

Refresher Course on GST



Time of Supply including provisions relating to invoice, Value of Taxable supply, GST Valuation Rules, Related Transitional Provisions

By

A. R. Krishnan

April 8th, 2017

***Organized by
WESTERN INDIA REGIONAL COUNCIL***

Areas Covered [In this Session]

- Time of Supply of Goods & Services (including Change in Rate of Tax)
- Value of Supply of Goods & Services (including draft valuation Rules issued on 31.3.17)
- Issuance of Invoice (including draft Invoice Rules)
- Related Transitional Provisions



Note: * The presentation is based on the *CGST, IGST & UTGST Bills introduced in the Parliament on 27.3.2017 and the draft Rules placed in the public domain by CBEC on 31.03.2017*

* sections referred to in the presentation pertain to CGST Bill

TIME OF SUPPLY ("TOS")

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Time of Supply – (TOS)

Relevance

- **Liability to pay** CT / ST / IT - Time of supply – [S.12(1) & S.13(1)]
- **For ascertaining the supplies made during a tax period for payment of tax and filing of returns before the due date**

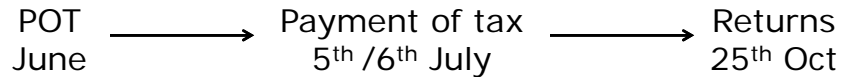
N. B. Present POT rules read with Rule 6(1) more explicit about due date of payment

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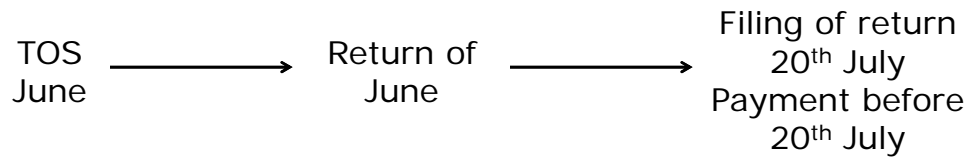
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Present dispensation



GST Scenario



TIME OF SUPPLY OF GOODS

Time of Supply – (TOS)

Time of supply of Goods



- Time of supply of goods [S.12(2)]– Earliest of the following
 - Date of issue of Invoice / due date for issue of invoice [***deemed-supply to the extent of invoice***]
 - Date of receipt of payment (earliest of credit in books / bank) [***deemed- supply to the extent of payment***]
 - Receipts upto Rs. 1,000/- in excess of the amount indicated in the invoice – TOS (at option of supplier) to be date of issue of invoice in respect of such excess amounts.

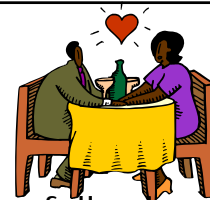
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Time of Supply – (TOS)

RCM (Scenario)



- Time of supply of goods [S.12(3)] – Earliest of the following
 - Date of receipt of goods by recipient
 - Date of payment (earliest of debit in his Books / Bank)
 - Date following expiry of 30 days from issue of supplier's invoice / any other document in lieu of invoice

N.B: In case TOS not determinable on the above basis, TOS is date of entry in recipient's books.

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Time of Supply – (TOS)

SUPPLY OF VOUCHERS



- Time of supply [S.12(4)] –
 - If supply identifiable - Date of issuance of voucher
 - If supply not identifiable – Date of redemption of voucher


Time of Supply – (TOS)

RESIDUAL CASES

- *Determining TOS of goods not possible* under previous provisions, TOS to be [S.12(5)]-
 - Date on which periodical return has to be filed
 - Date of payment of CT / ST / IT

Time of Supply – (TOS)

Addition in value of Supply by way of

- Interest
 - Late fee
 - Penalty
- } Is it Supply 

TOS – date of receipt of addition in value

TIME OF SUPPLY OF SERVICES

Time of Supply – (TOS)



Time of Supply of services [S.13(2)(a)]

- If invoice issued within prescribed time – Earliest of the following
- Date of issue of Invoice [***deemed-supply to the extent of invoice***]
 - Date of receipt of payment (earliest of credit in his books/ bank) [***deemed- supply to the extent of payment***]

Time of Supply – (TOS)

Time of supply of services [S.13(2)(b)]

- *If invoice not issued within prescribed time* – Earliest of the following
- Date of provision of service
 - Date of receipt of payment (earliest of credit in his books / bank) [***deemed- supply to the extent of payment***]

Time of Supply – (TOS)

Time of supply of services [S.13(2)(c)]

➤ *If all three dates unknown viz.,*

- Date of issue of invoice
- Date of receipt of payment
- Date of provision of service

TOS to be *date of receipt of supply* as recorded in books of accounts of recipient.

Time of Supply – (TOS)

Time of supply of services [Proviso to S.13(2)]

- *Receipt upto Rs. 1,000/- in excess of the amount indicated in the invoice – TOS (at the option of supplier) to be date of issue of invoice in respect of such excess amount*

Time of Supply – (TOS)

RCM (Scenario) – [S.13(3)]



- Time of supply of services – Earliest of the following
 - Date of payment (earliest of debit in his Books / Bank)
 - Date following expiry of 60 days from issue of supplier's invoice or any other document in lieu of invoice
- N.B: In case not determinable on the above basis, TOS is date of entry in recipient's books.*
- 'Associated Enterprises' - Supplier located outside India- Earliest of -
 - Date of entry in recipient's books.
 - Date of payment

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Time of Supply – (TOS)

SUPPLY OF VOUCHERS



- Time of supply [S.13(4)] –
 - If supply identifiable - Date of issuance of voucher
 - If supply not identifiable – Date of redemption of voucher

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Time of Supply – (TOS)

RESIDUAL CASES

- *Determining TOS of services not possible under previous provisions , TOS to be [S.13(5)]*
 - *Date on which periodical return has to be filed*
 - *Date of payment of CT/ ST/ IT*

Time of Supply – (TOS)

Addition in value of supply by way of

- *Interest*
- *Late fee*
- *Penalty*

TOS – date of receipt of addition in value

TOS of Goods/ Services

Where there is Change in rate of Tax

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TOS if change in rate of tax [S.14]

Supply of Goods/ service	Invoice issued	Payment received	TOS of Services / goods	Rate applicable
Before	After	After	Date of Invoice / receipt whichever is earlier	New
Before	Before	After	Date of invoice	Old
Before	After	Before	Date of receipt of payment	Old
After	Before	After	Date of receipt of payment	New
After	Before	Before	Date of invoice / receipt whichever is earlier	Old
After	After	Before	Date of invoice	New

Date of receipt of payment –

- earliest of date of Credit in Books / Bank A/c; or
- If payment credited after 4 working days of change in rate of tax - date of credit in Bank A/c considered as date of receipt of payment

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VALUE OF TAXABLE SUPPLY

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VALUE OF TAXABLE SUPPLY



- Relevant Provisions
 - Section 15 of CGST / SGST Act.
 - Draft Rules on Determination of Value of Supply

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
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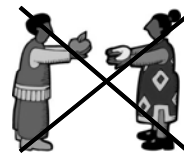
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Value of Taxable Supply

- CT /ST /IT to be levied on supply of goods / services on value determined u/s. 15 at notified rates (not exceeding 20%) and collected in prescribed manner by Taxable person [S.9(1)]
- Value of Supply = Transaction Value (TV)= Price Paid / Payable for Supply

Subject to 2 Conditions

- Supplier & recipient not related 
- Price is sole consideration for supply



- TV *subject* to **inclusions** and **exclusions**



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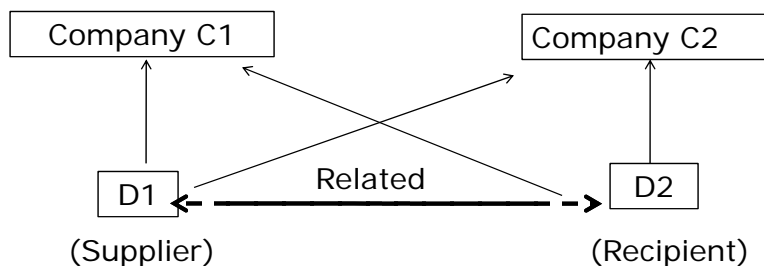
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RELATED PERSONS

[Explanation to S. 15]

Supplier and recipient related if

- they are *officers* or *directors* of one another's businesses
 - Relationship should be reciprocal
 - Makes Directors / officers related not businesses



- 'Director' / 'officer' not defined 

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- they are legally recognized partners in business
 - Supply between Partners is a related party transaction
- they are employer and employee
 - Employees' services to Employer – no GST
 - Employee supplies goods / services to employer – related party transaction
 - Employer supplies goods / services to employee
 - ✓ as consideration for employees' services-may not be liable
 - ✓ as separate transaction

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- any person directly or indirectly owns, controls or holds > 25% of the outstanding voting stock/shares of supplier and recipient
 - Third Party (TP) must hold outstanding voting stock / shares
 - Non – voting stock not counted
 - Supplier holding 25% of voting stock of recipient not sufficient. TP holding 25% in Supplier and Recipient is relevant

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- one of them directly or indirectly controls the other $[X \xrightarrow{c} Y]$
- both of them are directly or indirectly controlled by a third person $[Z \xrightarrow{c} X \& Y]$
- together they directly or indirectly control a third person $[X \& Y \xrightarrow{c} Z]$

'Control' –

- In all the above 3 scenarios, X & Y are related
- No requirement of reciprocity
- A person can be said to 'control' the other if he is legally or operationally in a position to exercise restraint or direction over the other [Interpretative Note to rule 2(2)(v) of Customs Valuation Rules 2007]

- they (X & Y) are members of the same family
- one (X or Y) is the sole agent / distributor / concessionaire of the other (X or Y).

X & Y related person.

- 'Person' includes legal person



Inclusions in Transaction Value

- Taxes, duties, fees and charges levied under any statute other than CT / ST / IT / UT Act if charged separately by supplier – Stamp Duty/ Property tax ?
- Any amount in relation to supply, where supplier liable to pay but incurred by recipient to the extent not included in price
 - Door delivery sale but freight paid by buyer?
 - Interior contractor using electricity and water of client?
 - Auditor using cabin space of client
 - Customized tiles provided by the buyer of flat?

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Inclusions in Transaction Value

- Incidental expenses such as Commission, packing or any other amount **charged** by supplier to recipient of supply
- Interest / late fee / penalty for delayed payment of consideration for supply
- Subsidies directly **linked** to the price
 - Included in value of supply of the supplier who receives the Subsidy
 - Subsidy provided by Central Government and State Government excluded

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Exclusions from Transaction Value

- Post supply discount to be excluded from Trans. Value if –
 - Established as per agreement entered into ***at or before*** time of supply and specifically linked to relevant invoices
 - Input tax credit attributable to the discount has been reversed by recipientE.g. Volume discount
- Discounts given before or at time of supply excludible if same is duly recorded in invoice

Valuation as per Rules

- Value to be determined as per Rules in cases ***where –***
 - transaction ***value not determinable;***
 - Notified Supplies

DETERMINATION OF VALUE OF SUPPLY RULES

Value of supply

- Where Consideration not wholly in money
- Where supply is between establishments of same persons considered as distinct u/s 25(4) and 25(5) – Inter-branch supplies
- Where supply is made/received through agent
- Based on cost
- Residual cases
- Specified supplies
- In case of pure agent
- Rate of exchange for determination of value

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VALUE OF SUPPLY WHERE CONSIDERATION NOT WHOLLY IN MONEY TO BE

Open market value of such supply

If above value not available
Consideration in money + amount equivalent to consideration not in money if known at time of supply

If not determinable by above methods
Value of 'supply of like kind and quality'

If not determinable by above methods
Consideration in money + amount equivalent to consideration not in money determined by cost method/Residual method of valuation

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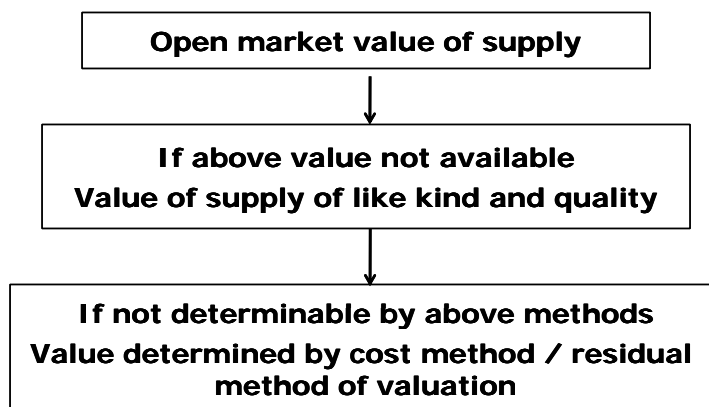
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- Open market value (“OMV”) = value in money (excluding CT / ST /IT) payable in a transaction where
 - Supplier and recipient are unrelated persons
 - Price is sole consideration

- Supply of goods / services of like kind and quality – supply made under similar circumstance that characteristics, quality, quantity, functional component, materials and reputation of goods and services resemble to that of supply.

VALUE OF SUPPLY IN CASE INTER-BRANCH OR UNIT SUPPLIES CONSIDERED AS DISTINCT TAXABLE PERSONS



If recipient eligible for full ITC – value declared in invoice to be OMV

VALUE OF SUPPLY OF GOODS BETWEEN PRINCIPAL AND AGENT

- At option of supplier
 - Open market value of goods
 - 90% of price charged for goods of same kind and quality on sale to unrelated buyer, where goods are further supplied by Recipient (i.e. principal or agent).
- If value not determinable by above method, to determine
 - By cost based valuation
 - Residual method of valuation

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COST BASED VALUATION METHOD

If value not determinable by any of the preceding Rules

Value = [Cost of production/ Manufacturing / Acquisition of goods / cost of provision of services] X 110%

Residual Valuation method

- If value not determinable by any of the preceding Rules - Value to be determined using reasonable means consistent with principles of Section 15 and these rules
- Supplier of service can opt for valuation under this rule instead of valuation under cost based valuation Rule

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Valuation in case of Specified Supplies

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Rules for valuing Money Changer Services



- If FX exchanged for INR,
 - Value = (RBI Ref. Rate – Buy/Sell Rate) x total units of currency
 - If RBI rate not available, Value = 1% of INR paid / received
- If Fx exchanged for Fx, say USD for GBP
Value = 1% of (INR value at RBI reference rate of USD or GBP whichever is less)



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Optional method for money changers

Fixed for a financial year

Gross amount of currency exchanged	Value of supply shall be
Upto Rs. 1,00,000/-	1% of gross amount of currency exchanged subject to min. of Rs.250/-
Rs.1,00,001/- to Rs.10,00,000/-	Rs.1,000/- plus 0.5% of gross amount of currency exchanged
Rs.10,00,001/- and above	Rs.5,000/- plus 0.10% of gross amount of currency exchanged subject to max of Rs.60,000/-

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Value of supply – Air Travel agent

Supply by way of Booking	Value of supply
▪ Domestic air tickets	5% of Basic Fare
▪ International air tickets	10% of Basic fare

Basic Fare = part of airfare on which commission paid by airline to air travel agent

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Value of supply – Life insurance business

Type of insurance policy	Value of Supply
<ul style="list-style-type: none"> ▪ Part of premium amount is allocable for investment / saving on behalf of policy holder 	Gross premium charged minus amount allocable for investment / savings
<ul style="list-style-type: none"> ▪ Single premium annuity policy 	10% of single premium charged
<ul style="list-style-type: none"> ▪ Other cases <ul style="list-style-type: none"> • First year • Subsequent year 	25% of the premium charged 12.5% of the premium charged

N. B. Specified valuation Rules not applicable where Entire premium is towards risk cover

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Value of Supply – other cases

Nature of supply	Value of Supply
<ul style="list-style-type: none"> ▪ Supply by way of buying and selling of second hand goods / used goods as such or after doing minor processing - nature of goods not changed and no ITC claimed on purchase 	Selling price – purchase price <ul style="list-style-type: none"> • Negative values to be ignored
<ul style="list-style-type: none"> ▪ Redeemable token coupons Vouchers against goods / service. 	Money value of redeemable goods / services
<ul style="list-style-type: none"> ▪ Notified services between deemed distinct persons / establishments except where the service are not eligible as input credit 	NIL

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Pure Agent for services

Recovery of reimbursements by SP excludible if incurred as a *pure agent* & all other conditions satisfied :



- SP pays as a *pure agent of recipient* , when he makes payment to third party for services procured as the contract for supply made by third party is between third party and the recipient of supply
- SR uses the services so procured by the supplier SP in his capacity as pure agent of the recipient of supply
- SR liable to pay to TP 
- SR authorizes SP to make payment 
- SR knows that services shall be provided by TP to recipient of services
- SP indicates payment separately in his invoice
- No profit – exact amount recovered
- Payments towards services procured from TP in addition to own supplies [C+R]



[SP = Supplier; SR = Supply recipient]

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“Pure agent” means an agent who -

- Contracts with SR for incurring expenditure as pure agent
- Holds no title to the goods / services procured
- Does not use such goods / services
- Receives only actual amount incurred to procure such goods / services



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Rate of exchange to be applied for determining value of taxable supply -
RBI reference rate on date when POT arises

*But in GST there is no concept of POT → it is TOS
Tongue of the slip?*

Tax Invoice

[Section 31 to 34]

Tax invoices /Bills

- Registered taxable person to issue '**Tax Invoice**' in prescribed format
 - ✓ for supply of goods – before or at time of
 - ❖ Removal of goods where movement of goods involved
 - ❖ Delivery of goods or making goods available to recipient in other cases
 - ❖ At any other prescribed time in respect of specified category of goods notified
 - ✓ for supply of services – within prescribed time
- Revised invoices may be issued for supply made between effective date of registration & issuance of RC
- Value of supply < Rs. 200/- – Registered Taxable person RTP may not issue invoice as prescribed



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Tax invoices /Bills

- Registered Taxable Person (RTP) making exempted/ composition supplier to issue '**Bill of supply**' in prescribed format instead of 'Tax invoice'
- Tax invoice also includes revised invoice
- RTP to issue receipt voucher containing prescribed details on receipt of advance payment & refund voucher in case no supply is made against such advance payment
- RCM Cases -
 - ✓ Recipient who is RP to issue invoice on date of receipt of goods / services where supplier not registered at time of supply
 - ✓ Payment voucher to be issued at time of payment in all cases

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Continuous Supply

[Provisions moved from TOS to
issuance of Invoices]

Continuous Supply of Goods

Continuous Supply of goods -

- Supply of goods on continuous / recurrent basis under a contract;
- Whether / not by means of wire, cable, pipeline or other conduit; &
- For such supply Supplier invoices the recipient on regular or periodic basis
- Any other notified supply of goods

Time of Issue of invoice

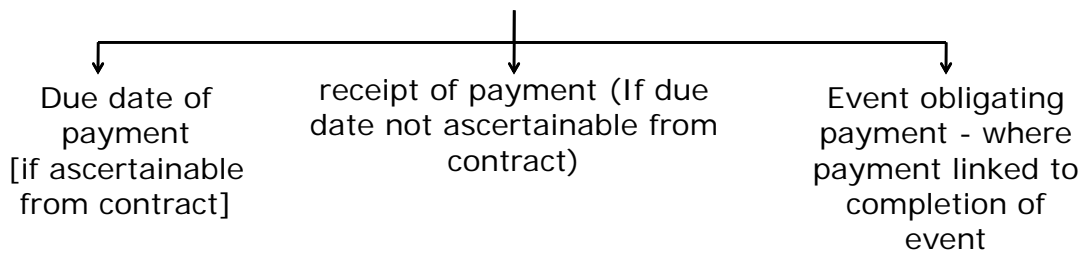
- Where successive statements of accounts / payments involved - Invoice to be issued before or at each time statement issued/ payment received
- No provision where no successive statements of accounts / payments involved

Continuous Supply of Services

Continuous Supply of service -

Supply of services on continuous / recurrent basis under a contract for a period exceeding 3 months with obligation to make periodic payments and includes services notified by the Central / State Govt. as continuous supply

Invoice to be issued on or before



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➤ Where supply of services ceases under a contract before completion of supply– invoice to be issued at time at when supply ceases and to the extent supply effected before cessation

➤ Removal of goods sent on approval for sale/return before supply takes place – Invoice to be issued earliest of

- Time of supply; or
- Six months from date of removal.

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Credit Notes/ Debit Notes

- Credit note maybe issued for – excess billing; goods returned; goods / services deficient
- Debit note to be issued – for shortfall in billed amount
- Person issuing /receiving Credit note / Debit note to disclose same in return for month in which note issued / received or any subsequent returns subject to outer time limit for credit note
- Outer Time limit for issuance - Earliest of
 - ✓ 30th Sept following end of F.Y. to which it pertains
 - ✓ Date of filing annual return (last date 31st December)
- *Reduction in output tax liability on a/c. of Cr. Note permissible only if incidence of tax and interest not passed on to any person*
- *Debit note to include supplementary invoice*

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Time limit for issue of invoices for services supplied

- Time limit for issuance of invoice –
 - by insurance cos., banking cos., NBFCs– 45 days from date of supply of service
 - Others – 30 days from date of supply of service
- Inter-branch supplies by insurance cos., banking cos., FIs, NBFCs, telecom operators, other notified suppliers of service – invoice to be issued before or at time such supplier records in his books or before expiry of quarter during which supply made

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DRAFT RULES

- Contents in Invoice
- Manner of issuing invoice
- Contents of Bill of supply
- Contents of Receipt of Voucher
- Contents of suppliers tax invoice Credit / Debit
- Contents of ISD invoices / ISD credit note
- Issue of invoice in special cases
- Transportation of goods without invoice in certain cases

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STUDY COURSE ON GST IN INDIA

Time of Supply including provisions relating to invoice, Value of Taxable supply, GST Valuation Rules, Related Transitional Provisions



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