Supply
&
place of supply

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Meaning of Supply

Levy is based on supply of goods and services [section 9]

- ✓ **Section 7(1)(a):Supply includes-** All forms of supply of **goods or services or both**, made or agreed to be made for a *consideration by a person* in the *course or furtherance of business*

  such as:

  - sale, transfer, barter, exchange, license, rental, lease or disposal

- ✓ **Section 7(1)(b):** importation of services, for a consideration whether or not in the course or furtherance of business

Meaning of Business

'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 sub-clause (*a*);

c) any activity or transaction in the nature of sub-clause (*a*), 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;

Meaning of Business

'Business' includes

f) admission, for a consideration, of persons to any premises;

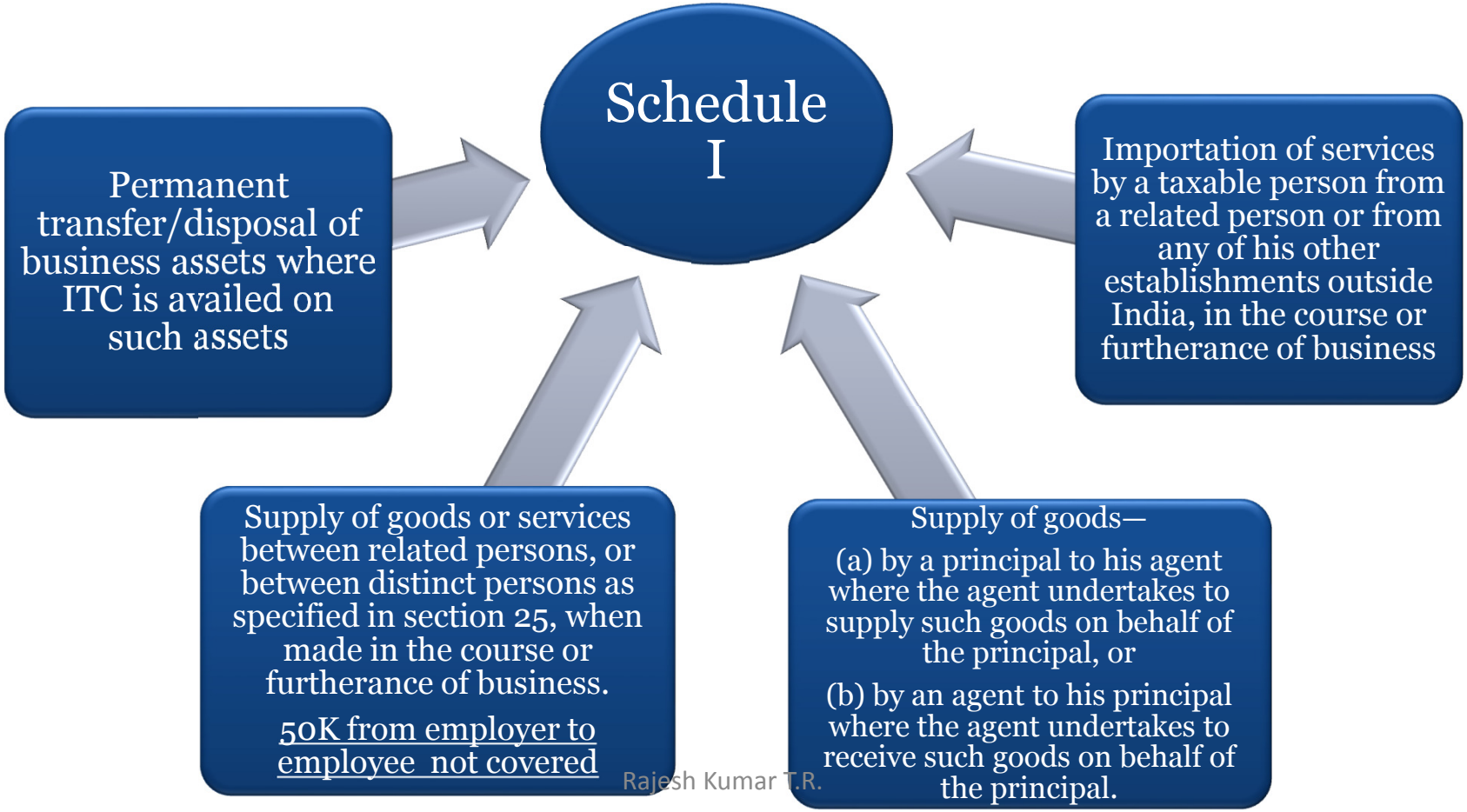
g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

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;

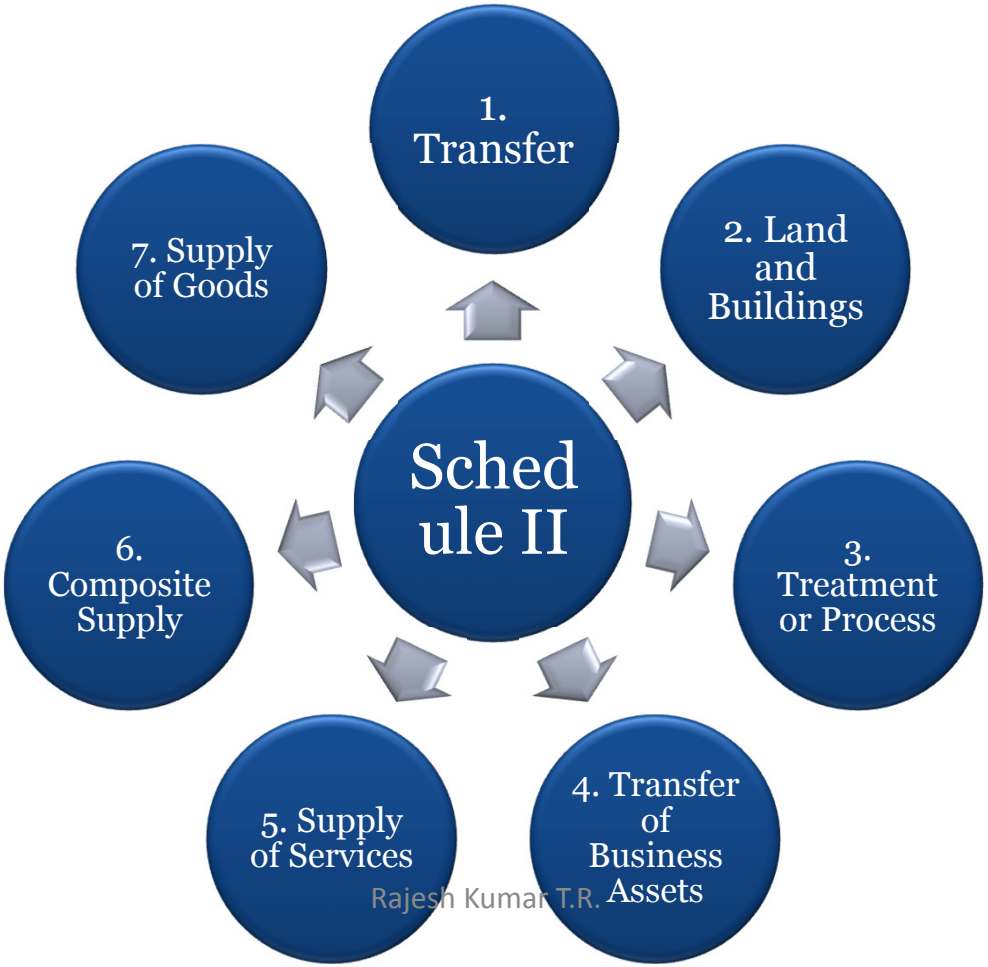
Meaning of Supply

- **Section 7(1)(c):** the activities specified in Schedule I, made or agreed to be made **without a consideration**



Meaning of Supply

- **Section 7(1)(d):** the activities to be treated as supply of goods or services as referred to in Schedule II



Meaning of Supply

- **Transfer:**

Any transfer of title in goods – **Supply of Goods**

Any transfer of right in goods or of undivided share in goods without the transfer of title thereof – **Supply of Services**

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 - **supply of goods**

Meaning of Supply

- **Land and Building:**

Any lease, tenancy, easement, licence to occupy land – **Supply of Service**.

Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly – **Supply of Service**.

- **Treatment or Process:**

Any treatment or process which is applied to another person's goods - **supply of services**.

Meaning of Supply

- **Transfer of Business Assets:**
  - Goods forming part of assets of business – transferred or disposed off – by the person carrying on business or on his direction it is done – whether or not for consideration – after such transfer or disposal it will no longer be part of business assets – **Supply of goods by such person carrying on business.**
  - Goods held or used for the purposes of business are
    - put to any private use or
    - used for any purpose other than business
    - Made available to any person for use - for any purpose other than business

by the person carrying on business or on his direction it is done – usage or making available – whether or not for consideration - **Supply of services**

Meaning of Supply

- **Transfer of Business Assets (Contd..):**
  - On any taxable person ceases to be so - goods forming part of assets of business carried on by him – **deemed supply of goods – in the course of furtherance of business – at a point immediately before he ceases to became a taxable person.**
  - **Exceptions –**
    - the business is transferred as a going concern to another person; or
    - the business is carried on by a personal representative who is deemed to be a taxable person

Meaning of Supply

- **Supply of Services:**
  - Renting of immovable property
  - construction of
    - a complex including a complex intended for sale to a buyer, wholly or partly,
    - Building including building ntended for sale to a buyer, wholly or partly,
    - civil structure or
    - a part of above

    Exception –
    - 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
    - **Competent Authority explained**
    - **"construction" includes additions, alterations, replacements or remodelling of any existing civil structure**

Meaning of Supply

- **Supply of Services :**
  - Temporary transfer or permitting the use or enjoyment of any intellectual property right;
  - development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
  - agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and
  - 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.

Meaning of Supply

- **Composite Supply : - Following are treated as supply of service**
  - works contract as defined in clause (119) of section 2; and
  - 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.
- **Supply of Goods : -**
  - Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.

Meaning of Supply

- **Section 7(2): Activities / transactions neither supply of goods nor a supply of services**
  - **Schedule III –**
    - Services by an employee to the employer in the course of or in relation to his employment.
    - Services by any court (includes District Court, High Court and Supreme Court) or Tribunal established under any law for the time being in force.
    - the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
    - the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or

Meaning of Supply

- the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
- Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
- Sale of land and, subject to clause (*b*) of paragraph 5 of Schedule II, sale of building.
- Actionable claims, other than lottery, betting and gambling.

Meaning of Supply

- **Section 7(3): Govt. to notify supply as goods or services**
  - This is subject to Section 7(1) & 7(2);
  - There should be recommendation by council;
  - Notification to be issued to say it is –
    - Supply of goods and not supply of service;
    - Supply of service and not supply of goods

Composite and Mixed Supply

- **Composite Supply :**
  - a supply made by a taxable person to a recipient
  - consisting of two or more taxable supplies
  - of goods or services or both, or any combination thereof,
  - which are naturally bundled and
  - supplied in conjunction with each other
  - in the ordinary course of business,
  - one of which is a principal supply;
- **Principal Supply :**
  - the supply of goods or services
  - which constitutes the predominant element
  - of a composite supply and
  - to which any other supply forming part of that composite supply is ancillary;
- **mixed supply:**
  - two or more individual supplies of goods or services, or any combination thereof,
  - made in conjunction with each other by a taxable person for a single price
  - where such supply does not constitute a composite supply;

Composite and Mixed Supply

- ***Composite Supply Illustration***: Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.
- ***Mixed Supply Illustration***: A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately
- Determining tax liability on Composite & Mixed Supply as follows:
  - a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as **a supply of such principal supply**; and
  - a mixed supply comprising two or more supplies shall be treated as a supply of that particular **supply which attracts the highest rate of tax**.

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;
- Actionable claim – TP Act – means – a claim
  - to any debt,
    - other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property,
  - to any beneficial interest in movable property
    - not in the possession, either actual or constructive, of the claimant,
  - which the civil courts recognise as affording grounds for relief,
    - whether such debt or beneficial interest be existent, accruing, conditional or contingent;

Service

- 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

Place of Supply

DETERMINATION OF NATURE OF SUPPLY - NEED

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

NATURE OF SUPPLY – INTER-STATE

- 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 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

- 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.
- 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.

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.

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;

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

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 usual place of residence of the supplier;

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;

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	Location 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;	Location 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	Location 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),	Location at which the immovable property or boat or vessel, as the case may be, is located or intended to be 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

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	• 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.

PLACE OF SUPPLY - SERVICES

S.No	Services	Place of supply of services
(7)	- 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 - Services ancillary to organisation of any of the events or services referred to in clause (a), or assigning of sponsorship to such events	• 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	• 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.	• 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	- 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	- 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	- 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	- 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

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	- 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

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* 1 in section 8;

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;

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 IGST 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)	Services supplied in respect of goods whichare 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 Proviso – when services are provided from a remote location by way of electronic means 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	Location at which services are actually performed.

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)	Services provided directly related to an Immovable property including - services supplied in this regard by experts and estate agents, - supply of accommodation by a hotel, inn, guest house, club or campsite (by whatever name called) - grant of rights to use immovable property - services for carrying out or co-ordination of construction work, including 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: - 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

Sl. no.	Rule	Situations	Place of supply of Service
1	13(7)	Services of 13(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)	a. supplied by a banking company, or a financial institution, or a non-banking financial company, to **account holders** b**. Intermediary** services c. Service consisting of hiring of means of transport, including yatchs excluding aircraft/vessels upto a period of one month account - > an account bearign interest to the depositor and includes NRE and NRO account	Location of the supplier of service

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

- "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;

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.

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.

Thank You- Questions?

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