

Goods & Services Tax - 2017

CGST - INPUT TAX CREDIT

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Definition of Input, Input service & Capital goods

Section 2

(59) “input” means any goods other than capital goods used or intended to be used by a supplier **in the course or furtherance of business**

(60) “input service” means any service used or intended to be used by a supplier **in the course or furtherance of business;**

(19) “capital goods” means: **goods, the value of which is capitalised in the books of accounts of the person claiming the input tax credit and which are used or intended to be used in the course or furtherance of business**

- Coca Cola India Pvt. Ltd. 2009 (15) STR 657 (Bom.)
- *Mazgaon Dock Ltd. v. Commissioner of Income tax and Excess Profits Tax* - AIR 1958 SC 861 - The term “business” particularly in fiscal statutes is of wide import.

Business - definition

- (17) “business” includes—
 - (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
 - (b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
 - (c) any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
 - (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;

Business - definition

- e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
- f) admission, for a consideration, of persons to any premises;
- g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- h) services provided by a race club by way of totalisator or a licence to book maker in such club ; and
- i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;

Input Tax

- “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) & (4) of section 9,
- Excludes the tax paid under section 10 (composition levy)

ITC – availment & utilisation

- System for a seamless flow of credit
- Extends to inter-State supplies
- Credit utilization u/s 49 would be as follows:

**CGST and SGST/UTGST
cannot be mutually set-off.**

Tax	To be adjusted with
IGST	1) IGST
	2) CGST
	3) SGST
CGST	1) CGST
	2) IGST
SGST	1) SGST
	2) IGST
UTGST	1) UTGST
	2) IGST

Manner of taking credit

Section 16

✓ Registered person shall be entitled to take credit of input tax charged on supply of goods / services which are used or intended to be used **in the course or furtherance of his business.**

✓ In case of services, if payment is **not made to supplier within 180 days** from the date of issue of invoice by supplier, amount equal to credit so availed to be paid as output tax with interest (other than reverse charger supplies)

✓ Reverse charge – credit can be availed on payment of value of supply with tax.

Conditions for availing input tax credit

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

Goods and/or services have been received

Subject to S. 49, tax has been paid by the supplier to the Government, either in cash or by utilization of ITC

He has furnished the monthly return in Form GSTR-3 under Section 39

- Instalment supply - credit only upon receipt of the last lot/ instalment.
- Goods deemed to be received by a registered person when the supplier delivers the goods to the recipient/ any other person, on the direction provided by the registered person.

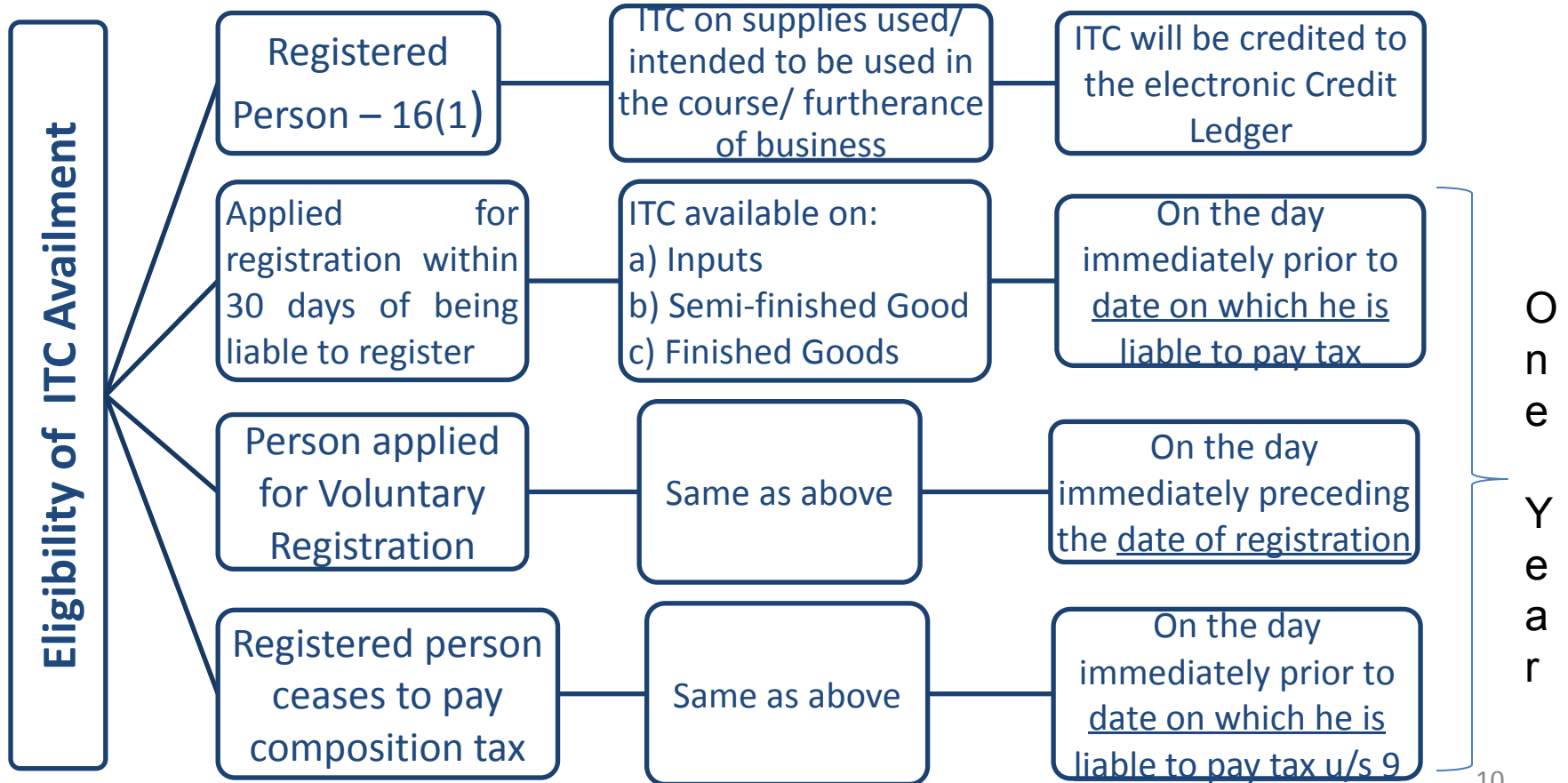
Section 16 – other provisions

Manner of taking credit

Section 16

- ✓ No credit to the extent of depreciation (under IT Act) claimed on tax amount
- ✓ Time limit for taking credit (upper limit) earliest of the following:
 - a) Date of filing of return for the month of September in next Financial Year
 - b) Date of filing of Annual return for the relevant current FY – 31st December.

Eligibility to avail ITC



Types of documents for availing ITC – Rule 1

- a) an invoice issued by the supplier of goods or services or both – S.31;
- b) a debit note issued by a supplier as per section 34;
- c) a bill of entry;
- d) an invoice issued in accordance with the provisions of S.31(3) (f) (invoice issued by recipient for reverse charge supplies);
- e) a document issued by an Input Service Distributor u/r 7(1);
- f) a document issued by an Input Service Distributor, as prescribed in clause (g) of sub-rule (1) of rule 4.

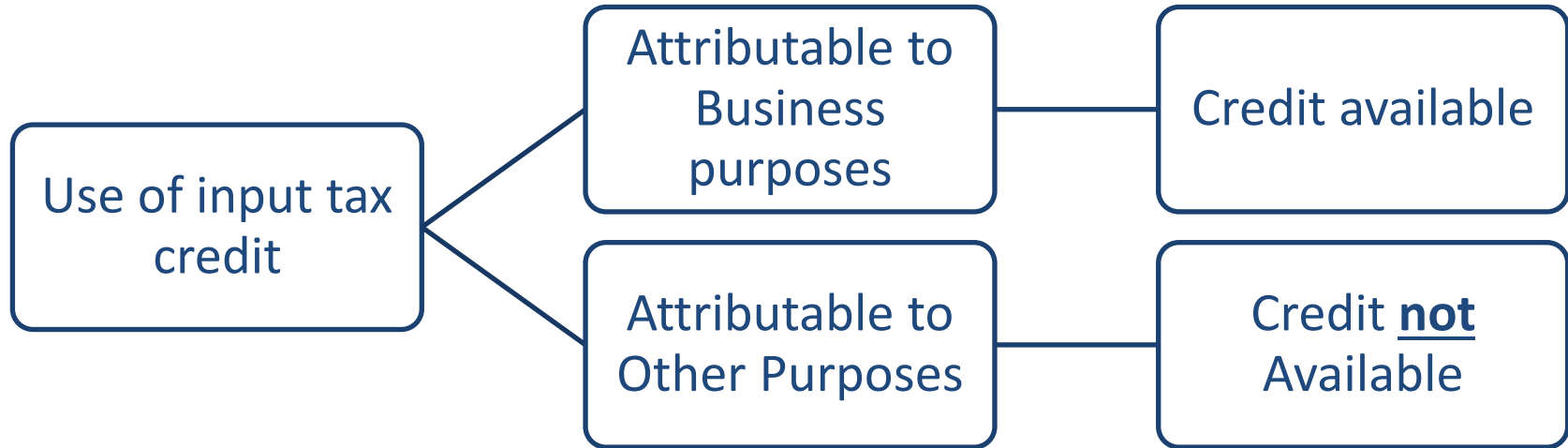
INPUT TAX CREDIT

APPORTIONMENT OF ITC

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

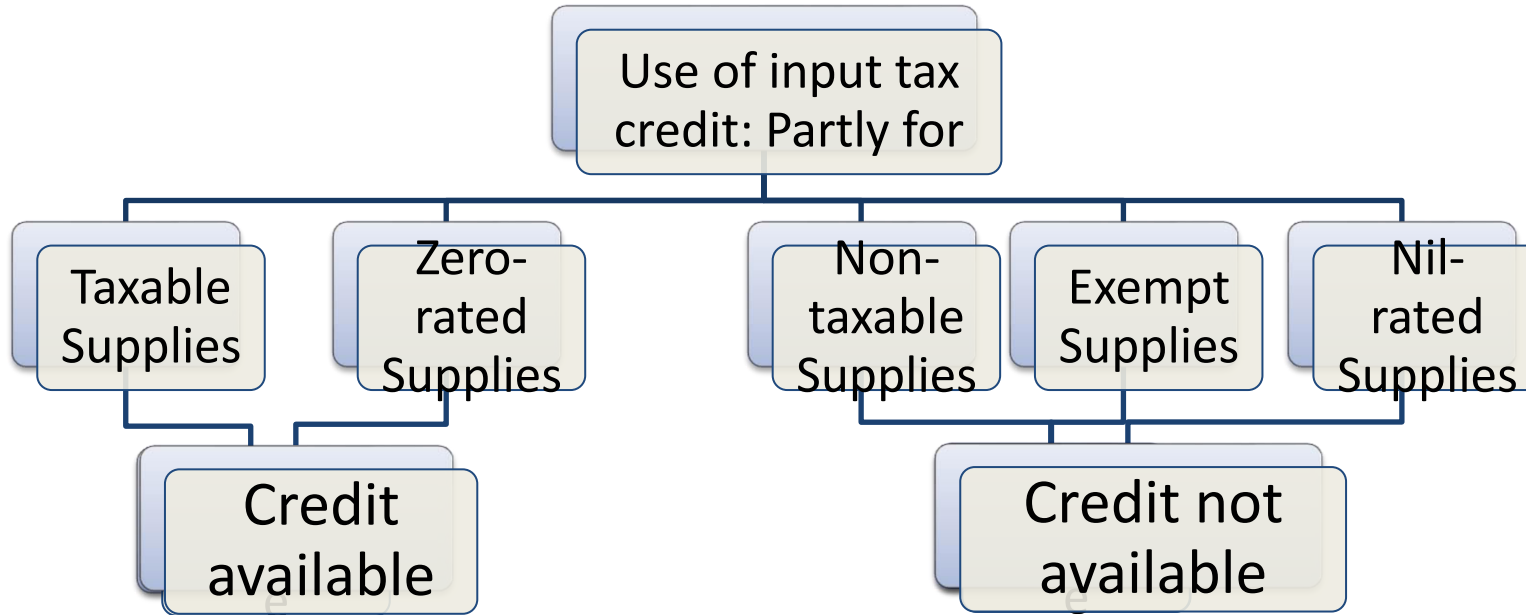
- Section 2(47) – “exempt supply” means supply of any goods and/ or services
 - which attract nil rate of tax; or
 - which may be exempt from tax under Section 11 of CGST or Section 6 of IGST
 - and include ‘non-taxable supply’.
- Section 2(78) – “non-taxable supply” means a supply of goods or services which is not leviable to tax under this Act or under IGST
- 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

S.17 - First apportionment – partly used for business and partly for other purposes (non-business):



Formula for apportionment is given in CGST Rules

S.17-Second apportionment – partly used for taxable supplies and partly for exempt supplies:



Formula for apportionment is given in CGST Rules

Special provision for banking companies & financial institutions:

- In the case of banking companies or financial institutions including NBFCs could opt for availment of 50% of the total credit eligible in the tax period.
- Where the aforesaid banking companies, NBFCs etc opt for availing 50% of total credit eligible, they have to follow the procedure contained in Rule 3 of Input Tax Credit Rules.

Restriction on ITC – S.17(5)

a) Motor vehicles / other conveyances:

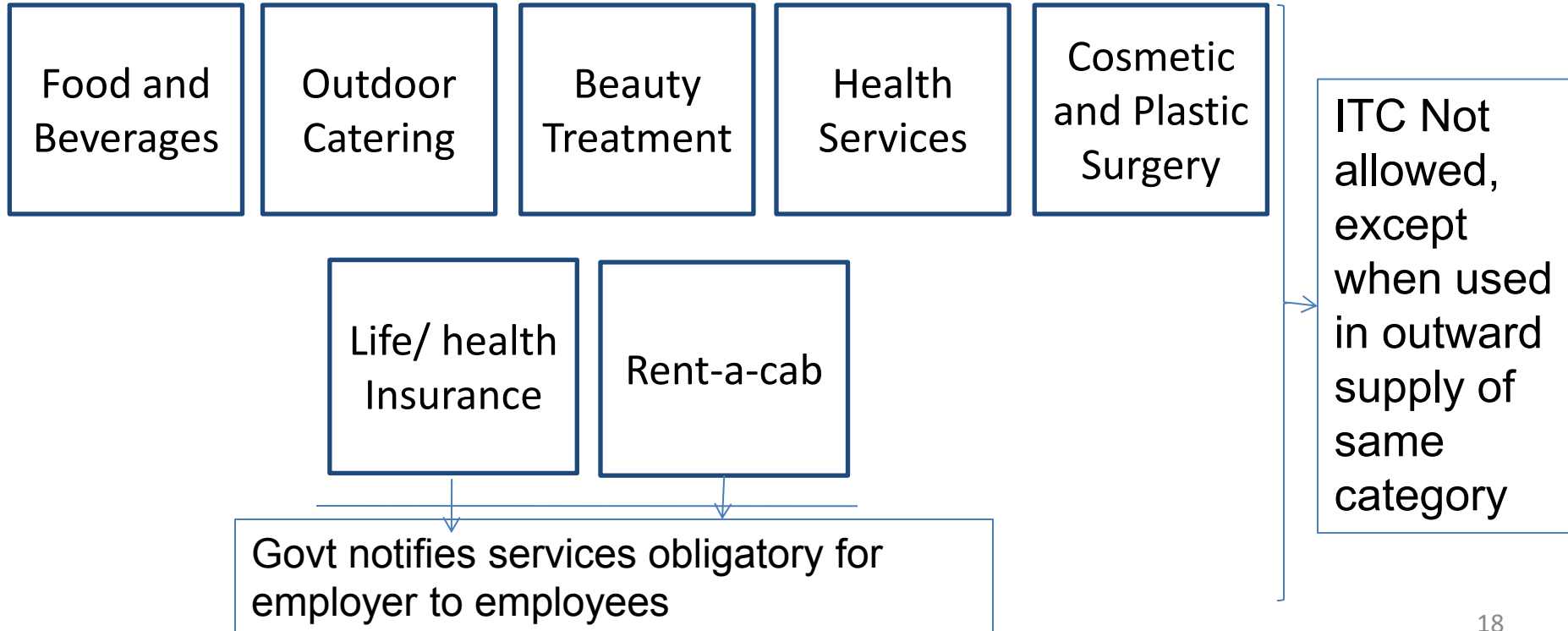
ITC for Motor
Vehicles will
NOT be
available

Except when they are used for:

- Transportation of goods, or
- Making the following taxable services:
 - i. Further supply of such vehicles/
conveyances, or
 - ii. Transportation of passengers, or
 - iii. Imparting training for driving/
flying/ navigating such vehicles/
conveyances
 - iv. Transportation of goods

Restriction on ITC – S.17(5)

➤ b) Supply of goods and services being:



Restriction on ITC – S.17(5)

- No credit shall be allowed for the following services:

Membership
of club

Health and
Fitness
Centre

Travel
Benefits to
employees

Restriction on ITC – S.17(5)

c) Works Contract (other than plant & machinery)

d) 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
*including when used in course or furtherance
of business;*

Construction includes re-
construction, renovation,
addition or alteration or
repairs **to the extent of
capitalisation.**

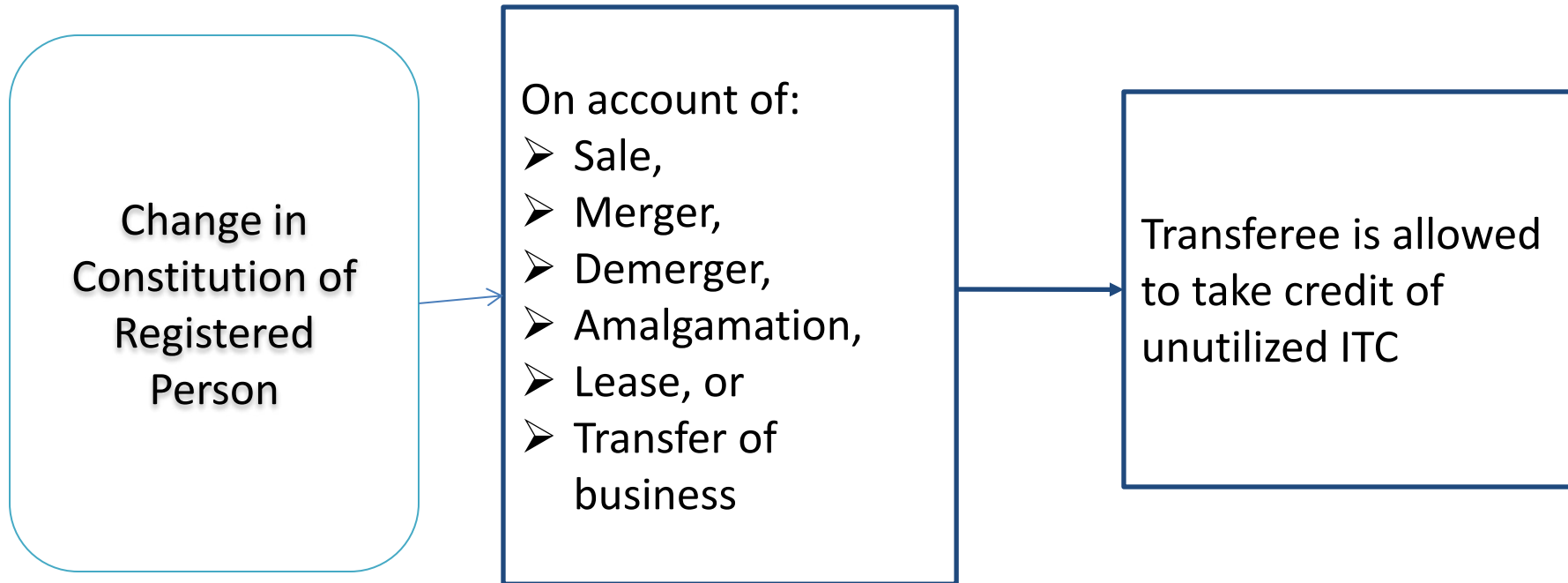
ITC not Available

Restriction on ITC – S.17(5)

Other restrictions

- e) GST paid under composition scheme under section 10;
- f) Goods or services or both received by a non-resident taxable person except on goods imported by him;
- g) Goods or services or both used for personal consumption;
- h) Goods lost or stolen/ written off/ disposed off by way of gift or free samples;
- i) Tax paid after adjudication where there involves fraud etc. (S. 74) / detention (S.129) / confiscation of goods (S. 130)

Transfer of credit due to change in constitution



Where registered person opts for Composition Scheme

Where registered person who has availed input tax credit has :

- a) opted to pay tax under composition scheme u/s 10 or
- b) Supply of goods or services or both by him has become wholly exempt,

then, he shall pay an amount equivalent (by debiting to electronic credit / cash ledger) to the credit of input tax pertaining to:

- (a) inputs held in stock and
 - (b) input contained in semi-finished or finished goods held in stock and on capital goods
- on the day preceding the date of exercising such option or date of such exemption.

Rules to prescribe the reduction by 'percentage points'.

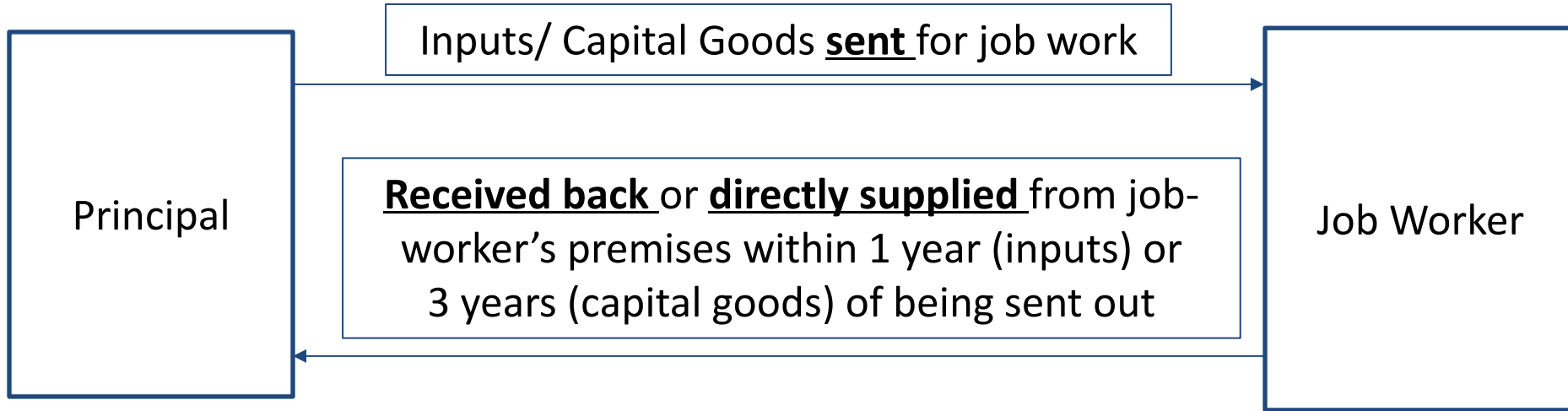
After payment of such amount, balance credit if any shall lapse.

In case of supply of capital goods or plant and machinery on which input tax credit has been taken, the registered person shall be pay an amount higher of the following:

- a) Input tax credit taken on capital goods or plant and machinery reduced by such percentage prescribed or
- b) Tax on transaction value of capital goods or plant and machinery as per Section 15.

Exception for refractory bricks, moulds an dies, jigs and fixtures which are supplied as scrap, then tax has to be paid on 'transaction value' only.

Input tax credit on inputs/CG sent for job work



If not received/directly supplied in time: It is deemed that Principal has supplied the input/capital goods on the day when input / capital goods were sent out. He can reclaim this ITC on receiving back such inputs/ capital goods.

Where goods are directly sent to job worker, the period of one year shall be counted from the date of receipt of inputs by the job worker.

INPUT SERVICE DISTRIBUTOR

(61) "Input Service Distributor" means an office of the supplier of goods and / or services which receives tax invoices issued under section 31 towards receipt of input services and issues a prescribed document for the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST paid on the said services to a supplier of taxable goods and / or services having same PAN as that of the office referred to above;

Input service distributor (Sec 20)

ISD shall distribute the credit subject to following conditions:

- (a) the credit can be distributed to the recipients of credits against a prescribed document;
- (b) the amount of the credit distributed shall not exceed the amount of credit available for distribution;
- (c) the credit of tax paid on input services attributable to a recipient shall be distributed only to **that recipient**;

Input service distributor (Sec 20)

(d) the credit of tax paid on input services attributable to **more than one recipient** – be distributed only attributable recipients on ‘pro-rata’ on the basis of the turnover in a State or UT of such recipient, during the relevant period, to the aggregate of the turnover of all such recipients to whom such input service is attributable and which are operational in the current year, during the said relevant period.

(e) where credit is attributable **to all recipients**, it shall be distributed amongst such recipients on pro rata basis of turnover in a State or UT of all recipients during the relevant period.

Explanation to Section 20-definitions

(a) the “relevant period” shall be—

- 1) if the recipients of credit have turnover in their States or Union territories in the financial year preceding the year during which credit is to be distributed, the said financial year; or
- 2) if some or all recipients of the credit do not have any turnover in their States or Union territories in the financial year preceding the year during which the credit is to be distributed, the last quarter for which details of such turnover of all the recipients are available, previous to the month during which credit is to be distributed;

(b) the expression “recipient of credit” means the supplier of goods or services or both having the same Permanent Account Number as that of the Input Service Distributor;

Recovery of ISD credit Sec 21

When ISD credit is distributed in excess of what is available, it can be recovered with interest in manner specified in section 73 or 74

Matching, Reversal & Re-credit

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

Steps in availment and utilisation of credit

Avail credit provisionally after receipt of goods and invoice – S.41

Supplier to file returns along with supply details and pay taxes – S.37

Recipient to file return along with inward details and pay taxes – S.38

The credits are correlated with respective supplier returns – S. 42

Credits which match to the vendor details are treated as finalised

Credits not matched or excess on account of duplication etc. would be treated as tax payable and intimated to the recipient. Vendors also would be intimated about mismatch

The said amount of credits not matched would be paid along with interest in the next month

Where the vendor rectifies and uploads, to such an extent credit would be allowed and balance shall be payable with interest

THANK YOU

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