



Refunds under GST

Sources for provisions for refunds: Law is scattered at this point of time as many crucial decisions are pending. At present there are four sources for provisions for provisions of refund.

- 1) GST Model Law.
- 2) Draft rules for registration.
- 3) Draft formats for registration.
- 4) Process report by the joint committee on business process for GST

Chapter X containing sections from 38 to 41 provide the provisions for refund in GST model law. Apart from this there are draft rules and process report on refund. We will summaries the provisions of all of them as and where they will be relevant.

1) Time limit for filing application for refund: Clause 1 of section 38 of GST model law provide that any person seeking refund for the tax or interest paid by him shall make an application for refund to the proper officer of IGST/CGST/SGST before the expiry of two years of the relevant date in prescribed form and manner.

2) Form of refund you need to file

Form	Who can file	Information to be provided
FORM RFD01	When refund has arisen due to <ul style="list-style-type: none"> ✚ Excess balance in cash ledger ✚ Export of Goods/services ✚ Supply of goods/services to SEZ/EOU ✚ Assessment/provisional assessment/Appeal/order number ✚ IT accumulated due to inverted duty structure 	<ol style="list-style-type: none"> 1) Bank account details 2) Choose grounds of refund claim from drop down list 3) Declaration (proviso to clause 3 to section 38 provide that when the amount of refund is less than Rs. 5 lac applicant can file a declaration that he has not passed on the credit of amount he is claiming as refund above than Rs.5 lac he will have to give documentary proof.) 4) A certificate by a Chartered Accountant (if refund is more than Rs.5lac)
FORM GSTR-3,FORM GSTR-4, FORM GSTR-7	<ol style="list-style-type: none"> 1) FORM GSTR-3: Regular taxpayer 2) FORM GSTR-4: for Compounding Taxpayer 3) FORM GSTR-7: For Authorities deducting tax at source 	Any claim for refund relating to balance in the electronic cash ledger in terms of sub-section (6) of section 35 may be made through the return for the relevant tax period.
FORM GST-RFD-02	Acknowledgment of application	Details of refund application
FORM GST-RFD-03	Notice of Deficiency on Application	Details of discrepancy in

	for Refund	refund application
FORM GST-RFD-04	Provisional refund order	Details of amount of refund, bank ac etc.
FORM GST-RFD-05	Refund sanction/Rejection order	Refund amount and adjustment with demand if any
FORM GST -RFD-06	Order for Complete adjustment of claimed Refund	Details of amount adjusted
FORM GST-RFD-07	Show cause notice for reject of refund application	Reasons for non-admissibility and call applicant to present his case
FORM GST-RFD-08	Payment Advice	Payment details
FORM GST-RFD-09	Order for Interest on delayed Refunds	Amount of interest on late payment of refund and its calculation
FORM GST-RFD-10	Refund Application form for Embassies/ International Organizations	Need to provide all details of inward supplies as given in FORM GSTR-11.

3) Instances when refund can arise: In the taxation administration, refund refers to any amount that is due to the tax payer from the tax administration. In the present taxation system it is considered as a strained area, both for the taxpayer and the tax administration. So in order to establish an effective and efficient tax administration system it is essential that issues on which refund arises ought to be kept at minimum and be clearly defined in the law. Since GST is going to subsume many of the existing taxation laws such as Central Excise, Service Tax, VAT, CST, etc., the situations under which refund arise under these laws are as follows:

- a. **Excess payment of tax due to mistake or inadvertence: As the title suggest it will cover the cases where the tax is paid by applicant inadvertently.** This situation may arise in following three cases:
- i. wrong mention of nature of tax (CGST / SGST / IGST)
 - ii. wrong mention of GSTIN
 - iii. wrong mention of tax amount

In the first two instances administration may check the validity of claim as per the provisions of law and process the refund. In third case taxpayer may claim refund or can carry forward the amount paid in excess and can adjust it in future tax periods.

- b. **Export (including deemed export) of goods / services under claim of rebate or Refund of accumulated input credit of duty / tax when goods / services are exported.** Presently under the current law, every exporter has three options available for neutralization of Presently under the Central Law, taxes paid on inputs used for export goods or taxes paid on finished goods exported by him which are delineated hereunder:
- i. Obtaining non duty paid inputs and exporting final product without payment of duty.

- ii. Obtaining duty paid inputs and claiming refund of the same at the time of export of the finished goods without payment of duty.
- iii. Obtaining duty paid inputs, availing the input tax credit thereon and exporting finished goods after payment of duty (after utilizing such input tax credit) and thereafter claiming the rebate of the duty paid on exported goods.

Final process of providing credit of tax on input to exporters is yet to be decided by the council. It is likely that they will have to pay tax on input and then claim the refund.

- c. **Finalization of provisional assessment: Section 44A of GST model law provide for the provisional assessment.** Where the taxable person is unable to determine the value of goods and/or services or determine the rate of tax applicable thereto he may request proper officer for provisional assessment. This provisional assessment will be subject to the finalization. If the amount of tax paid on provisional basis taxpayer may claim the refund for the same.
 - d. Refund of Pre – deposit for filing appeal including refund arising in pursuance of an appellate authority's order (when the appeal is decided in favor of the appellant).
 - e. Payment of duty / tax during investigation but no/ less liability arises at the time of finalization of investigation / adjudication.
 - f. Refund of tax payment on purchases made by Embassies or UN bodies.
 - g. Credit accumulation due to output being tax exempt or nil-rated.
 - h. Credit accumulation due to inverted duty structure i.e. due to tax rate differential between output and inputs.
 - i. Year-end or volume based incentives provided by the supplier through credit notes.
 - j. Tax Refund for International Tourists Each of the situations mentioned above are being discussed hereunder individually for better appreciation of the issue and the proposed process to handle them under the proposed GST regime.
- 4) **Payment of refund to the taxpayer:** Clause 6 of section 38 of model GST Law provides that the amount of refund should be paid to the taxpayer in following cases. In other cases it will be transferred to the fund created under GST law.

(a) Refund of tax on goods and/or services exported out of India or on inputs used in the goods and/or services which are exported out of India;

(b) Refund of unutilized input tax credit under sub-section (2);

(c) The tax and interest, if any, or any other amount paid by the applicant, if he had not passed on the incidence of such tax and interest to any other person; or

(d) The tax or interest borne by such other class of applicants as the Central or a State Government may, on the recommendation of the Council, by notification, specify.