

7 CONSEQUENCES OF NOT FILLING GSTR 3B

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GSTR 3B is a Return which is to be filled by a Regular GST Tax Payer. It contains the summary details of outward Supplies made and the details of Input Tax Credit. Usually, the due date for filling of GSTR 3B is 20 of next month but the Government can extend the due date. **What will happen if you do not file your GSTR 3B within the due date?** What will be the late fee, penalty and other consequences? Let's find out:

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1. **Late Fees** under Section 47 of the [CGST Act, 2017](#) – Starts Immediately after due date

Late fees is the first consequence you will face for non filing of GSTR 3B. The **late fees will increase everyday** until it hits the capping limit. The fee will **automatically be added** in the next month's GSTR 3B. Moreover **you can't edit it or you can't proceed to file the return until you pay the late fees.**

Note : Currently for GSTR 3B of July 2017 to April 2021, the maximum late fees is capped at Rs. 500 if you do not have any Tax Liability and at Rs. 1,000 if you have tax liability. But this special waiver is available only if you file the pending returns on or before 31st August 2021.

June'21 onwards, **the late fees will be levied and capped as follows :**

Tax Liability	Per Day	Maximum		
		AATO* UPTO 1.5 Crores	AATO Between 1.5 crores to 5 Crores	AATO above 5 Crores
Nil Liability	Rs. 20	Rs. 500		
Others	Rs. 50	Rs. 2,000	Rs. 5,000	Rs. 10,000

AATO means Annual Aggregate Turnover. Aggregate Turnover includes taxable supplies, exempt supplies, export, inter-state supplies, and supplies to Special Economic Zones of persons having the same PAN. The calculation will be based on all India Basis. In layman's language, AATO can be taken as the yearly sales.

Example : Suppose Mr. Forget **did not file the GSTR 3B from December 2021**. The **AATO of the company is Rs. 1.4 Crores**. On enquiry by the management at year end, he found out this mistake and approached you to compute the total late fees. What will be total late fees if you assume that he will file all the pending returns on 01st April 2022.

Answer : Here Mr. Forget **did not file the GSTR 3B from December 2020**. Now the **GST system will not allow him to file the subsequent GSTR 3B**, the late fees will be calculated for all the months separately. The total late fees payable if Mr. Forget files the returns on 01st April 2022 will be :

Month	Due Date*	Filing Date	Delay	Late fee if Nil Liability	Late Fee if other
December	20-01-2022	01-04-2022	71	Capped at Rs. 500	Capped at Rs. 2,000
January	20-02-2022	01-04-2022	40	Capped at Rs. 500	2,000.00
February	20-03-2022	01-04-2022	12	240.00	600.00
March	20-04-2022	01-04-2022	N.A.	—	—
Total				Rs. 1,240.00	Rs. 4,600.00

*It is assumed that the Government did not extend the due date.

So you can see that there is a **domino effect for not filling the GSTR 3B**. The late fee will continuously increase until it hits the capping limit.

Consequences of not Filing GSTR 3B

What will happen if you do not file GSTR 3B?

- First:** Late Fee
- Second:** Interest
- Third:** Restriction of E-Waybill
- Forth:** Penalty
- Fifth:** GST Number Cancel
- Sixth:** Recovery Proceedings
- Seventh:** Restriction of recipients's ITC

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2. Interest under section 50 – Starts Immediately after due date

If a taxpayer is required to pay tax within prescribed time but fails to pay, then for the **delay in payment, interest @18 percent will be levied**. The interest will be payable only if you use **cash ledger balance** to pay taxes. In other words, if you have enough input tax credit and you do not pay taxes using net banking/challan/balance already added in the cash ledger, then there won't be any interest leviable on you. There is no concept of maximum capping in case of interest.

Continuing our previous example, suppose Mr. Forget asks you about the calculation of interest also. For that, he told you the monthly Input tax Credit for each month is Rs. 18,000 and output tax is Rs. 28,000. So every month Rs. 10,000 will be paid using Cash Ledger Balance. Thus the interest will be as follows:

Month	Due Date*	Payment Date	Delay	Paid by debiting cash ledger	Interest
December	20-01-2022	01-04-2022	71	10,000.00	Rs. 350
January	20-02-2022	01-04-2022	40	10,000.00	Rs. 197
February	20-03-2022	01-04-2022	12	10,000.00	Rs. 59
March	20-04-2022	01-04-2022	N.A.	10,000.00	Rs. 0

Thus for non filling for GSTR 3B, the interest will also be payable and this amount will be in addition to the Rs. 4,600 Late fees calculated above.

3. Restricting E-Waybill Generation Under Rule 138E- Restriction will be applicable if two consecutive GSTR 3B is not filled:

If a person has **not furnished the returns for a consecutive period of two tax periods**, then the generation of E-Way Bill will be restricted for all types of outward supply of that person. Once the GST Returns are filled, the restrictions will be lifted. E-waybill restriction will **result in restriction of**:

- **Outward supply** valued more than 50,000 outside the state ; and
- **Outward Supply** of specified value as notified by the State Government inside the state.

Thus in our **example**, the E-Waybill Generation of the company will be **restricted for not filing returns of December and January**.

4. Penalty Under Section 122(1)(iii) – Levy after 3 months of due date

For certain specific offences, there are provisions of penalties in GST. One of such offences is **not paying collected tax amount within 3 months** from the due date. The **Penalty will be equal to the amount of tax collected subjected to a minimum of Rs. 20,000**. Thus in continuation of the above example, the due date for paying tax collected in the December month is 20th January. If Mr. Forget does not pay the taxes within 20th April, along with the late fees and interest, penalty of Rs, 28,000 will be levied.

5. Suspension and subsequent cancellation of GST Registration under Section 29(2) – May be initiated after 6 Months of Due date

If a regular taxpayer **does not file a return for a continuous period of six months**, then the GST Officer may **cancel the GST registration** of such person. Before cancellation, the officer will issue a Notice seeking clarification from such person and that person is required to reply in 7 working days, giving reasons to the officer for not cancelling the GST registration. Although it is not compulsory for officers to initiate the cancellation immediately after the non filing of 6th consecutive months return, but **if officers choose to initiate the procedure of your GST Registration cancellation, then your GSTIN will be suspended**. Until the suspension is revoked, the registered person can not supply any Taxable Goods. Thus it **will hamper the business**.

In continuation of our previous example, if **Mr. Forget does not file the returns from December 2021 to May 2022**, then the officer may issue notice and initiate proceedings of cancellation of GST Registration.

6. Recovery Proceedings under Section 79

This is the most strict step that can be taken for not filling GSTR 3B. Lot's of reminders and notices are required to be served before initiation of the recovery. The flow of reminders and procedure is as under :

- 1. **First Reminder – 3 Days before** Due Date to nudge taxpayer to file Return on or before due date
- 2. **Second Reminder – Immediately after due date** to inform that return was not filled on due date
- 3. **Notice – 5 Days after Due date**, notice in Form GSTR 3A, requiring the person to file returns in 15 Days

- **4. Order – Anytime after the lapse of 15 Days of service of notice in form GSTR 3A**, provided return is not filled. Officer **may proceed for assessment**. Here the officer will **compute the tax liability** to the best of his/her judgement. The Officer may take into account the details of outward supply furnished by the person, inward supply shown by his/her suppliers, e-waybill details etc. **Order will be issued in ASMT – 13** and summary will be uploaded in Form DRC -07 by officer.
- **5. Initiation of proceedings : After 30 Days of serving of order in form ASMT -13**, the Officer **may initiate** the recovery proceeding under section 78 and actual recovery under section 79. In the GST regime, officers are **empowered to recover the tax payable from your debtors, refund dues, seized Goods, Property etc.**

It is worthy to mention that **officers may proceed to do assessment**. The word “may” refers that it is not binding on officers that they have to compute the tax payable exactly on the expiry of the 15th Day of serving the notice in GSTR 3A. Officers may proceed on any day after completion of 15 days. Thus the exact timeline of initiation of recovery can not be quantified.

In the **example, As on 01st April 2022, the notice in Form GSTR 3A must have been issued for December, January and February**. Thus

- For February 2022, Mr. Forget can file the return so that the officer can not proceed with tax computation.
- For January 2022, if Order in Form ASMT 13 is already issued, then Mr. Forget can file the GSTR 3B resulting in a drop of further proceedings.
- For December 2021, if ASMT -13 is already issued and 30 days from service is completed, then Mr. Forget can pay the dues and file GSTR 3B to stop the initiation of actual recovery.

7. The last consequence : Restriction of Input Tax Credit of recipients:

One of the main **condition for claiming Input Tax Credit** is payment of **tax to the Government by supplier on supplies, for which the recipient is claiming Input Tax Credit**. Now, If the **GSTR 3B is not filled then it can be assumed that the supplier hasn't yet paid the taxes to the Government** (There are exceptions too, like the taxes can be paid in GSTR 9 or through Form DRC 03 too. But generally most of the businesses pay taxes using GSTR 3B). This is the most ignored as well as debatable consequence of not filling GSTR 3B because there is no tool provided to the recipient to verify if the taxes of a particular inward supply is paid to the Government or not by the supplier.

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