

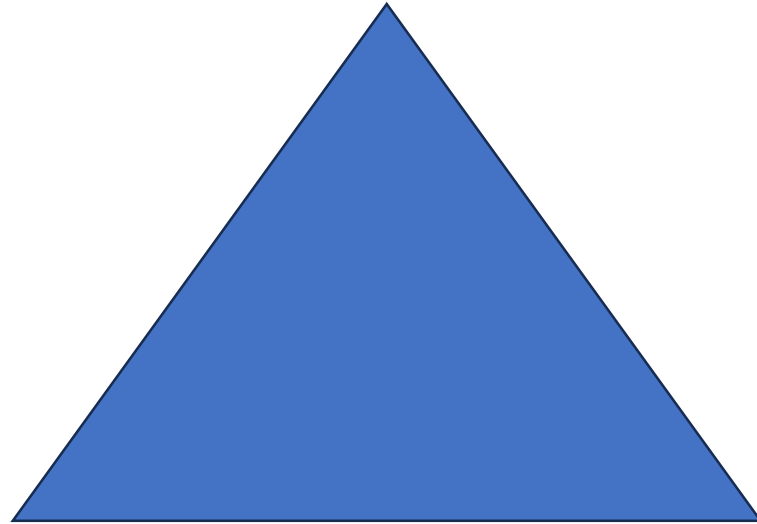
# Section 4 Input Tax Credit

# Complexity of GST

- Simplification in groups of threes

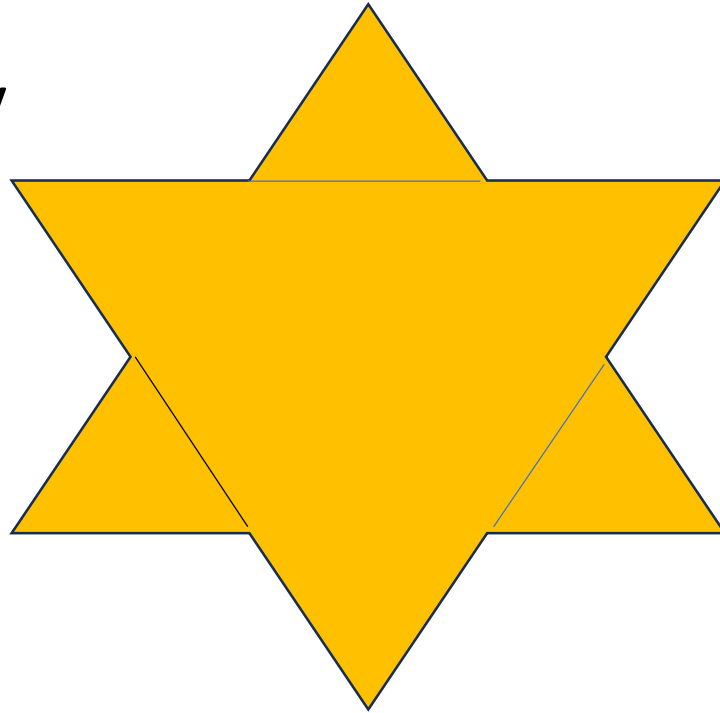
# The first: a triangle

1. Supplier
2. Supply
3. Recipient

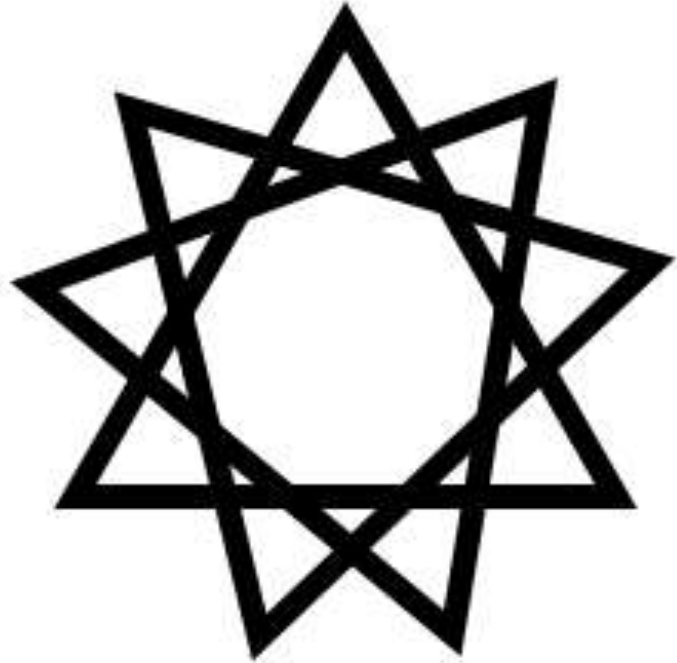


# The second triangle-a hexagram

4. Time of supply
5. Place of supply
6. Valuation



# The third triangle- a nonagram



7. Rate
8. Exemption
9. Classification

# Exemptions

1. Exemption of supply: general and special exemptions (section 11)
2. Goods outside GST: alcoholic liquor for human consumption; petroleum products(section 9)
3. Exemption of supplier: agriculturist (section 23);below registration threshold (section 22); composition levy (section 10)

# Explaining input tax credit

## Without input tax credit

- Value of supply Rs 1000
- GST at 10% Rs 100
- Amount paid by R Rs 1100
- Value-added by R Rs 900
- Value of Supply Rs 2000
- GST at 10% Rs 200
- Consumer price Rs 2200

## With input tax credit

- Value of supply Rs 1000
- GST at 10% Rs 100
- Amount paid by R Rs 1100
- Value-added by R Rs 900
- Value of Supply Rs 2000
- GST at 10% Rs 200
- Less ITC Rs 100
- GST paid Rs 100
- Consumer price Rs 2100

# Input tax credit : basic structure of GST laws

- Input tax credit is
  - NOT an exemption
  - NOT a concession
- Interpretation of input tax credit provisions
  - NOT strict
  - NOT Liberal
  - Literal or textual interpretation



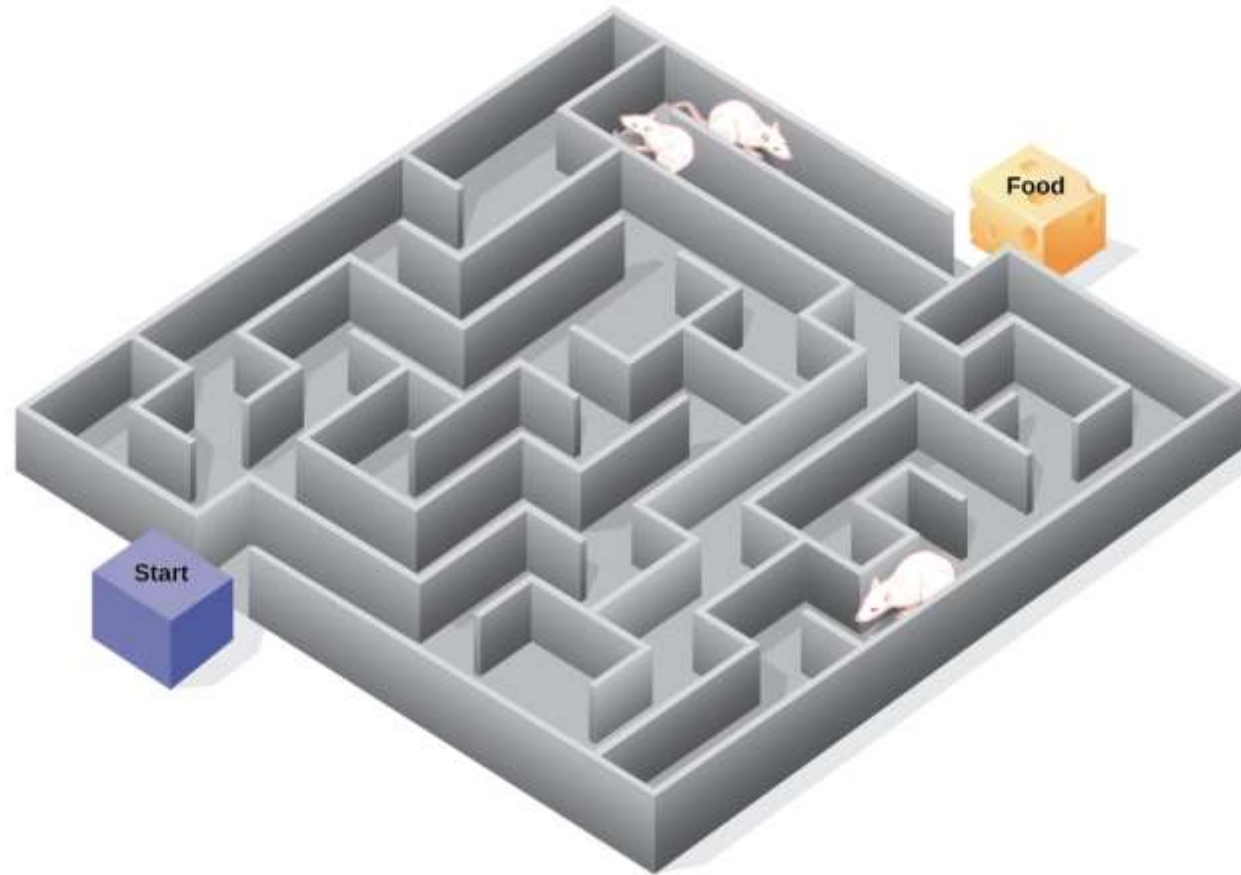
# Governments' dilemma

- Input tax credit results in lower collection of taxes
- Withholding input tax credit increases the prices

# Governments' choices and response

- Increase rates
- Reduce exemptions
- widen the tax base: more industries, more services, more supplies
- Increase compliance
- Reduce evasion
- Squeeze input tax credit

# Squeezing input tax credit



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# Four layers of this maze

1. Entitlement of input tax credit
2. Conditions for claiming input tax credit
3. Conditions for utilizing input tax credit
4. Conditions for refund of input tax credit

# Who is entitled to claim input tax credit?

- Input tax credit can be claimed only if there is more than one supply where taxes paid
- Input tax credit is always claimed by the recipient
- The recipient must also be a supplier

**Supply 1** Supplier 1  Recipient 1: supply received/tax paid

**Supply 2** Recipient 1/Supplier 2  Recipient 2/ end consumer

Recipient 1 / Supplier 2 avails input tax credit, balance tax paid

Recipient 2 / end consumer receives the supply and pays the net tax

# Supply for business: not personal consumption

- Destination tax: end consumer picks the tab
- Supply “*used or intended to be used in the course or furtherance of his business*” : Section 16 (1)

# Proof of entitlement: prescribed documents (section 16)

1. Prescribed documents to prove taxable supply
2. details of outward supplies and inward supplies filed and communicated
3. Receipt of the supply
4. Tax paid to the government
5. Return filed
6. Supply price and tax paid

# Proportionate reduction in ITC (section 17)

1. Partly for business and partly for personal use
2. Partly taxable supply and partly exempt supply



# Input tax credit: barred items (section 17)

- Immovable property: construction of an immovable property; works contract services for construction of an immovable property
- Personal consumption
- Goods lost, stolen, destroyed, written off
- Gifts and free samples
- Tax paid on detection of fraud, detention seizure of goods in transit (section 74, 129, 130)

# Input tax credit: barred items (continued)

- Motor-vehicle is for transportation of persons (seating less than 13 persons)
- Vessels and aircrafts
- Services: general insurance, servicing, repairs and maintenance of the above
- Food and beverages, out to catering, beauty treatment, life insurance and health insurance
- Club membership
- Employee travel benefits
- Telecom towers and pipelines outside factory premises

# Plant and machinery, capital goods

- plant and machinery: definition, section 18, explanation
- Capital goods: definition, section 2 (19)
- Supply of capital goods of plant and machinery: repayment of input tax credit availed

# Entry into and exit from GST laws

- New registration
- Composition levy to regular tax
- Exempt supply becoming taxable supply

## Converse

- Cancellation of registration
- Regular tax to composition levy
- Taxable supply becoming exempt supply
- ❖ Corporate mergers, amalgamations and demergers

# Input tax credit and job work

- Job work: definition section 2 (68)
- Principal gets the input tax credit
- If inputs sent for job work and capital goods sent for job work are not received back by the principal, this is deemed to be a supply and tax is levied accordingly
- Dies, jigs and fixtures, tools need not be received back

# Burden of proof

- The burden of proof is on the person claiming input tax credit (section 155)
- Preponderance of evidence, probabilities of the case