

Concept of Inter and Intra state supply Place of supply of goods and services

CA Aumkar Surendra Prachi Gadgil
M.Com, ACA
Senior Manager Indirect taxes
gokhale and sathe
Chartered Accountants

Levy of taxes

- Levy means, imposition or charge created, of duties and taxes, on happening of a taxable event.
- Levy of GST will take place on an identified taxable event to be called as “**supply**”. Supply may be of goods/services it may be inter state or intra state.
- Section 9 of the CGST Act and Section 5 of the IGST act are the charging which bring in the levy of GST
- However duty/tax liability is created on happening of taxable event but the collection of tax may be deferred for administrative convenience.

As per the charging section 9(1) of the CGST Act 2017

There shall be levied a tax



To be called as CGST/SGST



On the *intra state supplies* of goods and or services



On a value determined under section 15 of CGST Act



At such rates as may be notified by CG/SG in this regard
not exceeding 20% on recommendation of GST council



Collected in such manner as may be prescribed

As per the charging section 5(1) of IGST Act 2017:

There shall be levied a tax



To be called as IGST



On the *inter state supplies* of goods and or services



On a value determined under section 15 of CGST Act



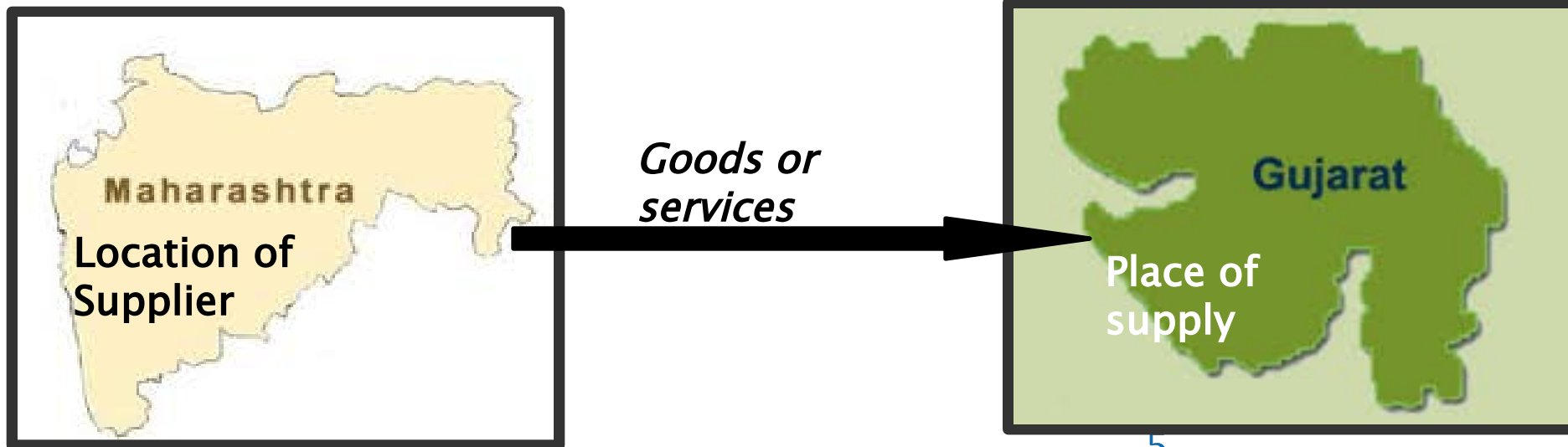
At such rates as may be notified by CG in this regard not exceeding 40% on recommendation of GST council



Collected in such manner as may be prescribed

Supplies of goods and/or services in the course of inter-State trade or commerce

- Subject to the provisions of section 10 IGST Act, supply of goods 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/ union territories or a state and a union territory.
- Subject to the provisions of section 12 IGST Act, supply of 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/ union territories or a state and a union territory.



Inter state supplies

- Supply of goods in the course of import into the territory of India till they cross the customs frontiers of India.
- Supply of services in the course of import into the territory of India shall be deemed to be a supply of services in the course of inter-State trade or commerce.
- Supply of goods and/or services, when the supplier is located in India and the place of supply is outside India.
- Supply of goods and/ or services to or by a SEZ developer or an SEZ unit.
- Any supply of goods and/or services in the taxable territory, not being an intra State supply and not covered elsewhere.

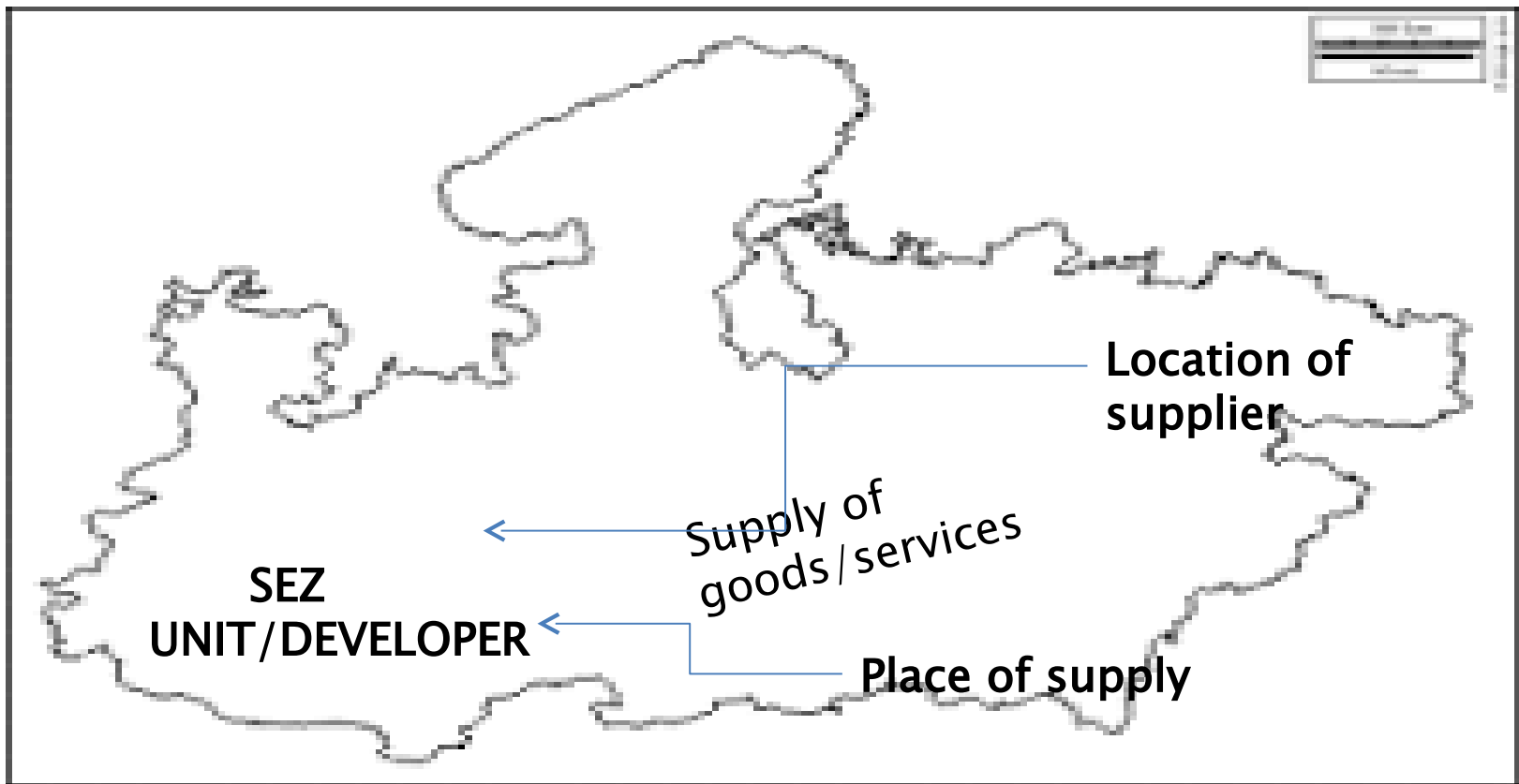
Supplies of goods and/or services in the course of intra-State trade or commerce

Subject to the provisions of section 10 and section 12 respectively of the IGST act intra-State supply of goods/services means any supply of goods/services where the **location of the supplier** and the **place of supply** are in the **same State**



Supplies not considered as intra state supply of goods and or services

- supply of goods and or services to or by a SEZ developer or to or by an SEZ unit



Supplies not considered as Intra state supply and Section 9

- supply of goods brought into India in the course of import till they cross the customs frontiers of India.
- Supplies made to tourist as referred in Section 15 of the IGST Act 2017.
- As per Section 9 of the IGST Act 2017, Where the location of supplier is in the territorial waters, the location of such supplier or
- Where the place of supply is in the territorial waters, the place of supply, shall for the purpose of this act be deemed to be in the costal state or Union territory where the nearest point of appropriate baseline is located.

1. The place of supply of goods, **other than supply of goods imported into, or exported from India, shall be as under,**

- a. where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;

- b. where the goods are 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, 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;

- c. where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;
- d. where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;

Section 11 The place of supply of goods

- a. imported into India shall be the location of the importer;
- b. exported from India shall be the location outside India.

Section 12 Place of Supply of Services

1. The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.

2. The place of supply of services, except the services specified in sub-sections (3) to (14)
 - a. made to a **registered person** shall be the **location of such person**;
 - b. made to any person other than a registered person shall be,
 - i. the **location of the recipient where the address on record exists**; and
 - ii. the location of the supplier of services in other cases.

3. The place of supply of services,
- a. directly in relation to an immovable property, including 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 co-ordination of construction work; or
 - c. 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; or
 - e. by way of accommodation in any immovable property for organizing 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; or
 - f. any services ancillary to the services referred to in clauses (a), (b) and (c), shall be **the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:**

Provided that if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

Explanation.—Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, 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.

4. The place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the **location where the services are actually performed.**
6. The place of supply of services in relation to training and performance appraisal to,—
 - a. a registered person, shall be the location of such person;
 - b. a person other than a registered person, shall be the location where the services are actually performed.
6. The place of supply 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.

7. The place of supply of services provided by way of,
- a. organization 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
 - b. services ancillary to organization of any of the events or services referred to in clause (a), or assigning of sponsorship to such events,—
 - i. to a registered person, shall be the location of such person;
 - ii. to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

Explanation.—Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in each of the respective States or Union territories 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.

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

9. The place of supply of passenger transportation service to,
 - a. a registered person, shall be the location of such person;
 - b. a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:

Provided that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of sub-section (2).

Explanation.—For the purposes of this sub-section, the return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.

10. The place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.
11. The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall,—
 - a. in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;
 - b. in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on the record of the supplier of services;
 - c. in cases where mobile connection for telecommunication, internet service and direct to home television services are provided on pre-payment basis through a voucher or any other means,—
 - i. through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher, be the address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or

- ii. by any person to the final subscriber, be the location where such prepayment is received or such vouchers are sold;
- d. in other cases, be the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services:

Provided that where the address of the recipient as per the records of the supplier of services is not available, the place of supply shall be location of the supplier of services:

Provided further that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services.

Explanation.—Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the respective States or Union territories 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.

12. The place of supply of banking and other financial services, including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services:

Provided that if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services.

14. The place of supply of insurance services shall,—
 - a. to a registered person, be the location of such person;
 - b. to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.
15. The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be 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.

Section 13

1. The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services or the location of the recipient of services is outside India.
2. 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, Provided that 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.
5. The place of supply of the following services shall be the location where the services are actually performed, namely
6. services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services:

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 services:

Provided further that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs and are exported after repairs without being put to any other use in India, than that which is required for such repairs;

b. services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on his behalf, with the supplier for the supply of services.

4. The place of supply of services supplied directly in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co ordination of construction work, including that of architects or interior decorators, shall be the place where the immovable property is located or intended to be located.

5. The place of supply of 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, and of services ancillary to such admission or organisation, shall be the place where the event is actually held.

6. Where any services referred to in sub-section (3) or sub-section (4) or sub-section (5) 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.

7. Where the services referred to in sub-section (3) or sub-section (4) or sub-section (5) 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.
8. The place of supply of the following services shall be the location of the supplier of services, namely
 - a. services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;
 - b. intermediary services;
 - c. services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month.

Explanation.—For the purposes of this sub-section, the expression,

- a) “account” means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;
- b) “banking company” shall have the same meaning as assigned to it under clause (a) of section 45A of the Reserve Bank of India Act, 1934;

- c) “financial institution” shall have the same meaning as assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934;
- d) “non-banking financial company” means,—
 - i. a financial institution which is a company;
 - ii. a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner; or
 - iii. such other non-banking institution or class of such institutions, as the Reserve Bank of India may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.

9. The place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods.

10. The place of supply in respect of passenger transportation services shall be the place where the passenger embarks on the conveyance for a continuous journey.

11. The place of supply of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey.

12. The place of supply of online information and database access or retrieval services shall be the location of the recipient of services.

- a. the location of address presented by the recipient of services through internet is in the taxable territory;
 - b. the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;
 - c. the billing address of the recipient of services is in the taxable territory;
 - d. the internet protocol address of the device used by the recipient of services is in the taxable territory;
 - e. the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;
 - f. the country code of the subscriber identity module card used by the recipient of services is of taxable territory;
 - g. the location of the fixed land line through which the service is received by the recipient is in the taxable territory.
13. 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.

Thank you

CA Aumkar Surendra Prachi Gadgil
M.Com, ACA
Senior Manager Indirect taxes
gokhale and sathe
Chartered Accountants