



**The Institute of
Cost Accountants
of India (ICAI)**

Goods & Services Tax (GST) Certification Course

Disclaimer

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The presentation has been prepared to provide an overview of the applicable law pertaining to the subject matter. For detailed insight and for better understanding, its is advised to refer to relevant provisions in the Act and the related rules & notifications.



Supply under GST

What is Supply?

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- Sec 7(1) of CGST Act states that the expression “supply” includes –
 - all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business.
 - import of services for a consideration whether or not in the course or furtherance of business
 - the activities specified in Schedule I of CGST Act, made or agreed to be made without a consideration
- Sec 7(2) of CGST Act states that the following shall not be treated as a “supply”
 - activities or transactions specified in Schedule III of CGST Act
 - such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council
- Sec 7(3) of CGST Act empowers the Government to notify certain transactions to be treated as supply of goods or supply of services (notified as part of Schedule II of CGST Act).

Some terminologies

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- *Sec 2(31) of CGST Act* “consideration” in relation to the supply of goods or services or both includes -
 - any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.
 - the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.
 - *Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply*

Some terminologies

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- *Sec 2(17) of CGST Act* “business” includes -
 - any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
 - any activity or transaction in connection with or incidental or ancillary to sub-clause (a);
 - any activity or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
 - supply or acquisition of goods including capital goods and services in connection with commencement or closure of business;
 - provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;
 - admission, for a consideration, of persons to any premises;
 - services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
 - services provided by a race club by way of totalisator or a licence to book maker in such club ; and
 - any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;.

Schedule I

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- Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business. Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.
- Supply of goods -
 - by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
 - by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
- Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Schedule III

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- Services by an employee to the employer in the course of or in relation to his employment.
- Services by any court or Tribunal established under any law for the time being in force.
- Functions performed by
 - the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities
 - the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
 - the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
- Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
- Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
- Actionable claims, other than lottery, betting and gambling
- Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.
- Supply of warehoused goods to any person before clearance for home consumption
- Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption

Supply & Taxable event

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- Goods and Services Tax means a tax on supply of goods or services, or both. Note that the word used is “Supply” and not “sale” or “manufacture”.
- Tax becomes payable when liability to pay the tax arises and the liability to pay tax arises by the happening of the taxable event.
- Sec 9(1) of CGST Act is the charging section for tax leviable on supply of goods or services, or both.
- Sec 9(2) of CGST Act states that GST on Petroleum crude, diesel, petrol, natural gas and aviation turbine fuel will be levied from a later date.
- Sec 9(3) and Sec 9(4) of CGST Act deals with provisions related to discharge of tax liability on reverse charge basis.
- Sec 9(5) specifies category of services, the tax on which is to be paid by the Electronic Commerce Operator.
- Sec 11 of CGST Act gives powers to the Government to exempt specific goods or services or both from whole or part of tax leviable thereon.

Some terminologies

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- “Goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply. *Sec 2(52) of CGST Act*
- “Services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged. *Sec 2(102) of CGST Act*

Some terminologies

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- Nil rated supplies – Not specifically defined under GST. This type of supply attracts a GST of 0%. Input tax credit cannot be claimed on such supplies. Some items which are nil rated include grains, salt, jaggery, etc.
- Exempt supplies – *Sec 2(47) of CGST Act*, “exempt supply” means supply of any goods or services or both which attracts *nil* rate of tax or which may be *wholly exempt* from tax u/s 11 of CGST Act or u/s 6 of IGST Act and *includes* non-taxable supply. This supply includes items which are used for everyday purposes. Since they are basic essentials, they do not attract any GST at all. You will not be able to claim any ITC on such supplies. Some examples include bread, fresh fruits, milk, curd, etc.
- Zero rated supplies – *Sec 16(1) of IGST Act*, “zero rated supply” means any of the following supplies of goods or services or both, namely –
 - Export of goods or services or both; or
 - Supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

Some terminologies

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- Composite Supply – A supply comprising of two or more goods or services or both, which are naturally bundled and supplied in with each other in the ordinary course of business, one of which is a principal supply. It means that the items are generally sold as a combination and cannot be separated. Tax rate to be charged shall be the rate as applicable to the principal supply.

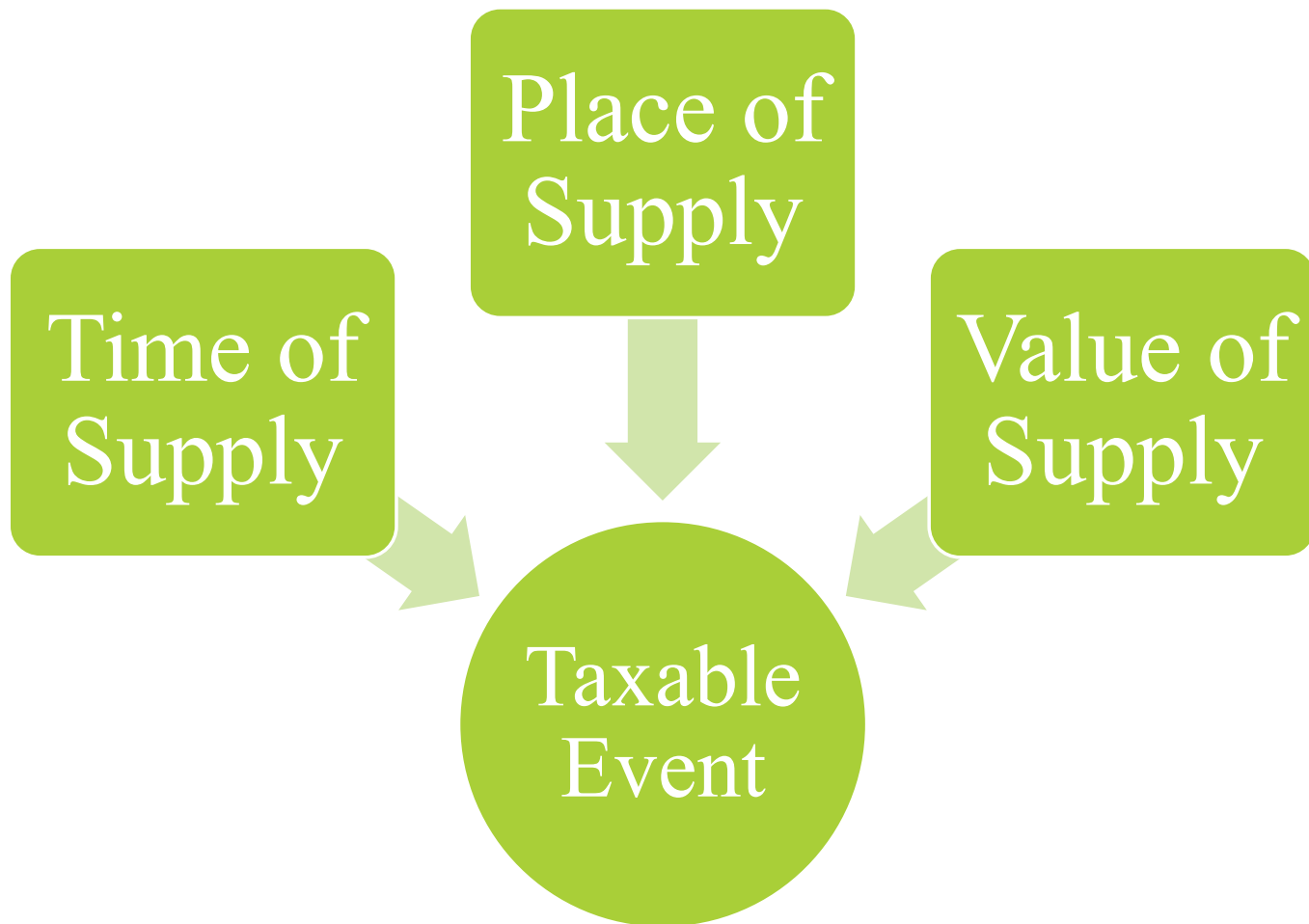
Goods are packed and transported. The supply of goods, packing materials and transport is a composite supply. Transport cannot be done separately if there are no goods to supply. Thus, the supply of goods is the principal supply.

- Mixed Supply – A supply of a combination of two or more goods or services or both made together for a single price. Each of these items can be supplied separately and is not dependent on any other. Tax rate to be charged shall be the tax rate of the item which has the highest rate of tax.

A Diwali gift box consisting of sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices supplied for a single price is a mixed supply. All these items are also sold separately.

Taxable event & liability thereof

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Time of Supply



Significance

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- The liability to pay tax on goods or services or both arise at the time of such supply. *Sec 12(1) and Sec 13(1) of CGST Act.*
- “Time of supply” means the point in time when goods or services, or both are considered ‘supplied’. When the seller knows the ‘time’, it helps him identify due date for payment of taxes.

Some terminologies

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- “Supplier” in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied. *Sec 2(105) of CGST Act*
- *Sec 2(93) of CGST Act*, “Recipient” of supply of goods or services or both, means,
 - where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration
 - where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
 - where no consideration is payable for the supply of a service, the person to whom the service is rendered
- *Sec 2(96) of CGST Act*, “removal” in relation to goods, means,
 - despatch of the goods for delivery by the supplier thereof or by any other person acting on behalf of such supplier; or
 - collection of the goods by the recipient thereof or by any other person acting on behalf of such recipient;

Time of Supply of goods

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Section 12(2)

Forward Charge

Earliest of,

- Date of issue of invoice
- Due date for issue of invoice u/s 31(1)
- Date on which supplier receives payment *

Section 12(3)

Reverse Charge

Earliest of,

- Date of receipt of goods
- Date of payment as per recipient
- 31st day of invoice issued

Section 12(4)

Issue of Voucher

- If supply identifiable, date of issue of voucher
- In other cases, date of redemption of voucher

Section 12(5)

Residual provision

- If periodical return to be filed, date of return
- In other cases, date on which tax paid

Section 12(6)

Value addition

- Date on which the supplier receives such addition (Interest, late fee, penalty) in value

Time of Supply of goods - Illustrations

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| | Section 12(2) | Invoice date | Removal of goods | Payment entry in supplier's books | Credit in bank account | Time of supply |
|---|--|---------------------------|------------------|-----------------------------------|------------------------|----------------|
| 1 | Invoice raised before removal | 10-Oct-19 | 20-Oct-19 | 26-Oct-19 | 30-Oct-19 | 10-Oct-19 |
| 2 | Advance received | 20-Oct-19 | 20-Oct-19 | 10-Oct-19 | 30-Oct-19 | 20-Oct-19 |
| | Supply involves movement of goods Section 12(2) read with Section 31(1)(a) | Invoice/ document date | Removal of goods | Delivery of goods | Receipt of payment | Time of supply |
| 3 | Delayed issue of invoice | 26-Oct-19 | 25-Oct-19 | 26-Oct-19 | 26-Oct-19 | 25-Oct-19 |
| 4 | Inter-State stock transfer | 10-Oct-19 | 20-Oct-19 | 26-Oct-19 | - | 10-Oct-19 |
| 5 | Advance received, invoice for full amount issued on same day | 30-Oct-19 | 10-Nov-19 | 14-Nov-19 | 20-Oct-19 | 30-Oct-19 |
| | | | | | 20-Nov-19 | 30-Oct-19 |

Time of Supply of goods - Illustrations

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| | Supply other than by involving movement of goods - Section 12(2) read with Section 31(1)(b) | Invoice date | Receipt of invoice by recipient | Delivery of goods | Receipt of payment | Time of supply |
|---|---|--------------|---------------------------------|-------------------|--------------------|----------------|
| 6 | Delayed issue of invoice | 30-Oct-19 | 05-Nov-19 | 29-Oct-19 | 10-Nov-19 | 29-Oct-19 |
| 7 | Invoice issued prior to delivery | 20-Oct-19 | 10-Nov-19 | 26-Oct-19 | 10-Nov-19 | 20-Oct-19 |

| | Continuous supply of goods Section 12(2) read with Section 31(4) | Invoice date | Removal of goods | SoA/ payments due date | Receipt of payment | Time of supply |
|----|---|--------------|------------------|------------------------|--------------------|----------------|
| 8 | Contract provides for successive statements of account/ successive payments | 01-Nov-19 | 15-Oct-19 | 05-Nov-19 | 01-Nov-19 | 01-Nov-19 |
| | | | 25-Oct-19 | | | |
| 9 | | 11-Dec-19 | 08-Nov-19 | 05-Dec-19 | 11-Dec-19 | 05-Dec-19 |
| | | | 30-Nov-19 | | | |
| 10 | | 08-Jan-20 | 14-Dec-19 | 05-Jan-20 | 01-Jan-20 | 01-Jan-20 |
| | | | 23-Dec-19 | | | |

Time of Supply of goods - Illustrations

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| | Sale on approval basis Section 12(2) read with Section 31(7) | Removal of goods | Issue of invoice | Accepted by recipient | Receipt of payment | Time of supply |
|----|--|---------------------|------------------|--------------------------|-----------------------|----------------|
| 11 | Acceptance communicated within 6 months of removal | 01-Nov-19 | 25-Nov-19 | 15-Nov-19 | 25-Nov-19 | 15-Nov-19 |
| 12 | Amount paid to supplier before informing acceptance | 01-Nov-19 | 25-Nov-19 | 15-Nov-19 | 12-Nov-19 | 15-Nov-19 |
| 13 | Acceptance not communicated within 6 months of removal | 01-Oct-18 | 15-May-19 | 15-May-19 | 02-May-19 | 01-Apr-19 |

Time of Supply of goods – Reverse charge

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| | Reverse charge Section 12(3) | Date of invoice issued by supplier | Removal of goods | Receipt of goods | Payment by recipient | Time of supply |
|---|-----------------------------------|--|---------------------|---------------------|-------------------------|----------------|
| 1 | General | 31-Oct-19 | 31-Oct-19 | 20-Nov-19 | 30-Nov-19 | 20-Nov-19 |
| 2 | Advance paid | 31-Oct-19 | 31-Oct-19 | 20-Nov-19 | 05-Nov-19 | 05-Nov-19 |
| 3 | No payment made for the supply | 31-Oct-19 | 30-Dec-19 | 05-Jan-20 | - | 30-Nov-19 |

Time of Supply of services

22

Section 13(2)

Forward Charge

Earliest* of,

- Invoice date or receipt of payment
- Provision of services or receipt of payment
- Receipt of services

Section 13(3)

Reverse Charge

Earliest of,

- Date of payment as per recipient
- 61th day of invoice issued
- Date of entry in the books of recipient

Section 13(4)

Issue of Voucher

- If supply identifiable, date of issue of voucher
- In other cases, date of redemption of voucher

Section 13(5)

Residual provision

- If periodical return to be filed, date of return
- In other cases, date on which tax paid

Section 13(6)

Value addition

- Date on which the supplier receives such addition (Interest, late fee, penalty) in value

Time of Supply of services – Sec 13(2)

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If invoice issued within prescribed time u/s 31(2) - 30 days (45 days in case of Banking, Insurance, Financial Institution or NBFC company)

- Date of issue of Invoice or Receipt of Payment, whichever is earlier

If invoice not issued within 30 days (45 days in case of Banking, Insurance, Financial Institution or NBFC company)

- Date of provision of service or Receipt of payment, whichever is earlier

If both cases do not apply

- Date on which recipient shows services in his books of accounts

Time of Supply of services - Illustrations

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| | Section 13(2) | Invoice date | Completion of services | Payment entry in supplier's books | Credit in bank account | Time of supply |
|---|---|--------------|------------------------|-----------------------------------|------------------------|----------------|
| 1 | Invoice raised before completion of service | 10-Oct-19 | 20-Oct-19 | 26-Oct-19 | 30-Oct-19 | 10-Oct-19 |
| 2 | Advance received | 20-Oct-19 | 30-Oct-19 | 10-Oct-19 | 20-Oct-19 | 10-Oct-19 |

| | Section 13(2) read with Section 31(2) | Invoice date | Commencement of service | Completion of service | Receipt of payment | Time of supply |
|---|--|--------------|-------------------------|-----------------------|--------------------|----------------|
| 3 | Delayed issue of invoice | 06-Dec-19 | 20-Oct-19 | 16-Nov-19 | 28-Jan-20 | 06-Dec-19 |
| 4 | Advance received, invoice for full amount issued on same day | 30-Oct-19 | 30-Oct-19 | 30-Dec-19 | 30-Oct-19 | 30-Oct-19 |
| | | | | | 04-Dec-19 | 30-Oct-19 |

Time of Supply of services - Illustrations

25

| | Continuous supply of services Section 13(2) read with Section 31(5) | Invoice date | Date as per contract | Receipt of payment | Entry of provision of services in books | Time of supply |
|---|---|--------------|----------------------|--------------------|---|----------------|
| 5 | Section 31(5)(a) Contract provides for payments monthly on the 10 th of succeeding month | 02-Nov-19 | 10-Nov-19 | 15-Nov-19 | 31-Oct-19 | 02-Nov-19 |
| | | 17-Dec-19 | 10-Dec-19 | 15-Dec-19 | 30-Nov-19 | 10-Dec-19 |
| | | 10-Jan-20 | 10-Jan-20 | 06-Jan-20 | 31-Dec-19 | 06-Jan-20 |
| 6 | Section 31(5)(c) Contract provides for payments on completion of event. Recipient to pay within 1 month from date of completion | 12-Nov-19 | 10-Nov-19 | 25-Nov-19 | 12-Nov-19 | 10-Nov-19 |
| | | 24-Apr-19 | 24-Apr-19 | 20-Apr-19 | 24-Apr-19 | 20-Apr-19 |

Time of Supply of services – Reverse charge

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| | Reverse charge Section 13(3) | Date of invoice issued by supplier | Date of completion of service | Payment by recipient | Entry of receipt of services in recipient's books | Time of supply |
|---|---|--|-------------------------------------|-------------------------|---|----------------|
| 1 | General | 31-Oct-19 | 31-Oct-19 | 20-Nov-19 | 30-Nov-19 | 20-Nov-19 |
| 2 | Advance paid | 31-Oct-19 | 31-Oct-19 | 05-Nov-19 | 31-Oct-19 | 05-Nov-19 |
| 3 | Delay in payment (Max. 60 days from date of invoice) | 31-Oct-19 | 31-Oct-19 | 10-Jan-20 | 31-Oct-19 | 31-Dec-19 |

Time of Supply of Voucher – Illustration

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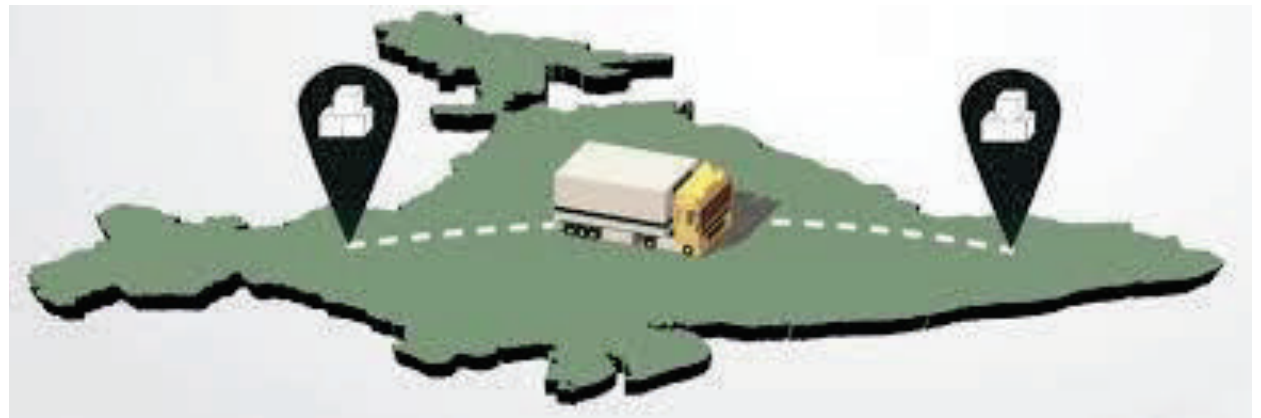
| | Issue of vouchers Section 12(4) & Section 13(4) | Service provided/ goods delivered | Issue of voucher | Redemption of voucher | Last date for acceptance of voucher | Time of supply |
|---|---|---|---------------------|--------------------------|---|----------------|
| 1 | Voucher issued to a recipient after supply of goods or service, for the same goods/ service - valid for 1 year | 01-Nov-18 | 01-Nov-18 | 14-Dec-18 | 30-Oct-19 | 01-Nov-18 |
| 2 | Voucher issued to a recipient of machinery along at the time of delivery, for availing repair services [or specific goods] - valid for 1 year | 01-Nov-18 | 01-Nov-18 | 14-Dec-18 | 30-Oct-19 | 01-Nov-18 |
| 3 | Voucher issued to a recipient after supply of a service, for any other services or goods across India, - valid for 1 year | 01-Nov-18 | 01-Nov-18 | 14-Dec-18 | 30-Oct-19 | 14-Dec-18 |

Change in rate of tax – Sec 14

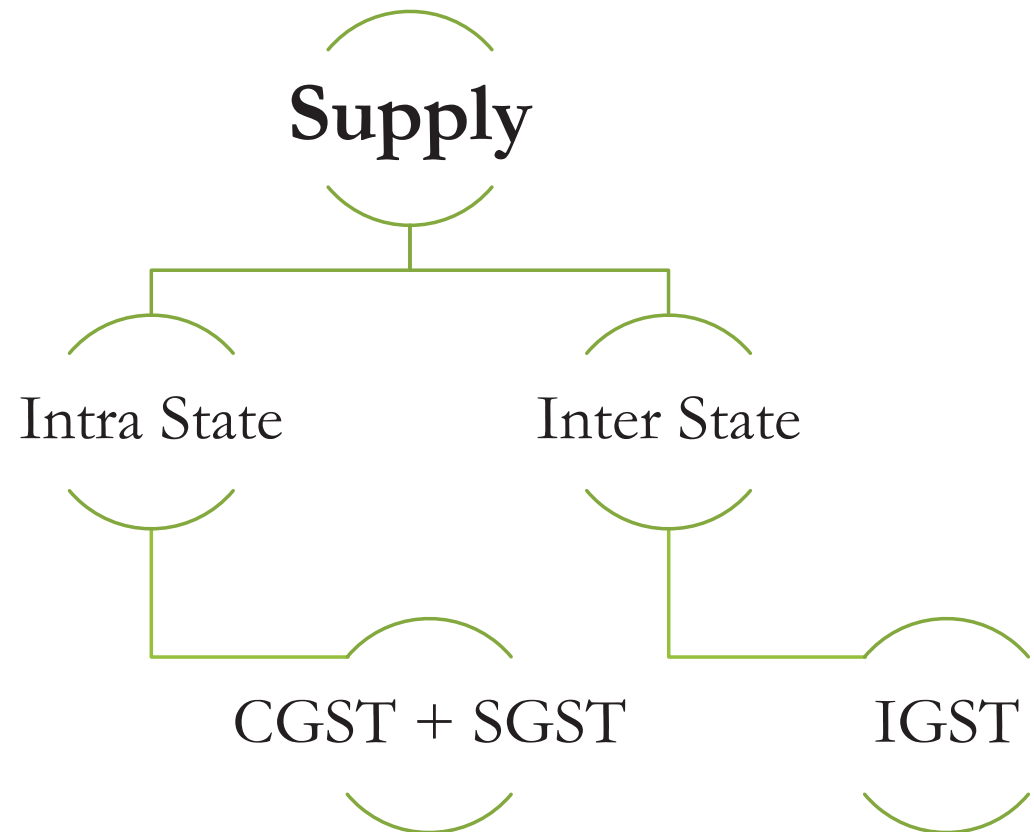
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| Date of supply of goods or services (1) | Date of invoice (2) | Date of receipt of payment (3) | Time of supply * (4) | Rate of tax (5) |
|--|------------------------------------|---|---------------------------------|----------------------------|
| Before | After | After | Earlier of (2) and (3) | New |
| Before | Before | After | (2) | Old |
| Before | After | Before | (3) | Old |
| After | Before | After | (3) | New |
| After | Before | Before | Earlier of (2) and (3) | Old |
| After | After | Before | (2) | New |

Place of Supply



- On the basis of place of supply, we can ascertain whether the supply is in the course of intra-state trade or inter-state trade.
- This in turn shall help in ascertaining whether, on a supply, CGST+SGST is payable or IGST is payable



Provision of law

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Sec 7 of IGST Act

- Where the location of the supplier and the place of supply are in—
 - two different States;
 - two different Union territories; or
 - a State and a Union territory,
- Import of goods or services into India
- when the supplier is located in India and the place of supply is outside India
- Supply to or by a Special Economic Zone developer or a Special Economic Zone unit shall be treated as a supply in the course of inter-State trade or commerce.

Sec 8 of IGST Act

- Where the location of the supplier and the place of supply are in the same State or same Union territory shall be treated as intra-State supply.

Some terminologies

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- *Sec 2(15) of IGST Act*, “location of the supplier of services” means,
 - where a supply is made from a place of business for which the registration has been obtained, the location of such place of business
 - where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
 - where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
 - in absence of such places, the location of the usual place of residence of the supplier;
- *Sec 2(5) of IGST Act*, “export of goods” with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India.

Some terminologies

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- *Sec 2(6) of IGST Act*, “export of services” means the supply of any service when,
 - the supplier of service is located in India;
 - the recipient of service is located outside India;
 - the place of supply of service is outside India;
 - the payment for such service has been received by the supplier of service in convertible foreign exchange; and
 - the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;
- *Sec 2(10) of IGST Act*, “import of goods” with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India.
- *Sec 2(11) of IGST Act*, “import of services” means the supply of any service, where
 - the supplier of service is located outside India;
 - the recipient of service is located in India; and
 - the place of supply of service is in India;

Place of Supply of goods (domestic)

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Section 10(1)(a)

Supply involves movement of Goods

Location of goods at the time at which movement terminates for delivery to recipient

Section 10(1)(b)

Goods supplied on direction of third person (buyer)

Principal Place of Business of the third person (i.e., address on Registration Certificate)

Section 10(1)(c)

Supply does not involve movement of goods

Location of goods at the time of delivery to the recipient

Section 10(1)(d)

Goods are assembled or installed at site

Place of installation or assembly

Section 10(1)(e)

Goods supplied on board a conveyance

Location at which such goods are taken on board

Sec 10(2) - Where none of the above rules apply, place of supply would be determined in the manner to be prescribed

Place of Supply of goods - Illustration

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Section 10(1)(a): Supply involves movement of goods

| Particulars | Supplier's factory from where goods are removed | Termination of movement for delivery | Place of supply | Tax Payable | | |
|---|---|--------------------------------------|-----------------|----------------|---------|----|
| Movement of goods by the supplier (goods dispatched by supplier) | Orissa | Assam | Assam | IGST Orissa | payable | at |
| Movement of goods by the recipient (goods collected by recipient) | Kerala | Goa | Goa | IGST Kerala | payable | at |

Place of Supply of goods - Illustration

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Section 10(1)(b): Supply involves movement of goods, and delivered to a person on the instruction of a third person

| Case | Location of Supplier A | Place of delivery of goods to C | Principal place of buyer B who instructed delivery to C | Place of supply for A | <u>Type of tax payable by A</u> |
|------|------------------------|---------------------------------|---|-----------------------|---------------------------------|
| 1 | Ahmedabad | Ahmedabad | Amritsar | Amritsar | IGST at Ahmedabad |
| 2 | Ahmedabad | Amritsar | Amritsar | Amritsar | IGST at Ahmedabad |
| 3 | Ahmedabad | Bangalore | Bangalore | Bangalore | IGST at Ahmedabad |
| 4 | Ahmedabad | Chandigarh | Udaipur | Udaipur | IGST at Ahmedabad |

| Case | Location of Supplier A | Place of delivery of goods to C | Principal place of buyer B who instructed delivery | Place of supply for B | <u>Type of tax payable by B</u> |
|------|------------------------|---------------------------------|--|-----------------------|---------------------------------|
| 1 | Ahmedabad | Ahmedabad | Amritsar | Ahmedabad | IGST at Punjab |
| 2 | Ahmedabad | Amritsar | Amritsar | Amritsar | CGST + Punjab GST |
| 3 | Ahmedabad | Bangalore | Bangalore | Bangalore | CGST + Kar GST at Karnataka |
| 4 | Ahmedabad | Chandigarh | Udaipur | Chandigarh | IGST at Rajasthan |

Place of Supply of goods - Illustration

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Section 10(1)(c): Supply does not involve movement of goods

| Particulars | Location of supplier | Location of recipient | Location of goods | Place of supply | Tax Payable |
|--|---|-----------------------|-------------------|-----------------|-------------------------------------|
| Sale of pre-installed DG Set | Delhi | Bhopal | Bhopal | Bhopal | IGST payable at Delhi |
| Manufacture of moulds by job-worker (supplier), sold to the Principal, but retained in job worker's premises | Tamil Nadu | Kerala | Tamil Nadu | Tamil Nadu | CGST + TN GST payable at Tamil Nadu |
| A businessman in Noida has an old car lying unused in his hometown in Sikkim | Noida But in this case, Sikkim (registration as casual taxable person) | Sikkim | Sikkim | Sikkim | CGST + Sik GST payable at Sikkim |

Place of Supply of goods - Illustration

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Section 10(1)(d): Supply of goods assembled/ installed at site

| Particulars | Location of supplier | Registered office of recipient | Installation/ Assembly Site | Place of supply | Tax Payable |
|--|----------------------|--------------------------------|-----------------------------|-----------------|-------------------------------------|
| Installation of weigh bridge | Delhi | Bhopal | Bhopal | Bhopal | IGST payable at Delhi |
| Servers supplied and installed at the office of a marketing firm | Karnataka | Goa | Karnataka | Karnataka | CGST + Kar GST payable at Karnataka |
| Supply of work-stations | Gujarat | Gujarat | Kerala | Kerala | IGST payable at Gujarat |

Place of Supply of goods - Illustration

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Section 10(1)(e): Supply of goods supplied on board a conveyance

| Particulars | Location of supplier | Loading of goods | Passenger boards at | Place of supply | Tax Payable |
|---|----------------------|------------------|---------------------|-----------------|--|
| Supply of canned aerated drinks on a flight | Punjab | Punjab | Delhi | Punjab | CGST + Pun GST payable at Punjab |
| Sale of Haldirams mixtures by their sales person during the journey | Pune | Goa | Hyderabad | Goa | IGST payable at Pune |
| Sale of sunglasses on a ship | Bangalore | Chennai | Cochin | Chennai | IGST payable at Bangalore |

Place of Supply of goods – Import/ Export

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- ▶ **Export of goods:** Means taking goods out of India to a place outside India;
- ▶ **Import of goods:** Means bringing goods into India from a place outside India;

| Section | Situation | Place of supply |
|---------|---------------------------|------------------------|
| 11(a) | Goods imported into India | Location of importer |
| 11(b) | Goods exported from India | Location outside India |

*Sec 5 of IGST Act provides that **IGST shall be levied** on goods imported into India as per Sec 3 of Customs Tariff Act*

- *Point of taxation - When duties of customs are levied on the said goods*
- *Value - As determined as per Customs Act*

Place of supply of services (domestic)

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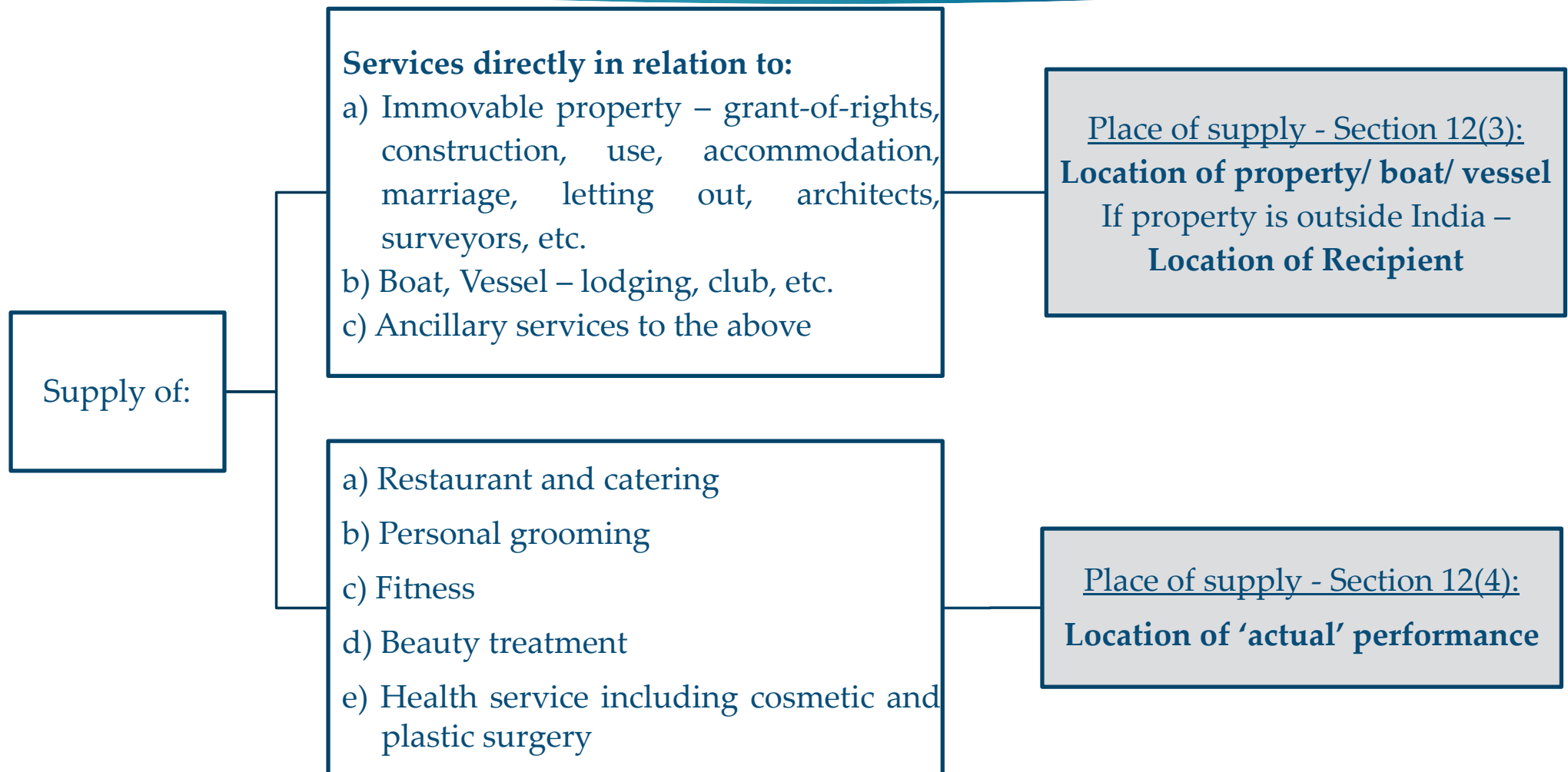
For Supply of any other
Service,
Place of supply is:
(General Rule)

Section 12(2)(a): Registered recipient:
Location of recipient

Section 12(2)(b): Unregistered recipient:
Location of **recipient** if address in supplier's records
Location of **supplier** if address not available

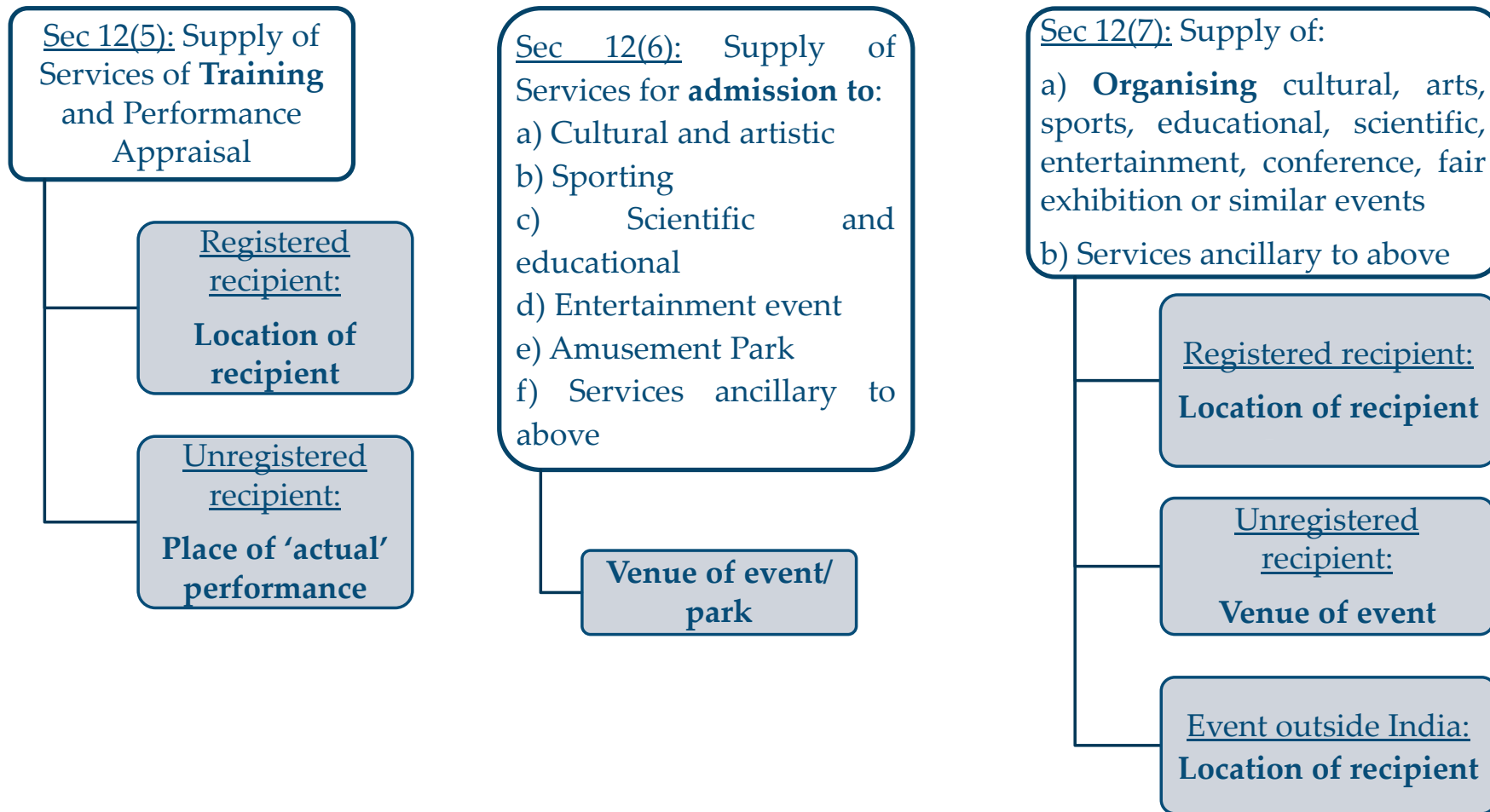
Place of supply of services (domestic)

42



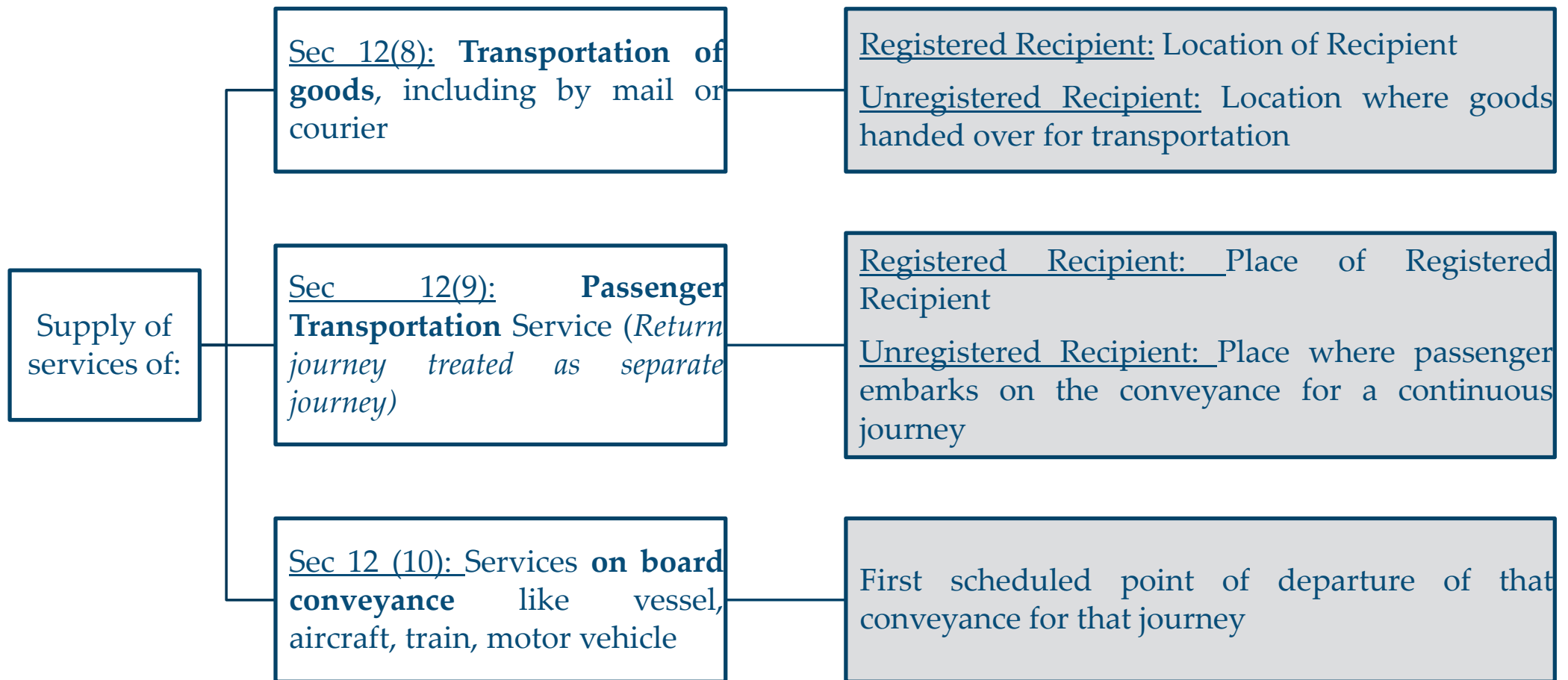
Place of supply of services (domestic)

43



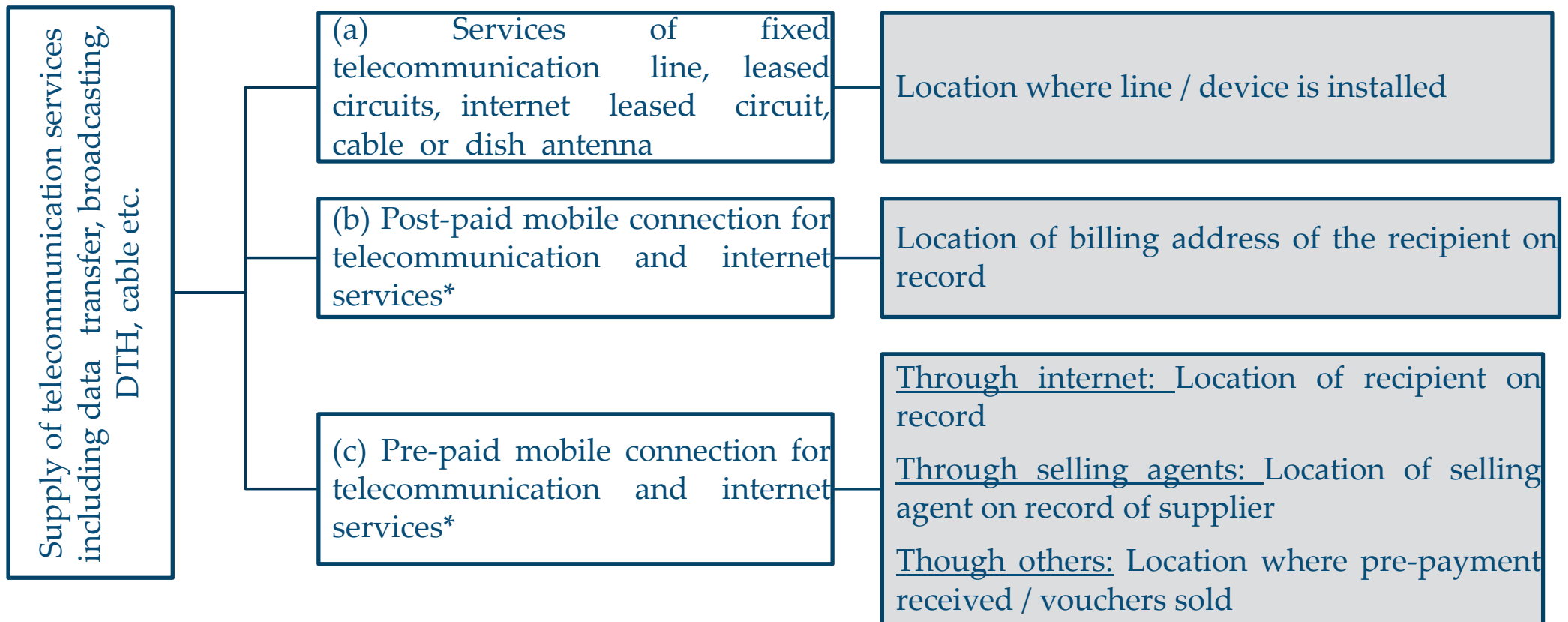
Place of supply of services (domestic)

44



Place of supply of services (domestic)

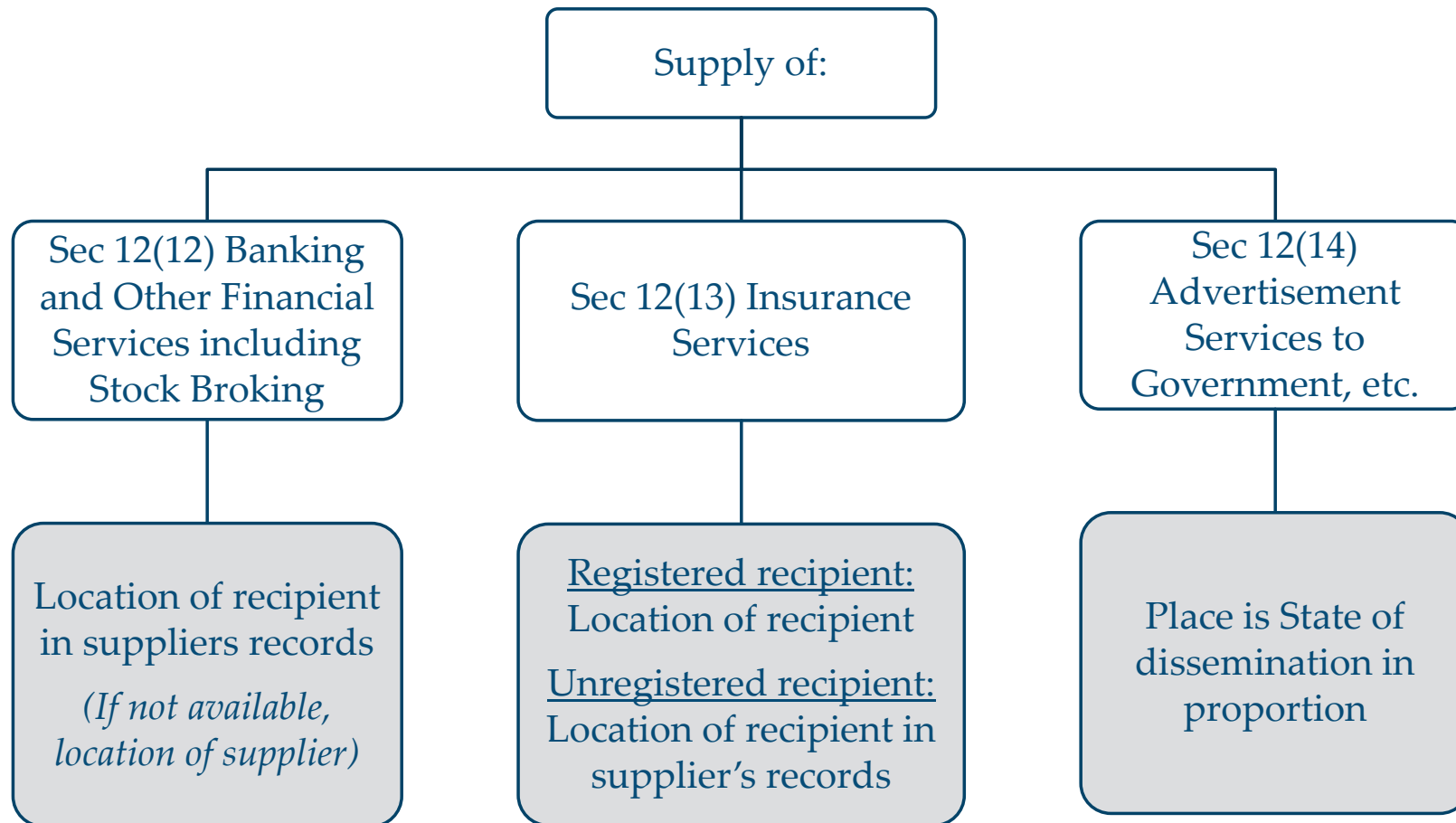
45



- In cases not covered, address of recipient on records shall be the place of supply;
- Where no address of the recipient available in records, location of the supplier shall be the place of supply

Place of supply of services (domestic)

46



Place of supply of services (Outside)

47

Sec 13(3)

when goods
required to be
made physically
available by
recipient

Location
where services
actually
performed

Sec 13(4)

directly in relation
to immovable
property

Location of
such
immovable
property (or
where it is
intended to be
located)

Sec 13(5)

admission to/
organising event,
etc. & ancillary
services

Place where
the event is
actually held

Sec 13(8)

Banking services,
intermediary
services, hiring
transport (other
than aircraft and
vessels) upto 1
month

Location of
supplier

Sec 13(9)

Transportation of
goods (other than
by way of mail/
courier)

Destination of
the goods

Place of supply of services (Outside)

48

Sec 13(10)

Passenger
transportation
service

Place where
passenger
embarks on the
conveyance for
a continuous
journey

Sec 13(11)

Service provided
on board a
conveyance

1st scheduled
point of
departure of
that
conveyance
for that
journey

Sec 13(12)

Online information
and database
access or retrieval
services

Location of
recipient

Sec 13(2)

Residuary

Location of the
recipient;
If not available,
location of
supplier

Sec 13(13)

To prevent double
taxation/ non-
taxation, or for the
uniform
application of
rules, Govt has
power to notify
services/

Place of
effective use
and enjoyment
of a service

Value of Supply



**Value of
Goods or Services**

Significance

50

- Determines the value of the supply done, not necessarily the sale value but the 'transaction value'.
- It is important because GST is to be calculated and discharged on the value of the supply. If the value is calculated incorrectly, then the amount of GST charged shall also be incorrect, leading to unwanted complications.

- *Sec 15(1) of CGST Act*, The value of a supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply.
- Chapter IV of CGST Rules, 2017 deals with the provisions relating to determination of value of supply in cases where
 - Value cannot be determined u/s 15(1) of the Act i.e. (i) price is not the sole consideration, (ii) supplier and recipient are related persons
 - In case of supplies through agent, including pure agent
 - In case of notified supplies
 - Residual methods
- Rate of exchange shall be applicable reference rate for that currency as determined by RBI on the date when point of taxation arises as per Sec 12 and Sec 13 of CGST Act

Some terminologies

52

- *Explanation to Section 15 of CGST Act*, the following persons shall be deemed to be “related persons”:
 - Officers / Directors of one another’s business
 - Legally recognised partners in business
 - Employer – Employee
 - A person directly/ indirectly owns/ controls/ holds 25% of shares of both the persons
 - One directly/ indirectly controls the other
 - Both are directly/ indirectly controlled by a third person
 - Together, they directly/ indirectly control a third person
 - Members of the same family
 - Sole agent/ distributor/ concessionaire of the other

Value of Supply – Sec 15

53

Transaction value

INCLUDES (Sec 15(2))

- Any **taxes, duties, cesses, fees and charges levied** under any statute, other than taxes paid under GST regime, charged separately by the supplier.
- **Amount incurred by Recipient** which is liable to be paid by the Supplier.
- **Incidental expenses** like packing, commission etc. or any charges in respect of supply charged by the supplier at the time or before the supply
- **Interest/ late fee/ penalty** for delayed payment of consideration for supply.
- **Subsidies directly linked to price** (excluding Central and State Govt subsidies)

EXCLUDES (Sec 15(3))

- **Discounts**
- Before/ at the time of supply if such discount is duly recorded in the invoice
- After the supply, provided:
 - Agreement establishing discount entered into before / at the time of supply
 - Discount specifically linked to relevant invoices
 - ITC reversed by the recipient to the extent of discount

Valuation Rules – Rule 27

54

- Value of supply of goods or services where consideration is not wholly in money:
 - Open market value of such supply;
 - If the open market value is not available, the sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money, if such amount is known at the time of supply.
 - If the value of supply is not determinable under clause (a) or clause (b), the value of supply of goods or services or both of like kind and quality.
 - If the value is not determinable under clause (a) or clause (b) or clause (c), the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by the application of Rule 30 or Rule 31 in that order.

Valuation Rules – Rule 28

55

- Value of supply of goods or services or both between distinct or related persons, other than through an agent.
 - Open market value of such supply;
 - If the open market value is not available, the value of supply of goods or services or both of like kind and quality.
 - If the value is not determinable under clause (a) or clause (b), the value shall be as determined by the application of Rule 30 or Rule 31 in that order.
- *Where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an amount equivalent to 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person:*
- *Where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.*

Valuation Rules – Rule 29

56

- Value of supply of goods made or received through an agent:
 - the open market value of the goods being supplied, or at the option of the supplier, be 90% of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person, where the goods are intended for further supply by the said recipient.
 - where the value of a supply is not determinable under clause (a), the same shall be determined by the application of Rule 30 or Rule 31 in that order.

“Agent” means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another. *Sec 2(5) of CGST Act*

Valuation Rules – Rule 30/ Rule 31

57

- *Rule 30* - Where value is not determinable by any of the preceding rules, the value shall be 110% of the:
 - cost of production or manufacture or
 - cost of acquisition of such goods or
 - cost of provision of such services.
- *Rule 31* - Where value cannot be determined under any above provision, the same shall be determined using reasonable means consistent with the principles and general provisions of Sec 15 and these Rules.
- In case of supply of services, the supplier may opt for Rule 31, disregarding Rule 30.

Valuation Rules – Rule 31A

58

- Value of supply in case of lottery, betting, gambling and horse racing.
 - The value of supply of lottery shall be deemed to be 100/128 of the face value of ticket or of the price as notified in the Official Gazette by the organising State, whichever is higher.
 - The value of supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club shall be 100% of the face value of the bet or the amount paid into the totalisator.

Valuation Rules – Rule 32(2)

59

- Dealing in Forex including money changing

- **Option 1**

- When exchanged from or/ to INR:

- ▶ Difference of Buying rate/ Selling rate and RBI reference rate X Total units of currency

(If RBI reference rate is not available, value shall be 1% of gross amount of INR received or provided)

- If neither of two currencies exchanged in INR,

- ▶ the value shall be equal to 1% of the lesser of the two amounts the person changing the money would have received by converting any of the two currencies into INR on that day at the reference rate provided by RBI.

- **Option 2**

- 1% of the gross amount of currency exchanged for an amount up to Rs. 1 Lac, subject to a minimum amount of Rs. 250
- Rs. 1,000 + 0.50% of the gross amount of currency exchanged for an amount exceeding Rs. 1 Lac up to Rs. 10 Lacs
- Rs. 5,500 + 0.10% of the gross amount of currency exchanged above Rs.10 lakhs, subject to a maximum of Rs. 60,000

Valuation Rules – Rule 32(3) & Rule 32(4)

60

- Air Travel Agents [Rule 32(3)]:

- Domestic bookings: 5% of Basic Fare
- International bookings: 10% of Basic Fare

“Basic fare” means that part of the air fare on which commission is normally paid to the air travel agent by the airline.

- Life Insurance Business [Rule 32(4)]:

- Gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of service.
- In case of single premium annuity policies other than (a), 10% of single premium charged from the policy holder
- In all other cases, 25% of the premium charged from the policy holder in the first year and 12.5% of the premium charged from the policy holder in subsequent years:

Nothing contained in this sub-rule shall apply where the entire premium paid by the policy holder is only towards the risk cover in life insurance

Valuation Rules – Rule 32(5) & Rule 32(6)

61

- Second Hand Goods [Rule 32(5)]
 - Supply of used goods as such or after such minor processing which does not change the nature of the goods and where no ITC has been availed on purchase of such goods, the value of supply shall be the difference between the selling price and purchase price and where the value of such supply is negative it shall be ignored.
 - In cases the goods are repossessed from an unregistered defaulting borrower, the purchases price shall be deemed to be the purchase price of such goods by the defaulting borrower reduced by 5% for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.
- Token/ Coupon/ Voucher/ Stamp [Rule 32(6)]
 - The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply shall be money value of the goods or services redeemable against such token, voucher, coupon, or stamp.

Valuation Rules – Rule 33

62

- The expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely-
 - the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
 - the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
 - the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.
- Pure agent means a person who-
 - enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
 - neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
 - does not use for his own interest such goods or services so procured; and
 - receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account

Valuation Rules – Rule 35

63

- Where Value of Supply is inclusive of IGST/ CGST/ SGST/ UTGST then:

$$\text{Tax Amount} = \frac{\text{Value inclusive of taxes} \times \text{tax rate in \% of IGST or as the case may be CGST, SGST or UTGST}}{(100 + \text{sum of tax rates, as applicable, in \%})}$$

Reverse Charge Mechanism



Significance

65

- Under normal taxation regime, the supplier collects the tax from the buyer and deposits the same after adjusting the tax liability with available input tax credit.
- Under reverse charge mechanism, the liability to discharge the tax liability pertaining to such goods or services or both shifts from the supplier to the recipient.
- In the erstwhile tax regime too, in order to collect tax from numerous unorganised sectors, similar provisions were there. However, there is no concept of partial reverse charge in GST regime.

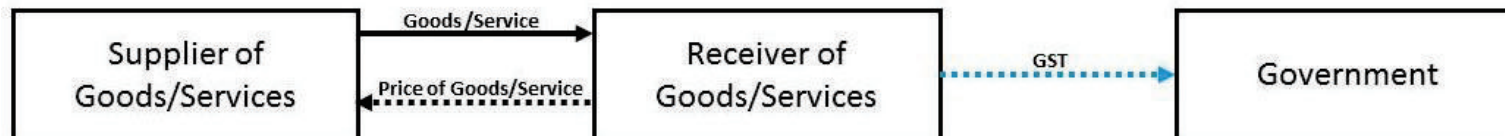
Reverse Charge Mechanism

66

NORMAL GST PAYMENT PROCESS



GST PAYMENT IN CASE OF REVERSE CHARGE



- “Reverse charge” means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under sub-section (3) or sub-section (4) of section 9, or under sub-section (3) or subsection (4) of section 5 of the Integrated Goods and Services Tax Act. *Sec 2(98) of CGST Act.*
- The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. *Sec 9(3) of CGST Act*
- The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.”. *Sec 9(4) of CGST Act*

Provision of law

68

- Registration Rules → As per Sec 24 of the CGST Act, 2017, a person who is required to pay tax under reverse charge has to compulsorily register under GST irrespective of the threshold limit of registration.
- Invoicing Rules → In terms of Sec 31(3)(f) of the CGST Act, 2017, a registered person who is liable to pay tax under Sec 9(3) or Sec 9(4) of the CGST Act, shall issue an invoice in respect of goods or services or both received by him from the supplier who is not registered on the date of receipt of goods or services or both. Such registered person shall issue a payment voucher at the time of making payment to the supplier.
- Time of Supply of payment → The liability to pay tax on RCM basis shall arise as per the provisions of time of supply under Sec 12(3) and Sec 13(3) of CGST Act. The liability has to be discharged through cash payment only.
- Input tax credit → GST paid on goods or services under RCM is available as ITC to the registered person provided that such goods or services are used in the course or furtherance of business.

- Compliances to GST laws

- Every tax invoice has to mention whether the tax in respect of supply in the invoice is payable on reverse charge. Similarly, this also needs to be mentioned in receipt voucher as well as refund voucher, if tax is payable on reverse charge. *Sec 31 of CGST Act read with Rule 46 of CGST Rules*
- Every registered person is required to keep and maintain records of all supplies attracting payment of tax on reverse charge.
- Any amount payable under reverse charge shall be paid by debiting the electronic cash ledger. Reverse charge liability cannot be discharged by using input tax credit. However, after discharging reverse charge liability, credit of the same can be taken by the recipient, if he is otherwise eligible.
- Invoice level information in respect of all supplies attracting reverse charge, rate wise, are to be furnished separately in column 4B of GSTR-1.
- Advance paid for reverse charge supplies is also leviable to GST. The person making advance payment has to pay tax on reverse charge basis.

Goods notified under RCM [Sec 9(3)]

70

| Sl No. | Description | Supplier of goods | Recipient of goods |
|--------|---|---|--------------------------------------|
| 1 | Cashew nuts, not shelled or peeled | Agriculturist | Any registered person |
| 2 | Bidi wrapper leaves(tendu) | Agriculturist | Any registered person |
| 3 | Tobacco leaves | Agriculturist | Any registered person |
| 4 | Silk Yarn | Any manufacturer | Any registered person |
| 5 | Raw Cotton | Agriculturist | Any registered person |
| 6 | Supply of Lottery | State/ UT Govt or any local authority | Lottery distributor or selling agent |
| 7 | Used vehicles seized and confiscated goods, old and used goods, waste and scrap | Central Govt. State/ UT Govt, any local authority | Any registered person |
| 8 | Priority Sector Lending Certificates | Any registered person | Any registered person |

Services notified under RCM [Sec 9(3)]

71

| Sl No. | Description | Supplier of services | Recipient of services |
|--------|--|---|---|
| 1 | Transportation of goods by road | Goods Transport Agency (GTA) | 7 notified recipients |
| 2 | Legal services | Individual advocate including a senior advocate or firm of advocates. | Any business entity located in the taxable territory |
| 3 | Arbitral Services | An Arbitral tribunal | Any business entity located in the taxable territory |
| 4 | Sponsorship Services | Any person | Any body corporate or partnership firm located in the taxable territory |
| 5 | Government Services except DoPT services, aircraft/ vessel services, goods/ passengers transport | Central Govt, State/ UT Govt or Local Authority | Any business entity located in the taxable territory |
| 6 | Services by Govt by way of renting of immovable property | Central Govt, State/ UT Govt or Local Authority | Any registered person |

Services notified under RCM [Sec 9(3)]

72

| Sl No. | Description | Supplier of services | Recipient of services |
|--------|---|--------------------------------------|---|
| 7 | Transfer of development rights or Floor Space Index (FSI) for construction of a project by a promoter. | Any person | Promoter |
| 8 | Long term lease of land (30 years or more) against consideration in the form of upfront amount and/or periodic rent for construction of a project | Any person | Promoter |
| 9 | Services by the Director | A director of a company | A body corporate located in the taxable territory |
| 10 | Insurance Agent services | An insurance agent | Person carrying on insurance business |
| 11 | Recovery agent services | A recovery agent | Banking Company, financial Institution, NBFC |
| 12 | Copyright Services | Music composer, photographer, artist | The Music company, producer located in the taxable territory. |

Services notified under RCM [Sec 9(3)]

73

| Sl No. | Description | Supplier of services | Recipient of services |
|--------|---|--|--|
| 13 | Supply of services by an author | Author | Publisher |
| 14 | Reserve Bank services | Members of Overseeing Committee constituted by RBI | Reserve Bank of India |
| 15 | Services by DSAs | Individual DSAs | A banking company or NBFC |
| 16 | Services provided by Business Facilitator (BF) to a banking company. | Business Facilitator | A banking company, located in the taxable territory |
| 17 | Services provided by an agent of Business Correspondent to Business Correspondent | An agent of Business Correspondent (BC). | A business correspondent, located in the taxable territory |
| 18 | Security Services (services provided by way of supply of security personnel) | Any person other than a body corporate. | A registered person, located in the “taxable territory.” |

Services notified under RCM

74

| Sl No. | Description | Supplier of services | Recipient of services |
|--------|---|--|--|
| 19 | Services provided by way of renting of any motor vehicle (incl. cost of fuel) | Any person, other than a body corporate * | Any body corporate located in the taxable territory |
| 20 | Services of lending securities of Securities under Lending scheme, 1997 (Scheme) | Lender | Borrower |
| 21 | Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient. | Any person located in a non-taxable territory. | Any person located in the taxable territory other than non-taxable online recipient. |
| 22 | Services supplied by a person located in non-taxable territory by way of transportation of goods by a vessel from a place outside India up to the Customs Station of clearance in India | A person located in a non-taxable territory | Importer |

- Point No. 21 and 22 relates to Sec 5(3) of IGST Act

Notification u/s 9(4)

75

- In case of projects or construction of apartments falling under affordable scheme/ lower tax rate,
 - 80% of inputs and input services [other than TDR/JDA, FSI, long-term lease (premium)] shall be purchased from registered persons. Any shortfall from the 80% threshold, the promoter shall discharge the differential tax on RCM basis at 18%.
 - Capital goods received from unregistered person, the tax to be discharged under RCM at applicable rates
- Cement received from unregistered person, the tax to be discharged under RCM at applicable rates.