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Coverage of Presentation

Administration under GST Regime, Section I

Supply and Its Extensions Section 7, Schedule I, II, III

Time of Supply, Section 12 & 13

Inter-State Supply Section 7 of IGST

Intra-State Supply, Section 8 of IGST

Place of Supply, Section 10, 11 and 12 of IGST

All Sect ons Quoted are here from CGST & IGST Act 6 June 2017 M/S Rajender ARORA & Associates, IDT Consultants, 9891112120



Administration under GST Regime

6 June 2017

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Four Walls of Law

- I. Taxable Event-Supply Section 7, Schedule I, II and III
- Levy and Collection (Taxable Person)
 Time of Supply
 Section 9
- 3. Valuation

Section 15 & Valuation Rules(To be Referred when valuation not possible thru Sec 15)

4. Rate of Tax

Administration

- CGST Act
- 3 Schedules
 - ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION
 - ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES
 - ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES(Negative List)(83 Services Exempted)
- SGST Act
- UTGST Act
- IGST Act
- Compensation Act
- Rules- 14 Rules(Final+Draft)



Goods Vs Services

- Why distinction Required
 - Different Rates
 - POS provisions
 - Composite Transactions, either as goods or services

Goods Vs Services

- "goods" means
 - every kind of movable property 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;
- But excludes
 - money and
 - securities



Goods Vs Services

- "services" means anything
- other than
 - ° goods,
 - money and
 - $^{\circ}$ securities
- What about Immovable Property?

SUPPLY, Section 7

- 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;
- activities specified in Schedule I, without consideration; and
- activities referred to in Schedule II- to be treated as supply of goods or supply of services.

SUPPLY, Section 7

- activities Schedule III; or
- such activities or transactions undertaken by the CG, a SG or any local authority as may be notified by the Government,
- shall be treated
- <u>neither as a supply of goods nor a</u> <u>supply of services.</u>

Point to PONDER

- □ What is the taxable event under GST?
- □ What is a taxable supply?
- □ Are self-supplies taxable under GST?
 - ✓ Inter State-
 - ✓ Inter State-
 - Whether provision of service or goods by a club or association or society to its members will be treated as supply or not?
 included definition of 'business' in section 2(17) of CGST Act.
- □ Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods?
- □ An individual buys a car for personal use and after a year sells it to a car dealer. Will the transaction be a supply in terms of CGST/SGST Act? Give reasons for the answer.
- □ Sale of Used Stuff on Online Portals?

In order to attract GST, Following FIVE Elements are Required

- Supply
- For a Consideration(Few Exceptions)
- Made in the course or furtherance of Business
- Made in the taxable territory
- Supply is made by or to a taxable person

In the Course or Furtherance??

CBEC - FAQ

- No definition or test as to whether the activity is in the course or furtherance of business has been specified under the law
- However, the following business tests are normally applied to arrive at a conclusion whether a supply has been made in the course or furtherance of business:
 - Is the activity, a serious undertaking earnestly pursued?
 - Is the activity is pursued with reasonable or recognisable continuity?
 - Is the activity conducted in a regular manner based on sound and recognised business principles?
 - Is the activity predominantly concerned with the making of taxable supply for consideration/ profit motive?
 - The test may ensure that occasional supplies, even if made for consideration, will not be subjected to GST

Consideration, Section 2(31)

- includes—
- 1. 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, whether by the recipient or by any other person(THIRD PARTY)
- shall not include any subsidy given by the Central Government or a State Government;
- 2. <u>the monetary value of any act or forbearance</u>, in respect of, in response to, or for the inducement of, the supply,
- whether by the recipient or by any other person
- shall not include any subsidy given by the Central Government or a State Government:
- Provided that
 - a deposit (not defined in the ACT)
 - given in respect of the supply
 - shall not be considered as payment made for such supply
 - unless the supplier applies such deposit as consideration for the said supply;

Business, Section 2(17)

- "business" includes—
- any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit (An award or compensation or **benefit** that is quantifiable in monetary terms)
- any activity or transaction in connection with or incidental or ancillary to above clause;
- 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 125 Pajeblic ABChrorities ociates, 6 June 2017 IDT Consultants, 9891112120

SCHEDULE I

Section 7

- ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION
- 1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- A dealer of air-conditioners permanently transfers an air conditioner from his stock in trade, for personal use at his residence. Will the transaction constitute a supply?
- 2. 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:
 - shall not be treated as supply of goods or services or both –
 - gifts > not exceeding INR 50000 a financial year
 - by an employer to an employee.
- 3. Supply of goods
 - a. by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
 - b. by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
- 4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

SCHEDULE II ACTIVITIES Either AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

- Transfer
 - any transfer of the title in goods- GOODS
 - any transfer of right in goods or of undivided share in goods without the transfer of title thereof- SERVICES
 - any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed (HIRE PURCHASE)- GOODS

SCHEDULE II ACTIVITIES Either AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

• Land and Building

- any lease, tenancy, easement, licence to occupy land- SERVICES
- any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly- SERVICES
- Any treatment or process which is applied to another person's goods(JOB WORK)- SERVICES

SCHEDULE II	
ACTIVITIES	
Either	
AS SUPPLY OF GOODS OR	
SUPPLY OF SERVICES	

- The following shall be treated as supply of services-
 - renting of immovable property;
 - construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly,
 - except where the entire consideration has been received after issuance of completion certificate.(GOODS)
 - temporary transfer or permitting the use or enjoyment of any intellectual property right; (IPR)
 - development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
 - agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and
 - TRUG- transfer of the right to use any goods for any purpose

SCHEDULE II
ACTIVITIES
Either
AS SUPPLY OF GOODS OR
SUPPLY OF SERVICES
 The following composite supplies shall be
treated- SERVICES:—
 works contract; and
 supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink
 other than alcoholic liquor for human consumption.
 The following shall be treated- GOODS
 Supply of goods by any unincorporated association or body of persons to a member thereof. (AOP- not defined under the ACT)
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SCHEDULE III ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

- 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.
- the functions performed by the MP, MLA, 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

SCHEDULE III ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES

- 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.

POINT TO PONDER

- Will giving away essential commodities by a charitable institution be taxable activity?
- Are all goods and services taxable under GST?

Time of supply of goods, Section 12

- The liability to pay tax on goods
 - shall arise
 - at the time of supply.
- - the date of issue of invoice by the supplier or the last date on which he is required, Sec 31(1), to issue the invoice;
 - Receipt of payment
- If supplier receives an amount up to 1000/- in excess of the amount indicated in the tax invoice,
 - the time of supply to the extent of such excess amount shall,
 - at the option of the said supplier,
 - be the date of issue of invoice in respect of such excess amount.

Section 31(1), Time to Issue Invoice

- A registered person supplying taxable goods shall, before or at the time of,—
- where the supply involves movement of goods
 removal of goods for supply to the recipient,; or
- in any other case
 - delivery of goods or making available thereof to the recipient,
- A registered person (Services)
 - supplying taxable services shall,
 - before or after the provision of service
 - but within a prescribed period, (30 days prescribed)

Time of Supply(Goods)-Reverse Charge Section 12(2)

- the time of supply earliest of following dates:—
- the date of the receipt of goods; or
 - the date of payment as entered in the books of account of the recipient or
 - the date on which the payment is debited in his bank account,
 - whichever is earlier; or
- the date immediately following 30 days from the date of issue of invoice or any other document
- Provided that where it is not possible to determine the time of supply hereunder above
 - the time of supply shall be the date of entry in the books of account of the recipient of supply.

Time of Supply(GOODS)-Vouch

- In case of supply of vouchers by a supplier—
- the date of issue of voucher,
 - \circ if the supply is identifiable at that point; or
- the date of redemption of voucher,
 - in all other cases.





Time of Supply-Services

Time of supply of services shall be the earliest of following dates:-

- the date of issue of invoice by the supplier,
 - if the invoice is issued within the period prescribed u/s 31(2)
 - or
- the date of receipt of payment,
 - whichever is earlier;
- the date of provision of service,
 - if the invoice is not issued within the period prescribed u/s 31(2)
 - or
- the date of receipt of payment,
 - whichever is earlier; or
- in a case where the above provisions do not apply
 - the date on which the recipient shows the receipt of services in his books of account.

Time of Supply(Services)-Reverse Charge

- Time of supply shall be the earlier of following dates:-
 - the date of payment as entered in the books of account of the recipient or
 - the date on which the payment is debited in his bank account,
 - whichever is earlier; or
 - the date immediately following 60 days from the date of issue of invoice or any other document,
- Provided that where it is not possible to determine the time of supply under above,
 - the time of supply shall be the date of entry in the books of account of the recipient of supply:
- In case of supply by associated enterprises(as per Income Tax Act, 1961){14 instances}
 - where the supplier of service is located outside India,
- the time of supply shall be
 - the date of entry in the books of account of the recipient of supply or
 - the date of payment,
 - · whichever is earlier.

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Time of Supply(Services)-Vouchers

- In case of supply of vouchers,
- the time of supply shall be----
 - the date of issue of voucher,
 - if the supply is identifiable at that point; or
 - the date of redemption of voucher,
 - in all other cases.



Time of Supply(SERVICES) Addition In Value

- The time of supply to the extent it relates to an addition in the value of supply
 - by way of interest,
 - late fee or
 - penalty for delayed payment
- shall be the date on which
 - supplier receives
 - such addition in value.

Determination of Nature of Supply Inter-State supply, Sec 7 IGST

- where the location of
 - the supplier and
 - the place of supply are in—
 - two different States;
- supply of goods or Services
 - in the course of inter-State trade or commerce.

Supply of GOODS- Imported (Till Cross Customs Frontiers)

- Supply of goods imported into the territory of India,
 - till they cross the customs frontiers of India,
- shall be treated to be a supply of goods
 - in the course of inter-State trade or commerce



Supply of Service-Imported (Inter State Supply)

- Supply of services imported
- shall be treated
 - in the course of inter-State trade or commerce.
Few more ISS-Section 7

- Following Supplies(goods+services)shall be treated in the course of inter-State trade
 - when the supplier is located in India and the place of supply is outside India
 - $^{\circ}$ to or by a SEZ developer or a SEZ unit; or
 - in the taxable territory,
 - not being an intra-State supply and
 - not covered elsewhere in this section,

Intra-State supply, Section 8

- supply of goods/services
 - $^{\circ}$ where
 - the location of the supplier and
 - the place of supply of goods
 - in the same State or same UT
- shall be treated as intra-State supply:

Branch or Stock Transfers

- Explanation I.—
- For the purposes of this Act, where a person has,—
 - an establishment in India and any other establishment outside India;
 - an establishment in a State or UT and any other establishment outside that State or UT or
 - an establishment in a State or UT and any other establishment being a business vertical registered within that State or UT,
- then such establishments shall be treated as establishments of
 - distinct persons
- Explanation 2.—A person carrying on a business through a branch or an agency or a representational office in any territory
 - shall be treated
 - $\circ\;$ as having an establishment in that territory.

Place of supply of goods(POS)

- The POS of goods shall be as under—
- where the supply involves movement of goods,
 - whether
 - by the supplier or
 - the recipient or
 - by any other person,
- the POS shall be the location at which movement of goods terminates
 - \circ for delivery to the recipient.

Bill TO Ship TO

- where the goods are delivered
 - $^{\circ}\,$ by the supplier to a recipient or any other person
 - on the direction of a third person,
 - whether acting as an agent or otherwise,
 - before or during movement of goods,
 - either by way of transfer of documents of title to the goods or otherwise,
- it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such person
- Ram of UP asks Shyam of Delhi to Supply goods to Mohan of Gujrat?

No Movement of GOODS-POS

- Does not involve movement of goods,
 - $^{\circ}$ whether by the supplier or
 - the recipient,
- the POS
 - location of such goods at the time of the delivery to the recipient(Computer leased out but then sold)



POS-Assembly at Site and Moving Conveyance

- where the goods are assembled or installed at site,
 - the POS
 - shall be the place of
 - such installation or assembly;
- where the goods are supplied on board
- a conveyance, including a vessel, an aircraft, a train or a motor vehicle,
- the POS
 - shall be the location
 - at which such goods are taken on board.

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POS of goods imported into,

or <u>exported from India</u>

Section 11

- The place of supply of goods,—
- imported into India
 - shall be the location of the importer;
- exported from India
 - shall be the location outside India.



POS of services where location of supplier and recipient In India.

- The POS of services
 - made to a registered person
 - location of such person;
- made to any person than registered person
 - where the address on record exists
 - the location of the recipient
- in other cases
 - the location of the supplier of services

Section

12

Specific Instances POS-Services, Continued



- POS of Following Services shall be
 - the location at which the immovable property or boat or vessel, is located or intended to be located:
 - Directly in relation to an immovable property
 - In relation to services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents
 - any service provided by way of grant of rights to use immovable property or for carrying out or coordination of construction work
 - by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel;

POS-Services, Continued

- POS of Following Services shall be
 - the location at which the immovable property or boat or vessel, is located or intended to be located:
 - by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property
 - any services ancillary to the services referred above.



Location Based POS POS-Services, Continued

- In case of Following Services
 - POS
 - the location where the services are actually performed
 - restaurant and catering services,
 - personal grooming,
 - fitness,
 - beauty treatment,
 - health service including cosmetic and plastic surgery

Place of Performance-Loaction at which Service PERFORMED

POS-Services, Continued

- The POS of services in relation
 - to training and performance appraisal to,
 - a registered person,
 - the location of such person;
 - a person other than a registered person,
 - the location where the services are actually performed.

Admission TO POS-Services, Continued

- The POS of services
 - ° provided by way of
 - admission to a
 - cultural, artistic, sporting, scientific, educational, entertainment event or
 - amusement park or
 - any other place and
 - services ancillary thereto,
- shall be the place
 - where the event is actually held or
 - where the park or
 - such other place is located.

POS-Services, Continued

- POS shall be
 - $^\circ\,$ to a registered person,
 - the location of such person;
 - to a person other than a registered person,
 - the place where the event is actually held and
 - if the event is held outside India,
 - POS shall be the location of the recipient.
- organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or
- services ancillary to organisation of any of the events or services referred above, or assigning of sponsorship to such events

POS-Transportation of goods, including by mail or courier

- The POS of services
 - by way of transportation of goods, including by mail or courier to,
 - a registered person,
 - the location of such person;
 - a person other than a registered person,
 - the location at which such goods are handed over for their transportation.

POS of passenger transportation service

- The POS of passenger transportation service to,
- a registered person,
 - the location of such person;
- a person other than a registered person,
 - the place where the passenger embarks on the conveyance for a continuous journey:

POS - on board a conveyance

- The POS of services
 - on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle,
 - the location of the first scheduled point of departure of that conveyance for the journey



Aggregate Turnover, Section 2(6)

- "aggregate turnover" means the aggregate value of
 - all taxable supplies
 - exempt supplies,
 - exports of goods or services or both and
 - inter-State supplies
- of persons having the same Permanent Account Number, to be computed on all India basis, but
- excludes
 - the value of inward supplies on which tax is payable by a person on reverse charge basis,
 - central tax, (CGST)
 - State tax, (SGST)
 - Union territory tax,
 - integrated tax and
 - ° cess;



THANK YOU

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