# AccountAble™

153A: GST for NGOs - Tips & Traps Oct'18

Most NGOs are not required to register for GST. Some must register for GST because of their activities. However, sometimes NGOs register for GST by mistake. This means lots of paperwork, formalities, as well as paying GST when it is not really required. In some cases, the NGO may lose its income tax exemption as well.

The concept of GST has been discussed in AccountAble 150. Applicability of GST to an NGO has been discussed in AccountAble 151. In this issue of AccountAble, we discuss more examples of how an NGO may end up registering for GST. We also discuss ways in which an NGO can avoid this, without breaking the law or loss of revenue for the government.

## A1. Aggregate Turnover Exceeds Limit of Rs. 10/20 lakh*

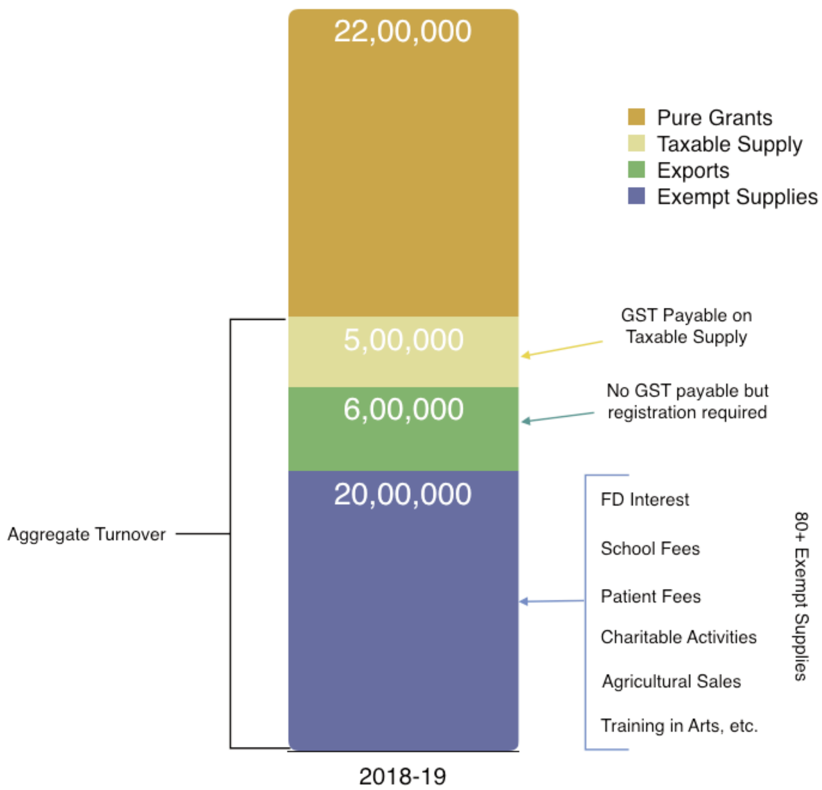
**Trap:** Your aggregate turnover includes zero-rated goods and services such as exports. It also includes receipts from 80+ exempt activities such as interest on bank deposits, sale of agricultural produce, fees from school students, fees from patients, sale or fees received against 'charitable activities'. Amounts received as expense reimbursements are also included in aggregate turnover. GST or cess is not included in aggregate turnover. Aggregate turnover is calculated for all branches taken together.

There is no problem if the aggregate turnover from exempt activities alone crosses the limit of Rs. 10/20 lakh* in a year. However, if your aggregate turnover has crossed the limit AND you make a taxable supply (or export zero-rated goods/services), you must register under GST. Or if the taxable supplies lead to your crossing the limit of Rs. 20 lakh*, you will have to register for GST.

The limit on aggregate turnover is Rs. 10 lakh* for NGOs in Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh, or Uttarakhand.

Receipts from pure donations or grants are not part of your aggregate turnover if the donors or their nominees do not receive any benefits or services against the donation or grant.

**Tip:** Make sure all finance and program people understand the concept of 'aggregate turnover' and 'taxable supplies'. Ensure you don't make ANY taxable supply if your aggregate turnover is




Aggregate Turnover vs. Taxable Supply

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already over the threshold. If necessary, transfer all taxable supply activities to a separate legal entity.

## A2. Voluntary Registration

**Trap:** A donor agency or company may ask you to register for GST before they give you any funds. They may also agree to pay GST on money they give you.

If you follow their advice and register, you will be exposed to all the paperwork and formalities. Most of your grant income may still remain outside GST. However, after 30-Sep-2019, you may have to pay reverse charge on all goods or services purchased from people who don't have GST registration. In some cases, your income tax exemption may also come under scrutiny.

**Tip:** Do a cost-benefit analysis before taking GST registration. Or set up a separate entity for such work.

## A3. Interstate Sale or Export of Goods

**Trap:** If you cross state (or Union Territory) borders to deliver goods to a customer, then it becomes an interstate sale. Anyone making any interstate sale of goods must register for GST. The amount of sale does not matter. The basic exemption limit of Rs. 10/20 lakh* is not available for such sales. This also applies if you are exporting goods out of India or selling these to a buyer in a Special Economic Zone (SEZ).

**Tip:** Handover goods to customers within your own state. Do not have these delivered to out-of-state customers. Also remember that this requirement applies only to sale of goods — not to interstate supply of services.

## A4. Online Sales

**Trap:** If you are selling any goods through an e-commerce operator (such as Amazon or Flipkart), you must register for GST. This applies even if your aggregate turnover is less than the limit of Rs. 10/20 lakh*.

**Tip:** Don't sell any goods through e-commerce operators. If necessary, sell your goods to a for-profit entity which can sell these online.

This requirement also does not apply if you are supplying services through an e-commerce operator, and your aggregate turnover is below the threshold limit of Rs. 10/20 lakh* [CGST notification no. 65/2017 dtd. 15-Nov-2017].

### De-registering from GST

Once you register after crossing the threshold, GST becomes payable on any taxable supplies you make. In the first year of your registration, GST is charged on new supplies only (beyond the threshold of Rs. 10/20 lakh* or from date of registration, if taken before reaching the threshold).

In the following year, you have to pay GST on any supplies you make, even if you have not reached the threshold.

What if your supplies do not cross the threshold of Rs. 10/20 lakh* in the second or third year? You can surrender your GST registration in the following year. No GST will then be payable so long as you remain below the threshold.

## A5. GST Collection at Source (GSTCS)

**Trap:** GST Collection at Source is another system to detect new GST tax-payers. This system is applicable to e-commerce operators who are providing a platform to sellers based in India. E-commerce operators (such as Amazon, Apple, Flipkart) sell goods or services online for many suppliers. The payment from the customer is collected by the e-commerce operator. The operator deducts its commission, before passing on the rest of the money to the supplier. Under the GSTCS mechanism, the operator must collect GST of 1% of the sale price and deposit this with the government. The remaining GST should be deposited by the supplier. The GSTCS mechanism will be applicable from 1-Oct-2018.

If your NGO is making any sales through an e-commerce platform, it should register for GST, no matter what the turnover. GSTCS will make doubly sure that you do so.

**Tip:** Stay away from selling goods, medicines, souvenirs, or mementos on e-commerce platforms, such as www.amazon.in©. If you are raising donations on crowd-funding platforms such as milaap.org© or ketto.org© make sure these are pure donations and you're not offering any souvenirs or goods to the donors in return.

## A6. Raising Invoices

**Trap:** Income against invoices, bills, cash memos is treated as sale or services. If your aggregate turnover crosses Rs. 10/20 lakh* in a year as a result of these, GST registration would become mandatory. Invoices raised against CSR grants are specially suspect.

**Tip:** If you are raising any invoices, make sure your aggregate turnover (including these) does not cross the annual limit of Rs. 10/20 lakh*.

## A7. Giving Services against Grants

**Trap:** A donor agency may give you a grant for performing specific services for nominated staff or grantees. Such grants are chargeable to GST. You will have to register for GST if you have such grants and your aggregate turnover (as defined under GST), crosses Rs. 10/20 lakh per year*.

**Tip:** If you are accepting a grant for research, training, etc., make sure that it is part of your general program activities and the decision to select participants is with you. If not, then ask the donor agency to do a service contract with a for-profit entity instead.

### GST on Rent

Some NGOs in institutional areas are seeing their program shrink over the years, while the building remains the same. And maintenance cost keeps going up. To deal with this, an NGO may rent out part of their premises to another NGO or a commercial entity. GST will be attracted in either case.

What about renting out part of their property for residential use? As the property was not for residential use to begin with, this rent is also not exempt from GST.

What if the NGO was to hire out part of the premises to another NGO or company for an exhibition? GST will be attracted on this.

## A8. Renting Out Property

**Trap:** If you rent out residential property for non-residential use, then GST is applicable. GST is also applicable if you rent out non-residential property for residential or non-residential use. This happens if your aggregate turnover (as defined under GST, including interest income, school fees, exports, etc.) crosses Rs. 10/20 lakh per year*.

**Tip:** Avoid renting out residential property for non-residential use. Don't rent out non-residential property for any purpose. If you do so, keep an eye on aggregate turnover.

## A9. Micro-credit Loans

**Trap:** Interest received on loans is exempt from GST. However, other fees and charges related to the loan are not. Therefore, if your NGO collects additional charges (file charges, late fees, stationery charges, etc.), then these charges will be treated as taxable supplies. If you have taxable supplies and your aggregate turnover (including interest income on loans) reaches Rs. 10/20 lakh per year*, you will have to register for GST.

**Tip:** See if you can meet the non-interest costs from own funds. Or whether you can raise interest rate a little to cover these.

## A10. Insurance Agency Services

**Trap:** Sometimes NGOs work with insurance companies. They help these companies sell insurance among beneficiaries. The insurance companies pay fees or commission to the NGO for getting new clients or for helping collect annual premium. Such fees or commission will be treated as taxable supplies. If you have taxable supplies and your aggregate turnover (including exports and exempt supplies) reaches Rs. 10/20 lakh per year*, you will have to register for GST.

**Tip:** Avoid accepting commission-based work. Find other ways of collaborating with insurance companies.

## A11. Grant for Services to Beneficiaries

**Trap:** NGOs receive grants from a donor agency or a company for working in a community. The grant agreement often details out the benefits that the community will receive. NGOs are sometimes advised that these benefits are chargeable to GST as they are being provided against a consideration (grant from donor agency / company).

**Tip:** This is valid only if the donor agency or the company names the persons who will receive the benefits. This is also valid if the beneficiaries are related to the donor (e.g. family members of factory workers). In all other cases, these services are not treated as 'supply' [sec. 7(1)(c) read with item 2 of schedule I to CGST Act].

## A12. Services to Own Members

**Trap:** Some membership organisations such as Clubs, Housing Societies, Resident Welfare Associations, etc. provide goods or services to their own members. For this, the club or housing society usually charges a monthly subscription fee. Services may include plumber, electrician, security services, etc. They may also make available facilities for recreation, meals, sports, library, lodging, etc. If the turnover from these services exceeds threshold limit, the club or Society should register under GST.

**Tip:** If the club is providing ONLY exempt services to its members (such as library, yoga, admission to sporting events, concert, dance, music, theatre programs, etc.), then the entire membership fees will remain exempt from GST, even if the total collection crosses the threshold limit.

Additionally, in case of housing societies or residential complexes, if the charges collected from the members (for exempt or non-exempt services) are up to Rs. 7,500 per month, then no GST would apply, even if the turnover from these crosses Rs. 10/20 lakh*.

* Limit of aggregate turnover for supply of goods is being revised to Rs. 40 / 20 lakh in some states with effect from 1-Apr-2019. Limit of aggregate turnover for services or for mixed supply (goods and services) remains unchanged. NGOs supplying services (or goods and services) may also opt for composition scheme if their aggregate turnover is less than Rs. 50 lakh per year. In such cases, they have to pay GST @ 6% on taxable supplies, without availing Input Tax Credit. This option will be available w.e.f. 1-Apr-2019.

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Interpretation of law: Law discussed here is valid as of 31-Oct-2018. However, the interpretation is of general nature. Please consult your advisors before taking any important decision.

Comments: AccountAid India, 55-B, Pocket C, Siddharth Extension, New Delhi-110 014; Phone: 011-2634 3128; e-mail: query@accountaid.net.



Released for private circulation only by Ms. Renu Agarwal for AccountAid India, New Delhi (Ph. 26343128) and printed at PRINTWORKS, C-94, Okhla Industrial Area, Phase 1, New Delhi 110 020

Content: Shri Sanjay Agarwal, with inputs from M/s Aditya Agarwal, Ayush Gupta and Umar Farooque

Design: Ms. Moushumi De