



OIDAR SERVICES IN GST

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OIDAR refers to Online Information Data Base Access and Retrieval Services in GST, the tax implications are different for these services compared to the other types of transactions. It is applicable for only for the supply of services and the major difference is the provider of service is not in India but the recipient is in India. As the name it self suggests, these services are provided by the supplier of services through the medium of internet and the recipient will download the same in India. The services can be like downloading an e-book or a music track or movie or a lecture or a pdf file etc.,

OIDAR Services have been defined in Section 2(17) of the IGST Act 2017

“online information and database access or retrieval services” means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,—

- (i) *advertising on the internet;*
- (ii) *providing cloud services;*
- (iii) *provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;*
- (iv) *providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;*
- (v) *online supplies of digital content (movies, television shows, music and the like); (vi) digital data storage; and*
- (vi) *online gaming;*

OIDAR Services are taxed in India in order to promote/protect the home-grown industries. If the service provider is not India, then there will not be taxes for which the recipient of services has to pay there by making it more economical and it is seen clearly in case of B2C Segment. To provide a level playing field taxation of OIDAR services has been introduced in India. In case of B2B supplies, they will be eligible to take input tax credit and will not have much impact on the landed cost but in case of B2C there will be remarkable difference to the tune of 18% which is the generic rate for services in GST. Now let's examine the impact of ODIAR Services taxability in India and also the GST compliance requirements.

Registration

The service providers for OIDAR Services can be based in India or providing the services from any part of the globe as the services are provided through internet as a medium. In case if the supplier of services is located outside India and the recipient of Services is unregistered in India and services are supplied directly, in such cases, the registration has to be obtained by the service provider for GST in India and pay taxes accordingly. The registration can be done using the Form GST REG – 10. It is much simplified form compared to the general registration form and lesser information is required to be filed.

In case if the Service Provider is providing the services through an intermediary or a representative, then such representative is required to be taking registration if not registered or not required if registered. In such cases also the levy of taxes will be IGST.

Time of Supply

The time of supply for OIDAR services will be for the time of supply of services. In case if the supplier of services collects advance and then delivers the service, in such cases a receipt voucher has to be issued on the collection of Advance and tax has to be remitted. In case if the tax invoice is issued immediately then tax invoice has to be issued.

The taxes to be collected on forward charge or reverse charge is determined based on the status of the recipient in GST. In case if the recipient is registered under GST then, it will be a B2B transaction and the tax has to be paid by the Recipient under Reverse Charge. If the recipient is unregistered under GST, B2C transactions, then the tax has to be paid by the supplier of services directly after obtaining a registration and in case if the same is provided through an intermediary, the tax has to be collected by the intermediary under Forward Charge.

The applicable taxes will be IGST in any of the above cases and remitted by the Service Provider or Intermediary or a registered recipient.

Value of Supply

As per the provisions of the GST Act, the tax is payable on the transaction value. Normally in case of these services, there will be coupons issued by the service provider and this coupon value has to be considered while determining the tax amount. There will be cash back offers given by various wallets or other electronic payment methods, in such cases, the cash back is not being provided by the service provider. In some cases, the service provider provides loyalty points and the same can be redeemed in future purchases, in such cases, the taxable amount in future will be determined after reducing the amount equal to the amount deducted. The transaction value is derived net of the discount or coupon amount applied while purchasing the services.

Input Tax Credit

Input tax credit can be availed only in case of registered taxpayers and if they are eligible to take credit. If the taxes are paid on reverse charge basis, then the taxpayer is eligible to take credit only after the taxes have been paid in cash.

The service provider who has taken registration as OIDAR services cannot claim input tax credit in the returns he filed at periodic intervals.

Place of Supply

As GST is a destination-based taxation, the taxes should go the location where the goods or services consumed or where the recipient is located. The place of Supply for the OIDAR services is the location of the recipient and the provisions are based on Section 13(12) of the IGST Act 2017. As per the provisions, the place of supply is deemed to be in the taxable territory if any of the two following conditions are satisfied

- a) the location of the address presented by the recipient through internet is present in the taxable territory
- b) the credit card or debit credit or store card or smart card or any other card is used by the recipient to settle the payment is issued in the taxable territory
- c) the billing address of the recipient is in the taxable territory
- d) the IP address of the device used by the recipient of the services is in taxable territory
- e) the bank account of the recipient is in the taxable territory
- f) the country code of the subscriber identity module card used by the recipient is the taxable country
- g) the location of the fixed line used by the recipient is locate in the taxable territory

GST Returns

The service providers who are registered as OIDAR service providers have to file a monthly return known as GSTR – 5A by 20th of the next month.

In case if the service provider does not have any outward supplies during the month, the service provider has to file nil return similar to other taxpayers. While filing the return, the tax amount has to be paid in full and the only return filing will be accepted.

GSTR – 5A has three sections and they are

- Taxable Outward Supplies made to a consumer in India
- Amendments to taxable outward supplies to non-taxable persons in India
- Tax, Interest and other amounts payable and paid

The taxpayers who are registered in India as OIDAR Services providers have to file the regular returns line GSTR – 1 and GSTR – 3 B.

Indicative List of OIDAR Services

1. Website supply, web-hosting, distance maintenance of programmes and equipment;
 - a. Website hosting and webpage hosting;
 - b. automated, online and distance maintenance of programmes;
 - c. remote systems administration;
 - d. online data warehousing where specific data is stored and retrieved electronically
 - e. online supply of on-demand disc space
2. Supply of software and updating thereof;
 - a. Accessing or downloading software (including procurement/accountancy programmes and antivirus software) plus updates
 - b. software to block banner adverts showing, otherwise known as Banner blockers
 - c. download drivers, such as software that interfaces computers with peripheral equipment (such as printers)
 - d. online automated installation of filters on websites
 - e. online automated installation of firewalls.
3. Supply of images, text and information and making available of databases;
 - a. Accessing or downloading desktop themes
 - b. accessing or downloading photographic or pictorial images or screensavers
 - c. the digitised content of books and other electronic publications
 - d. subscription to online newspapers and journals
 - e. weblogs and website statistics
 - f. online news, traffic information and weather reports
 - g. online information generated automatically by software from specific data input by the customer, such as legal and financial data, (in particular such data as continually updated stock market data, in real time);
 - h. the provision of advertising space including banner ads on a website/web page
 - i. use of search engines and Internet directories
4. Supply of music, films and games, including games of chance and gambling games, and of political, cultural, artistic, sporting, scientific and entertainment broadcasts and events
 - a. Accessing or downloading of music on to computers and mobile phones
 - b. accessing or downloading of jingles, excerpts, ringtones, or other sounds
 - c. accessing or downloading of films
 - d. downloading of games on to computers and mobile phones
 - e. accessing automated online games which are dependent on the Internet, or other similar electronic networks, where players are geographically remote from one another
5. Supply of distance teaching
 - a. Automated distance teaching dependent on the Internet or similar electronic network to function and the supply of which requires limited or no human intervention, including virtual classrooms, except where the Internet or similar electronic network is used as a tool simply for communication between the teacher and student
 - b. workbooks completed by pupils online and marked automatically, without human intervention

In today's world especially during COVID, the usage of online has become rampant in the student community for online learning, in the professional community the professional is using the tools for meeting or documentation management software etc., The amount the individuals pays for these services is large amounts and Government taxing such amounts is not a wrong idea and this will also help in safeguarding the domestic players.