

The background of the slide features a blurred image of a wooden gavel resting on a stack of books, with a hand holding the gavel. The scene is lit with a warm, golden light, creating a professional and legal atmosphere.

GOODS AND SERVICES TAX

PLACE & TIME OF SUPPLY PROVISIONS

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Criticality of “Place & Time of Supply” for determination of liability under GST

- Time of supply for :
 - goods
 - services
- Relevance of Place of Supply in GST
- Place of supply for :
 - goods
 - services

PLACE OF SUPPLY

Relevance



- Destination based Tax;
- Credit accrual to destination state;
- Place of Supply determines the levy: CGST & SGST or IGST;
- Determination of export/import of goods or services.

CONSTITUTIONAL PROVISIONS

- 101ST Constitutional Amendment Act brought in the GST regime.
- As per Article 286, no law of a state shall impose a tax on supply of goods or of services or both where such supply takes place:
 - outside the state; or
 - in the course of import of the goods or services or both into; or
 - export of the goods or services or both out of, the territory of India.
- It has also been laid down in Article 246A that Parliament has exclusive power to make laws with respect to GST where the supply of goods, or of services, or both takes place in the course of **interstate trade or commerce**.

Leviability of CGST/SGST/IGST

Tax under the GST laws is levied in the following manner :

- Intra-state supplies:
 - Central GST (CGST) plus
 - State GST (SGST) ;
- Inter-state supplies: Integrated GST (IGST) ;
- Import / Export: Integrated GST

- To determine the levy it is necessary to define:
 - “intra-state supply”; and
 - “inter-state supply”.

- Articles 269A & 286 provide that Parliament may, by law, formulate the principles for determining when a supply of goods, or of services, or both takes place:
 - in the course of interstate trade or commerce; or
 - outside the state; or
 - in the course of import of the goods or services or both into, or
 - export of the goods or services or both out of, the territory of India

- Accordingly, the Integrated Goods and Services Tax Act, 2016 (“IGST Act”) defines the principles for determining supply of goods and/or services in the course of inter-state trade or commerce, and also in the course of intra-state trade or commerce. The said provisions are contained in Sections 7 and 8 of the IGST Act.

Sections 7 & 8 of IGST Act

- Supply of goods & services in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States
- Supply of goods & services in the course of intra-State trade or commerce means any supply where the location of the supplier and the place of supply are in same State
- To determine whether a supply is inter-state or intra-state, it is necessary to determine its “place of supply”.
- “Place of supply” is also required for determining whether any supply is “export of service” or not.



Section 8 of the IGST Act

Provided that the following supply of goods shall not be treated as intra-State supply, namely:—

- (i) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;
- (ii) goods imported into the territory of India till they cross the customs frontiers of India; or
- (iii) supplies made to a tourist referred to in section 15.



IGST ACT - CHAPTER V
PLACE OF SUPPLY OF GOODS OR SERVICES OR
BOTH

The place of supply of goods in India

Section 10 – IGST Act



Place of supply of goods, other than supply of goods imported into, or exported from India	The place of supply of such goods shall be
Does the supply involves movement of goods whether by the supplier or the recipient or by any other person?	The location of the goods at the time at which the movement of goods terminates for delivery to the recipient
Are the goods concerned, delivered 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, before or during movement of goods, either by way of transfer of documents of title to the goods or otherwise	The principal place of business of such person
Are the goods are assembled or installed at site?	The place of such installation or assembly
Are the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle?	The location at which such goods are taken on board
Where the place of supply of goods cannot be determined	Shall be determined in such manner as may be prescribed



Place of Supply of Services (PoS) where location of supplier & recipient is in India- Section 12

When supply made by	Supply made to	Place of Supply	Conditions
Registered person	Registered person	Location of recipient	--
Registered person	Un Registered person	Location of recipient	If address exists on record
Registered person	Un Registered person	Location of Supplier	If no address exists on record



Exceptions

- Supply of services—
 - ~~directly in relation to an immovable property~~
 - by way of lodging accommodation by a hotel, inn
 - by way of accommodation in any immovable property for organising any official, social, cultural, religious or business function
- Supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery
- Services in relation to training and performance appraisal
- Services provided by way of **admission to** a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park



Exceptions

- Services provided by way of **organisation of** a cultural, artistic, sporting, scientific, educational or entertainment event or of assigning of sponsorship to such events
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- Services by way of transportation of goods, including by mail or courier
 - Supply of passenger transportation service
 - Supply of services on board a conveyance
 - Supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services
 - Supply of banking and other financial services, including stock broking services
 - Supply of insurance services
 - Supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority



PoS for Services to/ from India

- Section 13 of the IGST Act
- Place of supply of services where **location of supplier or location of recipient is outside India**



Section 13 (2) of the IGST Act

- THE DEFAULT RULE

- The **place of supply of services except the services specified** in sub-sections (3) to (13) shall be the location of the recipient of services
- Where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.



Exceptions– Section 13

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- Place of supply - location where the services are actually performed
 - services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services
 - services supplied to an individual which require the physical presence of the recipient



Exceptions

-
- services supplied directly in relation to an immovable property – PoS where property is located
 - services supplied by way of admission to, or organisation of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events – PoS where the event is held



Supply partially outside India

- services supplied in respect of goods which are required to be made physically available by the recipient of services; OR
- services supplied to an individual which require the physical presence of the recipient; OR
- services supplied directly in relation to an immovable property; OR
- services supplied by way of admission to an event-
- If it is supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory



IMPORT: Situation in case of certain Specified Services

- services supplied in respect of goods which are required to be made physically available by the recipient of services; OR
- services supplied to an individual which require the physical presence of the recipient; OR
- services supplied directly in relation to an immovable property; OR
- services supplied by way of admission to an event;
- are supplied in more than one State or Union territory, the place of supply of such services shall be taken as being in each of the respective States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.



PoS = the location of the supplier of services

- Services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders
- Services consisting of hiring of means of transport
- Intermediary services



Exceptions- Section 13

- services of transportation of goods, other than by way of mail or courier
 - PoS be the place of destination of such goods

- in respect of passenger transportation services
 - PoS be the place where the passenger embarks on the conveyance for a continuous journey
- of services provided on board a conveyance during the course of a passenger transport operation
 - PoS first scheduled point of departure
- online information and database access or retrieval services (OIDAR)
 - PoS be the location of the recipient of services



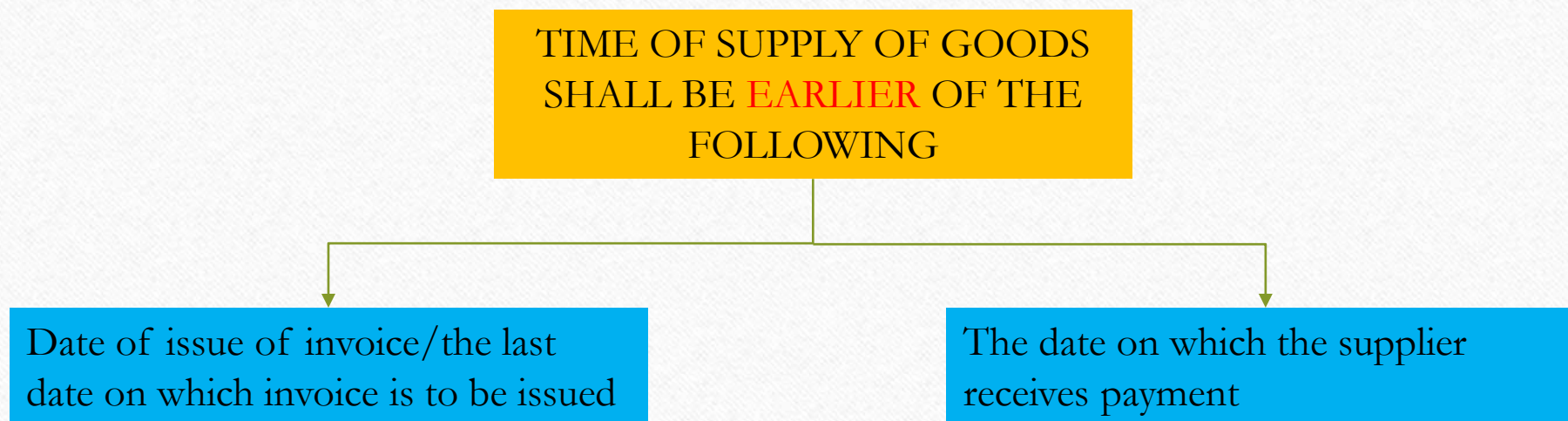
Section 13 (13) of IGST Act

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- In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.



TIME OF SUPPLY-GOODS (Sec.12 of CGST Act)

- The **liability** to pay tax on a supply of goods arises at the time of supply

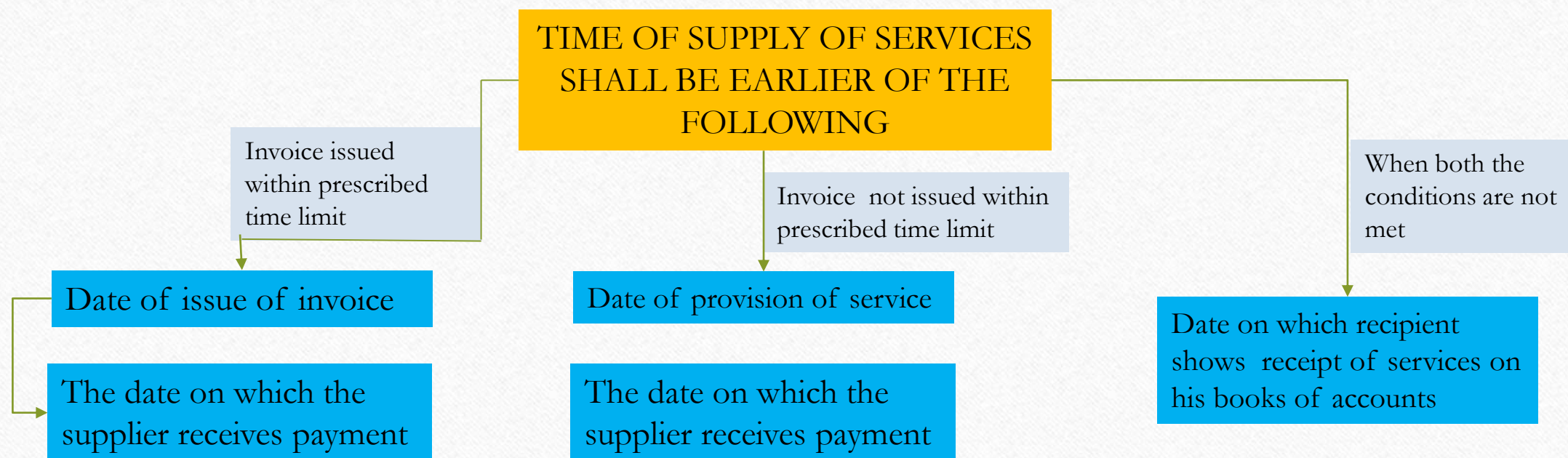




TIME OF SUPPLY-SERVICES

Section 13 of CGST Act

- The **liability** to pay tax on a supply of services arises at the **time** of supply



Thank You





TIME OF SUPPLY-CHANGE IN THE TAX RATE

- When there is a change in the rate of tax, time of supply shall be determined as shown below

If any two of the following have happened before, then the earlier of the 2 dates

The date of change in tax rate

If any two of the following have happened after, then the earlier of the 2 dates

1. Issue of invoice
2. Payment
3. Supply

1. Issue of invoice
2. Payment
3. Supply



TIME OF SUPPLY-TRANSITION

Section 142(11) of CGST Act

