

From	Karvy Data Management Services Ltd.
Date	March 30, 2019
Subject	Clarification in respect of transfer of Input Tax Credit in case of death of sole proprietor.
Category	Circular
Reference	Circular No. 96/15/2019 dated 29.03.2019
Series	Karvy/GST/109

Representations were made to the Government requesting to clarify on below issues:

- ❖ Transfer of unutilised input tax credit to transferee in case of death of Sole proprietor.
- ❖ Procedure for filing of Form GST ITC-02 in case of death of sole proprietor.

A registered person being transferor, can file **FORM GST ITC-02** for transfer of unutilised input tax credit lying in his electronic credit ledger to electronic credit ledger of transferee.

Clarification is provided by Government vide circular no. 96/15/2019 addressing above points.

Gist of the clarification are as follows:

- ✓ **Registration liability of transferee/successor.**
 - ✓ **Cancellation of registration on account of death of the proprietor.**
 - ✓ **Transfer of Input tax credit and liability.**
 - ✓ **Manner of transfer of credit.**
- ✚ Transfer or change in the “*Ownership of business*” will also include transfer or change in the “*Ownership of business due to death of the sole proprietor*”.
- ✚ In case of death of sole proprietor, if the business is continued by any person being transferee or successor, the input tax credit which remains un-utilized in the electronic credit ledger is allowed to be transferred to the transferee.

a) Registration liability of the transferee/successor:

- Where, a business is transferred to another person for any reasons **including death of the proprietor**, the transferee/successor shall be liable to be registered (**by filing Form GST-REG-01**) with effect from the date of transfer/succession.
- At the time of filing **FORM GST-REG-01** on the common portal, the applicant i.e. transferee/successor is required to mention reason “death of the proprietor”.

b) Cancellation of registration on account of death of the proprietor:

- In case of death of sole proprietor, the legal heirs of the said sole proprietor can file application for cancellation of registration in **FORM GST-REG-16**.
- Reason required to be mentioned in FORM GST-REG-16 for cancellation for registration should be “death of sole proprietor”.
- In case business is transferred after death of sole proprietor, GSTIN of transferee should be mentioned in the application in order to link the GSTIN of transferor with GSTIN of transferee.

c) Transfer of Input tax credit and liability:

In case of death of sole proprietor, if the business is continued by any person being transferee/successor of business, it shall be construed as **transfer of business**.

Key points	Particulars
Transfer of Input tax credit.	A registered person being a transferor, is allowed to transfer unutilised input tax credit lying in his electronic credit ledger to transferee where there is specific provision to transfer liabilities.
Joint and several liability.	Both Transferor and transferee/successor shall be jointly and severally liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business "in whole or in part, by sale, gift, lease, leave and licence, hire or in any other manner whatsoever".
Liability in case of death of a person.	In a situation, Where a person who is liable to pay tax, interest or penalty under CGST Act dies, then the person who continues business after his death shall be liable to pay such dues to Government.

It is clarified that, in case of transfer of business due to the reason of death of sole proprietor, the transferee/successor shall be liable to pay any tax, interest or any penalty due from Sole proprietor i.e. transferor.

d) Manner of transfer of credit:

- Transferee/successor is required to file FORM GST ITC-02 in respect of registration which is to be cancelled on account of death of sole proprietor.
- Transferee/successor needs to file FORM GST ITC-02 **before filing application for cancellation of GSTIN of sole proprietor**.
- Upon acceptance of FORM GST ITC-02 by transferee/successor, unutilised input tax credit lying in electronic credit ledger of transferor shall be credited to electronic credit ledger of transferee.

Press release states that suitable trade notices may be issued to publicize the contents of this circular.

The Press release can be accessed on <http://cbic.gov.in/resources//htdocs-cbec/gst/circular-cgst-96.pdf>

About KARVY DATA MANAGEMENT SERVICES LTD.

Karvy Data Management Services Limited (KDMSL), a GST Suvidha Provider which has developed ASP Solution for easing GST compliance for tax payers. Easy to use interfaces are made available at the disposal of the tax payers to simplify their compliances in terms of dashboards, MIS, returns, payments, refunds and other compliance process. So, 'HELP US HELP YOU' we offer following services for GST - GSP & ASP Services (on cloud or on premises) with ERP Integration and Vendor Management Solution. We also offer managed services for Outsourced GST Compliance which will take care of end to end compliances.

In India, GST Team of KDMSL are located in following cities: Hyderabad, Mumbai, Bangalore, New Delhi, Chennai, Pune and Kolkata. For more information about KDMSL service offerings, visit www.karvygst.com

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