



GSC Intime

Services Private Limited

Right advice at right time...

Detailed analysis of **Goods And Services Tax** Proposals and Amendments

**UNION
BUDGET
2022-23**



Date: 02.02.2022

KEY HIGHLIGHTS OF GST PROPOSALS



Key highlights of GST proposals...

- ⌚ In addition to the existing 5 conditions for availment of ITC, a new condition has been proposed i.e. ITC can be availed provided ITC communicated U/s 38 (GSTR-2B) has not been restricted

- ⌚ The time limit to avail ITC in respect of an invoice or a debit note pertaining to a particular FY has been proposed to be extended as earlier of the following:
 - 30th November of the succeeding FY
 - Due Date of filing of relevant annual return

...Key highlights of GST proposals...

- ⌚ Registration of a person can be cancelled:
 - **Composition Taxpayer:** If he has not furnished the GST return for a FY beyond 3 months from the due date of such return (currently 3 tax periods)
 - **Other Taxpayers:** Not furnished GST returns for such continuous tax period as may be prescribed (currently 6 months)

- ⌚ The time limit to furnish the details of credit notes in respect of any supply made in a particular FY has been proposed to be revised and new time limit is earlier of the following:
 - 30th November of the succeeding FY
 - Date of furnishing annual return

...Key highlights of GST proposals...

- ⌚ Govt. is proposed to be empowered to prescribe conditions and restrictions in respect of furnishing details of outward supply (GSTR-1) and for communication of such details to the recipient
- ⌚ The time limit to make rectifications of errors/omissions in respect of the details of outward supplies (GSTR-1) is proposed to be revised and the new time limit is earlier of the following:
 - 30th November of succeeding FY
 - Date of furnishing annual return
- ⌚ If GSTR-1 of a particular tax period/s is not furnished, then GSTR-1 of succeeding period cannot be filed. However, Govt. may allow filing of any subsequent GSTR-1 to a registered person or class of registered persons subject to such conditions and restrictions as may be specified

...Key highlights of GST proposals...

- ⌚ The erstwhile two-way communication process of outward supplies, inward supplies and ITC is done away with. Existing Sec. 38 has been substituted with new one which prescribes for auto-generated statement (GSTR-2B) which will contain two parts, first part will contain ITC available, and second part will contain credit not-available if the supplier is falling within the prescribed situations:
- the restriction is applicable in cases where supplier has not taken registration within prescribed period or
 - supplier has defaulted in tax payment for a period or
 - if tax payable by supplier for a particular tax period exceeds tax paid for that period or
 - supplier has availed credit which is not available which is mentioned in second part of its GSTR-2B or
 - discharged its liability through ITC in contravention of proportion prescribed
 - Other classes of persons as may be prescribed

...Key highlights of GST proposals...

- ⌚ Also, certain cosmetic changes are proposed to be made in other provisions to omit the reference to Sec. 38

- ⌚ The time limit to furnish return by Non-resident taxable person U/s 39 (GSTR-5) of a particular month is proposed to be reduced to 13th day of subsequent month in place of current due date of 20th day of subsequent month

- ⌚ The time limit to rectify the errors/omissions in return furnished U/s 39 is proposed to be extended till earlier of:
 - 30th November of succeeding FY
 - Date of furnishing annual return

...Key highlights of GST proposals...

- ⌚ GSTR-3B of a particular tax period cannot be furnished if GSTR-3B of previous tax period/s has not been furnished. Now, it is proposed that GSTR-3B of a tax period cannot be furnished if GSTR-1 of such tax period is not furnished. It is further proposed that the Govt. may relax this requirement in prescribed cases
- ⌚ The concept of claiming ITC on 'provisional basis' is proposed to be done away with. It is prescribed that if ITC is availed by a recipient in respect of supply of goods or services or both for which tax has not been paid by supplier then such recipient shall be liable to reverse such ITC along with interest. However, such recipient can re-avail the ITC reversed by him if the supplier makes payment of the tax. The provision is silent on re-credit of interest
- ⌚ Sec. 42, 43 and 43A are proposed to be omitted and two-way communication process in return filing is also done away with

...Key highlights of GST proposals...

- ⌚ Sec. 47 which deals with Late Fees for delay in filing return has been proposed to be amended to cover TCS returns U/s 52 (GSTR-8 for TCS)
- ⌚ Govt. is proposed to be empowered to prescribe restrictions in utilization of ITC and to prescribe the maximum proportion of output tax liability that can be discharged through ITC
- ⌚ It is proposed that now a registered person can transfer tax, interest, penalty, fee or any other amount in Electronic Cash Ledger from CGST to IGST/CGST of a distinct person to another provided such registered person (transferor distinct person) shall not have any unpaid liability
- ⌚ The time limit to rectify any omission or incorrect particulars in GSTR-8 (TCS Return) is proposed to be extended till 30th November of the FY succeeding the FY to which such GSTR-8 pertains

...Key highlights of GST proposals...

- ⌚ Sec. 50(3) is proposed to be amended retrospectively to provide for levy of interest only if ITC is wrongly availed **and** utilized
- ⌚ In the above case, the rate of interest shall be reduced from 24% to 18% retrospectively
- ⌚ The time limit to claim refund of ITC by certain specified agencies is proposed to be increased from 6 months to 2 years from the last day of the quarter in which inward supply was received
- ⌚ The scope of withholding refund/recovery of demand from refund, is widened to cover even application for refund of cash ledger balance

...Key highlights of GST proposals

- ⌚ It is proposed to clarify the time limit to file refund claim in respect of supplies made to SEZ to be computed from the due date of furnishing return U/s 39 in respect of such supplies (GSTR-3B)
- ⌚ The current SEZ Act is going to be replaced with a new piece of legislation which will enable the States to become partners in 'Development of Enterprise and Service Hubs'. This will cover all large existing and new industrial enclaves to optimally utilise available infrastructure and enhance competitiveness of export

DETAILED ANALYSIS OF GOODS AND SERVICES TAX BUDGET PROPOSALS



Additional condition for availing ITC

Background

- 🕒 Sec. 16 provides for eligibility and conditions for availment of ITC

Current Scenario

- 🕒 Sec. 16(2) prescribes five conditions for availing credit, which are (i) possession of tax invoice, (ii) receipt of goods or services, (iii) tax payment by the supplier, (iv) filing of GSTR-3B by supplier and (v) supplier has reported the tax invoice/debit note in GSTR-1

Change in Law

- 🕒 An additional condition is proposed to be inserted in Sec. 16(2) whereby ITC in respect of an inward supply communicated to the recipient U/s 38 is not restricted

WEF

- 🕒 The date to be notified by CG

Impact

- 🕒 Due to this amendment, tax payers will face additional challenges in availing ITC

Extension of time limit to avail ITC

Background

- ☑ Sec. 16 provides for eligibility and conditions for availment of ITC

Current Scenario

- ☑ Sec.16(4) prescribes registered person shall not be entitled to take ITC after earlier of the following:
 - the due date of furnishing of the GSTR-3B for the month of September following the end of FY to which such invoice or debit note pertains or
 - furnishing of the relevant annual return

Change in Law

- ☑ It is proposed that a registered person shall not be entitled to take ITC after earlier of the following:
 - 30th November of succeeding FY or
 - Furnishing of the relevant annual return

WEF

- ☑ The date to be notified by CG

Impact

- ☑ The time limit to avail ITC is extended till 30th November of the succeeding FY instead of 20th October of the succeeding FY as of now

Cancellation of GST registration...

Background

- 🕒 Sec. 29 provides powers to GST Authorities for cancellation or suspension of GST registration

Current Scenario

- 🕒 Currently, GST Authorities can cancel GST registration if:
 - **Composition Tax-payers:** fail to furnish returns for 3 consecutive tax periods
 - **Other Tax-payers:** fail to furnish returns for a continuous period of 6 months

Change in Law

- 🕒 It is proposed to cancel GST Registration of a person if:
 - **Composition Tax-payers:** Not furnished the GST return for a FY beyond 3 months from the due date of such return
 - **Other Tax-payers:** Not furnished the GST returns for such continuous tax period as may be prescribed

...Cancellation of GST registration

WEF

🕒 The date to be notified by CG

Impact

🕒 GST registration for regular tax-payers was liable to be cancelled only if such tax payer fails to furnish returns beyond 6 months. Now, such period can be prescribed which can be higher or lesser than 6 months

Background

- 🕒 Sec. 34 provides for issuance and reporting of debit and credit notes

Current Scenario

- 🕒 Sec. 34(2) provides the time limit to furnish details of credit note as earlier of the following:
 - The due date of return for the month of September of the FY succeeding the FY to which credit note pertains
 - The date of furnishing of the relevant annual return

Change in Law

- 🕒 Sec. 34(2) is amended and it is proposed to allow furnishing the details of credit note:
 - 30th November of the FY succeeding the FY to which credit note pertains
 - The date of furnishing of the relevant annual return whichever is earlier

WEF

- 🕒 The date to be notified by CG

Impact

- 🕒 The time limit to furnish the details of credit notes in respect of any supply made in a FY is extended till 30th November of succeeding FY instead of 20th October of the succeeding FY as of now

Powers to impose conditions and restrictions in furnishing the details of outward supplies

- Background** ☹ Sec. 37 provides for furnishing details of outward supplies
- Current Scenario** ☹ Currently, Sec. 37 provides that registered person shall furnish the details of outward supplies and such details shall be communicated to recipient
- Change in Law** ☹ It is proposed to amend Sec. 37(1) and provide powers to **prescribe conditions and restrictions** for furnishing the details of outward supply and for communication of the details of such outward supplies to concerned recipients
- WEF** ☹ The date to be notified by CG
- Impact** ☹ Tax-payer will have to be careful about prescribed conditions and restrictions

Background

- 🕒 Sec. 37 provides for furnishing details of outward supplies

Current Scenario

- 🕒 Currently, Sec. 37(3) provides that no rectification of error or omission of details furnished in GSTR-1 shall be done after:
 - The due date of return for the month of September of the FY succeeding the FY
 - The date of furnishing of the relevant annual return whichever is earlier

Change in Law

- 🕒 It is proposed to amend Sec. 37(3) and following time limit has been provided for rectification of error or omission of details of GSTR-1:
 - 30th November of the FY succeeding the FY
 - The date of furnishing of the relevant annual return whichever is earlier

...Extension of time limit for rectification of errors in GSTR-1

WEF

- 🕒 The date to be notified by CG

Impact

- 🕒 The time limit to make rectifications of errors in respect of the details of outward supplies (GSTR-1) is proposed to be extended till 30th November of succeeding FY instead of 20th October of succeeding FY as of now

Sequential filing of GSTR-1

Background

- 🕒 Sec. 37 provides for furnishing details of outward supplies

Current Scenario

- 🕒 Currently, there is no restriction in filing GSTR-1 of subsequent period even if GSTR-1 of previous periods are not filed (even though GST portal does not permit)

Change in Law

- 🕒 A new sub-Sec. (4) has been proposed to be inserted in Sec. 37 stating that if statement of outward supplies (GSTR-1) is not filed for a particular period, then the statement of outward supplies for next period cannot be filed
- 🕒 However, Govt. may issue Not. to notify the class of persons who can furnish the statement of outward supplies even if such persons have not furnished the details of outward supplies for one or more previous tax periods

WEF

- 🕒 The date to be notified by CG

Impact

- 🕒 Sequential filing of details of outward supplies was already implemented on GSTN portal. Now, this has been expressly included in the law book

Additional challenges in availing ITC due to Sec. 38...

Background

- 🕒 Sec. 38 provides for furnishing the details of inward supplies

Current

- 🕒 Currently, Sec. 38 provides that a recipient can verify, validate, modify or delete, the details relating to outward supplies communicated to recipient

Scenario

Change in Law

- 🕒 Now, Sec. 38 is proposed to be substituted and two-way communication process of outward supplies, inward supplies, and ITC is done away with.
- 🕒 Sec. 38 also provides for an auto-generated statement which will contain two parts viz. (i) ITC available and (ii) ITC not available.
- 🕒 The second part viz. ITC not available can be due to the following reasons:
 - Supplier has not taken registration within prescribed period
 - Supplier has defaulted in payment of tax and such default continues for prescribed period
 - Tax **payable** by supplier > tax **paid** by supplier
 - Supplier has availed credit in excess of the ITC available to him
 - Supplier has defaulted in discharging his tax liability in accordance with Sec. 49(12)
 - Other class of persons as may be prescribed

... Additional challenges in availing ITC due to Sec. 38

WEF

🕒 The date to be notified by CG

Impact

🕒 Recipients will have to be additionally cautious in complying with this provision

Reduction in time limit to furnish returns by Non-resident taxable person

Background

- ⌚ Sec. 39 states that all registered persons are required to furnish a monthly return in such form and manner as may be prescribed

Current Scenario

- ⌚ As per Sec. 39(5), a non-resident taxable person is required to furnish return for a particular month within 20 days after the end of such month

Change in Law

- ⌚ Sec. 39(5) is proposed to be amended stating that a non-resident taxable person is required to furnish return for a particular month within 13 days after the end of such month

WEF

- ⌚ The date to be notified by CG

Impact

- ⌚ The time limit to furnish return by Non-resident taxable person is reduced to 13th day of subsequent month in place of 20th day of subsequent month

Substitution of Sec. 41 providing for availment of ITC

Background

- ☑ Sec. 41 provides the manner for availing ITC

Current Scenario

- ☑ The mechanism for availment of ITC was based on 'provisional basis' and subject to conditions and restrictions as may be prescribed

Change in Law

- ☑ It is proposed that if ITC is availed by a recipient in respect of supply of goods or services for which tax has not been paid by supplier then such recipient shall be liable to reverse such ITC along with interest
- ☑ However, such recipient can re-avail the ITC reversed by him if the supplier makes payment of the tax
- ☑ The provision is silent on re-credit of interest

WEF

- ☑ The date to be notified by CG

Impact

- ☑ The concept of claiming ITC on 'provisional basis' is done away with

Late fee can be imposed for delay in filing TCS Returns

Background

- ☑ Sec. 47 deals with levy of late fees due to delay in furnishing various returns

Current Scenario

- ☑ U/s 47(1) any registered person who fails to furnish the details of outward or inward supplies required U/s 37 (GSTR-1) or 38 (inward supply details) or 39 (GSTR-3B) or 45 (final return) till the due date shall pay a late fee of Rs. 100 every day during which such failure continues, subject to a maximum amount of Rs. 5,000

Change in Law

- ☑ It is proposed to levy late fees on delay in filing returns U/s 52 (TCS Returns)

WEF

- ☑ The date to be notified by CG

Impact

- ☑ Now, the scope of levying late fees has been extended to TCS returns

Transfer of ITC from one GSTIN to another GSTIN & powers to prescribe maximum limit of utilising ITC...

Background

- ⌚ Sec. 49 provides for payment of tax, interest, penalty, and other amounts. It also provides manner of utilisation of ITC subject to certain conditions and order of utilisation of ITC.

Current Scenario

- ⌚ Sec. 49(10) allows a registered person to transfer any amount of tax, interest, penalty, fee or any other amount lying in Electronic Cash Ledger under CGST to IGST, CGST, SGST, UTGST or cess; within the same GSTIN

Change in Law

- ⌚ It is proposed to enable transfer of the balance of IGST or CGST lying in electronic cash ledger from one GST registration to another GST registration having the same PAN
- ⌚ Another sub-sec. (12) is proposed to be inserted in Sec. 49 to prescribe maximum amount of output tax that can be paid through ITC

...Transfer of ITC from one GSTIN to another GSTIN & powers to prescribe maximum limit of utilising ITC

WEF

☑ The date to be notified by CG

Impact

☑ This amendment may give legal backing to Rule 86B of CGST Rules which prescribes that 1% of output tax needs to be mandatorily paid through electronic cash ledger

Levy of interest on wrong availment and utilisation of ITC @ 18%

Background

- ⌚ Sec. 50 lays down the provision for payment of interest on delayed payment of tax

Current Scenario

- ⌚ Sec. 50(3) provided for levy of interest @ 24% on undue or excess claim of ITC U/s 42(10) or 43(10)

Change in Law

- ⌚ Clause 110 seeks to amend Sec. 50(3) to provide for levy of interest if ITC is wrongly availed **and** utilized

WEF

- ⌚ With retrospective effect from 01.07.2017 whenever Finance Bill 2022 is enacted

Impact

- ⌚ By exercising powers U/s 50(3), Not. No. 13/2017-CT dated 28.06.2017 has been amended retrospectively to notify the rate of interest as 18% (Similar amendments have been made in IGST & UTGST)

Extension in time limit for rectification TCS returns

Background

- 🕒 Sec. 52 provides for mechanism of TCS by ECO

Current scenario

- 🕒 Sec. 52(6) allows an ECO to make rectification in TCS Return (GSTR-8) till earlier of the following dates:
 - Due date of furnishing TCS Return for the month of September following the FY to which TCS Return pertains
 - Date of furnishing Annual Return

Change in law

- 🕒 The time limit for rectification of any omission has been extended to earlier of the following dates:
 - 30th November following the FY to which TCS Return pertains
 - Date of furnishing Annual Return

WEF

- 🕒 The date to be notified by CG

Impact

- 🕒 This will provide additional time to ECO for rectification of TCS returns as time limit is extended from 20th October of succeeding FY to 30th November of succeeding FY

Refund of excess balance in cash ledger

Background

- ⌚ As per Sec. 54(1), an assessee can claim refund of balance of tax, interest, penalty or fee paid under this Act

Current scenario

- ⌚ As per proviso to Rule 89 of CGST Rules, the refund of excess balance in electronic cash ledger can be claimed by filing return in GSTR-3

Change in law

- ⌚ Now, excess balance in electronic cash ledger can be claimed by filing application U/s 54

WEF

- ⌚ The date to be notified by CG

Impact

- ⌚ As GSTR-3 could not be implemented, the mechanism to claim refund of excess balance of electronic cash ledger was routed through refund application in Rule 89 of CGST Rules. By virtue of this amendment, this mechanism is synchronized with Rule 89 of CGST Rules

Time limit to claim refund by specified person increased to 2 years

Background

- ⌚ Sec. 54(2) allows specific persons to claim refund

Current scenario

- ⌚ The time limit to claim refund by Specialized agency of UNO or notified Multilateral Financial Institution and Organization or Consulate or Embassy of foreign countries or any other person is within **6 months** from the last day of the quarter in which they receive the inward supply

Change in Law

- ⌚ Now it is proposed to increase the time limit to claim refund by Specialized agency of UNO or notified Multilateral Financial Institution and Organization or Consulate or Embassy of foreign countries or any other person to **2 years** from the last day of the quarter in which they receive the inward supply

WEF

- ⌚ The date to be notified by CG

Impact

- ⌚ Now specified person will get additional time limit from existing 6 months to 2 years

Power to withhold refund widened for all cases

Background

- ⌚ Sec. 54(10) provides power to GST Authorities to withhold refund/ deduct the tax demand from refund

Current scenario

- ⌚ Currently, the powers to withhold refund/ deduct the tax demand from refund are available only in case of refund of unutilised balance of ITC

Change in Law

- ⌚ Now it is proposed to widen the powers to withhold refund/ deduct the tax demand from refund in case of all types of refunds

WEF

- ⌚ The date to be notified by CG

Impact

- ⌚ The powers to withhold refund/ deduct the tax demand from refund is widened to all types of refund. By virtue of this, GST Authorities may also withhold the refund of balance available in electronic cash ledger

Clarity in computing time limit to claim refund

Background

- ⌚ Explanation 2(b) to Sec. 54(14) defines relevant date i.e. the date from which the time limit to claim refund should be computed

Current scenario

- ⌚ The relevant date for computing time limit for claiming refund in respect of supplies to SEZ was not specifically provided and therefore the “relevant date” as per residuary provision i.e. date of payment of tax was considered

Change in Law

- ⌚ The time limit in case of refund of with payment/without payment in respect of supplies made to SEZ Unit/Developer is now proposed to be reckoned from the due date for furnishing GST return U/s 39 (GSTR-3B)

WEF

- ⌚ The date to be notified by CG

Impact

- ⌚ This will provide clarity for reckoning the time limit for computing refund in respect of supplies made to SEZ Unit/Developer

Other amendments

- ⌚ Not. No. 9/2018-CT dated 23.01.2018 has been amended retrospectively to notify www.gst.gov.in as Common Goods and Services Tax Electronic Portal for all functions under GST law except e-way bill compliances and E-invoicing
- ⌚ Supply of unintended waste generated during the production of fish meal (falling under heading 2301), except fish oil, is being exempted from 01.07.2017 to 30.09.2019. However, if GST has been collected, it would not be eligible for any refund
- ⌚ Service by way of grant of alcoholic liquor license is declared neither as supply of goods nor as supply of services with retrospective effect from 01.07.2017. However, if GST has been collected, it would not be eligible for any refund

Abbreviations...

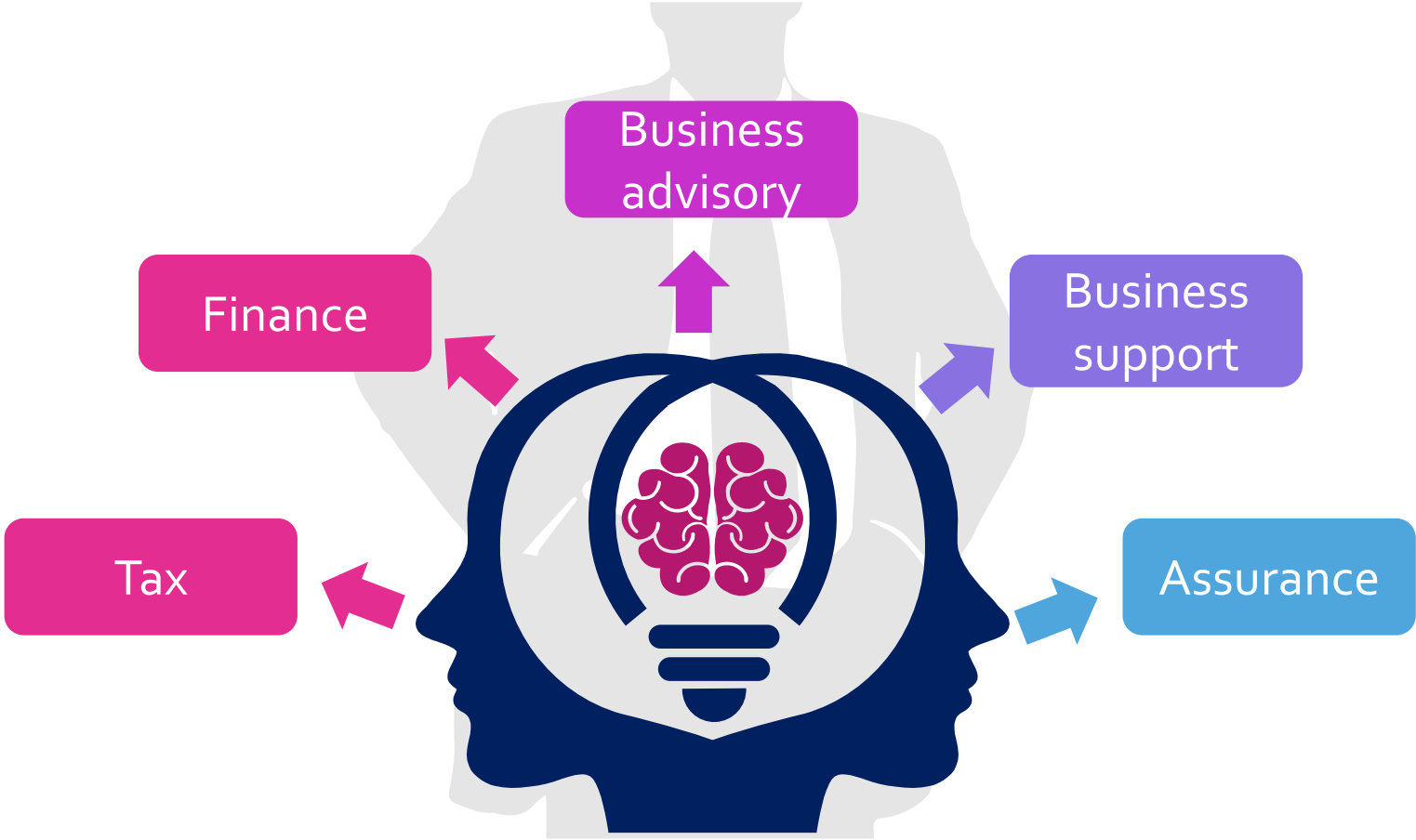
WEF	With Effect From
FY	Financial Year
Sec.	Section
U/s	Under Section
TCS	Tax Collected at Source
Not.	Notification
Rs.	Rupees
GST	Goods and Services Tax
CGST	Central Goods and Services Tax
IGST	Integrated Goods and Services Tax
UTGST	Union Territory Goods and Services Tax
ITC	Input Tax Credit

...Abbreviations

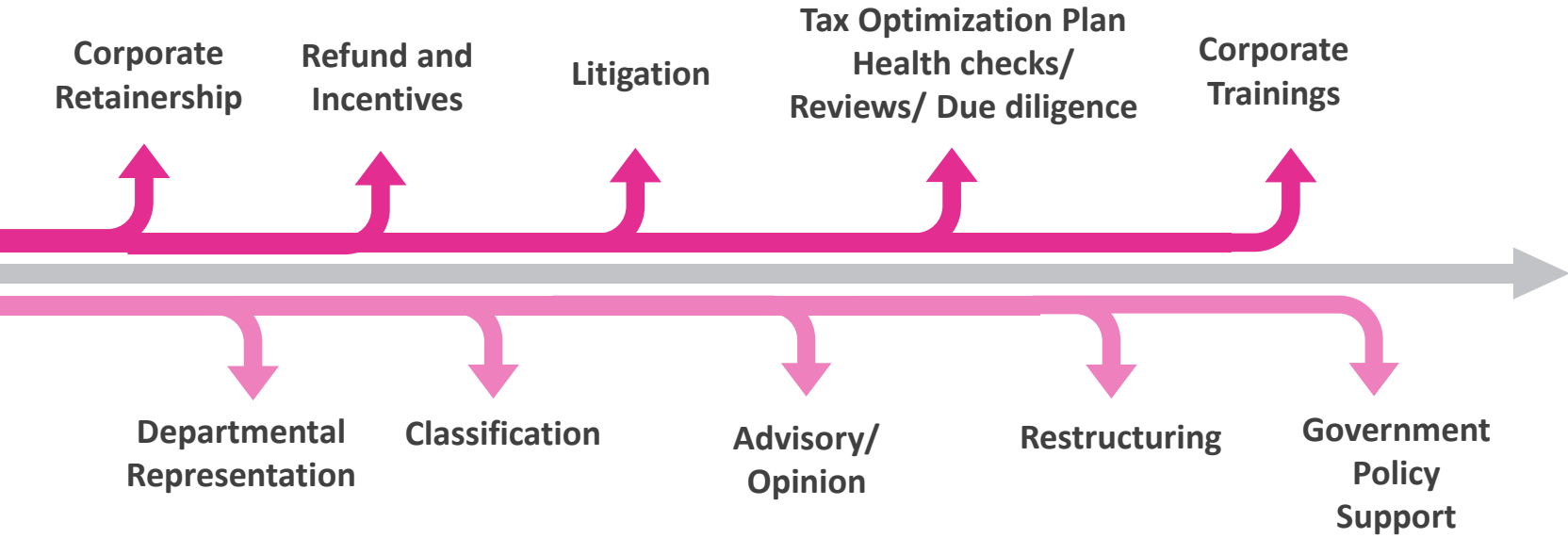
CG	Central Government
Govt.	Government
FY	Financial Year
TCS	Tax Collected at Source
SEZ	Special Economic Zone
Rs.	Rupees
UNO	United Nations Organisation

NOTE: UNLESS OTHERWISE SPECIFIED, ALL PROVISIONS PERTAINS TO CENTRAL GOODS AND SERVICES TAX ACT, 2017

What do we do?....



....What do we do?



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