

Place of Provision of Service Rules

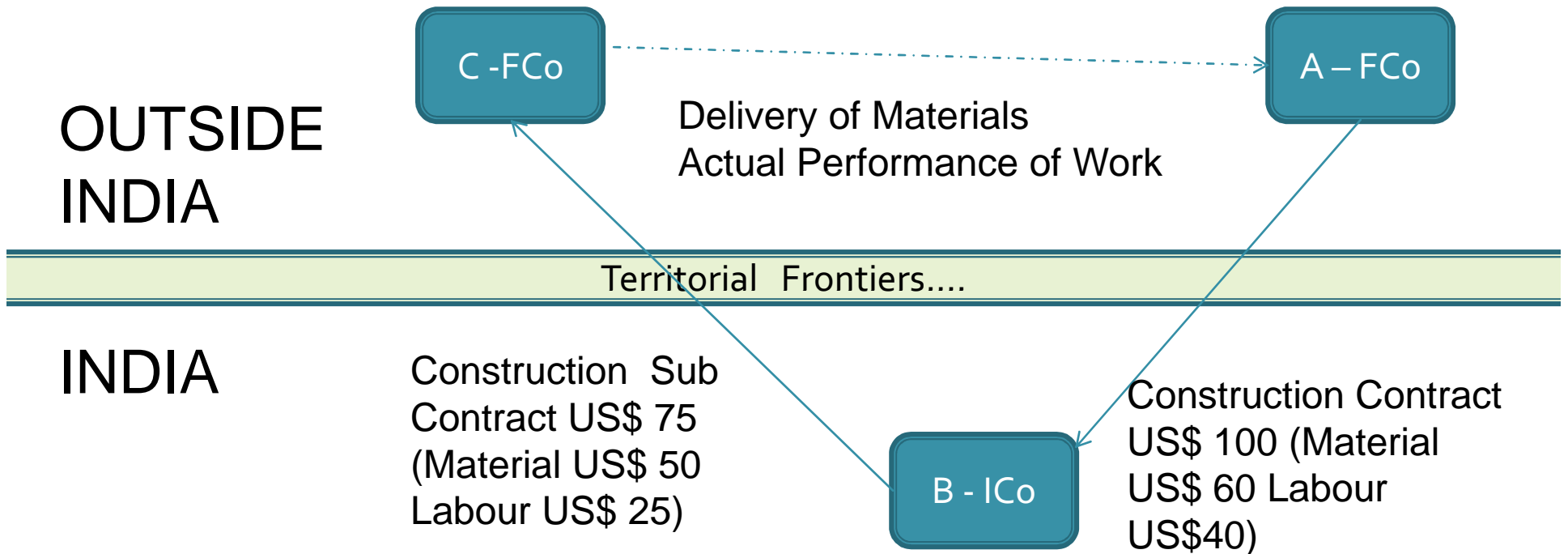
Introduction..

- Tax on all services provided in the taxable territory
- Attaches itself to the 'service' rather than to a 'person'
- Multiple Point Taxation
 - CENVAT Credit ensures incremental tax on value addition
- Therefore effectively a consumption tax

Consumption Tax: Implications

- Tax 'attaches' to the place of consumption – therefore destination based
- Export of Services exempted from tax and eligible for rebates/refunds of input taxes
- Import of Services liable for payment of tax under reverse charge mechanism
- Is the place of consumption same as the place of consumer?

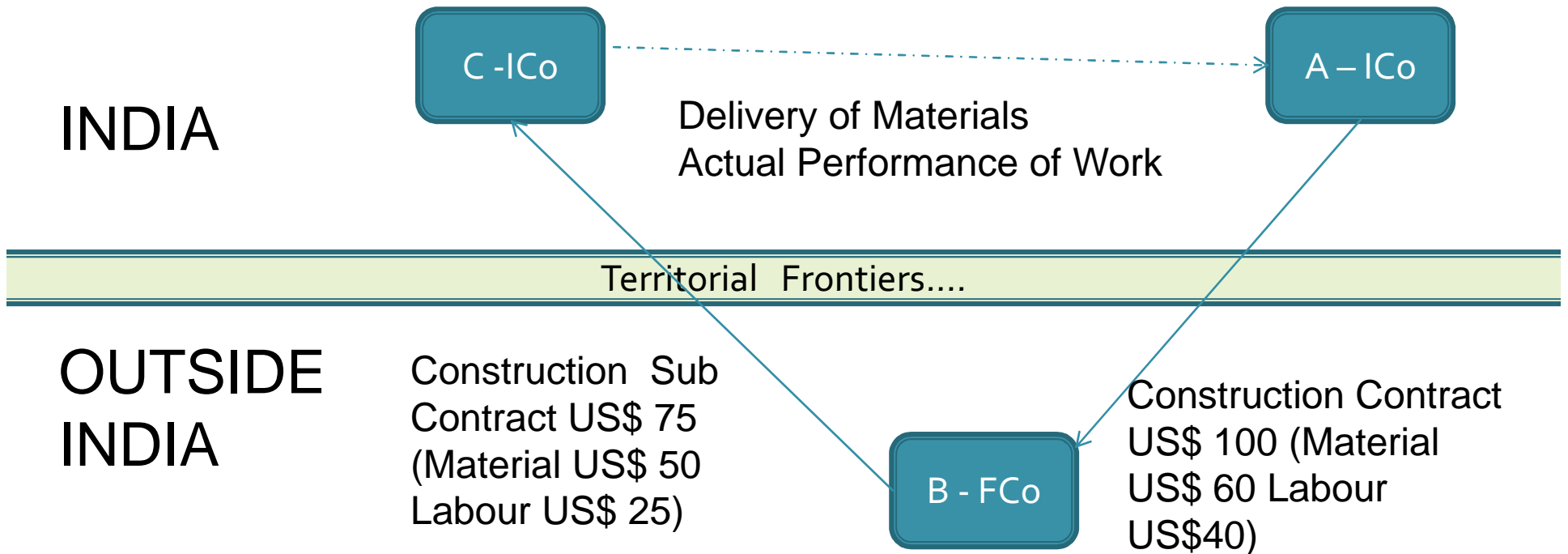
Case Study



What is meant by import / export ?

- For the material component,
 - Is B importing goods worth \$50 from C?
 - Is B exporting goods worth \$60 to A?
 - Is B liable for import duties?
 - Is B eligible for export incentives?
- For the services component,
 - Is B importing services worth \$25 from C?
 - Is B exporting services worth \$40 to A?
 - Is B liable for payment of service tax as an importer of services?
 - Is B eligible for export incentives as an exporter of services?
- Can there be different set of answers?

Case Study 2



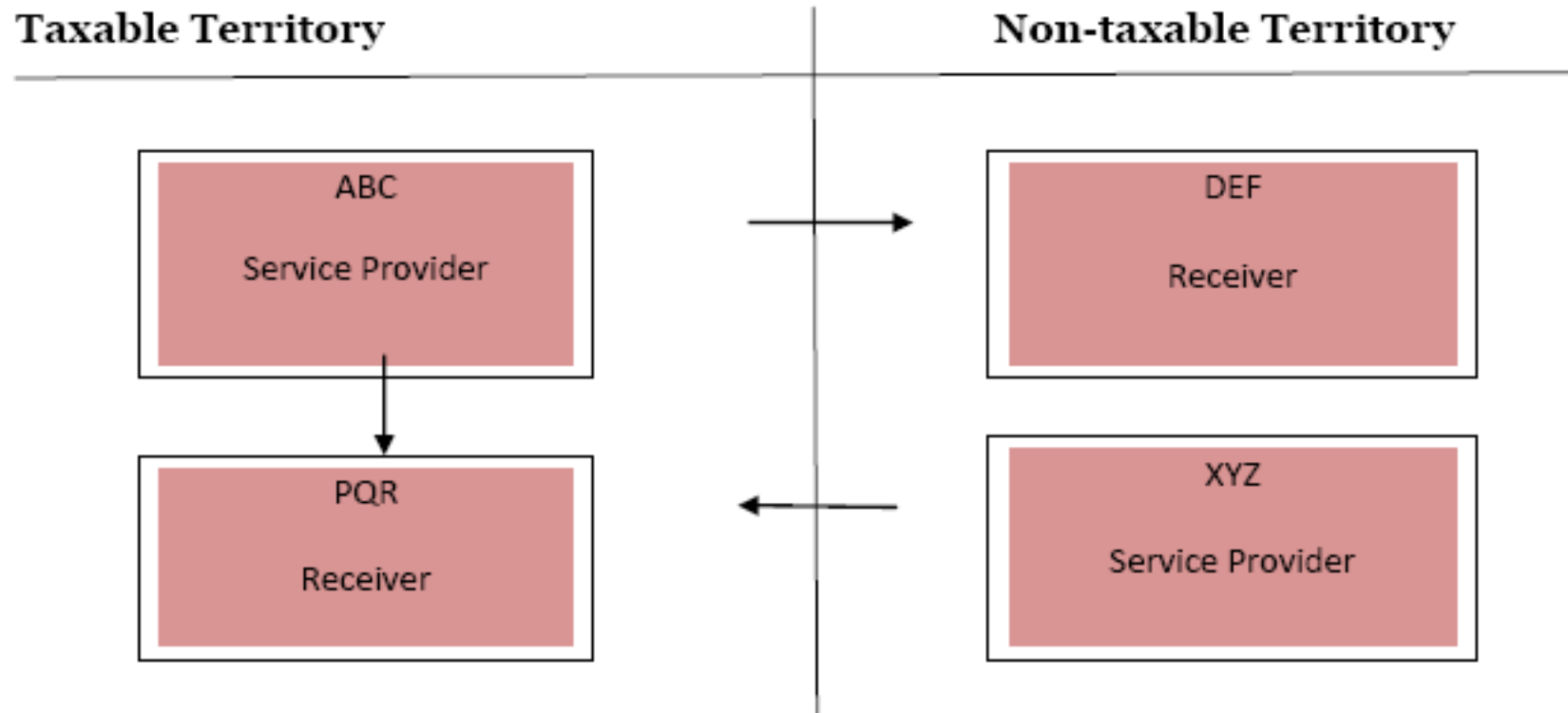
What is meant by import / export ?

- For the material component,
 - Is A importing goods worth \$60 from B?
 - Is C exporting goods worth \$50 to B?
 - Is A liable for import duties?
 - Is C eligible for export incentives?
- For the services component,
 - Is A importing services worth \$40 from B?
 - Is C exporting services worth \$25 to B?
 - Is A liable for payment of service tax as an importer of services?
 - Is C eligible for export incentives as an exporter of services?
 - Is there double taxation?
- Can there be different set of answers?

Framework of the Law...

- Section 64:
 - Extends to the whole of India (Excl J&K)
 - Applies to taxable services provided
- Section 66B:
 - Levy of Tax on services provided in the taxable territory
- Section 66C:
 - Rules to determine the place where the service is provided

Framework : Snapshot...



Place of Provision of Services Rules...

Description	Rule
General Rule	Location of Service Receiver. In case the location of the service receiver is not available, then Location of service provider
Services provided in respect of goods that are required to be made physically available by the service receiver to the service provider, in order to provide the service	Place of Performance
When such services are provided from a remote location by way of electronic means.	Location of goods at the time of provision of service
Services provided entirely or predominantly, in the ordinary course of business, in the physical presence of an individual, represented either as the service receiver or a person acting on behalf of the receiver	Place of Performance

...Place of Provision of Services Rules

Description	Rule
Services in relation to immovable property	Location of Immovable property
Services in relation to Events	where the event is actually held
When Service Provider and Service Receiver are located in taxable territory	Location of service receiver
Specified services:	Location of Service Provider
a) Banking & Financial Services	
b) Online Information and Database access or retrieval services	
c) Intermediary services	
d) Hiring of means of transport	
Service of Transport of Goods	Destination of Goods
Goods Transport Agency	Location of Service Recipient
Passenger Transportation	Place of Origin
On Board a conveyance	Place of Origin

PPSR : Issues...

- Indenting Agent for Foreign Principal
- Reinsurance Broker
- Subscription to Foreign Online Portals
- Call Centres
- Engineering Services

Exports : Framework

- Section 66B
 - Charging Provision
- Section 66C & PPSR
 - Condition for determining place of provision
- Rule 6A of Service Tax Rules
 - Tests for Export of Services
- Rule 2(e) of CENVAT Credit Rules
 - Exempted Service not to include export of services
- Rule 6(8) of CENVAT Credit Rules
 - No proportionate reversal for realisation of forex within RBI Time limits

- Rule 5 of CENVAT Credit Rules
 - Refund of Accumulated CENVAT Credit to exporters
- Notification No. 39/2012-ST, dated 20-6-2012
 - Rebate of Input Tax to Exporter of Services

Force of Attraction Rule

- Section 65B(44) Explanation :
 - Multiple Establishments in different countries to be considered as separate entities
- Rule 2 PPSR
 - In case of multiple establishments, place of establishment more closely connected with the activity to be considered
- How to determine the place of establishment more closely connected?
 - Invoice / Contract / Payment
 - Debit to Accounts (Bearing of Cost)
 - Actual Performance/Consumption of the Service

Multiple Establishments

Service Provider Incorporated	Service Provider Establishment	Service Recipient Incorporated	Service Recipient Establishment	Issues...
Indian	Indian	Indian	Indian	Normal
Indian	Indian	Indian	Foreign	Export ?
Indian	Indian	Foreign	Indian	Normal ?
Indian	Indian	Foreign	Foreign	Export
Indian	Foreign	Indian	Indian	RCM ?
Indian	Foreign	Indian	Foreign	Exempt ?
Indian	Foreign	Foreign	Indian	RCM ?
Indian	Foreign	Foreign	Foreign	Exempt ?

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ANY QUESTIONS??