



GST

Annual Return & Audit

Liability to file R-9

Who is required to file?



All registered
persons

other than...

Exempted categories from annual return u/s 44(1)



Casual Taxable person



Non-resident taxable person



Input Service Distributor



Tax Deductor



TCS Collector

Basic Points for Annual Return

- a. Coverage: July 17 ~ Mar 18 (*is it?*).
- b. GSTR-1 and 3B for 2017-18 must be filed prior to R-9.
- c. Even NIL R-9 is mandatory (*wherever applicable*).
- d. R-9 is qua GSTIN, not PAN.
- e. R-9 can not be revised. So file with utmost care and caution.

6 conditions for NIL R-9

1. NO outward supply
2. NO inward supplies of any kind
3. NO liability of any kind
4. NO ITC claimed
5. NO advance receipt creating demand
6. NO refund claims during the financial year

Basis of R-9

Base of Annual Return?

- a. 3B?
- b. GSTR-1 ?
- c. Books of account?

Title of Pt. II

Details of Outward and inward **supplies made** during the financial year.

Instruction 4

It may be noted that all the supplies for which payment has been made through FORM GSTR-3B between July 2017 to March 2018 shall be declared in this part.

Press Release – Point (d)



सत्यमेव जयते

- It may be noted that irrespective of when the supply was declared in FORM GSTR-1, the principle of declaring a supply in Pt. II or Pt. V is essentially driven by when was tax paid through FORM GSTR-3B in respect of such supplies.
- If the tax on such supply was paid through **FORM GSTR-3B** between July 2017 to March 2018 then such supply shall be declared in Pt. II and if the tax was paid through **FORM GSTR-3B** between April 2018 to March 2019 then such supply shall be declared in Pt. V of FORM GSTR-9.

*“Therefore, this Form **will be filled according to the taxes paid in Form 3B** i.e if tax has been paid in FY 2017-18 then it shall be reported in part II, T4 and it has been paid in 2018-19 then it shall be reported in Part V, T10”*

Can I declare additional liability?

Can I declare additional liability?



Form 9 - Instruction 3

Additional liability for the FY 2017-18 not declared in FORM GSTR-1 and FORM GSTR-3B may be declared through GSTR-9.

Press Release – Point (e)

- Any additional outward supply which was not declared by the registered person in FORM GSTR-1 and FORM GSTR-3B shall be declared in Pt.II of the FORM GSTR-9.
- Such additional liability shall be computed in Pt.IV and the gap between the “tax payable” and “Paid through cash” column of FORM GSTR-9 shall be paid through FORM DRC-03.



सत्यमेव जयते

Can I reduce liability as compared to declared?



Though instruction 3 specifically permit to declare additional liability for the FY 2017-18, but **R-9 is silent** on this aspect.

Understanding Formula: Tax Payable for Outward Supply



Tax Payable			Tax Payable	
(1)			(2)	
Table 4		→	Table 9	
(+) Table 10	}	→	(±) Table 14	
(-) Table 11				
Total		=	Total	

- 👉 Even though figures of tax payable in table 4 and 9 are auto populated but can be edited manually.
- 👉 Figures in table 10, 11 and 14 needs to be manually entered.
- 👉 Negative figures can be entered in table 10, 11 and 14.

Understanding Formula: Tax Payable for Outward Supply



Tax Payable		Tax Paid
(1)		(2)
Table 9		Table 9
(±) Table 14		(±) Table 14
↓	=	↓
Total Tax Payable		Total Tax Paid

- Total Tax Payable > Total Tax Paid = DRC-03
- Total Tax Payable < Total Tax Paid = Refund application
- ☞ Auto populated figures for tax paid in table 4 can not be edited.
- ☞ Negative figures in table 14 for tax can be entered.

ITC in R-9

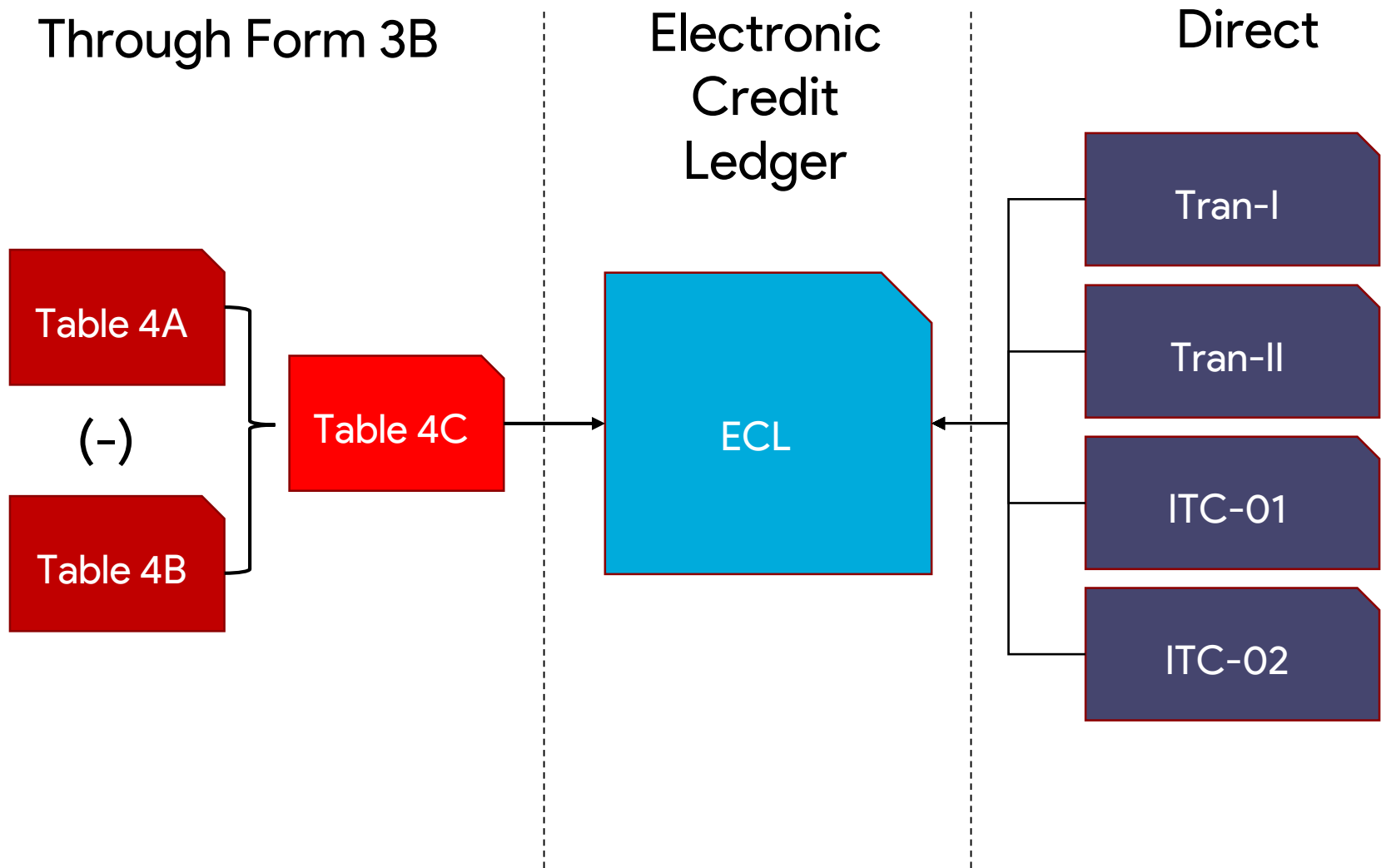
Can I claim additional ITC through R-9?



Form 9 - Instruction 3

Taxpayers cannot claim input tax credit unclaimed during FY 2017-18 through GSTR-9.

Flow of ITC to Electronic Credit Ledger



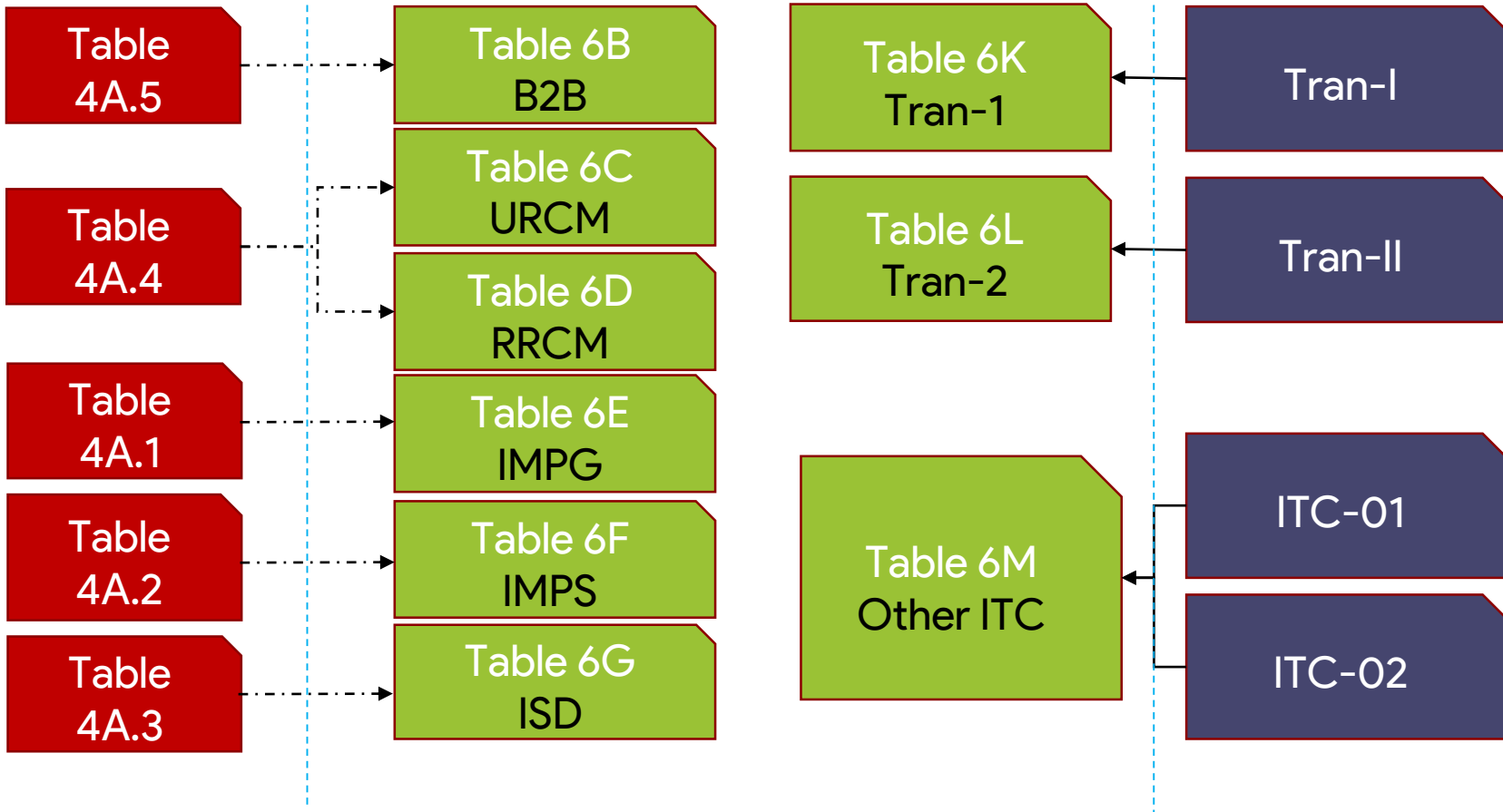
Flow of ITC to R-9



Form 3B

Form R9

Direct



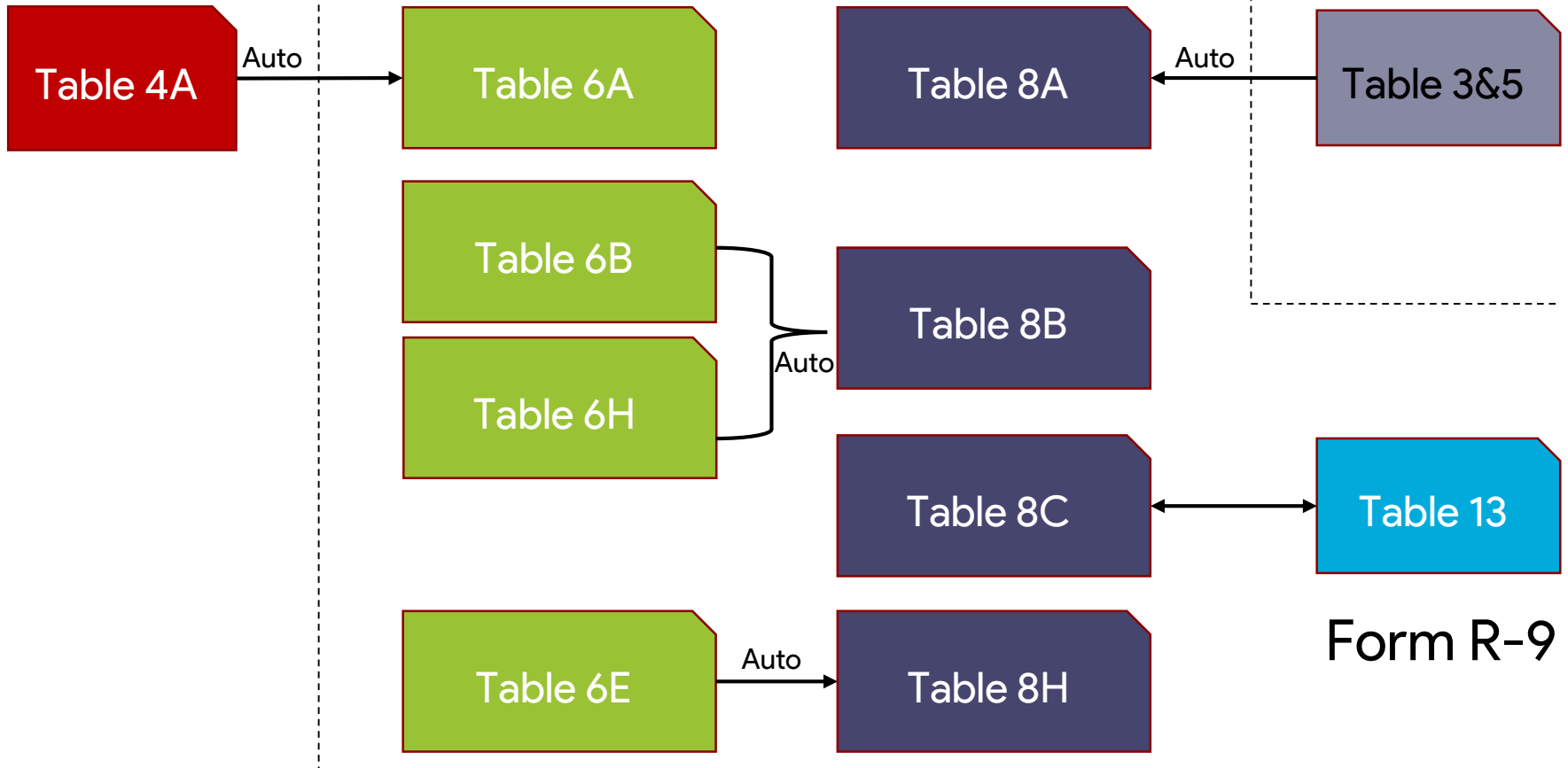
Relationship between various forms for ITC availed



Form 3B

Form R-9

Form 2-A



HSN disclosure



Annual Turnover	HSN Disclosure
Upto 1.5 cr	Optional
1.5 cr ~ 5 cr	2 digits mandatory
> 5cr	4 digits mandatory

- UQC details to be furnished only for supply of goods.
- Quantity is to be reported net of returns.
- For Inwards supplies - Only for those inward supplies which in value independently account for 10 % or more of the total value of inward supplies.

Press Release – Point (a&b)

- Information contained in **FORM GSTR-2A** as on 01.05.2019 shall be auto-populated in Table 8A of **FORM GSTR-9**.
- Input tax credit on inward supplies shall be declared from April 2018 to March 2019 in Table 8C of **FORM GSTR-9**.



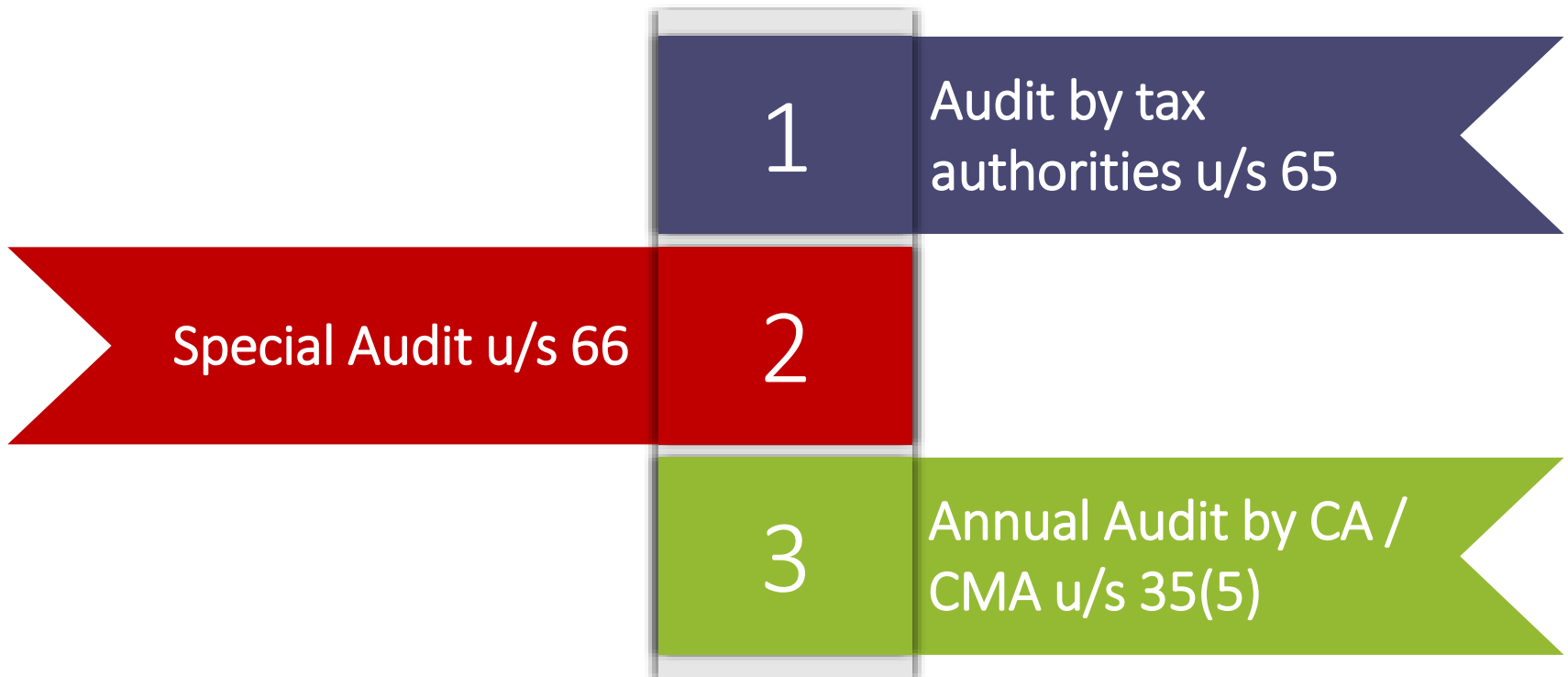
सत्यमेव जयते

Press Release – Point (g)

- Many taxpayers have represented that Table 8 has no row to fill in credit of IGST paid at the time of import of goods but availed in the return of April 2018 to March 2019.
- Due to this, there are apprehensions that credit which was availed between April 2018 to March 2019 but not reported in the annual return may lapse.
- For this particular entry, **taxpayers are advised to fill in their entire credit availed on import of goods from July 2017 to March 2019 in Table 6(E) of FORM GSTR-9 itself.**

Type of audits under GST

Types of GST audits



Annual audit u/s 35(5)

Annual audit u/s 35(5) in brief

- Section 35(5) read with Section 44(2) of the CGST Act
- **Every registered person**
 - Whose turnover (*word “aggregate turnover” as per rules*) during FY > 2 cr
 - To get his “accounts” audited
 - From a Chartered Accountant or CMA
- Audit report in form 9C

GST Audit – Legal Provision



Following documents to be furnished electronically by the registered tax payer upon conclusion of the audit:

- a) **Annual Return u/s 44(1) – Form 9;**
- b) Copy of the Audited Annual Accounts;
- c) Reconciliation statement, reconciling the value of supplies declared in the return furnished for the financial year with the audited annual financial statement in **form GSTR 9C**, duly certified;
- d) Such other particulars, as may be prescribed.

Audit definition – Section 2(13)



“audit means the

- **examination** of *records, returns and other documents maintained or furnished* by the registered person under this Act or the rules made thereunder or under any other law for the time being in force
- to verify the **correctness** of
 - turnover declared,
 - taxes paid,
 - refund claimed and input tax credit availed,
- and to **assess** his **compliance** with the provisions of this Act or the rules made there under.

Objective of GST audit

- Ensuring the correctness of
 - **Turnover** declared
 - **Taxes** paid,
 - Refund claimed,
 - **Input Tax Credit** availed
- In addition to **compliance of GST Act** and Rules.
- Entire compliance of GST law has to be confirmed in GST audit

Turnover and period

Which “Turnover”?

- Word “Turnover” **not** defined in Act.
- Expressions “*Aggregate Turnover*” and “*Turnover in State or turnover in Union territory*” though **are** defined.
- Rule refers to “Aggregate Turnover”, which is PAN based.

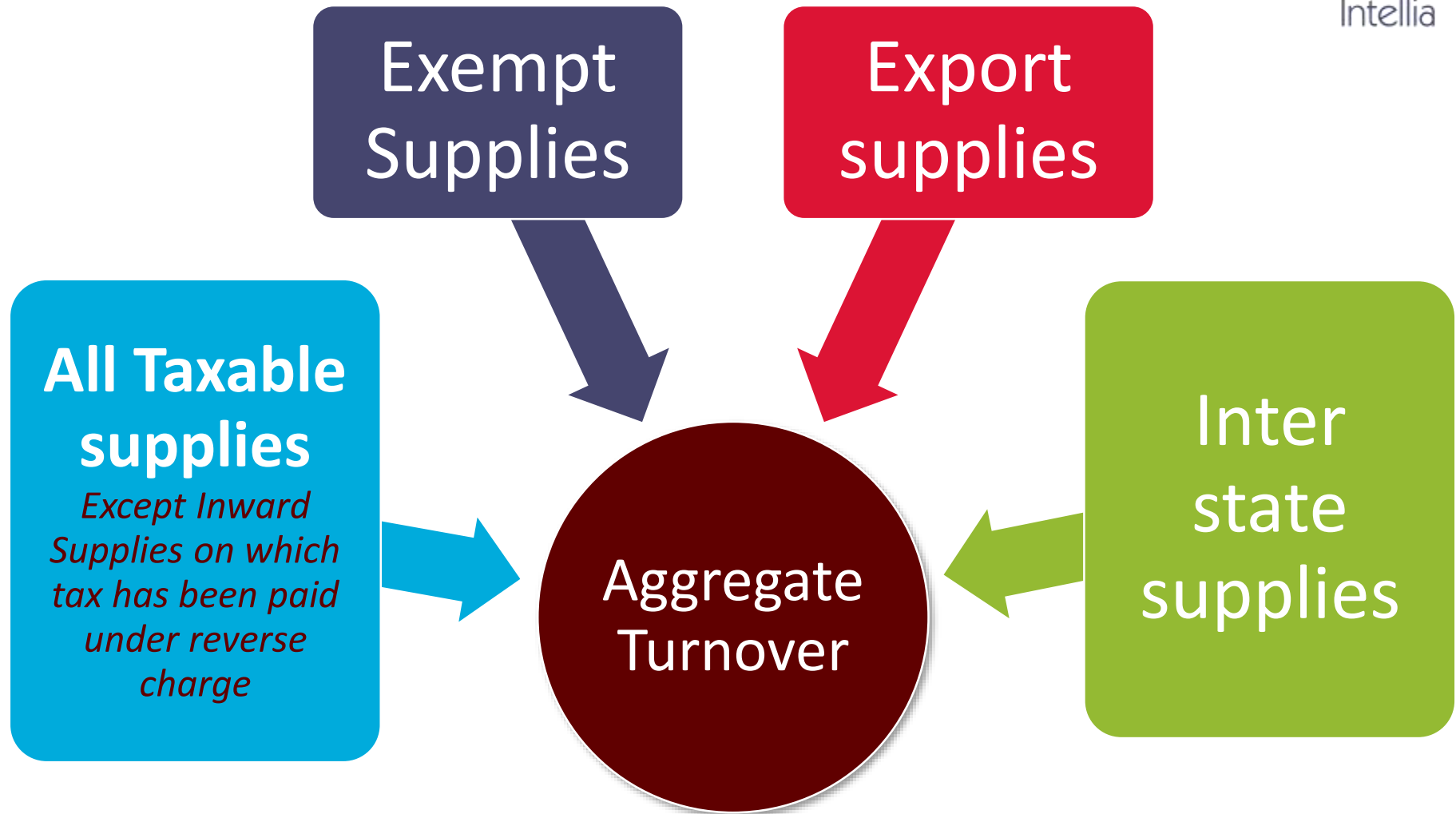
Turnover – ICAI View



Page 4 of Technical guide (new) of ICAI –

- a) Aggregate turnover is PAN based while turnover in a State / UT is similarly worded except to the extent that turnover in a State / UT is limited to a State;
- b) It is therefore, reasonable to interpret that the word turnover used in section 35(5) ought to be understood as ***aggregate turnover***.

Section 2(6) : Aggregate Turnover



excludes: All kinds of taxes under GST

To be computed on all India basis for person(s) having same PAN

Period of Turnover computation

- FY 2017-18, the GST period comprises of 9 months.
- The relevant section 35(5) uses the expression financial year.
- In the absence of clarification from the Government, and to avoid any omission due to aggressive interpretation, it is prudent to understand that the turnover limits prescribed for audit i.e., Rs. 2 crores one should consider aggregate turnover for the whole of the financial year which would also include the first quarter of the financial year 2017-18.

(ICAI Guide para (c), page 4)

Period of Turnover computation

- Travelling to a period (prior to introduction of GST) is only to identify the ‘trigger’ for applicability or inapplicability of this audit requirement and does not do any great offence to sanctity of limiting GST audit to transactions after 1 July 2017.
- After considering 12-months transactions, GST audit will however be limited to transactions attracting GST law, that is, 9-months of 2017-18

Period of Turnover computation



- However, if taxpayer were to take a view that the threshold of Rs. 2 Crore ought to consider transactions of 9 months since implementation of GST from 1 July, 2017, suitable disclosure or intimation to the jurisdictional officer in writing, would be merited.

Single or Multiple Audit

- Aggregate turnover is computed to test applicability of provisions of audit to assessee at PAN level.
- Once applicable, all states/GSTINs where assessee is/was registered (except exclusions) is required to comply with GST audit provisions.

Case studies on turnover

Case study 1



State	Taxable Supplies	Interest Income (exempt)	Transfer to other units (inter state)	Turnover in State / UT	Turnover for the purpose of AS-9
Punjab	0.40	0.05	0.50	0.95	0.40
Delhi	1.00	0	0.60	1.60	1.00
Haryana	0.10	0	1.00	1.10	0.10
Total	1.50	0.05	2.10	3.65	1.50

- What is the Aggregate Turnover?
- If this assessee is a company, do we need audit u/s 35(5)?
- If the assessee is an Individual claiming 44AD benefits (8%, no audit case), do we require GST audit u/s 35(5)?

Case study 2



State	Taxable Supplies as per PL	Interest Income (exempt)	Sale of Fixed Assets (PM) as per FAR	Turnover for the purpose of AS-9 (as per PL)
Delhi	1.50	0.15	3.00	1.50

- What is the Aggregate Turnover?
- Do we require GST audit u/s 35(5)?

Consequences of failure to submit the annual return and not getting the accounts audited

Late Fees – Section 47(2)

Type	Late Fees	Upper Limit
Annual	Rs. 100/- per day	0.25% of Annual Turnover in the State or UT

☞ Late fees, separately under State Act and Central Act

Sec 2(112) – “**Turnover**” in the State or UT :

Sum total of:

- Taxable Outward supplies and Outward Exempt supplies within State / UT
- Export supplies made from state / UT
- Inter state supplies made from state/UT – ***Will include supplies made to other units / branches in other states/UT***

Less: CGST, SGST and IGST

Consequence for audit failure

- No specific penalty prescribed in the GST Law for not getting the accounts audited.
- However general penalty can be levied u/s 125
- Another view - since the return (R9) is to be accompanied with the report, if not done it may amount to non-filing of return and late fee may be levied and in that case the general penalty in terms of Section 125 shall not be levied.

Penalty for non-compliance

General Penalty under each of
CGST and State/UGST Act:

₹ 25,000/-

👉 No specific penalty for not getting accounts audited

Transactions

Documents

Books of accounts

GSTR-1 and GSTR-3B

Financial Audit

Form 9C



Process flow

Multi location entities

Key issues

- Common books of account - Extremely difficult to “derive” specific transactions for each location and reflect such transactions in the returns / statements to be filed.
- Common back-office support in respect of Information Technology, Finance, Accounting, Human Resource or Personnel, Corporate Management, etc. These costs are required to be allocated based on ‘end use’ than on turnover.

Key issues

- Common cost allocation/Cross charge - This could be done based on the turnover of each distinct person, or based on manpower deployed, or any other suitable cost-driver relevant to each such cost to be allocated
- Head office is registered, but sales office/branch office is not registered.
- Valuation of schedule I transaction, especially where there can be an input tax restriction in the hands of the recipient

Accounting challenges



- Obtaining separate Trial Balance for each location, since form 9 and 9C are qua GSTIN not PAN, especially where single set of books are maintained in computer.
- Reconciliation/mapping of separate TBs with Consolidated TB.
- Per ICAI - It may even be advantageous to append management certified trial balance along with the entity level financials in Part B of GSTR 9C.

Process of filing 9C

1. 9C to be prepared by Auditor in offline utility.

(Excel tool provided)



2. Auditor will generate json and handover to taxpayer after attaching DSC



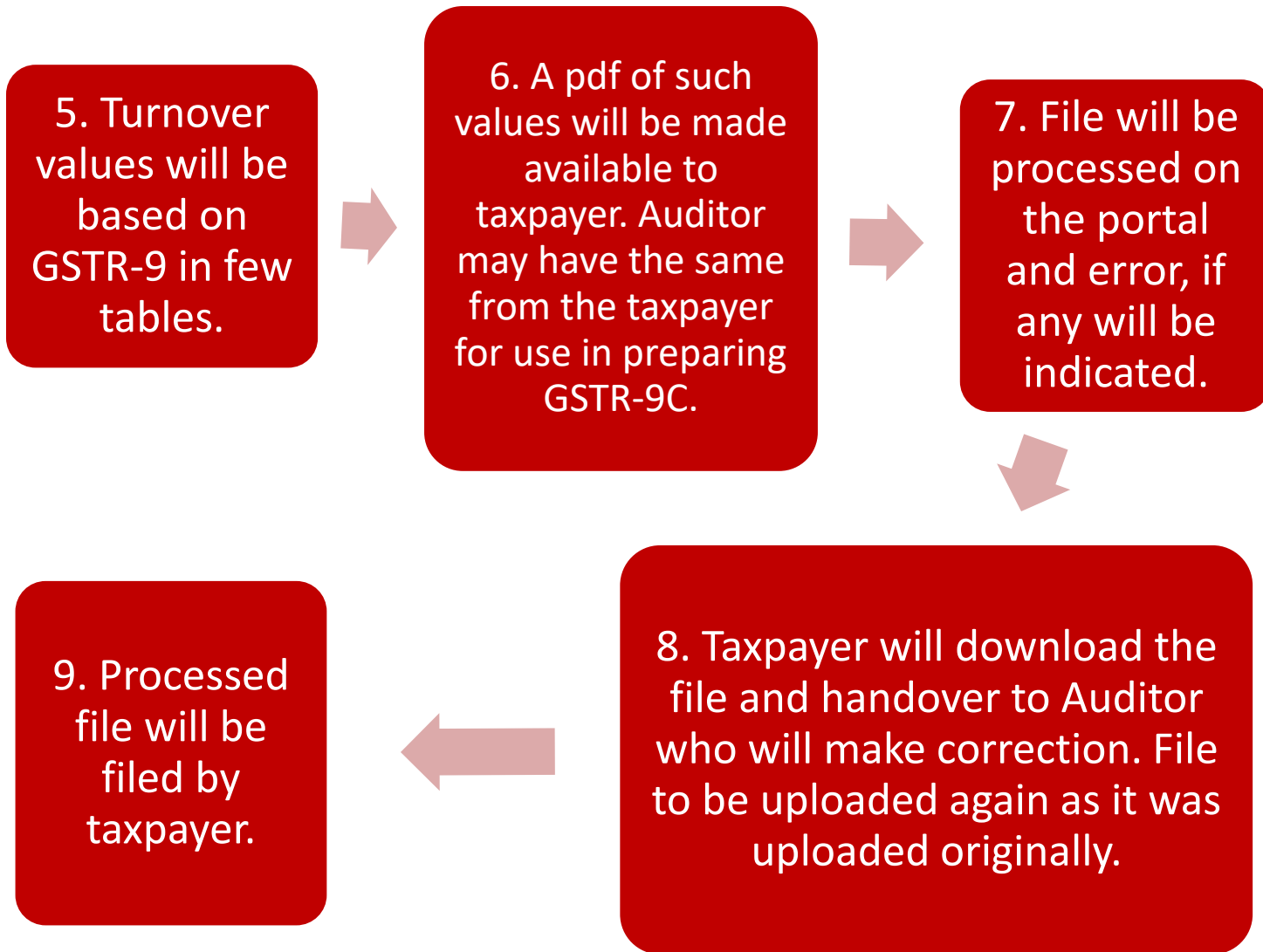
3. Taxpayer will upload 9C on the portal.



4. Other documents comprising Profit and Loss statement/ Income and expenditure statement etc. also to be uploaded.

<https://www.gst.gov.in/download/gstr9c>

Process of filing 9C



Process of filing 9C

- Download option will be available at draft stage and after filing as well in pdf.
- Navigation option to make payment will be available which can be made through GST DRC-03.
- GSTR-9C can be filed after filing GSTR-9 only.

Relationship between R-9 and 9C



Form R-9

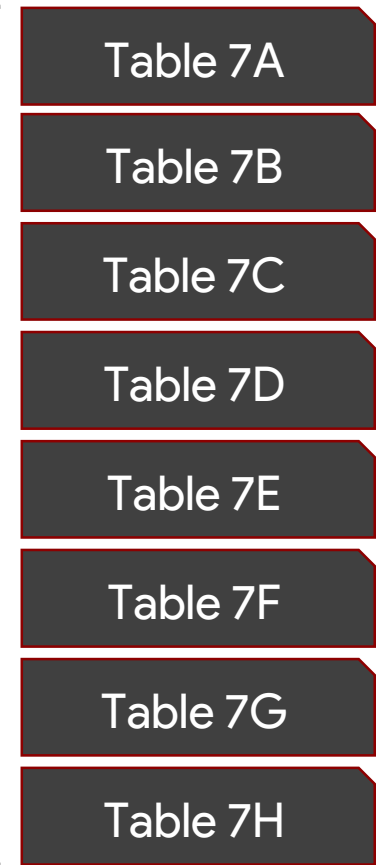


Net



Form R-9C

Form R-9





Questions



**Thanks for your
time!**

Contact us



Intellia Advisors, LLP

211-212, Amba Towers
Sector 9, Rohini, Delhi 110085
Ph: +91-11-4563 8630
Email: delhi@intellia.in

Level 6, JMD Regent Square
MG Road, Gurugram
Ph: +91-124-6039636
Email: gurugram@intellia.in

Knowledge partner

Bholusaria Associates
Chartered Accountants