in case of goods and the unit or unit quantity code thereof,
  - Amount of eligible taxes and duties charged by the supplier
  - Date on which the receipt of goods or services is entered in the books of recipient



# **TRANSITIONAL ARRANGEMENTS FOR INPUT TAX CREDIT.**

## **[SECTION 140 of CGST ACT, 2017 read with transitional rules]**

140(1)

- Carry forward of tax credit claimed in tax returns

140(2)

- Carry forward of un availed CENVAT Credit in relation to capital goods

140(3)

- Carry forward of tax credit by a registered person, who was not liable to be registered under the existing law but same has become taxable under GST.

140(4)

- Carry forward of tax credit by a registered person, who was engaged in the manufacture of taxable as well as exempted goods or provision of taxable as well as exempted service but which are liable to tax under GST.

140(5)

- Tax credit 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.

# TRANSITIONAL ARRANGEMENTS FOR INPUT TAX CREDIT.

## **[Section 140 of CGST ACT, 2017 read with transitional rules]**

140(6)

- **Carry forward of tax credit by 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.**
- Declaration under sub rule 1 shall specify the details of the stock held on the appointed day

140(7)

- **Tax Credit on account of any services received prior to appointed day by an ISD.**

140(8)

- **Carry forward of tax credit in case of service provider registered on centralized basis.**
- Declaration under sub rule 1 shall specify the details of the stock held on the appointed day

140(9)

- **Tax Credit reversed due to non-payment of the consideration within a period three months under Finance Act, 1994.**

140(10)

- **The amount of credit under sub-sections (3), (4) and (6) shall be calculated in such manner as prescribed under the Transitional Provisions Rules, 2017.**

## EXAMPLE

Mr. A, a trader, located in Delhi purchases goods worth Rs 10,00,000 in April 2017 and paid Rs 50,000 as VAT to the supplier which is also located in Delhi. Further, Mr. A, sells such goods in the following manner (after adding margin of 20%):-

- Sale worth Rs 4,80,000 (purchase price Rs 4,00,000) to Mr. X located in Delhi and paid Local Tax @ 5%.
- Sales worth Rs 2,40,000 (purchase price Rs 2,00,000) to Mr. Y located in Haryana and paid Central Tax @ 2%.
- Sales worth Rs 3,60,000 (purchase price Rs 3,00,000) to Mr. Z located in Haryana and paid Central Tax @ 2%.

Further, Mr. A received 'C' forms from Mr. Z in respect of such sales made by it in June 2017 and also furnished the same to the Department. However, till 30.06.2017, no 'C' forms are received from Mr. Y in respect of sales made to it.

In this case, the balance which shall be carried forward under GST shall be computed as follows:

S. No	Particulars	Amount (Rs)
A.	Total Input Tax Credit Available	50,000
B.	Credit Utilized for paying Local Tax (4,80,000*5%)	24,000
C.	Credit Utilized for paying Central Tax (2,40,000*2% + 3,60,000*2%)	12,000
D.	Balance Left in return $D=(A-B-C)$	14,000
E.	Credit attributable to claims not substantiated i.e. sales made to 'Y'. (2,00,000*5% - 2,40,000*2%)	5,200
	Credit which is eligible to be carried forward under GST (D-E)	8,800

The aforesaid Credit of Rs 5,200 shall be refunded to Mr. A when Mr. 'A' shall furnish the 'C' forms in respect of sales made to Mr. Y. Such refund shall be issued by the respective State Government only. It is just fair and equitable also as if the benefit of denial of credit on such transactions has accrues to the respective State Government only.

# TRANSITIONAL PROVISIONS RELATING TO JOB WORK

[SECTION 141 OF CGST ACT, 2017]

## **Sec- 141(1)**

No tax payable if input removed to a Job Worker for further processing, testing, etc. prior to the appointed day returned to the place of business after completion of job work or otherwise, within period of 6 months from the appointed day or extended period for further 2 months.

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## **Sec- 141(2)**

No tax payable if semi-finished goods that had been removed to any other premises for carrying out certain manufacturing processes prior to appointed day returned after undergoing manufacturing process or otherwise, within a period of 6 months from the appointed day or extended period for further 2 months.

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## **Sec- 141(3)**

No tax payable on manufactured excisable goods removed without payment of duty for carrying out tests etc. not amounting to manufacture, as per existing law prior to the appointed day returned after undergoing tests or any other process within period of 6 months from the appointed day or extended period for further two months.

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## **Sec- 141(4)**

No tax payable under Section (1)/(2) or (3) if the manufacturer and the job worker declare the details of the inputs or goods held in stock.

## **SUB RULE 3 OF TRANSITIONAL PROVISIONS**

Every person to whom the provisions of section 141 or 142(12) applies shall, **within 90 days** of the appointed day, submit a declaration electronically in **FORM GST TRAN-1**, specifying therein, the stock of the inputs, semi-finished goods or finished goods, as applicable, held by him on the appointed day.

### **EXAMPLE:**

Mr. X sent its Inputs to Mr. Y for further processing on 15.01.2017. Accordingly, in view of existing law, Mr. X is required to reverse CENVAT Credit attributable to such Inputs if Inputs are not received back within 6 months from the date of being sent i.e. by 14.07.2017.

However, in view of the Section 141 (1), Inputs can be received back up to 31.12.2017 and accordingly, time limit for receiving back such Inputs has been increased and which can be increased by Commissioner for further period not exceeding 2 months i.e. upto 28.02.2018.

## **MISCELLANEOUS TRANSITIONAL PROVISIONS**

### **[SECTION 142 OF CGST ACT, 2017]**

142(1) - Refund of duty on any goods on which duty had been paid under the existing law at the time of removal thereof.

142(2)(a)- The price of any goods or services or both is revised upwards on or after the appointed day, shall be deemed to be an outward supply made under this Act.

142(2)(b) - The price of any goods or services or both is revised downwards on or after the appointed day, shall be deemed to be an outward supply made under this Act.

142(3) - Every claim for refund filed before, on or after the appointed day, under the existing law, shall be disposed of in accordance with the provisions of existing law.

142(4) - Every claim for refund filed after the appointed day for refund of any duty or tax paid under existing law in respect of the goods or services exported before or after the appointed day shall be disposed of in accordance with the provisions of existing law

142(5) - Every claim of refund of tax filed after the appointed paid under the existing law in respect of services not provided.

142(6)(a) - Every proceeding of appeal, review or reference relating to a CLAIM for CENVAT credit initiated whether before, on or after the appointed day under the existing law.

142(6)(b) -Every proceeding of appeal, review or reference relating to RECOVERY of CENVAT credit initiated whether before, on or after the appointed day under the existing law.

142(7)(a) - Every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law and if any amount becomes recoverable from the claimant .



142(7)(b)- Every proceeding of appeal, review or reference relating to any output duty or tax liability initiated whether before, on or after the appointed day under the existing law, and any amount found to be admissible to the claimant

142(8)(a) - In pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine penalty becomes RECOVERABLE from the person

142(8)(b) - In pursuance of an assessment or adjudication proceedings instituted, whether before, on or after the appointed day, under the existing law, any amount of tax, interest, fine or penalty becomes REFUNDABLE to the taxable person

142(9)(a) - Where any return, furnished under the existing law, is revised after the appointed day and if, pursuant to such revision, any amount is found to be recoverable or any amount of CENVAT credit is found to be inadmissible.

142(9)(b) - Where any return, furnished under the existing law, is revised after the appointed day but within the time limit specified for such revision under the existing law and if, pursuant to such revision, any amount is found to be refundable or CENVAT credit is found to be admissible

142(10) - Goods or services or both supplied (in pursuance of a contract entered into prior to the appointed day) i.e. ongoing contracts on or after the appointed day shall be liable to tax

142(11)(a) - No tax shall be payable on goods under this Act to the extent the tax was leviable on the said goods under the Value Added Tax Act of the State

142(11)(b) - No tax shall be payable on services under this Act to the extent the tax was leviable on the said services under Chapter V of the Finance Act, 1994

**142(11)(C)** - Where tax was paid on any supply both under the Value Added Tax Act and under Chapter V of the Finance Act, 1994, tax shall be leviable under this Act to the extent of supplies made after the appointed day i.e. supply of goods or services or both supplied after the appointed day.

**SUB RULE 2 OF TRANSITIONAL PROVISIONS**

Declaration to be submitted electronically **within a period of 90 days** of the appointed day, in **FORM GST TRAN-1** furnishing the proportion of supply on which VAT or service tax has been paid before the appointed day but the supply is made later, and the ITC admissible thereon.

**142(12)** - Any goods sent on approval basis, not earlier than six months before the appointed day, are rejected and returned to the seller on or after the appointed day

**SUB RULE 4 OF TRANSITIONAL PROVISIONS**

Details of goods sent on approval basis shall be submitted **within 90 days** of the appointed day, in **FORM GST TRAN-1**.

**142(13)** - No deduction of tax at source under section 51 shall be made by the deductor on sale made under existing law which is subject to TDS and has also issued an invoice before the appointed day.

## **.SUB RULE 5 OF TRANSITIONAL PROVISIONS**

### **Recovery of credit wrongly availed**

The amount credited under sub-rule (3) of rule 1 may be verified and proceedings under **section 73** (*determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized for any reason other than fraud or any willful misstatement or suppression of facts*) or, as the case may be, **section 74** (*determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilized by reason other than fraud or any willful misstatement or suppression of facts*) shall be initiated in respect of any credit wrongly availed, whether wholly or partly.

*Thank you for your  
concentration!*

