



# GST

SECTORAL SERIES

## EXPORTS



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# FAQ: EXPORTS

## Question 1: How are exports treated under the GST Law?

**Answer:** Under the GST Law, export of goods or services has been treated as:

- inter-State supply and covered under the IGST Act.
- 'zero rated supply' i.e. the goods or services exported shall be relieved of GST levied upon them either at the input stage or at the final product stage.

## Question 2: What will be the impact of GST on zero rating of export of goods?

**Answer:** This will make Indian exports competitive in the international market.

## Question 3: Have the procedures relating to exports by manufacturer exporters been simplified in GST regime?

**Answer:** Yes. The procedures relating to export have been simplified so as to do away with the paper work and intervention of the department at various stages of export. The salient features of the scheme of export under GST regime are as follows:

- The goods and services can be exported either on payment of IGST which can be claimed as refund after the goods have been exported, or under bond or Letter of Undertaking (LUT) without payment of IGST.
- In case of goods and services exported under bond or LUT, the exporter can claim refund of accumulated ITC on account of export.
- In case of goods the shipping bill is the only document required to be filed with the Customs for making exports. Requirement of filing the ARE 1/ARE 2 has been done away with.

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- The supplies made for export are to be made under self-sealing and self-certification without any intervention of the departmental officer.
- The shipping bill filed with the Customs is treated as an application for refund of IGST and shall be deemed to have been filed after submission of export general manifest and furnishing of a valid return in Form GSTR-3 by the applicant.

**Question 4:** For merchant exporters, is there any change in the Export Procedure under the GST regime?

**Answer:** The concept of merchant or manufacturer exporter would become irrelevant under the GST regime. The procedure in respect of the supplies made for export is same for both merchant exporter and a manufacturer exporter.

**Question 5:** The supplies to a SEZ unit or SEZ developer are treated as zero rated supplies in the GST Law. Then why there is no specific mention in the GST Law about not charging of tax in respect of supplies from DTA unit to a SEZ unit or SEZ developer?

**Answer:** Yes, supplies made to an SEZ unit or a SEZ developer are zero rated. The supplies made to an SEZ unit or a SEZ developer can be made in the same manner as supplies made for export:

- either on payment of IGST under claim of refund;
- or under bond or LUT without payment of any IGST.

**Question 6:** When a SEZ unit or SEZ developer procures any goods or services from an unregistered supplier, whether the SEZ unit or SEZ developer needs to pay IGST under reverse charge or these will be zero rated supplies?

**Answer:** Supplies to SEZ unit or SEZ developer have been accorded the status of inter-State supplies under the IGST Act. Under the GST Law, any supplier making inter-State supplies has to compulsorily get registered under GST. Thus anyone making a supply to a SEZ unit or SEZ developer has to necessarily obtain GST registration.

**Question 11:** What will be exemptions available for various authorizations/scrips which have been issued prior to 1.7.2017 and remain unutilized on 1.7.2017?

**Answer:** No exemption under GST Law is provided. The EXIM scrips under the export incentive schemes of chapter 3 of FTP (for example MEIS and SEIS) can be utilised only for payment of Customs duties or additional duties of Customs, on items not covered by GST, at the time of import. The scrips cannot be utilized for payment of Integrated Tax and Compensation Cess. Similarly, scrips cannot be used for payment of CGST, SGST or IGST for domestic procurements.

**Note:** Reference to CGST Act, 2017 includes reference to SGST Act, 2017 and UTGST Act, 2017 also.

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**Question 8:** Under the GST regime, will benefit of exemption from all duties available under Advance authorization scheme, EPCG scheme and duty credit scrips such as Merchandise Exports from India Scheme (MEIS) & Service Exports from India Scheme (SEIS) will continue?

**Answer:** • After 1st July 2017, the benefits under all the said schemes shall be restricted only to Basic Customs Duty, Safeguard Duty, Transitional Product Specific Safeguard Duty and Anti-dumping Duty in respect of goods leviable to IGST.

For items specified in the Fourth Schedule to the Central Excise Act, 1944 (specified petroleum products, tobacco etc.) exemption from Additional Duty leviable under Sections 3(1), 3(3) and 3(5) of the Customs Tariff Act, 1975 shall be available.

**Question 9:** Under GST regime, can we get duty free benefit (all duties exempted) if we import capital goods using EPCG authorization?

**Answer:** Only basic customs duty will be exempted on imports made under EPCG Authorization. The EPCG holder will have to pay IGST on import of capital goods and take Input Tax Credit.

**Question 10:** Can duty credit scrips such as Merchandise Exports from India Scheme (MEIS) and Service Exports from India Scheme (SEIS) be used for payment of GST?

**Answer:** No. MEIS and SEIS scrip can be used only for payment of Basic Customs Duty or additional duties of Customs on items not covered under GST for imports under GST regime.

**Question 7:** How soon will refund in respect of export of goods or services be granted during the GST regime?

**Answer:**

(a) In case of refund of tax on inputs used in exports:

- Refund of 90% will be granted provisionally within seven days of acknowledgement of refund application.
- Remaining 10% will be paid within a maximum period of 60 days from the date of receipt of application complete in all respects.
- Interest @ 6% is payable if full refund is not granted within 60 days.

(b) In the case of refund of IGST paid on exports: Upon receipt of information regarding furnishing of valid return in Form GSTR-3 by the exporter from the common portal, the Customs shall process the claim for refund and an amount equal to the IGST paid in respect of each shipping bill shall be credited to the bank account of the exporter.

**Question 8:** Will export of goods to Nepal and Bhutan treated as zero rated and thereby qualify for all the benefits available to zero rated supplies under the GST regime?

**Answer:** Export of goods to Nepal or Bhutan fulfils the condition of GST Law regarding taking goods out of India. Hence, export of goods to Nepal and Bhutan will be treated as zero rated and consequently will also qualify for all the benefits available to zero rated supplies under the GST regime. However, the definition of 'export of services' in the GST Law requires that the payment for such services should have been received by the supplier of services in convertible foreign exchange.

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**Question 9:** What is deemed export under GST Law? Whether any supply has been categorized as deemed export by the Government?

**Answer:** Deemed export has been defined under Section 2(39) of CGST Act, 2017 as supplies of goods as may be notified under section 147 of the said Act. Under section 147, the Government may, on the recommendations of the Council, notify certain supplies of goods manufactured in India as deemed exports, where goods supplied do not leave India, and payment for such supplies is received either in Indian rupees or in convertible foreign exchange. However, till date, the government has not notified any supply as deemed export.

**Question 10:** Whether the EOU scheme will continue to be in operation in the GST regime and whether EOU is required to take registration under the GST Law?

**Answer:** EOU is like any other supplier under GST and all the provisions of the GST Law will apply. However, the benefit of Basic Customs Duty exemption on imports will continue.

**Question 11:** What tax benefits will be available to EOU scheme in GST regime?

**Answer:** The duty free imports under GST regime will be restricted to Basic Customs Duty. Exemption from the additional duties of Customs, if any, under section 3(1), 3(3) and 3(5) of the Customs Tariff Act, 1975 and exemption from Central Excise duty will be available for goods specified under the fourth Schedule to the Central Excise Act. IGST or CGST plus SGST will be payable by the suppliers who make supplies to the EOU. The EOU will be eligible, like any other registered person, to take Input Tax Credit of the said GST paid by its suppliers.

**Question 12:** Whether supplies to or from EOU will be exempted from GST?

**Answer:** No.

- Under the GST Law, IGST or CGST plus SGST will be payable by the suppliers who make supplies to the EOU. The EOU will be eligible to take Input Tax Credit of the said GST paid by its suppliers.

**Question 6:** Is there also a change under the GST regime in respect of filing of application for fixation of brand rate of Drawback for supplies to SEZ units and SEZ Developers?

**Answer:** Prior to 1st July 2017, applications for fixation of brand rate for supplies to SEZ units and SEZ Developers used to be filed with the jurisdictional Commissioner of Central Excise. With effect from 1st July 2017, applications for fixation of brand rate will be required to be filed with the Commissioner of Customs having jurisdiction over the principal place of business of the DTA supplier. This shall be applicable even for exports made prior to 1st July 2017 for which application for fixation of brand rate is yet to be filed.

**Question 7:** On re-export of imported goods, drawback of all duties paid at the time of importation was admissible earlier, as per the rates prescribed in this regard. What will be the position in respect of re-export made after 1st July 2017, of the goods imported prior to 1st July 2017? After 1st July 2017, IGST and Compensation Cess will also be payable on the imported goods. If such imported goods on which IGST and Compensation Cess were paid, are re-exported, whether Drawback of IGST and Compensation Cess will also be granted?

**Answer:** Drawback under Section 74 of the Customs Act, 1962 is available for duties paid at the time of importation. Therefore, whatever duties / taxes are paid at the time of importation of goods, Drawback of the same will be granted. Drawback of Basic Customs Duty plus Additional Duty of Customs (CVD) plus Special Additional Duty (SAD) paid on the goods imported prior to 1st July 2017 will be paid even if the re-export is made after 1st July 2017. Similarly, in respect of the goods imported after 1st July 2017, Basic Customs Duty plus IGST plus Compensation Cess will be paid and Drawback of all of these would be paid on re-export of such imported goods.

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**Question 2:** Is Drawback at a higher All Industry Rate (AIR) admissible if an exporter has not availed Input Tax Credit of GST or refund of IGST paid on exported goods ?

**Answer:** No. After 30th September 2017, drawback will be admissible only at lower rate determined on the basis of the custom duties paid on the goods imported for supplying goods for export.

**Question 3:** If an exporter has stock of GST paid inputs as well as inputs from pre-GST period and if inputs from both lots are used in export goods, what shall be Drawback on such exports?

**Answer:** During the transition period upto 30th September 2017, exporters can avail drawback at higher rate subject to the conditions that no Input Tax Credit (ITC) of CGST/IGST is claimed, no refund of IGST paid on export goods is claimed and no CENVAT credit is carried forward.

**Question 4:** Will brand rate of Drawback be admissible for Central Excise duty and Service Tax in respect of exports made prior to GST implementation, for which application is filed after 1st July 2017?

**Answer:** For the exports made prior to 1st July 2017, application for fixation of brand rate as per the Drawback scheme under the earlier law (defined as 'existing law' in section 2(48) of the CGST Act, 2017) can be filed even after 1<sup>st</sup> July 2017.

**Question 5:** Applications for fixation of brand rate used to be filed with jurisdictional Commissioner of Central Excise having jurisdiction over the factory where export goods were manufactured. Under GST regime, will there be any change regarding filing of application for fixation of brand rate?

**Answer:** With effect from 1<sup>st</sup> July 2017, applications for fixation of brand rate shall be filed with the Commissioner of Customs having jurisdiction over place of export of goods i.e the port/Airport/ICD etc. where Shipping Bill was filed. This shall be applicable even for exports made prior to 1st July 2017 for which application is yet to be filed. In case exports are from multiple places, application shall be filed with the Commissioner of Customs having jurisdiction over any one of the places of export of goods.

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- The supplies from EOU will not be exempted from GST, except in the case of zero rated supplies defined under section 16 of the IGST Act, i.e. supplies made by EOU in the form of physical export or supplies to a SEZ Unit or SEZ Developer for authorized operations.

**Question 13:** What procedure will be followed by EOU to import goods without payment of Customs duty in the GST regime?

**Answer:** To avail such import benefits, EOUs will have to follow the procedure under the Customs (Import of Goods at Concessional Rate of Duty) Rules, 2017.

**Question 14:** Whether an EOU can clear goods to another EOU (inter-unit transfer)? And whether an EOU can send goods for carrying out job work on such goods? In such situations, how will be the tax liability be discharged?

**Answer:** Supply of goods from one EOU to another EOU will be treated as any other supply under GST Law. An EOU can send goods for job work as per section 143 of the CGST Act, 2017 and rule 45 of the CGST Rules, 2017 and the tax liability shall be discharged accordingly.

**Question 15:** M/s XYZ is engaged in export of goods only having exports of approx. Rs. 5 crores and no clearances for home consumption are affected. M/s XYZ was not required to be registered under Central Excise. Whether M/s XYZ would be required to get itself registered under GST?

**Answer:** Yes, because exports have been treated as inter-State supplies under IGST Law.

**Question 16:** We are engaged in the manufacture of exempted excisable goods for export. We availed input stage rebate used in the manufacture of exported goods. How would our case be dealt under GST law if our supply remains an exempt supply?

**Answer:** Under IGST law a person engaged in export of goods which is an exempt supply is eligible to avail input stage credit for zero rated supplies. Once goods are exported, refund of unutilized credit can be availed under Section 16(3)(a) of IGST Act, 2017 and Section 54 of the CGST Act, 2017 and the rules made thereunder.

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**Question 17:** We are merchant exporters dealing in various products. As per current procedure, we purchase goods from a particular factory against CT1/ARE1 so that no excise is levied on us. After goods are exported, we provide proof of export and Form H (for sales tax exemption) to the concerned factory. How would GST impact us and what will be the process now?

**Answer:** Taxable event in the GST regime is supply of goods. Exports being inter-State supply, you would be required to obtain GST registration. The manufacturer would be supplying you the goods on the payment of IGST or CGST and SGST/UTGST as applicable. You may avail of input stage credit of the tax paid on goods and services and export the goods under bond/LUT. Unutilized credit can be availed as refund. Alternatively, you may export the goods on payment of integrated tax and refund of integrated tax would be available to you.

**Question 18:** I have stock of inputs, semi-finished goods and finished goods on the date on which GST comes into force. But I have no duty paying documents. How am I going to be compensated for the taxes paid on the said inputs, semi-finished goods, and finished goods before GST for the exports made after GST is implemented?

**Answer:** A transition period of three months has been provided for availing of drawback. For exports during this period, higher rate of duty drawback (composite AIR) shall be available subject to conditions that no ITC of CGST/IGST is claimed, no refund of IGST paid on export goods is claimed and no CENVAT credit is carried forward.

**Question 19:** I supply goods to SEZ units and developers. For such supplies, presently drawback is available to the recipient or to me (if recipient gives a disclaimer). What is status of such drawback under GST regime?

**Answer:** There is no change except for the fact that if drawback is claimed by DTA supplier, the claim needs to be filed with the jurisdictional Customs Authorities.

**Question 20:** Whether an EOU can clear goods in DTA?

**Answer:** Yes, an EOU can clear goods in DTA in accordance with the provisions laid in the Foreign Trade Policy.

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**Question 21:** Will an exporter be required to pay GST in case of goods procured from unregistered persons (including unregistered job workers)?

**Answer:** In case of supply by an unregistered person (including unregistered job workers), the registered person i.e., exporter shall be liable to pay GST under reverse charge mechanism. However the exporter can avail ITC of such GST paid and either utilise the ITC or claim refund of the same.

**Question 22:** Is GST payable on Agency Commission earned by buying agents of foreign buyers?

**Answer:** Yes. Since commission is received by agents in India, and the place of supply of service is in India, GST will be payable.

## Transition of Export Promotion Scheme on implementation of GST

**Question 1:** Will duty Drawback scheme continue under GST regime? If yes, what will be the rates of Drawback?

**Answer:** Yes. Duty Drawback scheme with certain modifications will continue under the GST regime. The changes in the said scheme are as follows:

- The Drawback shall be available only of Customs duties on imported inputs and Central Excise duty on items specified in the Fourth Schedule to the Central Excise Act 1944 (specified petroleum products, tobacco etc.) used as inputs or fuel for captive power generation.
- As an export facilitation measure, for the transition period of 3 months, from July to September, 2017, Drawback at higher composite rates will continue to be granted subject to certain safeguards i.e. for claiming the higher rate of drawback, the exporter has to make a declaration and certificate is required that no Input Tax Credit (ITC) of CGST/IGST is claimed, no refund of IGST paid on export goods is claimed and no CENVAT credit is carried forward.
- In absence of such certification, drawback will be restricted to the customs portion of drawback.

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