



GST Amnesty Scheme



Understanding Section 128A of GST Act

(Key aspects of tax provisions and eligibility criteria)



Overview of Section 128A



Framework

Section 128A provides relief to the taxpayers for the difficulties faced by them in understanding the provisions of GST in initial years. The aim of the section is to encourage compliance and support businesses.



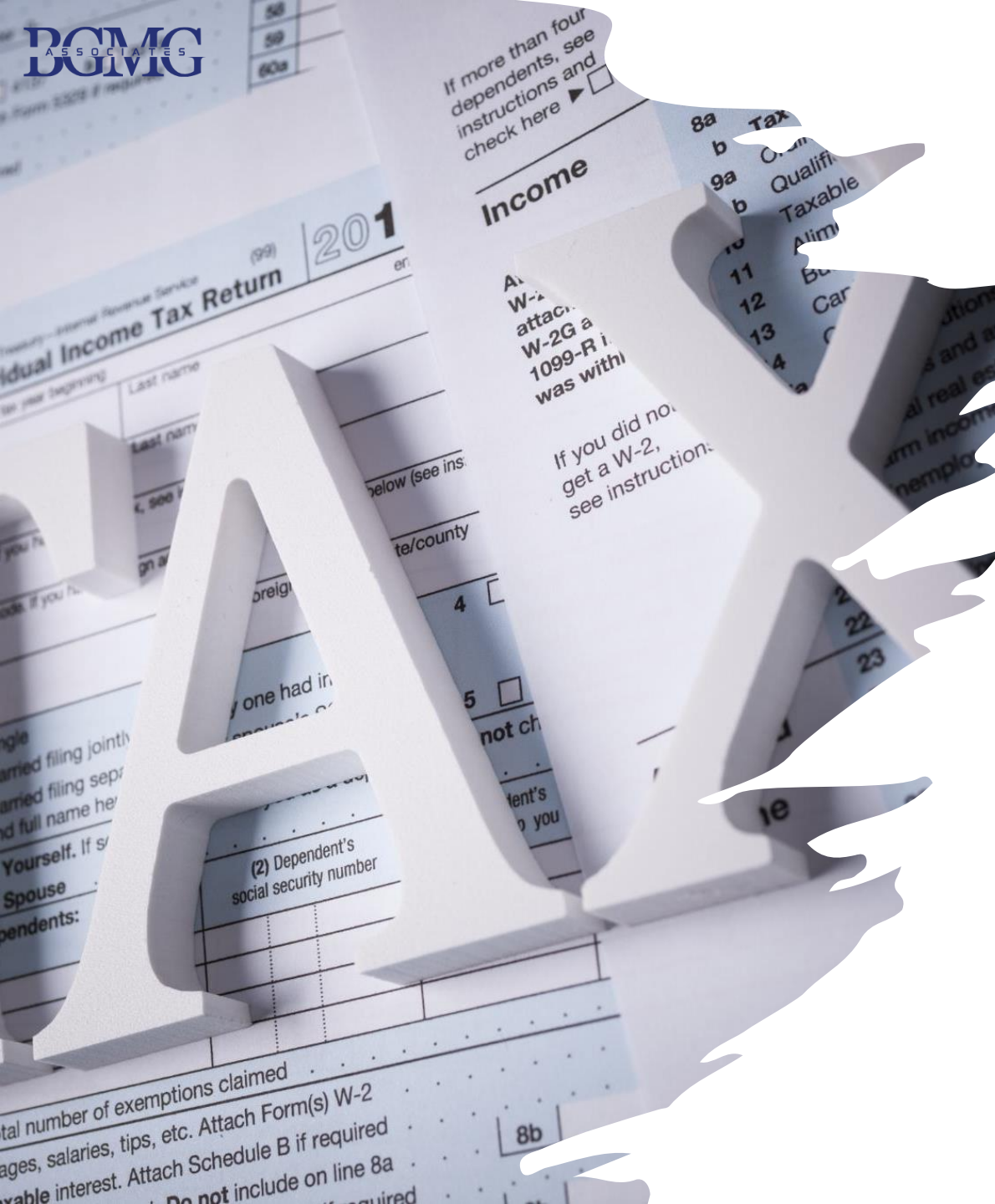
Background

Section 128A Recommended in 53rd GST Council Meeting and introduced through Finance Bill 2024 dated 23.07.2024. The provision came into force from 01.11.2024.



Relief Measures

Relief of Interest & Penalty for bona fide/inadvertent errors during early GST years (SCN issued u/s Section 73). No waiver for fraudulent or willful tax evasion cases (SCN u/s Section 74).



ELIGIBILITY

Cases Eligible for the Scheme

Following Cases are eligible for the scheme for the period **Jul 2017 to March 2020**

- Notice issued u/s 73 but no order passed – **Notice issued for other than fraud cases.**
- Order passed u/s 73(9), and no order issued u/s 107(11) or 108(1) – **Order passed by proper officer, but no appeal order passed.**
- Order passed u/s 107(11) or 108(1) where no order passed u/s 113 – **Order passed by the Appeal authority**
- SCN issued under Section 74(1) but later reassessed under Section 73(1) as fraud-related allegations were unsustainable per Section 75(2).

Cases Excluded from the Scheme

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- Any demand notice or order issued under Section 74.
 - Cases involving demand of erroneous refund claim.
 - **Ongoing Investigation** - Cases that are currently in investigation where no SCN is issued are excluded.
 - **Appeal filed against the orders issued under Section 73, but appeal not withdrawn before filing an application under the scheme**



Relief Under the Scheme

- **No Interest – No interest payable on the tax liability in SCN or Order.**
- **No penalty – Waiver from the penalty levied in the SCN or Order issued.**
- **Conclusion of any proceedings in relation to the said SCN or Order or Appellate Order, as the case maybe.**





Conditions for Waiver Under the Scheme



Payment Obligations

100% payment of tax due as per SCN or Order on or before 31.03.2025



Filing Obligations

Filing an application on or before 30.06.2025 in form SPL-01/02 for waiver of interest and penalty under the scheme.



Other Condition

Withdrawal of appeal or writ filed pending for order on or before 31.03.2025 to avail the benefit of scheme.

Time Limit & Process of Payment of Tax Dues

Payment Time Limit

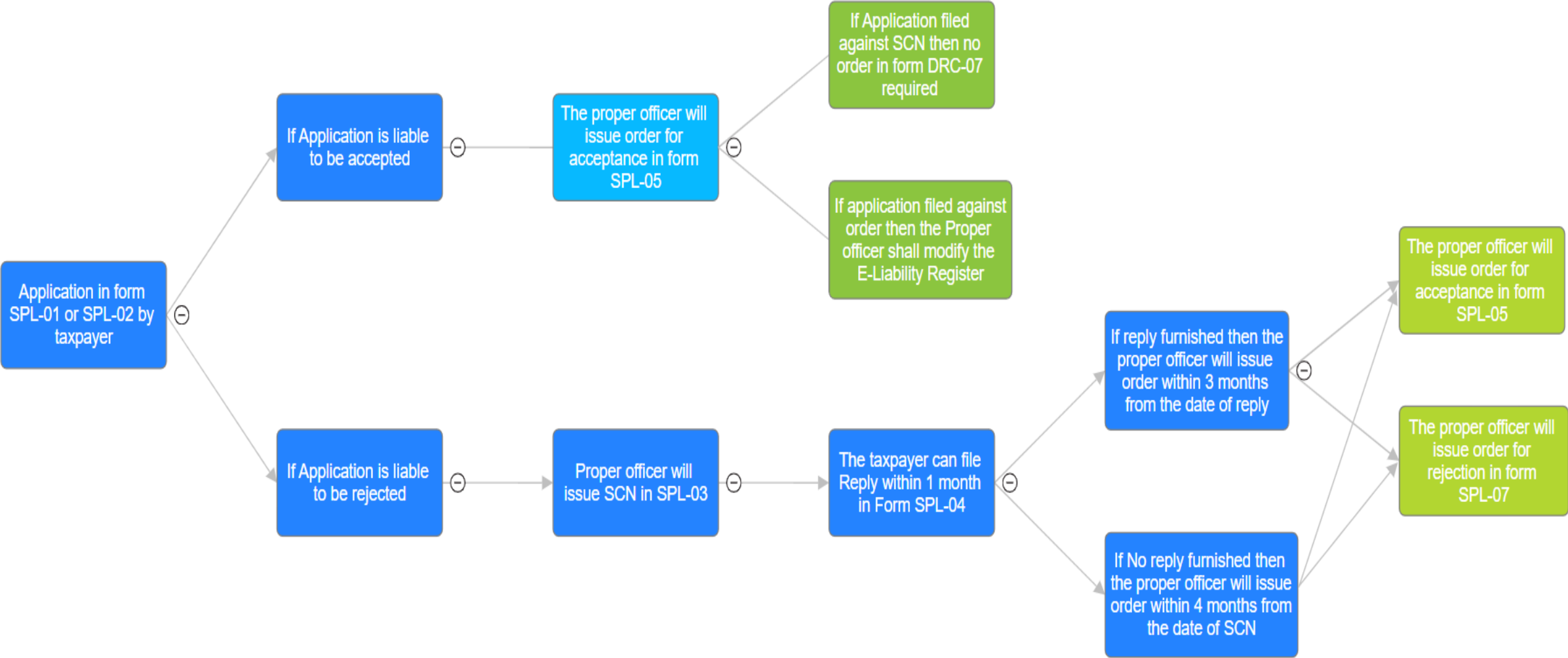
100% tax payment required by 31.03.2025; payment for optional issues in SCN or Order not permitted.

Payment Modes

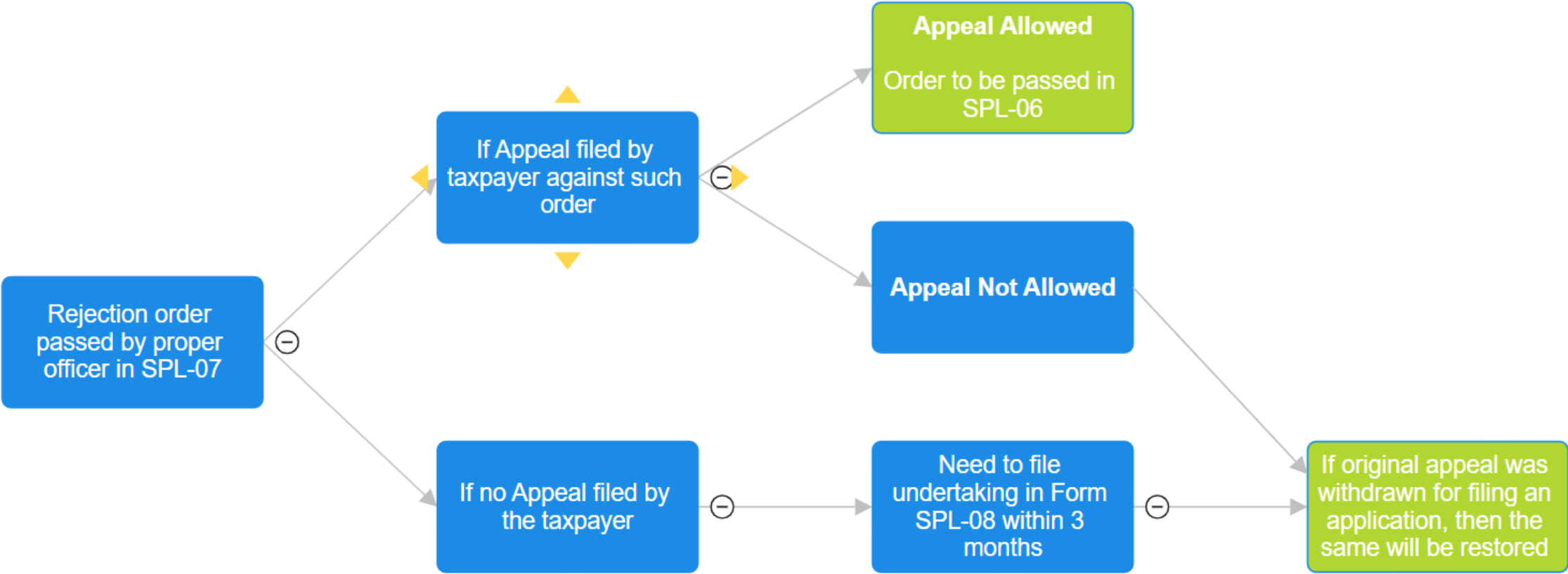
- If SCN issued but no order issued, 100% payment must be done through DRC-03.
- Where order passed then payment must be made by crediting Electronic Liability Register.
- In case of order liability paid through DRC-03 already then application through DRC-03A required to file for entry in E-liability Register.



Procedure for Filing Application Under the Scheme



Course of Action in case of Rejection order





Additional Clarifications

S. No.	Query	Resolution
1.	Can avail benefit of waiver w.r.t. some issues while choose to litigate for others?	No
2.	Taxpayer already paid interest & penalty and eligible for waiver under section 128A, can taxpayer apply for refund of interest and penalty already paid?	No
3.	Can make payment of tax through ITC?	Yes, Except RCM
4.	Is it mandatory to withdraw appeal before filing application for waiver?	Yes, refer rule 109C
5.	What will happen If no order passed by the Proper officer within 3 months from the date of receipt of application?	Application will be treated approved.



Additional Clarifications

S. No.	Query	Resolution
6.	What happens if issued in SCN/order partly eligible for scheme and partly not eligible?	The scheme can be availed only if the taxpayer pays the full tax, interest and penalty amount of the ineligible issues.
7.	What happens if SCN/Order period covers eligible and ineligible period for scheme? (single SCN / order for 2019-20 & 2020-21)	Cannot apply for scheme unless tax, interest and penalty for ineligible period is paid. (2020-21)



Additional Clarifications

S. No.	Query	Resolution
8.	Can taxpayer file single application for multiple eligible SCN / orders?	No, need to file separate application for each SCN/order.
9.	If the entire tax amount was paid before the scheme's commencement, is the taxpayer still eligible for a waiver of interest and penalty?	Yes
10.	Will payments made towards interest and penalty be adjusted against the tax liability under this scheme?	No
11.	If a notice is received for interest and penalty only under Section 73, is the taxpayer eligible for a waiver under this scheme?	Yes



Additional Clarifications

S. No.	Query	Resolution
12.	Is late fees and interest due to a delay in filing returns eligible for a waiver?	No
13.	If the entire tax amount was paid before the scheme's commencement, is the taxpayer still eligible for a waiver of interest and penalty?	Yes
14.	Can the 10% pre-deposit made for filing an appeal be adjusted toward the tax liability under the scheme?	Yes
15.	If tax is paid under DRC-03 on or before 31.03.2025 but adjusted through DRC-03A after this date, will the taxpayer be eligible for the scheme?	Yes

Challenge to Taxpayer



Are cases where an order has been passed, the appeal filing deadline has lapsed, and no appeal was filed by the taxpayer eligible for a waiver under Section 128A of the CGST Act?

- There is no clarity on cases where the taxpayer has not filed an appeal against an order issued under Section 73, even after the appeal filing period has lapsed.
- The plain language of Section 128A(1)(b) & (c) applies only to cases where an order has been passed, but the appeal remains undecided by the appellate authority or tribunal.
- Since the government has not provided clarity on this issue, it is advisable to file an appeal to avoid potential litigation.

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