Registrations provisions including Business Process

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GST – Registration Provisions

Registration – Chapter VI (Section 19 – 22) of Draft GST Law / Schedule III

- Section 23 – Registration
- Section 24 – Special Provision Casual/Non Resident Taxable Person
- Section 25 – Amendment of registration
- Section 26 – Cancellation of registration
- Section 27 – Revocation of cancellation of registration
- Schedule IV –Person Liable to be registered

Registration – Section 23 read with Schedule IV

Every supplier shall be liable to be registered under this Act in the State from where he makes a taxable supply of goods and/or services if his aggregate turnover in a financial year exceeds [Rs Twenty lakh/ Rs Ten lakh]

This threshold of Ten lakh will apply only if the taxable person conducts his business in any of states specified in sub-clause (g) of clause (4) of Article 279A of the constitution or Special Category States

Provided that the supplier shall not be liable to registration if his aggregate turnover consists of only goods and/or services which are not liable to tax under this Act.

Registration – Section 23 read with Schedule IV

Subject to the provisions of paragraph 1, every person who, on the day immediately preceding the appointed day, is registered or holds a license under an earlier law, shall be liable to be registered under this Act with effect from the appointed day.

Registration – Section 23 read with Schedule IV

"**aggregate turnover**" means the aggregate value of all taxable supplies, exempt supplies, export of goods and/or services and inter-state supplies of a person having the same PAN, to be computed on all India basis and excludes taxes, if any, charged under the CGST Act, SGST Act and the IGST Act, as the case may be

Explanation 1 – The aggregate turnover shall include all supplied made by the taxable person, whether on his own account or made on behalf of all his principles

Explanation 2 – The supply of goods, after completion of job-work, by a registered job-worker shall be treated as the supply of goods by the "principal" referred to in section 55, and the value of such goods shall not be included in the aggregate turnover of the registered job worker.

Further Registration Requirement (Schedule III)

- Persons making any inter-State taxable supply, irrespective of the threshold;
- Casual taxable persons, irrespective of the threshold;
- Persons who are required to pay tax under reverse charge, irrespective of the threshold;
- Non-resident taxable persons, irrespective of the threshold;
- Persons who are required to deduct tax under section 46; or required to collect tax under section 56
- Persons who supply goods and/or services on behalf of other registered taxable persons whether as an agent or otherwise;
- Input Service Distributor
- Persons who are required to pay tax as per Sec 8(4) or who supplies goods through electronic commerce operator and every ecommerce operator
- Such other person or class of persons as may be notified by the Central Government or a State Government on the recommendations of the Council.
- Every person supplying online information and database access or retrieval services from a plat outside India to a person in India, other than a registered taxable person

Input Service Distributor

"**Input Service Distributor**" means an office of the supplier of goods and / or services which receives tax invoices issued under section 28 towards receipt of input services and issues tax invoice or such other document as prescribed for the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST paid on the said services to a supplier of taxable goods and / or services having same PAN as that of the office referred to above;

Explanation.- For the purposes of distributing the credit of CGST (SGST in State Acts) and / or IGST, Input Service Distributor shall be deemed to be a supplier of services.

This benefit should also be extended to transfer the credit of goods as well, as GST aims to treat goods and services at par.

Registration - Casual

The certificate of registration issued to a casual taxable person or a non-resident taxable person shall be valid for a period of ninety days from the effective date of registration.(can be extended further for 90 days)

Notwithstanding anything to the contrary contained in this Act, a casual taxable person or a non-resident taxable person shall, at the time of submission of application for registration under sub-section (1) of section 23, make an advance deposit of tax in an amount equivalent to the estimated tax liability of such person for the period for which the registration is sought:

Registration - Casual

"**Casual taxable person**" means a person who occasionally undertakes transactions involving supply of goods and/or services in the course or furtherance of business whether as principal, agent or in any other capacity, in a taxable territory where he has no fixed place of business.

"**Non-resident taxable person**" means a taxable person who occasionally undertakes transactions involving supply of goods and/or services whether as principal or agent or in any other capacity but who has no fixed place of business in India;

"Non-resident taxable person" Vs "Non-resident Dealer"(Business Processes)

"**fixed establishment**" means a place (other than the place of business) which is characterized by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;

Registration - Cancelation

The proper officer may, either on his own motion or on an application filed, in the prescribed manner, by the registered taxable person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where, -

(a) the business has been discontinued, transferred fully for any reason including death of the proprietor, amalgamated with other legal entity, demerged or otherwise disposed of; or

(b) there is any change in the constitution of the business; or

(c) the taxable person, other than the person registered under sub-section (3) of section 23, is no longer liable to be registered under Schedule III.

Registration - Cancelation

(2) The proper officer may, in the manner as may be prescribed, cancel the registration of taxable person from such date, including any anterior date, as he may deem fit, where, -

(a) the registered taxable person has contravened such provisions of the Act or the rules made thereunder as may be prescribed; or

(b) a person paying tax under section 9 has not furnished returns for three consecutive tax periods; or

(c) any taxable person, other than a person specified in clause (b), has not furnished returns for a continuous period of six months; or

(d) any person who has taken voluntary registration under sub-section (3) of section 23 has not commenced business within six months from the date of registration.

Registration - Cancelation

(3) Where any registration has been obtained by means of fraud, willful misstatement or suppression of facts, the proper officer may cancel the registration with retrospective effect, subject to the provisions of section 37.

(4) The proper officer shall not cancel the registration without giving a notice to show cause and without giving the person a reasonable opportunity of being heard.

(5) The cancellation of registration under this section shall not affect the liability of the taxable person to pay tax and other dues under the Act for any period prior to the date of cancellation whether or not such tax and other dues are determined before or after the date of cancellation.

(6) The cancellation of registration under the CGST Act/SGST Act shall be deemed to be a cancellation of registration under the SGST Act/CGST Act.

Registration - Cancelation

(7) *Every registered taxable person whose registration is cancelled shall pay an amount, by way of debit in the electronic credit or cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock on the day immediately preceding the date of such cancellation or the output tax payable on such goods, whichever is higher, calculated in such manner as may be prescribed: Provided that in case of capital goods, the taxable person shall pay an amount equal to the input tax credit taken on the said capital goods reduced by the percentage points as may be prescribed in this behalf or the tax on the transaction value of such capital goods under sub-section (1) of section 15, whichever is higher*.

(8) The amount payable under sub-section (7) shall be calculated in accordance with generally accepted accounting principles in such manner as may be prescribed.

Voluntary Registration

A person, though not liable to be registered under Schedule III, may get himself registered voluntarily, and all provisions of this Act, as are applicable to a registered taxable person, shall apply to such person.

The proper officer may, either on his own motion or on an application filed, in the prescribed manner, by the registered taxable person or by his legal heirs, in case of death of such person, cancel the registration, in such manner and within such period as may be prescribed, having regard to the circumstances where, -

any person who has taken voluntary registration under sub-section (3) of section 23 has not <u>commenced business within six months</u> from the date of registration.

GST – Business Processes

Registration

Payment

Refund

Returns

Business Processes

- The Empowered Committee of State Finance Ministers had constituted the Joint Committee on Business Processes for Goods and Services Tax (GST) to make suitable recommendations regarding various business processes under the GST regime.
- The Ministry of Finance released three reports of the Joint Committee with respect to registration, payment and refund processes under the GST regime & then reports on Return Process
- These reports give details about the proposed changes as recommended by the Joint Committees and also prescribes forms for various procedures under GST
- Draft Draft GST Law is silent about Business Processes, however the provisions of the Act are generally in consistence with Business Processes. Draft rules should be made on basis of Business Processes

Business Process - Registration

✓ Deemed Approval – 3 Days time in Business Process

❖ Draft GST Law – Deemed Approval – Time would be prescribed

➢ No ITC available on purchases made prior to obtaining registration

❖ Section 16(1) of Draft GST Law – registered taxable person entitled to Input Tax Credit

❖ Section 16(2) of Draft GST Law - A person who has applied for registration under the Act within thirty days from the date on which he becomes liable to registration and has been granted such registration shall, subject to such conditions and restrictions as may be prescribed, be entitled to take credit of input tax in respect of inputs held in stock and inputs contained in semi finished or finished goods held in stock on the day immediately preceding the date from which he becomes liable to pay tax under the provisions of this Act.

Structure of GSTIN

State		PAN										Entity	Blank	Check
1	2	3	4	5	6	7	8	9	10	11	12	13	14	15

- 15 digit Alphanumeric structure
- State-wise
- Based on PAN
- 13th Digit for Business Verticals of entities with same PAN in same State
- 14th digit left blank for future use
- 15th digit – Checksum
- Non- Resident Dealer

  A person registered in a State can obtain registration in another State, even without any presence in the other State, as a non-resident dealer and would be subject to provisions similar to casual dealers

  No advance tax or security deposit to be paid by a non-resident dealer, unlike casual dealer

Multiple Registration - Verticals

- Multiple registration within a State for business verticals of taxable person would be allowed.

- Input tax credit across the business verticals of such taxable person shall not be allowed unless the goods or services are actually supplied across business verticals (Implied under GST Law as Input Tax Credit based on Invoice & Registration)

- For the purpose of recovery of dues, all business verticals, though registered separately , will be considered as single legal entity.

Business Process - Registration

New Registration	Existing State VAT/Excise Registration	Existing service tax payer
Application to be made within 30 days of becoming liable for registration.	If PAN is validated GSTIN will be generated by NSDL and sent to respective State tax authorities If PAN has not been validated State VAT authorities to collect it from tax payer	Taxpayers would be asked to intimate States where they want to get registered GST portal to generate GSTIN and communicate to Service Tax authorities. On communication of GSTIN to taxpayer, he would be required to fill the remaining required data, if any, on the GST Portal

- ➢ Business Process Proposed has Black Listing of Dealer. If a rating of dealer falls below the prescribed level the dealer will be blacklisted. In such cases all purchases made from him, will no longer be eligible for ITC
- ❖ Draft GST Law – Section 138 prescribed about GST Compliance Rating – No such provision of Black Listing in Draft Law – Might be through Rules

Business Process - Payment

- The focus of the process of GST payments is on making payments electronically with least interaction with the tax authorities. The key highlights are :-
- Payment is allowed only by way of a challan. Any other means of payment i.e. payment by book adjustment or payment by debit to export scrips etc. would not be allowed.
- Challan to be generated only from GSTN and no manual challan to be used.
- Challan can be generated.
  - In case of a registered taxpayer, by the taxpayer or its authorized representative by logging on to GSTN
  - In case of an unregistered taxpayer, by the tax authorities by granting a temporary registration number or creating a challan for an unregistered person for payment of tax by any other person without registration of the taxpayer

Business Process - Payment

- Under GST, 4 types of Taxes to be paid- CGST, IGST, Additional Tax and SGST

- **Modes of Payment**

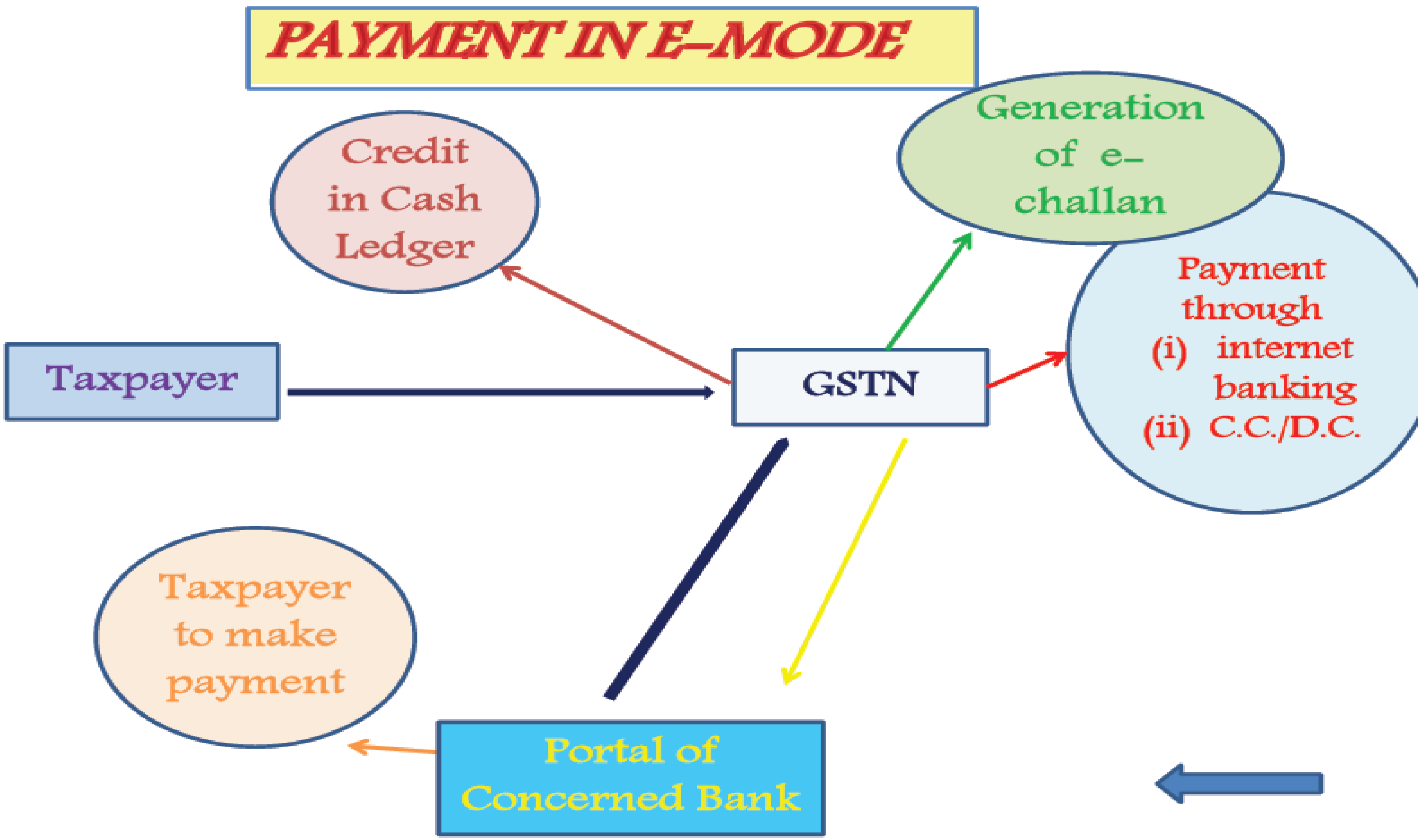
- Electronic including CC/DC (Mode I)
- Over The Counter Payment (for Payments upto Rs. 10,000/-) (Mode II)
- Payment through RTGS/NEFT (Mode III)
- Payment can be accepted by Departmental officers in enforcement cases only

Business Process - Payment

- Electronically generated Challan from GSTN for all 3 modes containing a unique 14-digit Common Portal Identification Number (CPIN) for each challan
- Challan can be generated by
  - ✓ Taxpayer
  - ✓ His authorized representative
  - ✓ Departmental officers
  - ✓ Any other person paying on behalf of taxpayer
  - ✓ Certain key details like name, address, email, GSTIN of payer to be auto-populated

- Single challan / instrument for payment of all four types of taxes
- Challan once generated to be valid for 7 days
- Time of payment: from 0000 hrs. to 2000 hrs.

Business Process – Payment – E-Mode



Business Process – Payment - Accounting

- Authorized Banks to send list of CIN-wise details (electronic luggage file) for each type of Tax (CGST, IGST, AT & SGST) per day to RBI and Accounting Authorities at End of Day (EOD)
- RBI through its e-kuber system to consolidate the lists received from all authorized banks, debit their accounts and correspondingly credit Tax accounts of GOI / respective State Governments
- RBI to send digitally signed one e-scroll for each type of Tax (CGST, IGST, AT & SGST) per day (39) to Accounting Authorities of Central Government and State Governments & GSTN on T+1 basis
- GSTN to send reconciled data (challan data from Authorized Banks and e-scroll from RBI) to Accounting Authorities at EOD

Business Process – Payment – Accounting

- For any discrepancy noticed, accounting authority to generate a Memorandum of Error (MOE) & send to RBI
- RBI to resolve the discrepancy in consultation with the Authorized Bank RBI to report the corrected data to respective Accounting Authority & GSTN
- Taxpayers Master data to be provided by Tax Authorities to Accounting Authorities for mapping of payment details jurisdiction wise

Business Process - Refund

- The refund process envisages a seamless and hassles free journey of grant of refund to the eligible taxpayer

- The process enlists situation when the refund can arise – which included exports, deemed export, excess payment by mistake, provision assessment, year end volume incentive

- A period of 1 year from relevant date would be allowed for filing refund application. Relevant date separately prescribed in each situation

Business Process – Refund - Situation

- Excess payment due to mistake and inadvertence,
- Export (including deemed export),
- Finalization of Provisional Assessment,
- Refund of pre deposit in case of Appeal or Investigation,
- Refund for Tax payment on transactions by UN bodies, CSD Canteens, Para-military forces canteens, etc.
- Refund from Manufacturing / Generation/ Production/Creation of Tax-free supplies or Non-GST Supplies,
- Refund of Carry Forward Input Tax Credit
- Refund on account of year end or volume based incentives.
- Tax refunds for International Tourists

Refund - Documents

- Documents evidencing tax payments required to be enclosed with the refund application should be minimal but adequate:
- All payments of tax will be in electronic mode and all B2B invoices will be uploaded on the portal. Therefore following evidences may not be called for:
- Copy of proof of deposit of tax i.e. challan etc/ copy of return evidencing payment of duty.
- Copy of invoices.
- Documents evidencing export (online verification with ICEGATE).
- A Chartered Accountant’s Certificate may be called for evidencing that the tax burden has not been passed on to the buyer. Under Principle of “unjust enrichment

Refund –Documents

Export of Services

- Invoice
- Bank Realization Certificate (BRC). No refund without filing of BRC. Cut-off date for filing of refund to be linked to receipt of BRC
- No custom documents that can substantiate the occurrence of event of export as no shipping bill is required to be filed.

Refund - Procedure

- It is recommended that the State Tax authorities shall deal with the SGST refund and Central Tax authorities shall deal with refund of CGST and IGST.
- Applicant may be given the option of filing refund application either through the GSTN portal or through the respective State / Central Tax portal.
- Refund Claim Form under ------ Goods & Services Tax.docx
- Refund Claim Form for embassies, international and public organisations.docx
- On filing of the electronic application, a receipt/ acknowledgement number may be generated and communicated to the applicant via SMS and email for future reference.
- It is recommended that the preliminary scrutiny may be carried out within 30 common working days.

Business Process – Return

- Separate returns for different categories of taxpayers
- Normal/Regular & Casual Taxpayer (GSTR-1, 2 ,3 & 8)
- Compounding Taxpayer (GSTR- 4 & 8)
- Foreign Non-Resident Taxpayer (GSTR-5)
- Input Service Distributor (GSTR- 6)
- Tax Deductor (GSTR-7)

- Returns by a normal / casual taxpayer to be filed in sequential manner with different cut-off dates to allow auto-population of return & automated matching of invoices

Business Process – Return

- Payment of due tax is must for filing valid return
- Returns can be submitted with short payment but shall be treated as invalid – not taken into account for invoice matching & inter-Government fund settlement
- Provision for filing revised information. Differential Tax liability to be captured through Debit Note / Credit Note/ Supplementary invoices / correction mechanism
- Maintenance of electronic Cash Ledger
- Maintenance of electronic ITC Ledger
- Maintenance of electronic Tax liability Ledger

Business Process – Return

Normal/Regular taxpayers – monthly return

10th day of succeeding month: last date for uploading supply invoice details – GSTR -1

15th day of succeeding month: last date for auto-population & uploading purchase details – GSTR-2

17th day of succeeding month: last date for finalizing supply & purchase details

20th day of succeeding month: last date for filing GSTR-3

Compounding taxpayers to file quarterly return: by 18th day of succeeding month of the Quarter – GSTR-4

Foreign Non-resident Taxpayers to file monthly return: within 7 days after expiry of registration - GSTR-5

Business Process – Return

Input Service Distributors (ISD) taxpayers to file monthly return: by 15th day of succeeding month – GSTR-6

Tax Deductors to file monthly TDS return: by 10^{th} of succeeding month – GSTR- 7

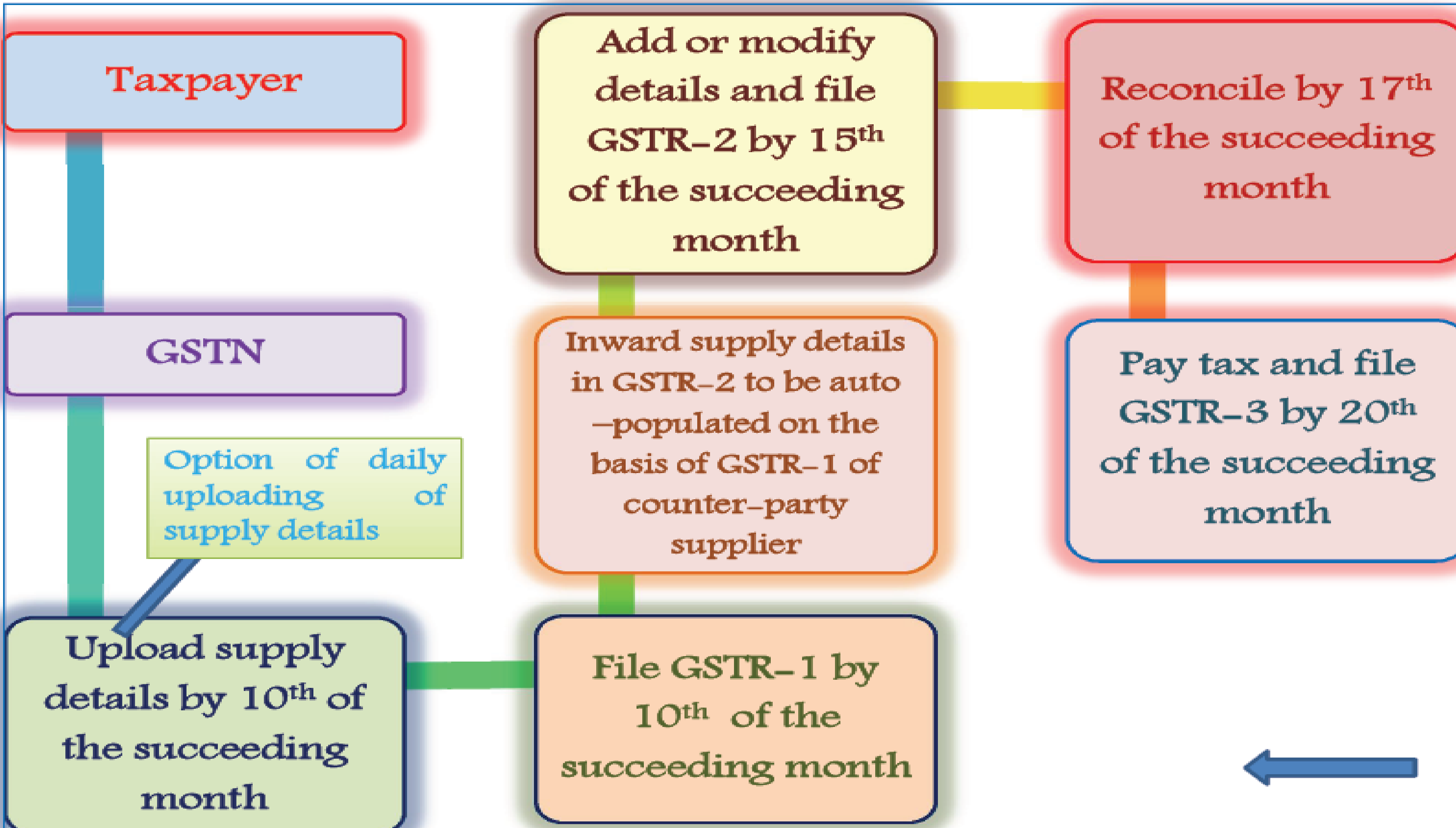
Casual taxpayers to file same return as for normal taxpayer but with monthly periodicity and / or linked to validity period of registration

UN agencies to file return for the month in which they make purchases – to claim refunds

Business Process – Annual Return

- Annual Return (GSTR-8)
- All Regular and Compounding taxpayers to file Annual Return
- Last date - 31st December following the end of the financial year
- Simpler Annual Return for Compounding taxpayers & those taxpayers who are not required to get their accounts audited
- Annual Return to be accompanied with a statement showing reconciliation of information as per Returns with information as per annual audited accounts
- Reconciliation statement to be filed by taxpayers who are required to get accounts audited under Section 44AB of the Income Tax Act, 1961

Business Process – Return



GST - Registration & Business Process