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Participant Handbook

Sector
**Banking Financial Services
and Insurance (BFSI)**

Sub-Sector
**Lending, Fund Investment
Services, Payments, Banking**

Occupation
Finance & Accounts

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**Goods & Services Tax
(GST) Accounts Assistant**

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Phone: 011 - 4358 5858, 2328 5568 Fax 011 - 2324 3519, 4311 5858

Email: info@rachnasagar.in, rachnasagar@hotmail.com

Website: www.rachnasagar.in

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BFSI

Banking Financial Services and Insurance (BFSI)

P J Towers, 25th Floor, Dalal Street, Mumbai - 400001, India

Email: operations@bfsissc.com

Website: www.bfsissc.com

Phone: 022 - 22728748 / 22728866 / 22728965

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Shri Narendra Modi
Prime Minister of India

“ Skilling is building a better India.
If we have to move India towards
development then Skill Development
should be our mission. ”



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1. Identifying GST Taxable Event

Unit 1.1 – Introduction

Unit 1.2 – Understanding Important Terms of GST

Unit 1.3 – Incidence of Tax

Unit 1.4 – Classification



Unit 1.1 Introduction

Unit Objectives

At the end of the unit, you will be able to:

- Recognise the applicability of SGST, CGST and IG

GST means Goods and Services Tax. This law is levied on supply of taxable goods and services. It extends to whole of India, except Jammu and Kashmir. It comes in to force from **1st July 2017**. It is possible that different provisions of the Act may be made applicable from different dates to ensure that there is no simultaneous operation.

GST is said to be a destination based tax. It means that tax will finally accrue to the state where final consumption takes place. Final consumption is called place of supply of goods or services.

We will learn as to what is the exact meaning of “**goods**” and “**services**” in other chapters. We will also learn the meaning of “**supply**” and “**place of supply**” in separate chapters. At present, we can only note that it is not the “**sale**” on which GST is charged, but on “**supply**” of goods or services. Therefore, even when goods are supplied without consideration, GST may be chargeable in certain cases.

Although the act is common for goods and services, there are various provisions which are different for goods and for services.

Whether GST will be levied on all the goods and services? Answer is

No

1. There are some goods on which tax is not **leviable**. e.g. alcoholic liquor for human consumption.
2. There are some goods on which tax is **not leviable for now** but in future, it may be levied on the basis of recommendation made by GST Council.
3. There are some goods which are **exempt** from taxation. Such exemption are made considering some social aspect. e.g. Services of a health clinic are exempt from taxation. When such exemption is withdrawn by any notification in future, a general rate of GST or the rate specified for those goods or services will be applicable.
4. There are certain goods which are not appearing in the list of exempt goods but appear in the taxable goods or services but the rate mentioned for such goods is **NIL**.
5. The final effect of all the four mentioned above is same , that there is no GST charged on the same but there are various other technical implications.
6. It may be noted that existing VAT and Excise duty will be continued to be charged on items mentioned in Sr.No.1 and 2 above.

The laws that govern taxes on Goods and Services are called GST Acts. Both Centre and State (or Union Territory) are the beneficiaries and hence there are two Acts to collect any transaction which happens within any state/Union Territory and one Act for supply between two different states or Union Territories.

1. Central GST (**CGST**)
2. State/Union Territory Act of the respective state.(**SGST/UTGST**)

3. For inter- state transaction there is Integrated GST. (**IGST**)

Apart from these Acts there is one more Act , The Goods and Services – (Compensation to States) Act 2017. (**GSTCS**). This act is introduced to provide for compensation to the States for the loss of revenue arising on account of implementation of the goods and services tax. This tax is levied on a few specified goods at present. It is expected that such levy will be collected **for five years** but this period can be extended on recommendation of the GST Council.

Thus, these are **four acts** which are the backbones of GST.. They are all related and connected to each other. Apart from this, there would be **rules** to explain in detail the procedural matters and to prescribe various forms. The Govt. would also issue **Notifications** from time to time which may exempt, cancel exemptions, change rates, give effect to certain provisions, specify dates from which certain provisions will become applicable.

In order to understand the taxability of GST and the exact rate and the exact amount payable, time and procedure for payment etc.it becomes necessary to study the provisions of all four Acts, Rules and Notifications under the Act.

The Act which covers the most basic definitions and provisions related to supply of Goods or Services within state are given in Central Goods and Services Tax Act, 2017. (Referred by us as **CGST Act**). Other Acts have referred and used definitions and provisions of CGST. Reference to sections given in this book, is from CGST Act unless otherwise stated.

Provisions related to inter-state transaction are given in Integrated Goods and Services Tax Act, 2017. (Referred by us as **IGST Act**). Provisions explaining as to what is the place of supply are also given in IGST Act.

Provisions related to Union Territories are given in The Union Territory Goods and Services Tax Act, 2017. (Referred by us **UTGST Act**) Wherever provisions in these acts are similar to CGST Act , we have not mentioned the same.

The maximum GST that can be levied by Centre is 20% and the state can also levy 20%, making the total of 40%. However, currently the actual maximum tax prescribed on any commodity or services is 28%.

Taxes levied by the Govt. can be classified in to

- (a) Direct Tax and
- (b) Indirect Tax.

What is the difference between the two? In case of direct tax, the tax payer pays the tax from his own pocket, without specifically recovering from any one.

Example of direct Taxes are Income Tax, Wealth Tax, Profession Tax etc.

Example of indirect Taxes are Excise Duty, VAT, Service Tax, Entertainment Tax etc.

Indirect tax is collected from customer and then paid. The price of goods or services is already increased even before it he receives such goods and services.

What type of Tax is GST?

GST is an **indirect tax**. We do come across some situations in GST where the businessman pays GST even when he does not collect it. However, nature of GST is broadly, an indirect tax. We will learn about them in subsequent chapters.

GST is applicable throughout India except the state of Jammu and Kashmir. It comes in to force from **1st July 2017**.

It is said that Introduction of GST in India, one of the **biggest fiscal and economic reforms** since independence. Why is it said so?

- India is a vast country with 29 states and 7 Union territories.
- Large proportion of business community is unorganized and scattered.
- Each state has its own set of problems, advantages and disadvantages.
- In Centre and state, there may be governments with different political ideologies.
- Major source of revenue for some of the states used to come from state VAT acts. There was a fear for the states that they would lose revenue on account of implementation of GST.
- Distribution of share of revenue between Centre and state is a complex matter.
- Implementation of GST involved consensus among all the states, cancellation of various other laws which prevailed for a very long time.

Till the date of implementation of GST Till there were several indirect and direct taxes India which used to tax goods or services.

They were

1. VAT
2. Service tax
3. Central Excise Duty
4. Central Sales Tax
5. Entry Tax
6. Octroi
7. LBT
8. Countervailing Duty
9. Special Additional Customs Duty
10. Surcharges and
11. Cess

All the above mentioned taxes will now be cancelled and there will be only GST. It may be noted that the following taxes will still be continued.

1. Basic Customs Duty
2. Export Duties
3. Stamp Duties
4. Electricity Duties
5. Taxes on professions, trades, callings and employments

Need for Change

- Some of the **taxes** were levied **again and again** if goods used to move from one state to another. There would be central sales tax as many times as it would cross the boundary of any of the states.
- Sometimes there would be confusion about **whether** the supply was for **goods or service**. e.g. packaged software has always been a matter of controversy. Since taxing authority for goods was respective state and for services it was centre, there would be dispute as to who would tax such sale or the service as the case may be.
- Since VAT was a state subject (to be taxed by the state) , each state would decide the rate of VAT which is sold in respective state. Therefore, **same commodity** would be available at **different price** in different states.
- Entry Tax, Octroi, LBT were considered as **hindrance in the free movement** of goods.
- **Many taxes** operating on same subject matter would not only create confusion but would become difficult to act upon.
- The nastiest and unpleasant effect of these taxes was that there would be tax on tax. In many cases, taxes already paid at the time of purchases would never be set off against the taxes to be paid at the time of set off.

In order to overcome these difficulties, GST has been introduced. After implementation of GST

1. There is common tax for Goods and Services.
2. Taxes on taxes avoided.
3. Same Tax rate for a given commodity throughout the country.
4. Excise Duty abolished.
5. Many other indirect taxes abolished.
6. Seamless credit with respect to taxes paid on purchase of goods or on availing services.
7. Although compliance in terms of filing of returns has increased, no. of taxes with respect to which compliance was required has gone down.
8. Filing of returns is completely online throughout the country resulting in very less chances for errors and delays.

GST takes care of tax on goods as well as services. It also takes care of giving credit for the GST already paid by buyer of goods or by a person availing such services. Let us take an example to understand this concept with assumption that GST is 20% and the businessman was not getting any set off on the input tax earlier.

Example



(All amounts in INR)

Purchased Material	10000
Material GST @20%	2000
Material Total (A)	12000
Finishing services availed	3000
Services GST @20%	600
Services Total (B)	3600
Total Cost (C) = (A)+(B)	15600
Profit 10%	1560
Selling Price	17160
GST @20% on Sales Price.	3432
Total Sales Price including GST	20592

If the businessman does not get any benefit (set-off) of the taxes paid by him on his purchases or availing of services, then his profit is only 1560. However, if he gets such benefit of set off of tax paid by him at the time of purchase of goods, then he will pay only Rs. 832 as his GST as follows.

Total GST Payable	3432
Less: GST Paid on Goods	2000
Less: GST Paid on Services	600
GST to be paid to the Govt.	832

In this case his profit increases by GST paid by him on his purchase

i.e Rs. 2000 + Rs. 600 = 2600.

Thus total profit would be Rs. 1560 + Rs. 2600 = Rs. 4160.

This can be also calculated from cost side .

Since he gets the set off of the taxes already paid, his real cost is

Material cost	10000
Services Cost	3000
Total Cost	13000
Sale Price	17160
Real Profit	4160

Thus he pays GST of Rs. 832 which is 20% of 4160 which is value added by him over the cost.

The businessman can actually reduce his selling price due to the benefit of full set off of taxes that he might get in GST regime.

In fact, there is a provision in the GST Act wherein it states that in such situation, the businessman is compulsorily required to pass on this benefit to the customers by reducing the selling price of such goods. In short, he is **not supposed to make any profits** out of the benefit that he would get **due to implementation of GST**.

All intra-State supplies would be liable to CGST. The levy is on supply of all goods or services or both except on the supply of alcoholic liquor for human consumption. Besides, supply of petroleum crude, high speed diesel, motor spirit (petrol), natural gas and aviation turbine fuel are also included in GST. However, the tax will be levied on these goods only with effect from such date as may be notified by the Government after recommendation of the Council.

Services Tax (GST) will be on 'supply' of goods or services or both, in India except Jammu and Kashmir. When we say India, it also includes the area up to 200 nautical miles inside sea for purpose of GST.

All the policies related to GST are determined by GST Council from time to time. GST is the Apex constitutional body.

GST is being implemented after making One Hundred and First Amendment in the Constitution of India.

All the decisions related to GST are being taken by GST Council. Let us know a little about GST Council.

The Goods and Services Tax Council (GST Council)

GST Council consists of the following members. namely:—

- (a) the Union Finance Minister: Chairperson;
- (b) the Union Minister of State in charge of Revenue or Finance : Member;
- (c) the Minister in charge of Finance or Taxation or any other Minister nominated by each State Government: Members.
- (3) The Members of the Goods and Services Tax Council would, choose one amongst themselves to be the Vice-Chairperson of the Council for such period as they may decide.
- (4) Function of the Goods and Services Tax Council would be to make recommendations to the Union and the States on—
 - (a) the taxes, cesses and surcharges levied by the Union, the States and the local bodies which may be subsumed in the goods and services tax;
 - (b) the goods and services that may be subjected to, or exempted from the goods and services tax
 - (c) model Goods and Services Tax Laws, principles of levy, apportionment of Goods and Services Tax levied on supplies in the course of inter-State trade or commerce under article 269A and the principles that govern the place of supply;

- (d) the threshold limit of turnover below which goods and services may be exempted from goods and services tax;
- (e) the rates including floor rates with bands of goods and services tax;
- (f) any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster;
- (g) special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand; and
- (h) any other matter relating to the goods and services tax, as the Council may decide.
- (i) At present petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel is out of the purview of GST. The GST Council shall recommend the date on which these product will come within GST regime.

GST Council has met **18 times till 30th June 2017** to take various decisions.

Exercise



1. Which taxes will be cancelled as a result of GST.
2. What is the maximum rate of GST that can be levied?
3. What is the maximum GST being levied?
4. What is the date from which GST becomes effective?
5. Whether GST is applicable all over India?
6. Which goods are totally out of the purview of GST?
7. Which are the goods which are not within the purview of GST but may become chargeable from a date as may be recommended by GST Council?
8. What is the basic limit of turnover up to which GST is not chargeable? Is it same for all the states in India?
9. Is it correct to say that GST is applicable on sale of goods or services?
10. Whether provisions related to goods and services are exactly same?
11. Whether supply of goods without consideration will attract GST?

Unit 1.2 Understanding Important Terms of GST

Unit Objectives



- Business
- Consideration
- Goods
- Services
- Supply
- Inter-state Supply
- Intra State Supply
- Continuous Supply

Business - Section 2(17)

Importance: Levy of Service Tax is on Supply of Goods or Services. (Section 9).

Definition of Supply (Section 7) uses the words “in furtherance of business on many occasions. Therefore, it is necessary for us to understand the meaning of the word business, since in case the activity is out of the definition of business, then it will be out of definition of supply and GST will not be applicable.

Apart from this, there are several occasions where the word business is used.

Refer **Annexure I** at the end of this topic.

Following important points emerge from definition of ‘Business’

The definition of ‘business’ is inclusive definition.

Following points emerge from the definition of ‘business’ —

- This definition is very wide and covers all the transactions that are currently subjected to various taxes that are being subsumed in the GST Laws
- Similar activities are also included which means that it is not necessary that the activity should exactly match with the defined activities.
- volume, frequency, continuity or regularity of such transaction is irrelevant. Such aspects are important in understanding “business” under Income Tax Act. Occasional transactions are subjected to GST. Adventure is also covered.
- ‘Wager’ includes betting. This is also included in the definition of business
- Charitable or religious activities are not specifically covered; Exempted services from GST list includes charitable trusts etc. subject to certain terms and conditions.
- Profit motive irrelevant, immaterial.
- Incidental or ancillary business is also covered.

Consideration - Section 2(31)

Importance: Levy of Service Tax is on Supply of Goods or Services. (Section 9)

Definition of the word Supply includes the word “for a consideration” at many places. In many cases the consideration has been made necessary for transaction to be called as supply. In some cases consideration is specified to be not necessary.

Refer Annexure I at the end of this topic.

Following important points emerge out of it.

- This is an **inclusive** definition. Therefore, what is not specifically mentioned in the definition, but has the features of consideration can also be treated as consideration.
- Consideration can be in the form of money or otherwise.
- **Deposits** received are **not consideration**. However **when** they are **applied** towards supply are **consideration**.
e.g. Three months deposit may be received at the time of renting a property. This is not consideration. However, if the tenant does not pay the rent for the last three months and asks the owner to adjust it against rent, it becomes consideration at that time.
- Payment received by the supplier in relation to the supply, whether from the recipient or any other person can be consideration. Thus **advance received** in relation to supply shall also be subject to GST.
- Third party to a contract can also pay and it is not necessary that only the recipient or the service has to pay towards consideration;

Goods – Section 2(52)

Importance: Levy of Service Tax is on Supply of Goods or Services. (Section 9).

Therefore, in order to levy tax, the subject matter has to be either **goods** or services. In this part we will learn how goods are defined under the Act.

Refer Annexure I at the end of this topic.

Following important points emerge out of it.

- For anything to be considered as goods. It should be a **moveable** property. Thus immovable property is out of the subject matter of GST. However there are **exceptions** to this. It means that subject matter is immovable, still chargeable to tax.
 - i. First exception is in the section itself. The section says that **growing grass** or crop, for the time being not moveable, **which are agreed to be severed before supply** or under a contract of supply, still included in the definition of the goods.

(Other exceptions are given by including certain transactions related to immovable property in the definition of supply. These are given in schedule II to the CGST Act.)

Refer Annexure II to this chapter for Schedule II to the Act.

- ii. renting of immovable property (This will be deemed as supply of service);
- iii. When any person sells any immovable property as construction of a complex, building, civil structure or a part thereof, including a complex or building, wholly or partly. (This will be deemed as supply of service);
However, if entire consideration has been received after issuance of completion certificate, or after its first occupation, whichever is earlier then it will not be treated as supply.
- iv. Section 9 (1) has specified that GST cannot be levied on supply of alcoholic liquor for human consumption and hence although they are goods, GST is not applicable.
- v. Section 9(2) has specified that supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified. Therefore, although these are goods, no GST can be levied on the same.
- vi. Sale of Land will neither be supply of goods nor service (Schedule III of CGST Act – refer Annexure III below this chapter)

- Money and securities will not be considered as goods.
- Actionable Claims are included in the definition of goods. However, as per schedule III to CGST Act, actionable claims other than lottery, betting and gambling are not to be considered as supply of goods or services. Please Refer Annexure 3 to this chapter for Schedule III to the Act.
- Thus, actionable claims, say amounts receivable from borrower, are transferred by a bank to another person are out of the ambit of GST. However, if such receivables are related to lottery or betting, they will be considered as goods.
- Intangible goods like DEPB license, copyright and carbon credit would continue to be covered under 'goods'.

Services – Section 2(102)

Importance: Levy of Service Tax is on Supply of Goods or Services. (Section 9).

Therefore, in order to levy tax, the subject matter has to be either goods or services. In this part we will learn how services are defined under the Act.

Refer Annexure I at the end of this topic.

Following important points emerge out of it.

- In this definition it is presumed that all the transactions of supply that happen will be either of goods and non- goods. Therefore, all transactions other than transactions of supply of goods will be considered as supply of services unless specifically taken out of GST.
- Thus, all those transactions or activities that are left out of the definition of 'goods' would fall under the meaning of services.

- The definition of service is so broad that practically sky is the limit for imposing any tax. Such definition has eliminated the need of defining each and every service.
- Thus, services will be out of GST, only when specific provision is made for their exclusion. There are some exceptions which are given in Schedule III to CGST. Please refer **Annexure 3** to this chapter. These exceptions are
 - i. Services by an employee to the employer in the course of or in relation to his employment. Thus salaries or remuneration paid to employees is not subject to service tax. Reimbursement of expenses to employees would also fall in to this category. However, a clear clarification to that effect will be welcome. Full time directors also get monthly remuneration and hence that will be covered by this provision. However, fees paid to non-executive director shall not come under this provision and hence taxable under GST.
 - ii. Services by Tribunals, Courts, Members of Parliament etc. are also exempt.
 - iii. Sale of Land will neither be supply of goods nor service.
 - iv. Activity related to actionable claims (other than lottery, betting and gambling will neither be goods nor service).

Supply – Section 7

Importance: Levy of Service Tax is on Supply of Goods or Services. (Section 9).

Therefore, in order to levy tax, there has to be **supply** of Goods or Services. GST is levied on “**Supply**” of Goods or Services. The erstwhile act on VAT was levied on “**Sale**” of Goods. Is there any difference between the words “Supply” and “Sale”?

In this part we will learn how services are defined under the Act.

Refer Annexure 1 at the end of this topic.

Following important points emerge out of it.

- This is inclusive definition.
- While the GST Act is common for Goods and Services, it becomes necessary to distinguish between supply of goods and supply of services. This is so because provisions related to time of supply of goods and those of services are different. Similarly provisions related to place of supply related to goods and those of services are different.
- Meaning of Sale as per erstwhile tax related to goods was transfer of property in goods ‘for valuable consideration’. Thus valuable consideration was essential element for levy of tax.
- Supply will not only include sale, but it would also include a few non-sale transactions also.
- In order to bring activities such as supply of goods or services such as sale, transfer, barter, exchange, licence, rental, lease or disposal made, the same should be for a **consideration** by a person in the course or **furtherance of business** (Term business is already explained above) e.g. donation of books to needy children will not be considered as supply as it is neither for furtherance of business nor for consideration.

- There are some exceptions to this rule as follows.
 - i. in case of import of services for a consideration, even if such services are imported **otherwise than in the course or furtherance of business**, it would be deemed to be a supply.

There are some activities which are mentioned in the Schedule I of CGST (Refer **Annexure 4** below this chapter) which will be treated as supply even when they are made **without consideration**. These are as follows.
 - ii. When business assets are permanently transferred or disposed on which input tax credit has been taken. Thus when some assets in business are given free, even then it will be considered as supply.
 - iii. Supply of goods or services between related persons or between a different establishments of same persons who have taken multiple registrations (called distinct persons under section 25). Thus branch transfer will also be considered as supply under this clause.
 - iv. Import of Services by taxable person related person or from any of his other establishment outside India in the course of furtherance of business.
- There are certain activities which will be deemed as services which are mentioned in scheduled II. (Refer Annexure 2) which are as follows.
 - 1) Any Transfer of right in goods or of undivided share in goods.
 - 2) With respect to land and building,
 - any lease, tenancy, easement, licence to occupy land is a supply of services;
 - any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.
 - Any treatment or process which is applied to another person's goods is a supply of services.
 - 3) Renting of immoveable property will be treated as supply of service. (It may be note that renting of residential property for residential uses is exempt from service tax under Exemption Services Schedule.)
 - 4) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly. However when entire consideration has been received after issuance of completion certificate (OC) , where required, by the competent authority or after its first occupation, whichever is earlier then it shall not be treated as service. In such case it will be out of the purview of GST.

Background of Inter- State and Intra State Supply

Although we say that there is only one GST throughout the nation, this GST is to be shared amongst states and centre based on certain principles. Hence While receiving or making invoices we always come across the following types of GST.

- (a) Central GST (CGST)
- (b) State GST (SGST)
- (c) Union Territories GST
- (d) Integrated GST (IGST)
- (e) Compensation Cess.

India has federal structures with 29 states and 7 union territories. The 7 Union Territories are Delhi, Andaman and Nikobar Island, Chandigadh, Daman and Diu, Dadra and Nagar Haveli, Pondicherry, Lakshadweep

Out of these Delhi and Pondicherry have their own State legislature and hence they will have their own SGST.

In order to understand types of taxes it is necessary to understand types of supply

- A) Intra State Supply or Intra Union Territories Supply. Intra Union Territories supply shall have same implication and hence for all practical purposes, intra Union Territory Supply is called Intra State Supply.
- B) Iner State Supply

Intra State Supply – Section 8 of IGST

Importance: In order to apply appropriate tax we need to cleanly classify amongst the above mentioned three categories

In case of **intra-state** supply following two output taxes will be charged in the invoice. Bifurcation between CGST and SGST/UTGST is not officially notified but expected to be 50% each.

- (i) CGST (50% of total tax)
- (ii) SGST (50% of total tax)

In case of **intra union territory** supply – following two output taxes will be charged.

- (i) UTGST (50% of total tax)
- (ii) SGST (50% of total tax)

In case of inter-state supply only following output tax will be charged

IGST (This will typically be equal to sum of CGST and SGST for any given product or services).

It will be noticed from above that in case of intra state supplies, the receiver (place of supply) is within the state or union territory and hence the state or union territory gets to collect 50% of the total tax. Remaining 50% goes to the centre.

In case of inter-state supply the receiver of the supply is in the other state therefore, the full tax collected in the form of IGST. 50% of this will go to the state where the receiver of the supply is and remaining 50% will go to the centre. In case other state is not involved, such as in case of import or export, the full amount shall remain with centre.

From this discussion it is clear that 50% of the tax is always received by the centre and 50% of the tax is always received by the state where receiver of the supply is.

Thus, GST is **consumption based taxation**. The earlier tax - Vat used to be collected by supplier state. This is marked change from current principal of supplier state based taxation to consumption state based taxation.

It may be worthwhile to note that collection of IGST is not fully used by the Centre. It part of the collection shall be paid to the respective state where supply is made. (Place of Supply) Thus IGST only enables tax collection by centre, to transfer state's share to the respective state to which supply is made.

Refer **Annexure 1** at the end of this topic

The section specifies that , where the supplier and the receiver (place of supply) are in the same state it is called **intra state supply**. It must be noted that some transactions where supplier and receiver are in the same state are specifically **excluded** from the definition of intra state supply. They are

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

Inter-State Supply - Section 7

Importance: We have learned the importance while learning Intra State Supply.

Inter-state Supply is defined in section 7 of IGST Act.

Refer Annexure 1 for definition of inter-state supply.

This section specifies that following types of supply shall be considered as inter- state supply

- a) where location of supplier is in one state and receiver (Place of supply) is in another state or
- b) where location of supplier is in one union territory and receiver (Place of supply) is in another union territory or
- c) where location of supplier is in one union territory and receiver (Place of supply) is in another state
- d) where location of supplier is in one state and receiver (Place of supply) is in another union territory.

Apart from this there are certain supplies which are deemed as inter-state supply which are given as follows :

- (a) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit; (Even though supplier and place of supply are in the same state.
- (b) supplies made to a tourist referred to in section 15 (Even though such supply is within the same state.
- (c) goods imported into the territory of India till they cross the customs frontiers of India;(Even though the same is in the same state).
- (d) Supply of services imported into the territory of India shall be treated to be supply of services in the course of inter-State trade or commerce.
- (e) Supply of goods or services or both, when the supplier is located in India and the place of supply is outside India (Export)
- (f) Supply of goods or services or both in the taxable territory, not being an intra-State supply and not covered elsewhere in this section,

Continuous Supply

Importance: In case of supply which is continuous in nature, different set of provisions are made for the purpose of making invoice. Since payment of the tax depends on the making of invoices, it becomes essential to understand as to exactly what is covered by the definition of continuous supply.

Continuous supply of goods is defined in sec. 2(32) and continuous supply of services is defined section 2(33).

Refer Annexure 1 for definition of Continuous Supply.

Compensation Cess

The states fear that there may be a revenue loss to them due to implementation of GST. The union has agreed to compensate for loss of any such revenue. In order to create revenue to compensate the states, GST (Compensation to States) Act has been passed and some additional taxes are levied on some specified goods.

Annexure 1 Understanding Important Terms in GST

Section 2(17) of CGST Act defines 'Business' as follows —

"Business" includes —

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit.*
- (b) any activity or transaction in connection with or incidental or ancillary to (a) above.*
- (c) any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction*

- (d) supply or acquisition of goods including capital goods and services in connection with commencement or closure of business*
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members.*
- (f) admission, for a consideration, of persons to any premises.*
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation.*
- (h) services provided by a race club by way of totalisator or a licence to book maker in such club and*
- (i) Any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.'*

Section 2(31) of CGST Act defines "**consideration**" as follows.

"Consideration" in relation to the supply of goods or services or both includes—

- (a) any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;*
- (b) the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government:*

Provided that a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

Section 2(52) of CGST Act defines "**Goods**" as follows.

"Goods" means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

Section 2(102) of CGST Act defines "**Services**" as follows.

"Services" means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged

Section 7 of CGST Act defines "**Supply**" as follows.

(1) For the purposes of this Act, the expression "supply" includes—

- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;*
- (b) import of services for a consideration whether or not in the course or furtherance of business;*
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration; and*
- (d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.*

(2) Notwithstanding anything contained in sub-section (1),—

- (a) activities or transactions specified in Schedule III; or*
- (b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.*

(3) Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

- (a) a supply of goods and not as a supply of services; or
- (b) a supply of services and not as a supply of goods.

Section 8 of IGST Defines **Intra State Supply** as follows

8. (1) Subject to the provisions of section 10, supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intra-State supply:

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

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

(2) Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply:

Provided that the intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.

Explanation 1.—For the purposes of this Act, where a person has,—

- (i) an establishment in India and any other establishment outside India;
- (ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or
- (iii) an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons.

Explanation 2.—A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

Section 7 of IGST defines **Inter-State Supply** as follows.

7. (1) Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in—

- (a) two different States;
- (b) two different Union territories; or
- (c) a State and a Union territory,

shall be treated as a supply of goods in the course of inter-State trade or commerce.

(2) Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce.

(3) Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in—

- (a) two different States;
- (b) two different Union territories; or
- (c) a State and a Union territory,

shall be treated as a supply of services in the course of inter-State trade or commerce.

(4) Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce.

(5) Supply of goods or services or both,—

(a) when the supplier is located in India and the place of supply is outside India;

(b) to or by a Special Economic Zone developer or a Special Economic Zone unit; or

(c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.

Section 2(32) defines “**continuous supply of goods**” as follows.

“continuous supply of goods” means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify;

Section 2(33) defines “**continuous supply of services**” as follows

“continuous supply of services” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;

Annexure 2 Understanding Important Terms in GST

SCHEDULE II [See section 7]

ACTIVITIES TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

1. Transfer

(a) any transfer of the title in goods is a supply of goods;

(b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;

(c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

2. Land and Building

(a) any lease, tenancy, easement, licence to occupy land is a supply of services;

(b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

3. Treatment or process

Any treatment or process which is applied to another person’s goods is a supply of services.

4. Transfer of business assets

(a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;

(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;

(c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—

- (i) the business is transferred as a going concern to another person; or
- (ii) the business is carried on by a personal representative who is deemed to be a taxable person.

5. Supply of services

The following shall be treated as supply of services, namely:—

- (a) renting of immovable property;
- (b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.

Explanation.—For the purposes of this clause—

(1) the expression “competent authority” means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—

- (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or
- (ii) a chartered engineer registered with the Institution of Engineers

(India); or

- (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;

(2) the expression “construction” includes additions, alterations, replacements or remodelling of any existing civil structure;

(c) temporary transfer or permitting the use or enjoyment of any intellectual property right;

(d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;

(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and

(f) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

6. Composite supply

The following composite supplies shall be treated as a supply of services, namely:—

- (a) works contract as defined in clause (119) of section 2; and
- (b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.

7. Supply of Goods

The following shall be treated as supply of goods, namely:—

Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.



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