

# Ineligible Input Tax Credit

## Cases when ITC is not available under GST

### **1. Motor vehicles & conveyances**

ITC is not available for Motor vehicles used to transport persons, having a seating capacity of less than or equal to 13 persons (including the driver).

Further, ITC is not available on vessels and aircraft.

For example, XYZ & Co. buys a car for their business. They cannot claim ITC on the same.

#### **Exceptions to ITC on motor vehicles/vessels/aircrafts**

ITC will be available when the vehicle is used for making taxable supplies by the following.

##### **a) Supply of other vehicles or conveyances, vessels or aircrafts.**

If you are in the business of supplying cars then ITC will be available.

For example, a car dealer purchases a car for Rs.50 lakh plus 14 lakh GST (ignoring cess calculations). The same car was later sold for 70 lakhs along with Rs.19.60 lakh GST. Since he is a dealer, he can claim ITC of 14 lakhs and pay only Rs.5.60 lakh (19.60 – 14).

##### **b) Transportation of passengers**

If you are providing transportation of passengers then ITC will be allowed on the vehicle purchased.

For example, Happy Tours purchased a bus for inter-city transport of passengers. ITC is available.

##### **c) Imparting training on driving, flying, navigating such vehicle or conveyances or vessels or aircrafts, respectively.**

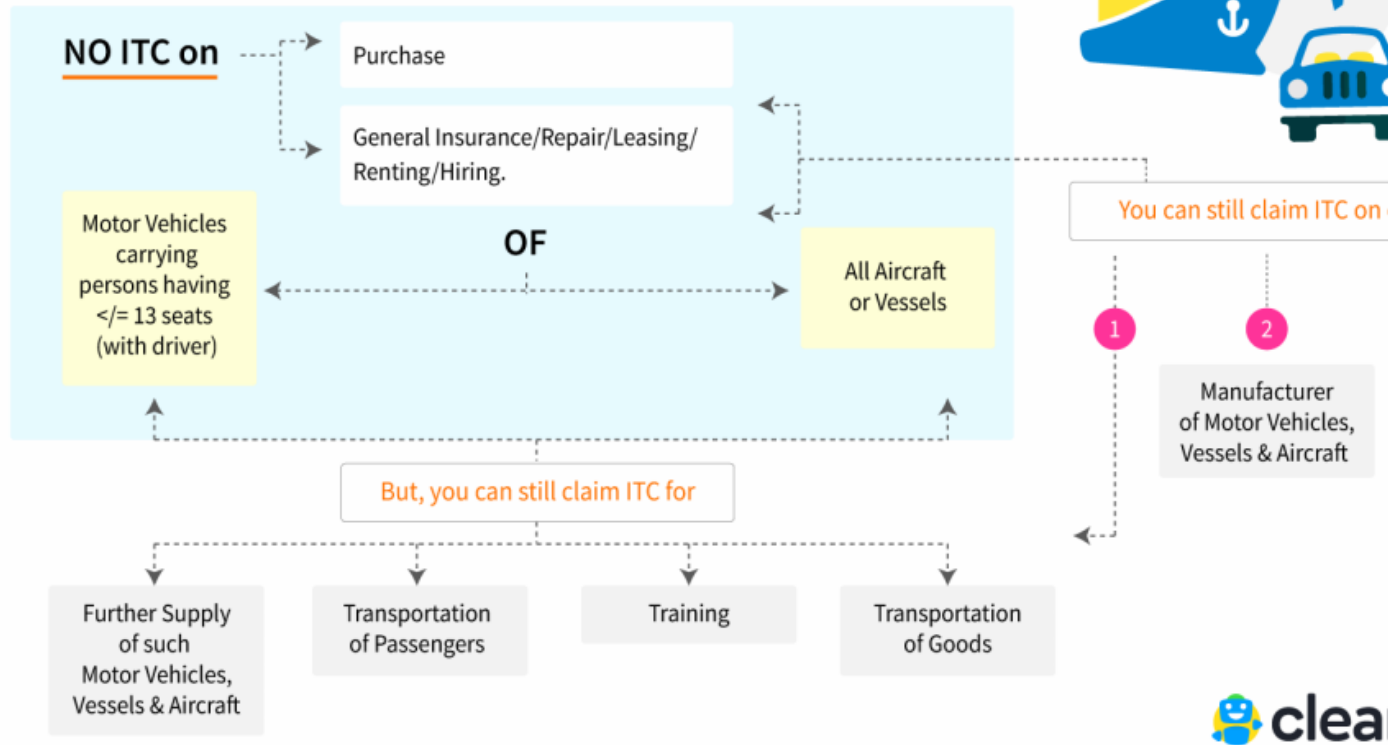
A driving school purchases a car to give training to students. The school can claim ITC on the GST paid on the car.

##### **d) Transportation of goods**

ITC will be allowed on motor vehicles (and other conveyances) used to transport goods from one place to another. However, this is concerning other transporters and not goods transport agencies (GTA).

**Here is a quick view of the Ineligible ITC on Motor Vehicles, Vessels and Aircrafts**

## Ineligible ITC on Vehicles, Planes & ships at a glance



## 2. Food, beverages, club memberships and others

ITC is not for the supply of following goods or services or both:

- Food and beverages
- Outdoor catering
- Beauty treatment
- Health services
- Cosmetic and plastic surgery

**However, ITC will be available if the category of inward and outward supply is same or the component belongs to a mixed or composite supply under GST.**

Examples-

Ajay Enterprises arranges for an office party for its employees. Ajay Enterprises will not be able to claim ITC on the food & beverages served.

### **3. Services of general insurance, servicing, repair and maintenance**

No ITC is allowed on services of general insurance, servicing, repair and maintenance in so far as they relate to motor vehicles, vessels or aircraft referred to in (1).

#### **Exceptions to ITC on insurance, repair or maintenance**

- Same as exceptions mentioned for motor vehicles/vessels/aircrafts
- where received by a taxable person engaged—
  - (I) In the manufacture of such motor vehicles, vessels or aircraft; or
  - (II) In the supply of general insurance services in respect of such motor vehicles, vessels or aircraft insured by him

### **4. Sale of membership in a club, health, fitness center**

No ITC will be allowed on any membership fees for gyms, clubs etc.

Example-

X, a Managing Director has taken membership of a club and the company pays the membership fees. ITC will not be available to the company or Mr. X.

### **5. Rent-a-cab, life insurance, health insurance**

#### **ITC is not available for rent-a-cab, health insurance and life insurance.**

However, the following are exceptions, i.e., ITC is available for-

- a. Any services which are made obligatory for an employer to provide its employee by the Indian Government under any current law in force

For example, assuming the government passes a rule for all employers to provide mandatory cab services to female staff in night shifts. ABC Ltd. hires a rent-a-cab to provide to transportation to its female staff on night shifts. Then ITC will be available to ABC Ltd. on the GST paid to the rent-a-cab service.

- b. If the category is same for the inward supply and outward supply or it is a part of the mixed or composite supply

For example, ABC Travels lends out a car to XYZ Travels. Then XYZ Travels can claim ITC on the same.

- c. leasing, renting or hiring of motor vehicles, vessels or aircraft with exceptions same as those mentioned for (1).

## 6. Travel

ITC is not available in the case of travel, benefits extended to employees on vacation such as leave or home travel concession.

For example,

ABC Ltd. offers a travel package to its employees for personal holidays. ITC on GST paid by ABC Ltd. for the holiday package will not be allowed.

ITC will be allowed for travel for business purposes.

## 7. Works contract

ITC shall not be available for any work contract services. ITC for the construction of an immovable property cannot be availed, except where the input service is used for further work contract services.

For example, XYZ Contractors are constructing an immovable property. They cannot claim any ITC on the works contract. However, XYZ hires ABC Contractors for a portion of the works contract. XYZ can claim ITC on the GST charged by ABC Contractors.

## 8. Constructing an immovable property on own account

No ITC is available for goods/services for construction of an immovable property on his own account. Even if such goods/services are used in the course or furtherance of business, ITC will not be available.

*But this rule does not apply to plant or machinery. ITC is available on inputs used to manufacture plant and machinery for own use.*

Example-

- Ajay Steel Industries constructs an office building for its headquarters. ITC will not be available.
- Ajay Steel Industries also constructs a blast furnace to manufacture steel. ITC is available since it is a plant.

## 9. Composition Scheme

No ITC would be available to the person who has made the payment of tax under composition scheme in GST law.

## **10. No ITC for Non-residents**

ITC cannot be availed on goods/services received by a non-resident taxable person. ITC is only available on any goods imported by him.

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## **11. No ITC for personal use**

No ITC will be available for the goods/ services used for personal purposed and not for business purposes.

## **12. Free samples and destroyed goods**

No ITC is available for goods lost, stolen, destroyed, written off or given off as gift or free samples.

## **13. No ITC in fraud cases**

ITC will not be available for any tax paid due to fraud cases which has resulted into –

1. Non or short tax payment or
2. Excessive refund or
3. ITC utilized or

Fraud cases include fraud or willful misstatements or suppression of facts or confiscation and seizure of goods.

## **14. No ITC on restaurants**

As per Notification No. 46/2017-Central Tax (Rate), dated 14th November 2017, standalone restaurants will charge only 5% GST but cannot enjoy any ITC on the inputs.

However, restaurants as part of hotels with room tariffs exceeding Rs. 7,500 still continue pay 18% GST and enjoy ITC.

McDonald's charges 5% GST and cannot claim any ITC.

Taj's Grill by the Pool restaurant in Kolkata is a part of the Taj Bengal hotel and so it will charge 18% GST while enjoying ITC.