

GST

PLACE AND TIME OF SUPPLY

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PLACE OF SUPPLY

- Goods
- Services
- Inter-State Supply
- Intra-State Supply
- Place of supply for goods
- Place of supply for services
- Section 12 of the IGST Act
- Section 13 of the IGST Act
- Export
- Import

INTEGRATED GST (IGST)

- Inter-State Supply of Goods
 - Location of Supplier in State A
 - Place of Supply in State B
 - IGST
- Inter-State Supply of Services
 - Location of Supplier in State A
 - Place of Supply in State B
 - IGST
- Goods imported into India
 - Place of Supply in India
 - IGST

IGST

- Section 7(4) of the IGST Act, 2017 states that supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce
- Section 7(5) of the IGST Act, 2017 also treats the following supplies as inter-State supplies—
 - Supplier is located in India and place of supply is outside India
 - Supply to or by a SEZ developer or SEZ unit
 - Supply in the taxable territory, not being an intra-State supply and not covered elsewhere in this section

CENTRAL GST + STATE GST

- Intra-State Supply of Goods
 - Location of Supplier in State A
 - Place of Supply in State A
 - CGST + SGST
- Intra-State Supply of Services
 - Location of Supplier in State A
 - Place of Supply in State A
 - CGST + SGST

PLACE OF SUPPLY OF GOODS

PARTICULARS	PLACE OF SUPPLY
Where supply involves movement of goods, whether by the supplier or the recipient or by any other person	<u>Location of the goods</u> at the time at which the <u>movement</u> of goods <u>terminates</u> for <u>delivery to the recipient</u>
Where goods are delivered by the supplier <ul style="list-style-type: none"> • 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	The principal place of business of <u>such person</u>
Where supply <u>does not involve movement</u> of goods, whether by the supplier or the recipient	Location of such goods at the time of the <u>delivery to the recipient</u>
Where goods are assembled or installed at site	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,	Location at which such goods are taken on board.

SECTION 10 - EXAMPLES

TRANSACTION	APPLICABLE GST
A Ltd. Chennai supplies valves to B Ltd. Chennai	CGST + SGST – Section 10(1)(a)
B Ltd. Chennai places a PO on A Ltd. Chennai to deliver valves to its factory in Hyderabad	CGST + SGST – Section 10(1)(b)
B Ltd. Hyderabad places a PO on A Ltd. Chennai to deliver valves to its factory in Chennai	IGST – Section 10(1)(b)
A Ltd. Chennai stock transfers goods to its branch in Delhi	IGST – Section 10(1)(a)
M Ltd., Mumbai supplies television sets to M/s. Star Liners at the time of docking in Mumbai Port.	CGST + SGST – Section 10(1)(e)

PLACE OF SUPPLY OF GOODS – IMPORT AND EXPORT

- Section 11 of the IGST Act, 2017

PARTICULARS	PLACE OF SUPPLY
Goods imported into India	Location of the Importer
Goods exported from India	Location outside India

PLACE OF SUPPLY - SERVICES

SECTION	CONDITIONS
Section 12 of the IGST Act.	Where location of the supplier of services AND the location of the recipient of services is in India .
Section 13 of the IGST Act	Where location of the supplier of services OR the location of the recipient of services is outside India .

LOCATION OF SUPPLIER OF SERVICES

PARTICULARS	PLACE OF SUPPLY
Where supply is made from place of business for which the registration has been obtained.	Location of such place of business.
Where supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere)	Location of such fixed establishment.
Where supply is made from more than one establishment, whether the place of business or fixed establishment.	Location of the establishment most directly concerned with the provision of the supply.
In the absence of such places	Usual place of residence of the supplier

LOCATION OF RECIPIENT OF SERVICES

PARTICULARS	PLACE OF SUPPLY
Where supply is received at a place of business for which registration has been obtained.	Location of such place of business.
Where supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere)	Location of such fixed establishment.
Where supply is received at more than one establishment, whether the place of business or fixed establishment.	Location of the establishment most directly concerned with the receipt of the supply.
In the absence of such places	Usual place of residence of the recipient.

KEY TERMS

- Fixed Establishment means a place (other than the registered place of business) which is characterised by sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services or to receive and use services for its own needs.
- Place of business includes
 - a place from where business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or
 - A place where a taxable person maintains his books of account; or
 - A place where a taxable person is engaged in business through an agent, by whatever name called.
- Usual place of residence means
 - In the case of an individual, the place where he ordinarily resides.
 - In other cases, the place where the person is incorporated or otherwise legally constituted.

PLACE OF SUPPLY - SERVICES – SECTION 12 – SOME SCENARIOS

PARTICULARS	PLACE OF SUPPLY
<p>(i) Services directly in relation to an <u>immovable property including</u> services of architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service of grant of <u>rights to use immovable property, carrying out or co-ordination of construction work</u></p>	<p><u>Location at which immovable property or boat or vessel is located or intended to be located</u></p> <p><i>Provided where the immovable property or boat or vessel is located <u>outside India</u> the place of supply shall be the location of the recipient</i></p>
<p>(ii) By way of <u>lodging accommodation</u> by a hotel, inn, guest house, homestay, club or campsite including house boat or any vessel</p>	<p><i>Explanation.- Where immovable property etc. is located in more than one State or UT, supply of services shall be treated as made in each of the respective States or UTs, in <u>proportion to the value</u> for services separately collected or determined in terms of the contract or agreement entered into in this regard or in the absence of contract or agreement, on such other basis as may be prescribed</i></p>
<p>(iii) By way of <u>accommodation in any immovable property</u> for <u>organizing</u> any marriage or reception or matters related therewith, official, social, cultural, religious or business function including services in relation to such function in such property</p>	<p><i>Explanation.- Where immovable property etc. is located in more than one State or UT, supply of services shall be treated as made in each of the respective States or UTs, in <u>proportion to the value</u> for services separately collected or determined in terms of the contract or agreement entered into in this regard or in the absence of contract or agreement, on such other basis as may be prescribed</i></p>
<p>(iv) Ancillary services to the above</p>	

PLACE OF SUPPLY - SERVICES – SECTION 12 – SOME SCENARIOS

PARTICULARS	PLACE OF SUPPLY
Services of <u>restaurant</u> and <u>catering</u> , personal <u>grooming</u> , <u>fitness</u> , <u>beauty</u> treatment, <u>health</u> service including cosmetic and plastic surgery	Location where services are <u>actually performed</u>
Services in relation to <u>training and performance appraisal</u> to: (i) A registered person (ii) Person other than a registered person	Location of such person Location where services are performed
<u>Admission</u> to a cultural, artistic, sporting, scientific, educational or entertainment event or amusement park or any other place and services ancillary	Location where the <u>event is held</u> or where the <u>park</u> or such <u>other place is located</u>

PLACE OF SUPPLY - SERVICES – SECTION 12 – SOME SCENARIOS

PARTICULARS	PLACE OF SUPPLY
Place of supply of services on <u>board a conveyance</u> including a vessel, aircraft, train or motor vehicle	Location of the <u>first scheduled point of departure</u> of that conveyance for the journey
The place of supply of <u>banking</u> and other <u>financial services</u> including stock broking services to any person	Shall be the <u>location of the recipient of services</u> on the records of the supplier of services If the location of the recipient of services is not on the records of the supplier, the place of supply shall be location of the supplier of services.

SECTION 12 – DEFAULT PROVISION – SECTION 12(2)

PARTICULARS	PLACE OF SUPPLY
Services except services specified above provided to a registered person	Location of such person
Services except services specified above provided to a person other than registered person	Location of the recipient if the address on record exists and the location of the supplier of services in other cases.

- Consultancy
- Advisory
- Audit
- Security
- General Services

PLACE OF SUPPLY OF SERVICES WHERE THE LOCATION OF THE SUPPLIER OR THE RECIPIENT OF SERVICES ARE OUTSIDE INDIA

– SECTION 13 – SOME SCENARIOS

PARTICULARS	PLACE OF SUPPLY
<p>Services supplied in respect of <u>goods</u> which are required to be made <u>physically available</u> by the recipient of service to the supplier of service, or to a person acting on behalf of the supplier of service in order to provide the services</p>	<p>Location where the services are <u>actually performed</u></p> <p>Provided that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of service</p> <p>Provided further that this clause shall not apply in the case of a service supplied in respect of goods that are temporarily imported into India for repairs and are exported after repairs without being put to any use in India, other than that which is required for such repairs;</p>

PLACE OF SUPPLY OF SERVICES WHERE THE LOCATION OF THE SUPPLIER OR THE RECIPIENT OF SERVICES ARE OUTSIDE INDIA – SECTION 13 – SOME SCENARIOS

PARTICULARS	PLACE OF SUPPLY
<p>(i) Services supplied by a banking company, or a financial institution, or a non-banking financial company, <u>to account holders</u>;</p> <p>(ii) Intermediary services;</p> <p>(iii) Services consisting of hiring of means of transport other than aircrafts and vessels except yachts, upto a period of one month.</p>	Location of the supplier of service

PLACE OF SUPPLY OF SERVICES WHERE THE LOCATION OF THE SUPPLIER OR THE RECIPIENT OF SERVICES ARE OUTSIDE INDIA – SECTION 13(2) – DEFAULT PROVISION

PARTICULARS	PLACE OF SUPPLY
Other services other than the services mentioned above	Location of the service receiver Provided if the location of the service receiver is not available in the ordinary course of business the place of supply is the location of the service supplier

CASE STUDY NO. 1 - EXPORT

- Software consultancy services contract between US Company and Indian client
- Entire work outsourced to Indian subsidiary
- Subsidiary provides consultancy services to US holding company
- Invoice raised by Indian company on US Company
- Invoice raised by US company on overseas client
- Convertible foreign exchange received by Indian Company

EXPORT

- Supplier of service – India
- Recipient of service – located outside India
- Place of Supply – located outside India – Section 13(2) of IGST Act, 2017
- Convertible foreign exchange
- Export of Service
- What happens if same services are provided by Indian branch to US head office?
- *Supplier of service and recipient of service are not merely establishments of a distinct persons*
- *Can there be a differential treatment for transactions between establishments?*
- *Matter questioned in Delhi High Court*

EXPORT

- ABC & Co., Ahmedabad operates as an intermediary
- ABC facilitates supply of goods between XYZ, Singapore and LKM, Turkey
- 5% commission is received in convertible foreign exchange from XYZ, Singapore
- Location of Supplier – India
- Location of recipient – Outside India
- Convertible foreign exchange
- Parties not mere establishments
- *Place of Supply – location of the supplier of service in terms of Section 13(8) of the IGST Act, 2017*
- *Transaction is not an export of service since place of supply is in India*
- *GST at 18%*

CONSULTANCY

- M/s. JOLF is a CA Firm based in Kerala.
- An US client has sought the advice with reference to setting up of two businesses in India, namely, a Cola project in Kerala and a chemical project in Madhya Pradesh
- JOLF carries out research, studies in both the States and sends a report by email
- The recommendation is to set up the chemical plant in Kerala and Cola plant in Madhya Pradesh
- Section 13(2)
- Export of Service

COMMISSIONING & INSTALLATION

- M/s. CIE, India deutes its employees to commission an equipment in Turkey.
- Service is performed outside India on equipment that is made available by the recipient.
- Section 13(3) of the IGST Act, 2017 – Place of supply shall be the location where the services are actually performed where goods are made physically available by the recipient to the supplier in order to provide services.
- Export of services – Procedure.

TIME OF SUPPLY OF GOODS

- Section 12 – CGST Act, 2017
- The liability to pay tax on goods shall arise at the time of supply
- Earlier of the following dates:
 - Date of issue of invoice
 - Last date by which invoice has to be issued
 - Date of receipt of payment
- “Supply” shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment
- “the date on which the supplier receives the payment” shall be the date on which the payment is entered in his books of account or the date on which the payment is credited to his bank account, whichever is earlier.

TIME OF SUPPLY OF SERVICES

- Section 13 of the CGST Act, 2017
- The liability to pay tax on services shall arise at the time of supply which is earliest of the following dates namely,
 - the date of issue of invoice by the supplier, if the invoice is issued within the period prescribed under Section 31(2) (*30 days from the date of supply of service*) or the date of receipt of payment, whichever is earlier; or
 - the date of provision of service, if the invoice is not issued within the period prescribed under Section 31(3) or the date of receipt of payment, whichever is earlier; or
 - the date on which the recipient shows the receipt of services in his books of account, in any other case

TIME OF SUPPLY OF SERVICES

- Supplies in respect of which tax is paid or liable to be paid on reverse charge, the time of supply shall be the earlier of the 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, by whatever name called, in lieu thereof by the supplier:
 - In any other case, 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, 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

PLACE OF SUPPLY - ISSUES

- A in State-A places an order on B in State-B to deliver to C in State-B.
- X in State-A receives an order from a US Company to manufacture a product and deliver the same to Y in State-B.
- PQR, Delhi enters into a service contract with XYZ, Chennai as per which XYZ has to provide manpower supply and support services to 29 locations in 29 States for PQR.
- Executives of a Bengaluru Company stay in a 5 Star Hotel in Mumbai for official work.
- Bengaluru Company engages a technical inspection agency to inspect their plants in 5 States.
- *Impact for service sector.*

TIME OF SUPPLY - ISSUES

- The legislation provides for GST on receipt on payment
- In the pre-GST era, advances did not attract excise duty or VAT
- GST on advances is a double whammy since ITC cannot be availed by the other person unless an invoice is issued adjusting the advance
- The Government has granted some relief in the context of goods based on concerns expressed

THANK YOU