

REFUNDS UNDER GST LAW

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When can the refund be claimed?

- The refund can be claimed in the following cases. Excess payment of tax is made due to mistake or omission.
 - Exports (including deemed exports), where there is a cumulative balance of input credit arising out of such exports or under a claim of rebate.
 - If there is an excess payment of tax due to an inadvertent mistake.
 - Accumulation of credit resulting due to the output tax being nil or exempted from tax.
 - A refund may arise after a provisional assessment.

- If an appeal is for a respondent, then the amount made as a deposit towards holding such appeal shall be refunded to the appellant.
- Refund after investigation.
- Refund to foreign embassies or bodies of the United Nations for purchases made by them.
- Accumulation of credit resulting due to the output tax being of a lesser rate than the input.
- Suppliers receiving discounts or credits through the issuance of credit notes.
- GST paid by international tourists.

Refund of Input Tax Credit/ITC

- Unutilized ITC when the goods or services being supplied are exempted from GST.
- If input goods or services have a higher tax rate and the same goods or services have a lower output tax, then the accumulated ITC can be claimed as a refund.
- In case of a partial reverse charge, where the input tax credit cannot be used completely against the output tax.

CASES FOR CLAIMING THE REFUND

Goods exported through air or sea

Goods carried by a land vehicle

Goods sent through the post

Services performed after receipt of
an advance

Excess input tax credit left unutilized

Goods supplied for deemed exports,
i.e., supply to SEZ or 100% EOU

Excess payment of GST

Tax paid following a provisional
assessment

RELEVANT DATE

The date on which such ship or
aircraft leaves India.

Date when the goods cross the land
frontier of the country

Date of dispatch of goods

Invoice date

End of the financial year

Return filing date related to such
deemed exports filed.

Date of payment of tax

The date on which tax was adjusted

Time limit for claiming the refund

Documents required for claiming refunds

➤ When refund amount is less than Rs.5 Lakhs

- Documents or other evidence available with him, certifying that the incidence of tax or interest being claimed as refund has not been passed on to another person.

➤ When refund amount is more than Rs.5 Lakhs

Application must be accompanied by

- Documentary evidence to establish that the refund is due to the person.
- Documentary or other evidence to establish that the amount was paid by him/her, and that the incidence of the tax or interest has not been passed on to another person.

Exceptions, Withholding and Non-Payment of Refund

Exceptions

- Refund of unutilised input tax credit shall not be allowed in cases where the goods of India are subjected to export duty:
- No refund of input tax credit shall be allowed, if the supplier of goods or services or both avails of drawback in respect of central tax or claims refund of the integrated tax paid on such supplies.

Withholding of Refund

- Defaulted in furnishing any return;
- Defaulted in payment of any tax, interest or penalty and
- The Proper Officer is authorised to deduct from the refund due, any tax, interest, penalty, fee or any other amount which the taxable person is liable to pay but which remains unpaid under this Act or under the existing law

- Where an order giving rise to a refund is the subject matter of an appeal or further proceedings or where any other proceedings under this Act is pending and the Commissioner is of the opinion that grant of such refund is likely to adversely affect the revenue in the said appeal or other proceedings on account of malfeasance or fraud committed, he may, after giving the taxable person an opportunity of being heard, withhold the refund till such time as he may determine.
- The amount of advance tax deposited by a casual taxable person or a non-resident taxable person under sub-section (2) of section 27, shall not be refunded unless such person has, in respect of the entire period for which the certificate of registration granted to him had remained in force, furnished all the returns required under section 39.
- No refund under sub-section (5) or sub-section (6) shall be paid to an applicant, if the amount is less than one thousand rupees. Sub-sections 5 and 6 are about application of refund claiming refund amount less than one thousand rupees. It is clarified vide **circular 125/44/2019** that the limit of rupees one thousand shall be applied for each tax head separately and not cumulatively.