

INPUT TAX CREDIT

(Under DVAT ACT)

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PROVISIONS GOVERNING TAX CREDIT

S.NO.	PARTICULARS	SECTION/RULE
1.	Tax Credit	Section 9
2.	Adjustment to tax Credit	Section 10
3.	Apportionment of tax Credit	Rule 6
4.	Restrictions and conditions governing tax credit	Rule 6A
5.	Reduction of tax Credit	Rule 7

WHAT IS INPUT TAX CREDIT



➤ Section 2(1)(r) defines Input tax as follows:

*“input tax” in relation to the purchase of goods, means the proportion of the price **Paid by the buyer** for the goods which represents tax for which the selling dealer is liable under this Act;*

Claim of ITC

➤ Section 9(1) states that

A dealer who is registered or is required to be registered under this Act shall be entitled to a tax credit in respect of the turnover of purchase occurring during the tax period where the **purchases arises*** in the course of his activity as a dealer and the goods are to be used by him ***directly or indirectly*** for the purpose of making

➤ Sales which are liable to tax under **Section 3** of this Act ; or

➤ Sales which are not liable to tax under **Section 7** of this

Act(i.e. inter-state sales or exports);

TAX CREDIT - DOCUMENT

- ITC is available on TAX INVOICE & not on the retail invoice;
- Holding of tax invoice without making purchase is not enough;
- TAX Invoice must contain the following information:
 - ✓ Name, address & reg. no. of selling registered dealer;
 - ✓ Name, address & reg. no. of purchasing registered dealer;
 - ✓ Serial No. & date;
 - ✓ Description, quantity, volume and value of goods sold and amount of tax charged separately;
 - ✓ Signature of selling dealer, or person authorized by him;
 - If an invoice has been issued under Rule 11 of CER,2002, it shall be deemed to be a valid tax invoice only if it contains all the particulars prescribed above.

Negative List of ITC



- Purchases from unregistered dealers;
- Purchases of Non-creditable goods(Schedule VII); (Gift items or free samples)
- Goods purchased for construction of self-occupied building;
- Purchases from dealer operating under composition scheme;
- Purchases from casual dealer;
- Dealers specified in the Fifth Schedule(exempted dealers) except entry 1(i.e. Canteen Stores Department);
- Goods exclusively used for manufacture, processing, or packing of goods specified in First Schedule (exempted commodities); *(Jai Shree Export vs. CIT) – above provision not applicable for export of exempted goods*

Negative List of ITC



Seller not Depositing the Tax With the Government {(Section 9(2)(g)}

No ITC shall be allowed to the dealer or class of dealers unless:

- tax paid by the purchasing dealer
- **Has actually been deposited by the selling dealer** with the Government or
- Has been lawfully adjusted against his output tax liability and
- **Correctly reflected** in the return filed for the respective tax Period.

BIG HARDSHIP for Purchaser



Negative List of ITC



JOB Worker (Section 9(7)(c) :-

NO tax credit shall be allowed for any purchase of consumable or of Capital Goods

- where the dealer is exclusively engaged in doing **Job work or Labour work and**
- Is not engaged in the business of manufacturing of goods for sale by him and
- Incidental to the business of Job work or Labour work , obtains any waste or scrap goods which are sold by him.

Stock Transfer –ITC Reversal –Section 9(6)

- The amount of the tax credit shall be **reduced by 2%** of the purchase price (1% in case of bullion) if the goods or goods manufactured out of such goods are to be exported from Delhi by way of transfer to a
 - (i) non-resident **consignment** agent; or
 - (ii) non-resident **branch** of the dealer;
- ITC will be reduced only in relation to those goods where it is claimed or is claimable, i.e., no reduction shall be made in respect of those goods which are purchased from local unregistered dealers or in the course of inter-State trade.



Stock Transfer –ITC Reversal –Section 9(6)

- **ITC to be computed on Purchase Price . (Excluding tax)**
- **Return back of Goods from Branch/agent ?**
- **Stock Transfer with in State.**



TAX CREDIT - CAPITAL GOODS

- Capital Goods means plant, machinery and equipment used, directly or indirectly, in the process of trade or manufacturing or for execution of works contract in Delhi
-**Section 2(f)**

- Period for availment : **Section 9(9)(a)**
 - ✓ 1/3rd in same tax period;
 - ✓ Balance 2/3rd in equal proportions in **corresponding tax periods** , in two immediately successive financial years

- ❑ Tax period means **a quarter**

CASE STUDY- 1

Capital goods were purchased in Sept'12. $1/3^{\text{rd}}$ of total ITC is allowed in Sep'12 itself. Following issues may arise in respect of above transaction:

- ✓ What shall be the treatment of balance $2/3^{\text{rd}}$ ITC?
- ✓ Does amendment regarding corresponding tax period pertains to the ---
 - Capital goods acquired after amendment;
 - OR
 - Tax period falling after the amendment

- In our opinion, the amendment should apply in respect of the Capital goods acquired on or after the date of amendment(i.e. 01-Apr-2013).
- Accordingly, in the given case, the ITC shall be allowed as per erstwhile provisions, i.e. any tax period in the entire respective financial years.
- However, the same is subject to clarification by department and **may be a matter of dispute.**

TAX CREDIT - CAPITAL GOODS

- At the time of sale, balance amount of ITC is allowed (if not availed earlier), but only after adjustment of output tax payable at the time of such sale.- **Proviso to Section 9(9)(a)**
- No tax credit is allowed in respect of capital goods in following two cases:
 - ✓ if such capital goods are used exclusively for making sale of exempted goods specified under First Schedule;
 - ✓ If Depreciation under Income tax has been claimed on input tax

TAX CREDIT ADJUSTMENT - CAPITAL GOODS

- Following adjustments are required in case of ITC availed in respect of capital goods:

S.NO.	SITUATION	ADJUSTMENT	SECTION
1.	Transfer otherwise than by way of sale(within 3 years)	ITC reversal of 2%	Proviso 2 to Section 9(9)(a) read with Rule 7(4)
2.	Partly used in making sale(local/inter-state) and partly other purpose(e.g. gifts, self-consumed, etc.)	Reduce Proportionately	Proviso 3 to Section 9(9)(a)
3.	Sale at price other than FMV, before 5 years	Reverse the ITC claimed earlier	Section 9(9)(b)

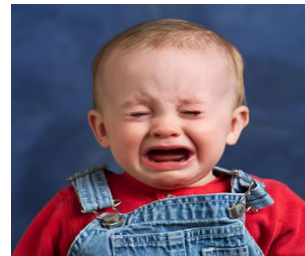
TAX CREDIT – SALE AT LOSS

- **Section 10(5)** states that in case, the goods are sold at a price lower than purchase price (i.e. at loss), **then ITC shall be reduced proportionately.**
- Further, ITC on such purchase can't exceed the output tax on the same sale itself **{Explanation to section 10(5)}**
- The aforesaid provisions may be analyzed in the following examples:

Example 1:

Purchase Price	1,000	Sale Price	800
VAT @ 12.5%	125	VAT @ 12.5%	100

So, in above example, ITC shall be allowed only of Rs. 100 i.e. $(125/1000 \times 800)$ }



TAX CREDIT – SALE AT LOSS

Example 2:

Purchase Price	1,000	Sale Price	800
VAT @ 12.5%	125	VAT @ 10%	80

So, in above example, ITC should have been allowed only of Rs. 100 {i.e.

$(125/1000 \times 800)$ }. But, as a result of the explanation to section 10(5), **the ITC shall be restricted to Rs. 80 only.**

Example 3:

Purchase Price	1,000	Sale Price	1,100
VAT @ 12.5%	125	VAT @ 10%	110

In the instant case, the sale price doesn't fall below the purchase price, though output tax liability is lower than input tax, hence section 10(5) doesn't apply at all, which results in **availment of full ITC of Rs. 125**, without any reduction.

CST Sale & ITC Reversal

Sub Section (10) of the Section 9, if a dealer :-

- has purchased goods on which credit has been availed ;and
- The goods or goods manufactured out of such goods are to be exported from Delhi by way of sale made under sub-section (1) of section 8 of the CST Act, 1956
- The amount of tax credit shall be **reduced by the prescribed percentage.**

Also referred in Section 10(3)(c) (i)

CASE STUDY- 2

A dealer transacted in inter-state sales which is subject to Central Sales Tax. Whether ITC claimed on local purchases needs to be reversed?

• There can be two cases for the same:-

✓ Sale **without C form**— No ITC Reversal



✓ Sale **against C Form**—ITC Reversal required{Section 9(10) & section 10(3)(c)(i) w.e.f. 15-Jun-2012. However, no rate of ITC reversal yet prescribed.



TAX CREDIT – RIGHT TO USE

- Till 31-Mar-2013, no ITC was allowed in respect of the goods used for making sale as “transfer of right to use any goods”.
- W.e.f. 01-Apr-2013, ITC on goods used for “transfer of right to use any goods”, e.g. leasing companies, shall be allowed as follows:
 - ✓ 1/4th in same tax period;
 - ✓ Balance 3/4th in equal proportions in **corresponding tax periods**, in three immediately successive financial years.

A BIG RELIEF FOR LEASING COMPANIES!!!



Proportionate reduction in Input Tax credit

- Where a dealer has purchased goods, which are to be used **partly** for the purpose of **making sales** referred to u/s 9(1) and **partly for other purposes**, then amount of tax credit shall be **reduced proportionately**. - Section 9(4)
- To illustrate, X purchased raw material for Rs. 1,00,000 plus tax of Rs. 12500/- for manufacture of taxable as well as exempted goods. At that time, he estimated that the raw material would produce 80% taxable goods. In such case, his input tax credit will be restricted only to 80% of Rs. 12500/, i.e., Rs. 10000/-.

Proportionate reduction in Input Tax credit

- If goods are subsequently used for different purposes, then the reduction shall be made in the tax period when so used.
- Method of reduction should be fair and reasonable; otherwise the Commissioner is empowered to reject the method or prescribe another method.
- If commodity wise register maintained – At the purchase price
- Otherwise – On the basis of the purchase price of such goods immediately preceding their use for other purposes or their FMV, which ever is higher.

TAX CREDIT – ADJUSTMENT

- If the invoice raised by the seller/contractor is passed by buyer/contractee for a lesser amount, and the amount is subsequently adjusted in output tax by contractor u/s 8, the seller must issue to the buyer a debit note, issuance of which is mandatory.
- The buyer/contractee shall adjust his ITC on the basis of such debit note
- Where goods are returned/rejected by the buyer, he will reduce his ITC in relation to those goods, in the Tax Period when goods are returned/ rejected. Double taxation if goods are returned after 6 months (Alpha Marketing company)
- If goods or goods manufactured out of such goods are lost or destroyed, then ITC claimed earlier shall be reversed{Rule7(3)}.-**STOLEN GOODS**

Second Hand Goods –Section 15

➤ **Circumstances when this Section Applies :-**

- A registered dealer sells second hand goods
- Second hand goods dealer has purchased goods from a **resident unregistered seller.** (who has purchased goods within Delhi)
- The resident seller has paid tax under DST/DVAT.
- Goods were purchased either as Trading stock or otherwise or as raw materials in incorporation of Division in Trading stock.
- Second hand dealer will be liable to pay tax under section 3 on sale of such goods.
- Second hand dealers has adequate proof of amount paid for the Goods . In another words Input tax credit is available only if amount is actually paid and not on basis of credit entry.

Second Hand Goods –Section 15

➤ Adequate Proof (Rule 9 of DVAT)

- Payment proof for payment to unregistered dealer;
 - ✓ Description of the Goods
 - ✓ Amount paid for the Goods
 - ✓ Name and address of the resident seller
 - ✓ PAN of the resident seller
- Original Invoice or Cash memo issued under DVAT Act for purchase of said Goods in Delhi by resident seller.

Second Hand Dealer



VAT Spreadsheet

Second Hand Goods –Section 15

➤ Calculation of Input Tax credit -Section 15(2)

Least of the following :-

- Input tax borne by the resident seller
 - Tax fraction of the original cost of the goods to the resident seller
 - Tax fraction of FMV of the goods at the time of their purchase by the registered dealer
 - Tax fraction of the consideration paid by the registered dealer for the goods.
- Time when Input tax credit would be allowed !! **Second Hand Dealer**



Works Contract Composition Scheme



Works Contract Composition Scheme -2013

- Revamped of Scheme
- New Scheme is Applicable w.e.f. 01.04.2013
- Applicable only for the dealers engaged **exclusively in carrying out works contract !**



Main Condition of the Scheme

- Model Suggesting two different schemes (Scheme A and Scheme B) .
- The dealer paying tax under earlier composition scheme shall have the option to shift over to this scheme.
- Rates of composition Schemes are different in each of Scheme.
- The tax period for the composition dealer shall be a quarter;
- Tax Due shall be paid by the dealers on monthly basis within 21 days of the end of the Month.

Scheme A - Conditions

A registered dealer opting for this scheme

- Shall **not purchase** goods from any place **outside Delhi** at any time during the period for which he opts to avail this scheme; and
- **Not sell or supply** goods at **any place outside Delhi** at any time during the period for which he opts to avail the scheme.
- However he may procure his plant and Machinery's from outside Delhi , meant exclusively for use in the execution of works contract by him.



Scheme B - Conditions

A registered dealer opting for this scheme

- Can procure inter state Goods required for execution of works contract
- Can procure inter state goods on the strength of his certificate of registration against declaration in Form C or by way of inward transfer of stocks from other state against form F or by way of import for use in execution of the works contract.



Rates under Schemes

Category	Nature of Works Contract	Composition Tax Rate	
		Scheme A	Scheme B
1.	Civil Contracts , Repair & maintenance, AMC, and all other contract not specified below	3	6
2.	Builder/Developer dealers	1	3
3.	<ul style="list-style-type: none"> ➤ Printing and/or book binding ➤ Textile processing ➤ Electro plating ➤ Re-trading of Old Tyres 	2	3

General Conditions

- **Purchase in Delhi only from Registered dealer except**
 - **Goods specified in first schedule;**
 - **to the extent of 2 % of his total local purchase turnover during the year or Rs. 25 lakh whichever is lower.**
 - **Not be eligible to claim tax credit under section 9 and or section 15 of the Act;**
 - **Not compute his tax under section 11 of the Act;**
 - **Not collect any amount by way of tax under this Act;**
 - **Not be entitled to issue “Tax Invoice”.**



General Conditions

- **Continue to retain all the purchase (Tax & retail) invoices as well as Retail Invoices raised by him;**
- **Separate records of purchases made within Delhi or from outside Delhi ;**
- **Issue only Retail Invoices**
- **Be eligible to claim set-off of TDs only if on the date of filling of return, he is in possession of original TDS certificate issued to him by the person making the deductions**
- **Not entitled for the Refund before his assessment**





Big Headache for the contractors !!!

The Composition dealer who opts to pay composition under this scheme, shall make an application to the contractee/awarder, not being an individual or HUF, authorizing it to deduct tax at source at such rate, as may be applicable to the contracts for which composition is opted by the dealer. The contractee shall deduct the TDS accordingly. The contractor shall not be able to claim benefit of the TDS in his return unless the contractee/awarder has deposited the amount in the appropriate Government treasury and the copy of TDS certificate obtained in the prescribed form and in the prescribed manner, along with copy of challan in proof of such deposit is enclosed with the return.

Another Critical points of the scheme

➤ **Sells, transfer , Disposal of any capital Asset including plant and machinery and equipment's, scrap, surplus, waste or discarded material**

Sale within Delhi only

Tax at the rate specified in Section 4 for such transfer or disposals.

➤ **FOC material supplied by the contractee.**

➤ **Failed to comply with the condition specified or not eligible for the scheme.**

MISSION CRITICAL

Thank You!

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