

AccountAble™

150: GST Formalities for NGOs

March '18

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GST was introduced across India in Jul'17. This was a complex exercise. Many minor changes have been made since then, though the basic structure has remained unchanged.

GST has resulted in some confusion among NGOs. Are they covered under GST or not? Are project grants exempt from GST? In some cases, development agencies and corporate donors are asking NGOs to register for GST to avoid reverse charge issues. However, this can have serious consequences for NGOs under GST as well as Income Tax.¹

This issue of AccountAble tries to explain what GST is and how it applies to NGOs.

WHAT IS GST?

GST is a tax on consumption of goods and services.² It is a merger of eight taxes³ charged at Central, State and Local level. There are three parts of GST: Central GST, State GST, Integrated GST. The first part goes to the Central Government. The second part goes to the state where the activity occurs. If the sale or service is made from one state and provided in another, then Integrated GST is charged.

GST is collected by the supplier from the consumer. It may be included in the quoted price or charged additionally. However, it must always be shown separately on the bill or cash memo.



All GST collected is deposited with the Government each month. Various types of returns are also filed periodically.

To avoid double taxation, government allows offset of GST paid on input used for business. This is not available for certain types of inputs, such as food, building construction, personal consumption, etc. Input credit is also not available if your GST number is not mentioned on the vendor's invoice. Also, if you are not registered for GST, you cannot claim input tax credit.

¹ Projects where GST is charged may be treated as 'business activities'. If this happens, some NGOs could lose income tax exemption under sec. 2(15) of Income Tax Act. Please see *AccountAble 141: Charitable Purpose and Business Activities* at www.AccountAid.net for more on this. They may also be asked to pay tax on net market value of assets (minus liabilities) @35% (sec. 115TD of Income Tax Act, 1961).

² GST is a destination-based tax. Therefore, it is charged on domestic consumption and imports. It is not charged on exports.

³ Sales Tax / VAT, Service Tax, Excise, Octroi / Entry Tax, Luxury Tax, Entertainment Tax, CVD / SAD, Lottery Tax / Purchase Tax

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GST REGISTRATION

GST registration is required if:

1. Your aggregate turnover⁴ exceeds Rs. 20 lakh per year⁵; and,
2. You have any taxable transactions.

It does not matter whether you are a business or registered as an NGO. In some cases, even individuals have to register for GST, for example, if they rent out a property for non-residential purpose.

In some cases, compulsory registration⁶ is required even if your aggregate turnover does not cross the limit. This may happen if the NGO sells goods from one state to another, or through e-commerce (such as Amazon, Flipkart). This could also happen if the NGO buys goods or services under compulsory reverse charge.

DE-REGISTRATION

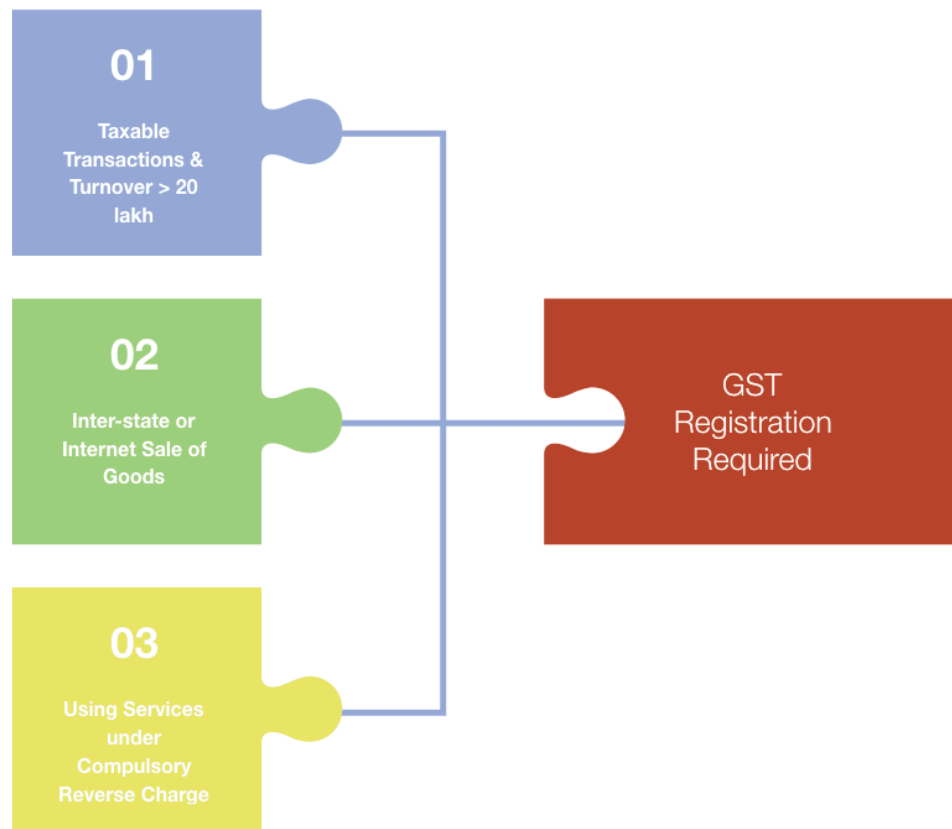
Can you surrender your GST registration? Yes - if you no longer fulfill any of the three conditions.

For example, if you registered due to turnover crossing the limit of 20 lakh, you can de-register once your turnover falls below the limit.⁷

COMPULSORY REVERSE CHARGE

Reverse charge is of two types. The first type is when a GST-registered NGO purchases goods or services from anyone who is not registered under GST. One example is GST on full-time or part-time consultants, drawing less than Rs. 20 lakh per year. Similarly, supplies from a local vendor (e.g., carpenter) who doesn't have GST registration also attract reverse charge. This mechanism has been suspended till 30-Jun-18.

The second type of reverse charge is compulsory reverse charge. This is attracted for some purchases only. In such



cases, it is compulsory for the NGO to pay reverse charge on behalf of the supplier.⁸ These requirements also apply to a branch office or a liaison office of a foreign NGO or body corporate. Relevant examples include:

⁴ Payments received for sale of taxable goods or services (including those taxed at zero rate) are included in the total turnover (called aggregate turnover under GST). Payments for exempt services (education, health, etc.) are also included in aggregate turnover. GST is excluded. (Section 2(6) of CGST Act 2017)

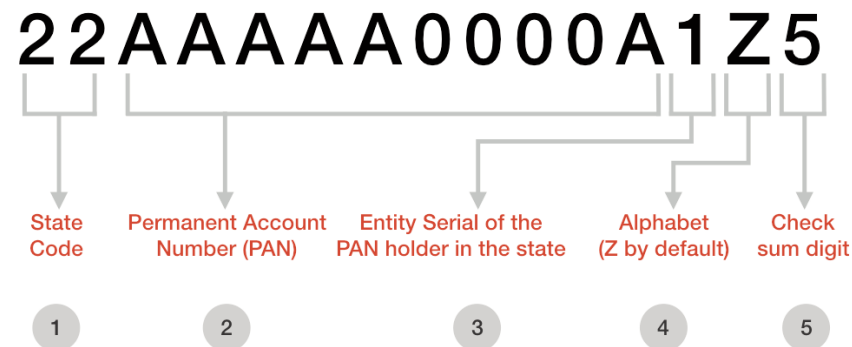
⁵ Rs. 10 lakh per year for Arunachal, Assam, Himachal, J&K, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Uttarakhand. (Explanation 3 of Section 22 of CGST Act 2017)

⁶ Sec. 24 of CGST Act 2017

⁷ Sec. 29(1)(c) of CGST Act 2017

⁸ For this, the NGO must get registered under GST, even if its turnover is less than Rs. 20 lakh. (Sec. 22(1)(iii) of CGST Act 2017)

Format of GSTIN



1. Import of services, such as consultancy, software licenses, etc.⁹
2. International freight on import of goods by road, rail, sea or air.
3. Services of a Goods Transport Agency availed by an NGO, whether society, trust or non-profit company.
4. Royalty or other payment to an author, artist, composer, photographer, etc., for copyrighted artwork, logo, manuscript, etc., by an NGO which is publishing or producing books, videos, artistic works, etc.
5. Sponsorship services used by a non-profit company.
6. Sitting fees, etc., paid by a non-profit company to directors.

Some services such as lawyer's advice, arbitration, etc., attracts compulsory reverse charge only in case of business entities. Therefore, sec. 8 companies or NGOs need not register under GST only for paying this. (Notification no. 13/2017 - Central Tax (Rate), dtd. 28-Jun-17, as amended on 25-Sep-2017)

GST FORMALITIES

GST registration is required for each office where tax-

able sales or services are provided. If you have two such offices in the same state or different states, you will need two registrations. The same PAN will be used for both the registrations.

Once you are registered, you have to charge GST on all taxable sales or services that you provide. The GST you charge must be deposited online with the Government next month. This is required even if the customer has not paid you yet.

Your invoices should carry your GSTIN and GST address. The invoice should also show the customer's address¹⁰ and GST number (if they are registered).

GST RETURNS

The returns that you must file periodically are:

- GSTR 1 giving details of sales or services on monthly¹¹ or quarterly basis by 10th of the following month
- GSTR 2 giving details of all purchases and reverse charge (suspended for the time being)
- GSTR 3 showing calculation of GST liability (suspended for the time being)
- GSTR 3B giving summary of sales, services, and input

⁹ Online services, such as advertising, cloud storage, google e-books, hosted software (e.g. Timesheet - hosted), digital storage, etc. are not taxable to compulsory reverse charge unless used for business or profession. (Sec. 2(16),(17) of IGST Act 2017 read with Notification No. 10/2017 IT - Rate dtd. 28-Jun-17)

¹⁰ Customer's address is not required for casual walk-in customers, such as a restaurant or salon.

¹¹ If annual turnover exceeds Rs. 1.5 crore

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- tax credit, every month by 20th
- GSTR 9, an annual return showing summary of all the monthly / quarterly returns by 31st December of following year

You should also keep all records and documents for six years from the date GSTR 9 was due for filing (31-Dec).

GST ON EXPORTS

If you are exporting goods or services, you have the option to pay GST first and then claim a refund. This means some of your funds are tied up for quite some time.

A second option is to submit a bond or letter of undertaking (LoU) to the GST authorities. Once they take it on record, you can export goods or services without paying GST. The bond or LoU is valid for one financial year only.

GST FOR UN, EMBASSIES, ETC.

If you provide any goods or services to a UN body or an embassy, you must charge GST as for any other person. However, you should show their UIN (Unique Identification Number) on the invoice. This allows them to claim a full refund of the GST from the Government.

GST ON PURCHASES

GST is charged by the vendor when NGOs pur-

chase goods or services. NGOs have to pay this to the vendor, like any other client or customer. However, some services are exempt from GST when these are supplied to an educational institution:

1. Transportation of students, faculty, staff
2. Catering, including mid-day meals sponsored by the Government
3. Security, cleaning and housekeeping services
4. Outsourced services related to school admission or exams

You must also pay reverse charge on services or items purchased from unregistered vendors.¹² If you employ consultants,¹³ who are not GST-registered, you'll have to pay reverse charge on their fees and expenses. This can be claimed as Input Tax Credit.

¹² Reverse charge has been suspended till 30-Jun-18 (Notification No. 10/2018-CT Rate, dtd. 23-Mar-18)

¹³ Sometimes these persons are full-time employees, but contracted as consultants.

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Interpretation of law: Law discussed here is valid as of 23-Mar-18. However, the interpretation is of general nature. Please consult your advisors before taking any important decision.

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