

PLACE OF SUPPLY



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ANALYSIS OF THE DEFINITION OF TERM- "SUPPLY"

Following are the important constituents of Supply:

A. In case of Normal Supply:

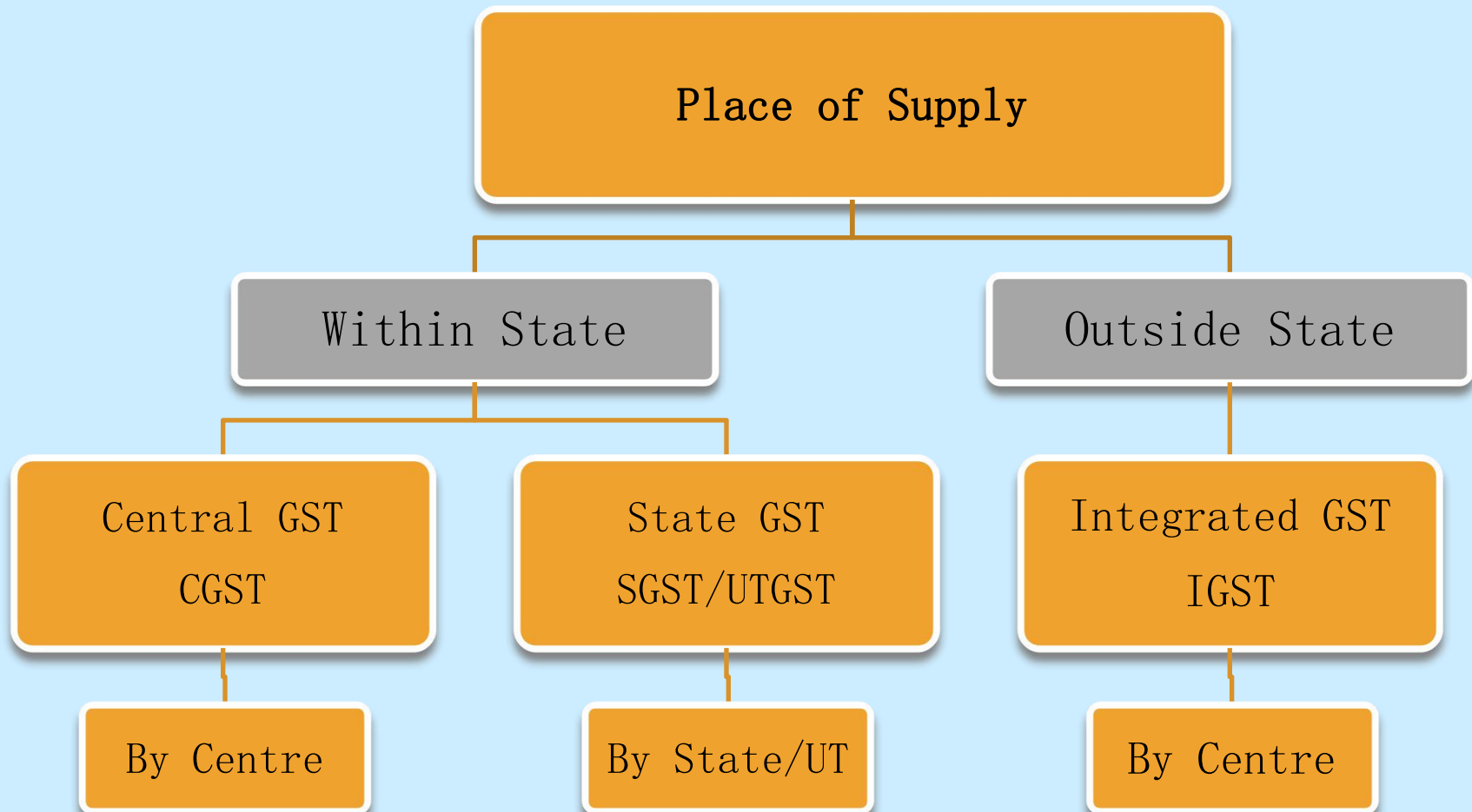
1. There must be **actual** provisions of goods/services by either sale, barter , Exchange etc. ; for
2. A **Consideration** by a person;
3. In the course of **furtherance of business** as defined in section 2(17) of Model GST Law.

Where the Goods/Services are Imported, GST would be applicable irrespective of consideration or used in furtherance of business or not.

DETERMINATION OF NATURE OF SUPPLY - NEED

- ✘ Different laws under
 - + Central
 - + State
 - + UT
 - + Integrated
- ✘ To determine which law is applicable

RELEVANCE OF PLACE OF SUPPLY



NATURE OF SUPPLY - INTER-STATE (SEC.7)

- ✘ Location of Supplier and **place of supply** are in different States/UTs;
- ✘ Supply of goods imported into India till they cross customs frontiers of India;
- ✘ Supply of services imported into India;
- ✘ Supplier is located in India and **place of supply** outside India;
- ✘ To or by SEZ developer or Unit;
- ✘ Other than above, where supply is in the taxable territory but not Intra-state supply

NATURE OF SUPPLY - INTRA-STATE (SEC.8)

- ✘ Location of Supplier and **place of supply** are in same States/UT;

- ✘ Does not include –
 - + Supply to or by SEZ developer or Unit;
 - + Supply of goods imported into India till they cross customs frontiers of India;
 - + Supply of goods made to tourist –(a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.)

NATURE OF SUPPLY - IN TERRITORIAL WATERS (SEC.9)

- ✘ Notwithstanding anything,
- ✘ Where location of supplier or place of supply is in territorial waters, the location of supplier or place of supply is deemed to in the coastal state or UT where the nearest point of the appropriate base line is located.

DEFINITIONS

× “location of the supplier of services”

means, - -

- + where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;
- + where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
- + where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
- + in absence of such places, the location of the usual place of residence of the supplier;

DEFINITIONS

× “location of the recipient of services”

means, - -

- + where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;
- + where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
- + where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
- + in absence of such places, the location of the

DEFINITIONS

- × “**address on record**” means the address of the recipient as available in the records of the supplier.
- × “**fixed establishment**” means a place (other than the registered place of business) which is characterised by a 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;

DEFINITIONS

- ✘ **Export of Service** - means the supply of any service when, - -
 - + the supplier of service is located in India;
 - + the recipient of service is located outside India;
 - + the place of supply of service is outside India;
 - + the payment for such service has been received by the supplier of service in convertible foreign exchange; and
 - + the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with *Explanation*

DEFINITIONS

- ✘ **Import of Service** - means the supply of any service when, - -
 - + the supplier of service is located outside India;
 - + the recipient of service is located in India;
 - + the place of supply of service is in India;

DEFINITIONS

- ✘ “continuous journey” means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued.
- ✘ *Explanation.* - - For the purposes of this clause, the term “stopover” means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time;

PLACE OF SUPPLY OF GOODS

SITUATION	SITUATION
<u>Sec. 10</u>	Other than Imports/Exports
<u>Sec. 11</u>	Imports / Exports

PLACE OF SUPPLY OF SERVICES

SITUATION	SITUATION- Location of
<u>Sec. 12</u>	Supplier & Recipient in India
<u>Sec. 13</u>	Supplier Or Recipient outside India
<u>Sec. 14</u>	Supplier of online Info/database access



P OF S - GOODS OTHER THAN IMPORTS/EXPORTS (SEC. 10)

S.no	Situations	Place of supply of goods
(a)	Supply involves movement of goods - by supplier/ recipient/ other person	Location of goods (at the time of termination of movement of goods for delivery)
(b)	Supplier acting on behalf of a third person, delivering goods to recipient	Principal place of business of third person
(c)	Supply does not involve movement of goods	Location of goods at time of delivery to recipient
(d)	Goods assembled/ installed at site	Place of such installation/ assembly
(e)	Supplied on board a conveyance - vessel, aircraft, train or MV	Location at which such goods are taken on board
(2)	Place cannot be determined as above	determined in such manner as may be prescribed.



P OF S - GOODS FOR IMPORTS/EXPORTS (SEC. 11)

S.no	Situations	Place of supply of goods
(a)	Goods Imported into India	Location of Importer
(b)	Goods Exported from India	Location outside India



P OF S - SERVICES - SUPPLIER AND RECEIVER ARE IN INDIA (SEC 12)

S.No	Services	Place of supply of services
(2)(a)	Not specified services - Supplied to registered person	Location of such person
(2)(b)	Not specified services - Supplied to person not registered	- Location of recipient if address on records exists; - otherwise, location of supplier
(3)(a)	- Directly in relation to immovable property - including 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	L o c a t i o n at which the immovable property or boat or vessel, as the case may be, is located or intended to be located

P OF S - SERVICES - SUPPLIER AND RECEIVER ARE IN INDIA (SEC 12)

S.No	Services	Place of supply of services
3(b)	By way of lodging accommodation by hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel;	L o c a t i o n at which the immovable property or boat or vessel, as the case may be, is located or intended to be located
3(c)	By way of accommodation in any immovable property for organising 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	L o c a t i o n at which the immovable property or boat or vessel, as the case may be, is located or intended to be located
3(d)	any services ancillary to the services referred to in clauses (a), (b) and (c),	L o c a t i o n at which the immovable property or boat or vessel, as the case may be, is located or intended to be located

P OF S – SERVICES - SUPPLIER AND RECEIVER ARE IN INDIA (SEC 12)

S.No	Services	Place of supply of services
(4)	Restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery	Location where services actually performed
(5)	Services in relation to training & performance appraisal	<ul style="list-style-type: none">• Location of registered person receiving the services• If person not registered - place where services performed
(6)	Admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto	Place where the event is actually held or where the park or such other place is located.



SPECIAL POINTS FOR IMMOVABLE PROPERTY RELATED SERVICES

- ✘ 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.
- ✘ Where the immovable property or boat or vessel is located in more than one State or Union territory,
 - + the supply is 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

PLACE OF SUPPLY - SERVICES

S.No	Services	Place of supply of services
(7)	<p>- Organisation 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</p> <p>- Services ancillary to organisation of any of the events or services referred to in clause (a), or assigning of sponsorship to such events</p>	<ul style="list-style-type: none">• To Regd. Person - his location• If person not registered - place where event actually held• If the event is held outside India - the location of recipient• If more than one state apportionment
(8)	Transportation of goods, including mail/courier	<ul style="list-style-type: none">• To Regd. Person - his location• If person not registered - place where such goods are handed over for their transportation.

PLACE OF SUPPLY - SERVICES

S.No	Services	Place of supply of services
(9)	Transportation of passengers Note : If place of embarkation is not known at the time of issue - General Rule.	<ul style="list-style-type: none">• To Regd. Person - his location• To a non-regd. person - the place where the passenger embarks on the conveyance for a continuous journey.
(10)	On board a vessel/ aircraft/ train/ motor vehicle	First scheduled departure of that conveyance
(11)(a)	Fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna	Telecomm. Line/ leased circuit/ cable connection/ dish antenna - installed
(11)(b)	Post paid mobile connection for telecommunication and internet services	Address of recipient on record of the supplier

PLACE OF SUPPLY - SERVICES

S.No	Services	Place of supply of services
(11)(c)	Pre paid mobile connection and DTH on pre-payment basis	<ul style="list-style-type: none">- through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher - the address of the selling agent or re-seller or distributor as per the record of the supplier- by any person to the final subscriber - location where such prepayment is received or such vouchers are sold
11(d)	In any other case	<ul style="list-style-type: none">- the address of the recipient as per the records of the supplier of services- where such address is not available, the location of the supplier of services

PLACE OF SUPPLY - SERVICES

S.No	Services	Place of supply of services
	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.

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

PLACE OF SUPPLY - SERVICES

S.No	Services	Place of supply of services
(12)	Banking and other financial services, including stock broking services to any person	<ul style="list-style-type: none">- the location of the recipient of services on the records of the supplier of services.- If not available on records location of supplier.
(13)	Supply of insurance services	<ul style="list-style-type: none">- to a registered person, be the location of such person- to a person other than a registered person, the location of the recipient of services on records

PLACE OF SUPPLY - SERVICES

S.No	Services	Place of supply of services
(14)	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	<ul style="list-style-type: none">- each of such States or Union territories- 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- in the absence of such contract or agreement, on such other basis as may be prescribed

POS - SERVICES - INTERNATIONAL

- ✘ 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.

PLACE OF SUPPLY OF SERVICES

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

Sl. no.	Rule	Situations	Place of supply of Service
1	13(3)	Performance based supply	
	(a)	<p>Services supplied in respect of goods which are required to be made physically available 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 service</p> <p>Proviso – when services are provided from a remote location by way of electronic means</p> <p>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>	<p>Location at which services are actually performed.</p>

PLACE OF SUPPLY OF SERVICES

Sl. no.	Rule	Situations	Place of supply of Service
1	13(3)	Performance based supply	
	(b)	services supplied to an individual, represented either as the recipient of service or a person acting on behalf of the recipient, which require the physical presence of the receiver or the person acting on behalf of the recipient, with the supplier for the supply of the service	Location at which services are actually performed .

PLACE OF SUPPLY OF SERVICES

Sl. no.	Rule	Situations	Place of supply of Service
1	13(4)	<p>Services provided directly related to an Immovable property including</p> <ul style="list-style-type: none">- 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 architects or interior decorators	where the immovable property is located or intended to be located

PLACE OF SUPPLY OF SERVICES

Sl. no.	Rule	Situations	Place of supply of Service
1	13(5)	admission to, or organization of: <ul style="list-style-type: none">- a cultural, artistic, sporting, scientific, educational, or entertainment event, or- a celebration, conference, fair, exhibition, or similar events Services ancillary to such admission	where the event is actually held
	13(6)	Multiple location based supply of 10(3)/(4)/(5) where one of the location is in taxable territory.	Location in taxable territory.

PLACE OF SUPPLY OF SERVICES

S l . no.	Rule	Situations	Place of supply of Service
1	13(7)	S e r v i c e s o f 1 3 (3) / (4) / (5) Supplied in more than one State,	Taken as being in each of the States in proportion to the value of services so provided in each State as ascertained from the terms of the contract or agreement entered into in this regard or, in absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf.

PLACE OF SUPPLY OF SERVICES

Rule	Situations	Place of supply of Service
13(8)	<p>a. supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders</p> <p>b. Intermediary services</p> <p>c. Service consisting of hiring of means of transport, including yachts excluding aircraft/vessels upto a period of one month</p> <p>account - > an account bearign interest to the depositor and includes NRE and NRO account</p>	<p>Location of the supplier of service</p>

PLACE OF SUPPLY OF SERVICES

Rule	Situations	Place of supply of Service
13(9)	Services of transportation of goods, other than by way of mail or courier	Place of destination of the goods
13(10)	Passenger transportation service	place where the passenger embarks on the conveyance for a continuous journey
13(11)	Services provided on a board a conveyance in course of passenger transport operation	First scheduled point of departure of that conveyance for the journey
13(12) (a)	online information and database access or retrieval services	location of recipient of service



DEFINITIONS

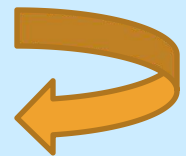
- ✘ “online information and database access or retrieval services” means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes

DEFINITIONS

- ✘ and includes electronic services such as, - -
 - + advertising on the internet;
 - + providing cloud services;
 - + provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
 - + providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
 - + online supplies of digital content (movies, television shows, music and the like);
 - + digital data storage; and
 - + online gaming;

DEFINITIONS

- ✘ “non-taxable online recipient” means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.



SECTION 6(2) AND (3) – GENERAL RULE

- ✘ Place of supply of services other than mentioned in Sub-sections (4) to (15) of Section 6:
 - + Made to a registered person –
 - ✘ shall be the location of such person.
 - + Made to a person other than a registered person.
 - ✘ shall be the location of the recipient where the address on record exists, and
 - ✘ Shall be the *location of the supplier of services* in other cases.

SECTION 6(4) – SERVICES IN RELATION TO IMMOVABLE PROPERTY ETC.

✘ Place of supply of services

1. in relation to:

✘ 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

2. By way of lodging accommodation by a:

- ✘ hotel,
- ✘ Inn,
- ✘ Guest house,
- ✘ Homestay,
- ✘ Club,
- ✘ Campsite, by whatever name called,
- ✘ **houseboat**, or
- ✘ **Any other vessel**

SECTION 6(4) – SERVICES IN RELATION TO IMMOVABLE PROPERTY

3. By way of accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official , social, cultural, religious, or business function including services provided in relation to such function at such property
 4. Any service ancillary to the services above
- ✘ shall be the location at which the immovable property or boat or vessel is located or intended to be located.
- When the property/boat/vessel is located in more than one State, the supply of service shall be treated as made in each of these states in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard

SECTION 6(5) – RESTAURANT AND OTHER SERVICES

- Place of supply of:
 - + Restaurant services,
 - + catering services,
 - + Personal grooming services,
 - + Fitness services,
 - + beauty treatment services, and
 - + Health service including cosmetic and plastic surgery
- shall be the location where the services are **actually performed**.
- Some of the above services may relate to businesses and business events - it would have been better to tax esp. Catering at the place where the recipient is located (in case of businesses)

ATHENA COMMENTS

- What would be the place of supply in case where the home delivery of food by restaurant. Whether it would be the
 - × location of restaurant i.e. where the food is actually prepared or
 - × it will be the location where the food is delivered
- Whether place of supply for delivery charges would also be governed as per the said subsection
- If personal grooming services provided over internet such as english speaking classes then how to determine place of supply

SECTION 6(6) – SERVICES RELATING TO TRAINING AND PERFORMANCE APPRAISAL

- ✘ Place of supply of services in relation to training and performance appraisal:
 - +To a registered person – shall be the location of such person
 - +To a person other than registered person – shall be location where the services are actually performed.

Athena Comments

- What would the place of supply if training event is happening over internet (such as webinar) and the recipient is not registered under GST

SECTION 6(7) – SERVICES RELATING TO ADMISSION TO EVENT/ PARK

- ✘ Place of supply services provided by way of:
 1. Admission to a
 - ✘ cultural event,
 - ✘ Artistic event,
 - ✘ Sporting event,
 - ✘ Scientific event,
 - ✘ Educational event,
 - ✘ entertainment event,
 - ✘ Amusement park, or
 - ✘ Any other place
 - AND
 2. Services ancillary to admission
 - shall be the place where the event is actually held or such place is located.

Athena Comments

- All the services covered under sub section (7) and (8), in the present scenario are governed by one rule i.e. Rule 6 of place of Supply Rules. As per present Rule 6 place of provision of services relation to admission or organization of an event is the place where such event is actually held.

SECTION 6(8) – SERVICES RELATING TO EVENTS

- ✘ Place of supply of services provided by way of:
 - + 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
 - + Services ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events:
 - ✘ To a registered person – shall be the location of such person
 - ✘ To a person other than a registered person – shall be the place where the event is actually held

Where the event is held in more than one State 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 the each of the states in proportion to the value of services so provided in each State as ascertained from the terms of the contract or agreement entered into in this regard or, in absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf

SECTION 6 (9) – TRANSPORTATION OF GOODS SERVICE

- ✘ Place of supply of services by way of transportation of goods including mail or courier:
 - + To a registered person - shall be the location of such person
 - + To a person other than registered person – shall be the location of at which such goods are handed over for their transportation.

Athena Analysis

- ✘ Contradictory with the current Rule. As per the current rule place of supply of such services is the location where the goods are destined for.
- ✘ As per this sub-section, if a person exports some goods out of India, the place of provision service for transporting such goods would be in India and thus it the said service would not qualify as export of service: all recipients outside India would be unregistered persons only.
- ✘ Likewise, if a person situated outside India sends some goods to India the place of provision would be outside India.

SECTION 6(10) – PASSENGER TRANSPORTATION SERVICE

- ✘ “continuous journey” means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stop over between any of the legs of the journey for which one or more separate tickets or invoices are issued;
 - For the purposes of this clause, ‘stopover’ means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time.

Athena Comments

- Whether flight with a stopover would be considered as continuous journey?
- It is not clear whether this sub-section would cover the services of travel agents? - ideally should not cover these services.

SECTION 6(10) – PASSENGER TRANSPORTATION SERVICE

- ✘ Place of supply for passenger transportation service:
 - + To a registered person - shall be the location of such person
 - + To 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 unknown at the time of issue of right to passage,
 - + the place of supply of shall be determined as per general rule i.e. as contained in sub section (2) or (3).

- ✘ For the purpose of this sub-section:
 - + the return journey is to be treated as a separate journey
 - + even if the right to passage for onward and return journey is issued at the same time.

SECTION 6 (11) – SERVICES ON BOARD A CONVEYANCE

- ✘ Place of supply for services on board a conveyance such as vessel, aircraft, train or motor vehicle shall be
 - + the location of the first scheduled point of departure of that conveyance for the journey

Athena Comments

- ✘ Manner of determining the place of provision of services under this subsection is same as that in the current place of provision of service rules.
- ✘ Examples of services covered under this sub-sections include
 - 1) paid internet services onboard aircrafts;
 - 2) paid movies or spa treatments onboard conveyance etc.

ATHENA COMMENTS

- In our view there may be a dispute as to whether supply of food and other article of human consumption, sold on board a conveyance, would be treated as supply of goods or supply of service. Accordingly whether place of supply of food articles on board a conveyance would be determined on the basis of this sub section or sub-section (11) of Section 6 (relating to place of supply of services on board a conveyance)
- ✘ First scheduled point of first departure is not defined in the IGST Act or the GST Act. In our view first schedule point of departure is the first location from where the vessel is starting its journey.

ATHENA COMMENTS

Particulars	Place of supply
Anil has received internet services on board a flight from Delhi to London	Delhi (first departure point of the journey)
Flight from Delhi to US has a scheduled stopover at Dubai and Ajay has received the spa services after the Dubai stopover	Delhi (in our view even in case of stop over journey the first scheduled point would be Delhi location from where the journey is started)

SECTION 6 (12) – TELECOMMUNICATION SERVICES

- × Place of supply of Telecommunication services including data transfer, broadcasting, cable and direct to home television to any person shall:-
 - + In case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna – location where the telecommunication line, leased circuit, cable connection or dish antenna is installed for receipt of services.
 - + In case of mobile connection for telecommunication and internet services provided on-
 - × ***post-paid basis*** –be the location of billing address of service recipient on record of service provider.
 - × ***pre-paid basis*** –be the location of where such pre-payment is received or such vouchers are sold.
 - × Provided that if such service is availed through internet banking or other electronic mode of payment, place of supply shall be the location of the service receiver on record of service provider.

SECTION 6 (13) – BANKING AND OTHER FINANCIAL SERVICES

- ✘ Place of supply for banking and other financial services including stock broking services to any person shall be
 - + the location of the recipient of services on records of the supplier of services.

- ✘ If the service is not linked to the account of the recipient of services, the place of supply shall be the location of the supplier of services.
 - + Some examples of such service can be 1) Currency Exchanges; 2) preparation of demand draft by banks on cash deposit; 3) discounting of bills of exchange etc.

- ✘ It is not clear if this sub-section is applicable to services provided by commodity exchanges or commodity traders.

SECTION 6 (14) – INSURANCE SERVICES

✘ Place of supply of *Insurance services*:

- +To a registered person – shall be the location of such person
- +To a person other than registered person – be the location of the recipient of services on the records of the supplier of services

Athena Comments

- ✘ This would mean that if insurance services is provided to a registered person then place of supply would be “location of recipient of service”. Location of recipient of service is defined in Section 2(64) of the GST Act.
- ✘ Alternatively if service is provided to a person who is not registered under GST then place of supply would be the “location of recipient of service as contained in the records of the service provider”.
- ✘ Insurance services are not defined in the Act. It is not clear whether this sub-section would cover the services provided by insurance agents. Ideally insurance agency services should not be included herein.
- ✘ There is no evident significance of this sub-section (14) since this is same as “General Rule” for determining place of supply of a service

SECTION 6 (14) – INSURANCE SERVICES

Example:

Particulars	Location of supplier	Location of recipient	Place of supply
LIC office of Delhi is providing health insurance service for employees of "ABC Ltd" registered in Haryana	Delhi	Haryana	Haryana
Tata AIG, Mumbai providing life insurance service to "X" of Ahmedabad	Mumbai, Maharashtra	Ahmedabad, Gujarat	Ahmedabad, Gujarat

LOCATION OF SUPPLIER OF SERVICE

✘ Location of supplier of service is defined in Section 2(65) as:

location of supplier of service” means:

(i) where a supply is made from a place of business for which registration has been obtained, the location of such place of business ;

(ii) where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;

(iii) where a supply is made from more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and

(iv) in absence of such places, the location of the usual place of residence of the supplier;

DEFINITIONS

- ✘ Export of goods – with its grammatical variations and cognate expressions, means taking goods out of India to a place outside India;
- ✘ Import of goods – with its grammatical variations and cognate expressions, means bringing goods into India from a place outside India
- ✘ “customs frontiers of India” means the limits of a customs area as defined in section 2 of the Customs Act, 1962;

PLACE OF SUPPLY OF SERVICES

Explanation to 13(12): Person receiving services shall be **deemed to be located in the taxable territory** if **any two of the following non contradictory conditions are satisfied**, namely:-

- (a) the location of address presented by the recipient of service via internet is in 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 service settles payment has been issued in the taxable territory;
- (c) the billing address of recipient of service is in the taxable territory;

PLACE OF SUPPLY OF SERVICES

- (d) the internet protocol address of the device used by the recipient of service is in the taxable territory;
- (e) the bank of recipient of service in which the account used for payment is maintained is in the taxable territory;
- (f) the country code of the subscriber identity module (SIM) card used by the recipient of service is of taxable territory;
- (g) the location of the fixed land line through which the service is received by the recipient is in taxable territory.

PLACE OF SUPPLY OF SERVICES

13(13) In order to prevent:

- double taxation or
- non-taxation of the supply of a service or
- for the uniform application of rules

The Central Government shall have the power to notify any description of service or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.

TIME OF SUPPLY



SUPPLY – TIME OF SUPPLY (GOODS)

TIME OF SUPPLY – GOODS

The time of supply of goods shall be the earlier of the following dates, namely:—

(a) the **date of issue of invoice** by the supplier or the last date on which he is required, under sub-section (1) of section 31, to issue the invoice with respect to the supply; or

(b) the date on which the supplier **receives the payment** with respect to the supply

Invoice Date

or

Receipt of Payment

TIME OF SUPPLY – GOODS – REVERSE CHARGE

The time of supply of goods shall be the earlier of the following dates, namely:—

(a) the date of the **receipt of goods**; or

(b) 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

(c) the date immediately following **thirty days from the date of issue of invoice or any other document**, by whatever name called, in lieu thereof by the supplier⁶²

Receipt of Goods

or

Date of Payment

or

30 days from Invoice/document

EXPLANATIONS

- ✘ Invoice or payments is partial, supply only to that extent is taken;
- ✘ Date of payment is determined as –
 - + Date of payment entered in the books of accounts; or
 - + Date on which the payment is credited in the bank account;whichever is earlier
- ✘ In case of reverse charge, if TOS is not possible, it shall be the date of entry in the books of the recipient of supply.

IN RESPECT OF VOUCHERS & GENERAL

- ✘ Date of issue of voucher –
 - + supply is identifiable at that point;
- ✘ Date of redemption of voucher
 - + in all other cases
- ✘ If POS is not determinable
 - + in case where periodical returns to be filed – due date of returns.
 - + in other cases – date on which the tax is paid.

TIME OF SUPPLY (SERVICES)

TIME OF SUPPLY – SERVICES

The time of supply of goods shall be the earlier of the following dates, namely:—

(a) the **date of issue of invoice** by the supplier, if the invoice is issued within the period prescribed under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or

(b) the **date of provision of service, if the invoice is not issued within the period prescribed** under sub-section (2) of section 31 or the date of receipt of payment, whichever is earlier; or

(c) the date on which the recipient shows the receipt of services in his books of account, in a case where the provisions of clause (a) or clause (b) do not apply

Invoice Date

or

Receipt of Payment

or

Others:Recipient Based

TIME OF SUPPLY – SERVICES – REVERSE CHARGE

The time of supply of goods shall be the earlier of the following dates, namely:—

(a) 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

(b) the date immediately following **sixty days from the date of issue of invoice or any other document**, by whatever name called, in lieu thereof by the supplier⁶⁵

Date of Payment

or

60 days from Invoice/document

INTEREST, LATE FEE AND PENALTY FOR DELAYED PAYMENT

- ✘ In case of delayed payment of consideration for which interest, late fee or penalty is payable,
- ✘ The TOS is the date on which the supplier receives such addition in value.

TIME OF INVOICE IN CASE OF CONTINUOUS SUPPLY

✘ Goods –

- + Where successive statement of accounts or successive payment is involved –
- + Invoice shall be issued before or at the time each such statement is issued/each such payment is received

✘ Services –

- + Where due date is ascertainable from the contract
 - ✘ Invoice be issued on or before the due date of payment
- + where due date is not ascertainable from the contract
 - ✘ invoice to be issued before or at the time when the supplier receives the payment
- + payment is linked to completion of an event
 - ✘ Invoice to be issued on or before the date of completion of the event.

FAQS

1. What exactly is the concept of destination based tax on consumption?

Ans. The tax would accrue to the taxing authority which has jurisdiction over the place of consumption which is also termed as **place of supply**.

2. Whether separate registration is required for each State if a person is registered for more than 1 state?

Ans. Yes

3. What are the benefits which the Country will accrue from GST?

Ans. the biggest gain would be in terms of a reduction in the overall tax burden on goods, which is currently estimated at 25%–30%

FAQS CONT...

4. Who is liable to pay GST under the proposed GST regime?

Ans. Under the GST regime, tax is payable by the **taxable person** on the supply of goods and/or services. Liability to pay tax arises when the taxable person crosses the threshold exemption, i.e. Rs. 20 lakhs (Rs. 10 lakhs for NE States) except in certain specified cases.

5. What is the taxable event under GST?

Ans. Time of Supply

6. Whether supplies made without consideration will also come within the purview of Supply under GST?

Ans. Yes only those cases which are specified under Schedule I to the Model GST Law.

FAQS CONT...

7. Who are the persons liable to take a Registration under the Model GST Law?

Ans. Any supplier who carries on any business at any place in India and whose aggregate turnover exceeds threshold limit as prescribed in a year is liable to get himself registered. However, certain categories of persons mentioned in Schedule III of MGL are liable to be registered irrespective of this threshold.

8. What is aggregate turnover?

Ans. As per section 2(6) of the MGL, aggregate turnover includes the aggregate value of: (i) all taxable and non-taxable supplies, (ii) exempt supplies, and (iii) exports of goods /service of person of same PAN.

FAQS CONT...

9. Whether the Department through the proper officer, can suo-moto proceed with registration of a Person under this Act?

Ans. Yes.

10. Who is a Casual Taxable Person?

Ans. Casual Taxable Person has been defined in Section 2 (21) of MGL. It means a person who occasionally undertakes transactions in a taxable territory where he has no fixed place of business.

11. Are self-supplies taxable under GST?

Ans. Inter-state self-supplies such as stock transfers will be taxable as a taxable person has to take state wise registration in terms of Schedule 1(5). Such transactions have been made taxable even if there is no consideration. However, intra-state self-supplies are not taxable.

FAQS CONT...

12. What Proxies or assumptions in a transaction can be used to determine the place of supply?

Ans: (a) location of service provider
(b) location of the service receiver
(c) the place where the activity takes place / place of performance.
(d) the place where it is consumed and
(e) the place / person to which actual benefits flow.

13. What would be the place of supply where goods are removed?

Ans: movement of the goods terminates for delivery to the recipient (Section 10 of IGST Act)

14. What will be the place of supply if the goods are delivered by the supplier to a person on the direction of a third person?

Ans: The principal place of business of such person. (Section 9 of IGST Act)

FAQS CONT...

15. What is the default presumption for the place of supply in respect of B2B supply of services?

Ans: Location of such person.

16. What is the default presumption for the place of supply in respect of unregistered recipients?

Ans: location of recipient

where location of recipient is not available , location of supplier of service is taken as proxy for place of supply. (as discussed in Q 12. above)

17. The place of supply in relation to immovable property is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states. What will be the place of supply?

Ans: Here the supply of service shall be treated as made in each of the states in equal proportion to the value of services separately collected or determined, in terms of contract or agreement entered into in this regard or, in the absence of such contact or agreement such other reasonable basis as may be prescribed in this behalf. [Sec 12(3) of IGST Act.]

FAQS CONT...

18. What would be the place of supply of services provided for organizing an event say IPL Cricket series which is held in various states?

Ans. If the recipient of service is registered, the place of supply of service shall be location of such person. Whereas if the recipient is not registered, the place of supply shall be where the event is held. Since consolidated amount of fees is charged for such services, the place of supply shall be taken as being on each state in proportion to the value of services so provided in each state.

19. A person from Ahmednagar travels by Air India Flight from Delhi to Mumbai and gets his travel insurance done in Delhi. What will be the place of supply?

Ans. The location of the recipient of service on the records of the supplier of Insurance services shall be the place of supply. So Ahmednagar would be the place of supply.

FAQS CONT...

20. A person in Goa buys shares from a broker in Delhi on NSE(in Mumbai) .
What will be the place of supply?

Ans. The place of supply shall be the location of the recipient of services on the records of the supplier of the services. So Goa shall be the place of supply.

Learning is a continuous process... Keep it Up!!

THANK YOU

CA. Rohit R. Bora