

An aerial photograph of a city skyline at dusk. The sky is a mix of light blue and orange. A prominent white classical-style building with many windows is on the left. A tall, modern skyscraper with a distinctive top is in the center. The foreground shows a dense grid of city buildings and streets. A large yellow semi-transparent rectangle is overlaid on the right side of the image, containing text.

# REVISED MODEL GST LAW

*Export / Import of Services, SEZ, Refund and  
Transition provisions*

# WHAT IS EXPORT/IMPORT OF SERVICE?

Particulars	Export	Import
Location* of supplier	India	Outside India
Location of recipient	Outside India	India
Place of supply*	Outside India	India
Currency of payment	Foreign currency	Not material
Relationship between supplier and recipient	Not be establishments of distinct person	Not material for determining imports
GST Applicability: These supplies treated to be supply in course of interstate trade or commerce	No as zero rated	IGST would be applicable under reverse charge mechanism
Registration required	Yes. Treated as supply in the course of inter-state trade or commerce	

\* Covered in ensuing slides

# LOCATION OF SUPPLIER OF SERVICE

Scenario	Location
Supply made from a place of business for which registration is obtained	Such place of business
Supply made from a place other than the place of business for which registration is obtained (fixed establishment elsewhere)	Such fixed establishment
Supply made from more than one establishment (ie place of business or fixed establishment)	Such location which has most direct connection with the supply
In absence of any of the above	Usual place of residence of supplier

**Similar provisions to determine the location of recipient of service**

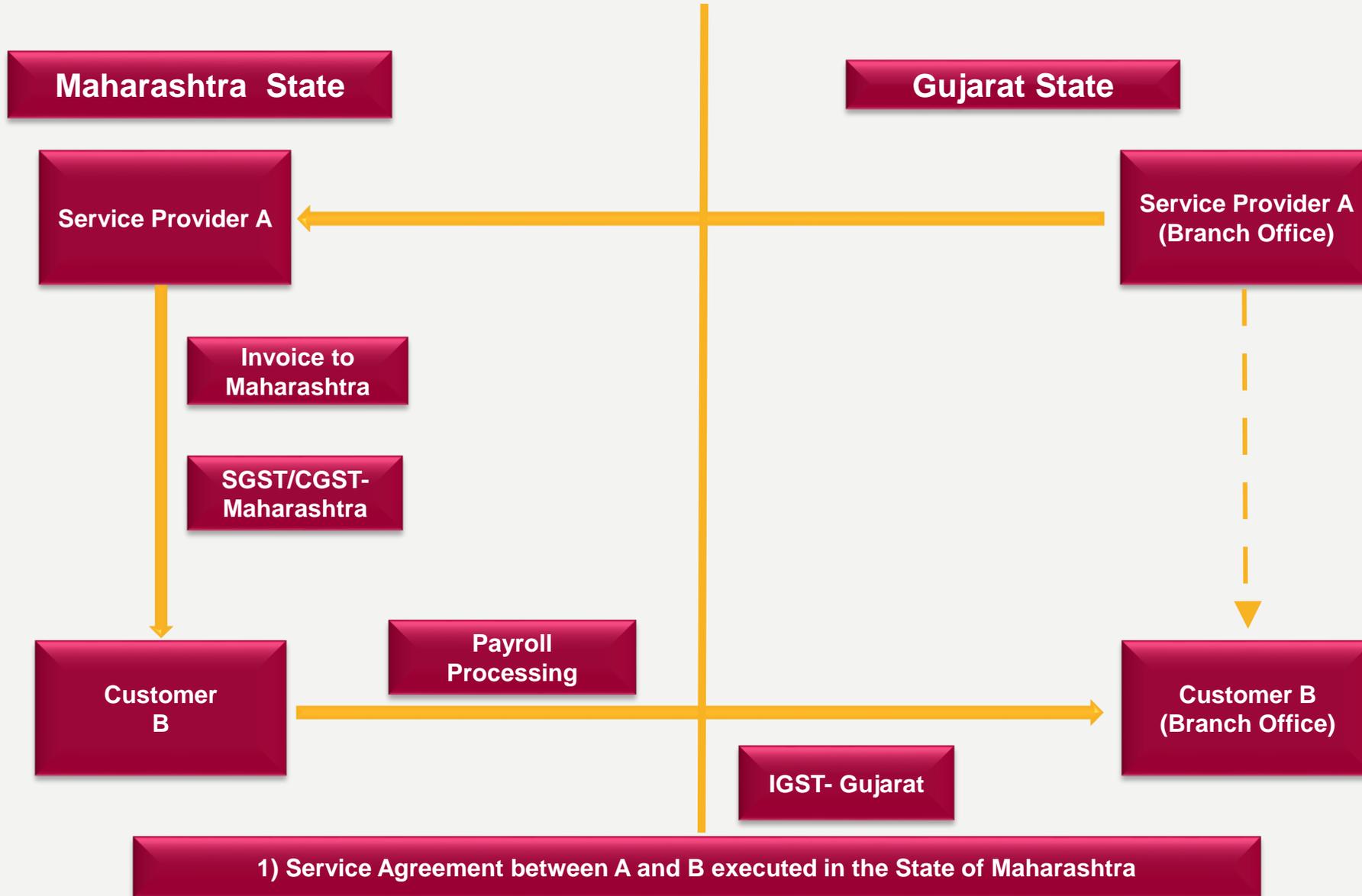
# PLACE OF SUPPLY OF SERVICE (CROSS BORDER SERVICE TRANSACTIONS)

Relevant Section	Nature of Services	Place of supply of services
10(2)	Default Rule	Location of Service Recipient
10(3)	Performance based services /Services supplied to Individuals	Place of actual performance of service
10(3)	Performance based services provided remotely through electronic means	Location where goods are situated at the time of supply of service
10(4)	Immovable property related services	Location of the immovable property
10(5)	Service by way of admission/organization of a cultural, artistic event, etc	Place where event is actually held
10(6)	Performance based services, Immovable Property related services and event related services, if provided in foreign as well as Indian locations	Location in taxable territory where the greatest proportion of service is provided

# PLACE OF SUPPLY OF SERVICE (CROSS BORDER SERVICE TRANSACTIONS)

Section	Nature of Services	Place of supply of services
10(7)	Performance based services, Immovable Property related services and event related services, if provided in foreign as well as Indian locations involving more than 1 states	Each of the states in proportionate value allocable to each states
10(8)	Banking/NBFC/Intermediary Services	Location of supplier of service
10(9)	Transportation of goods other than mail/courier	Place of destination of goods
10(10)	Passenger Transportation	Place of embarkation for a continuous journey
10(11)	Services provided on board a conveyance	Place of first scheduled departure point for continuous journey
10(12)	Online Database access or retrieval services	Location of service recipient  (additional conditions prescribed wherein if 2 non-contradictory conditions satisfied, service recipient deemed to be located in India)

# PAN INDIA SERVICE AGREEMENT – RELATED PARTY ISSUE

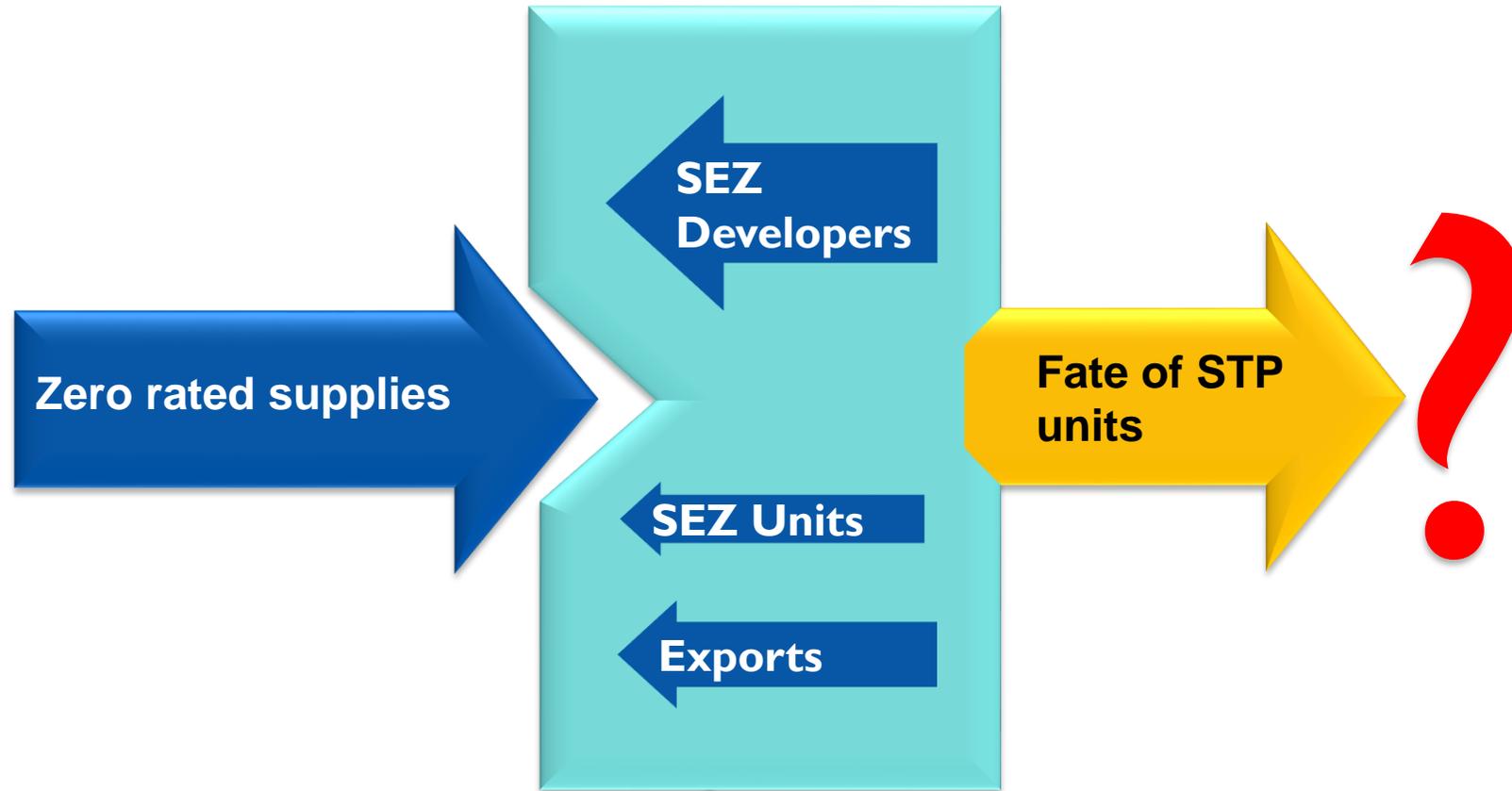


# PLACE OF SUPPLY\_ DIFFERENTIAL TREATMENT

- ▶ Place of supply differentiates between domestic service and cross border services
- ▶ Some illustrations are tabulated below
- ▶ GST being destination based consumption tax, differential treatment needs to be understood

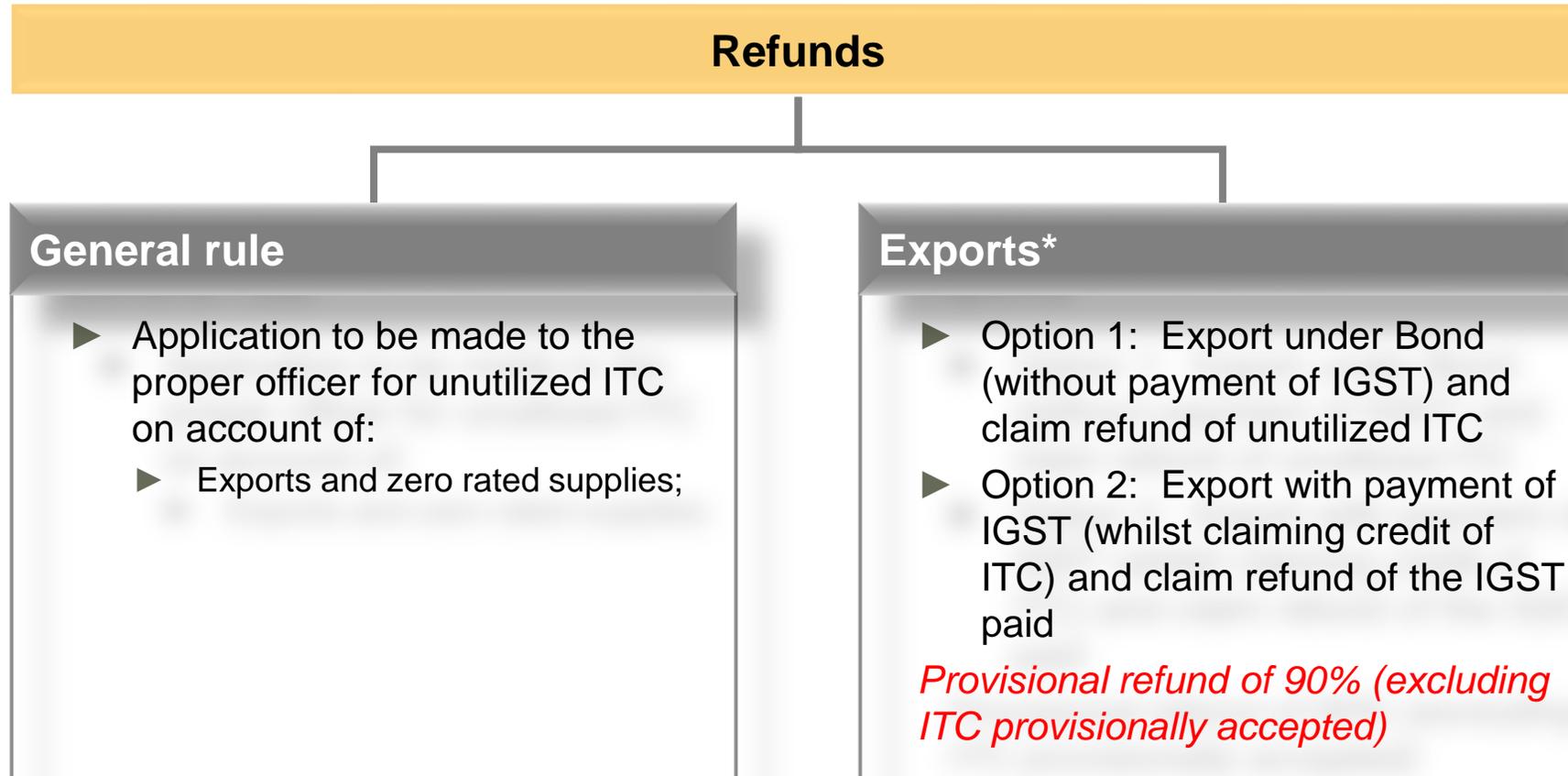
Nature of services	Place of Supply Domestic Services	Place of Supply Cross border Services
Banking services to account holders	Place of Supply = address on record of recipient of service; If address not available location of supplier of service	Location of Supplier of Service
Service of organization of event	Services to Registered person= location of such person; In other cases place of event; event held outside India place of supply is location of recipient	Place where event is held
Transport of goods	Registered person= location of such person; Other cases place where goods handed over for transport	Place of destination of goods

# ZERO RATED SUPPLIES



**Input Tax Credit (ITC) available even for exempt supplies**

# REFUNDS FOR EXPORTERS



Refund application can be filed within 2 years; 60 day time limit for approval of refunds and passing the order

\* *Conditions, safeguards and procedures may be prescribed in this regard*

# REFUND TO SEZ UNITS/DEVELOPERS

- ▶ Supplies to SEZ Unit/Developer supplies are considered as zero rated
- ▶ Further such supplies to SEZ unit/developer are considered to supply in course of inter state trade or commerce
- ▶ SEZ unit/Developer would be eligible to claim refund of IGST paid by registered taxable person on such supply
- ▶ Whether SEZ unit/Developer are eligible to get upfront exemption from payment of GST?

# TRANSITIONAL PROVISIONS

## Point of tax

Critical to determine the point of taxation of services – if the same falls before the cut-over date, taxes payable under earlier law

## Credit under GST

Amount of service tax paid and CENVAT credit carried forward in the return, for the period immediately preceding the cut-over date, available as a credit if the same is creditable under GST Law

## Services in transit

Where payment was made prior to the cut-over date and services were received post cut-over date, CENVAT credit could be available if invoice/ tax paying document received within 30 days

Recipient to also submit a declaration (particulars to be prescribed)

# TRANSITIONAL PROVISIONS

## **Import of Service/Interstate Supply of Service**

Supply of Services made after cut over date shall be liable to GST (even if the invoice is issued /payment has been made before cut over date).

However, if full or part of tax has been paid under earlier law no GST payable on such transactions.

## **Refund claims in transit (including for exports made before or after cut over date)**

All refund claims pertaining to earlier CENVAT Credit/Input set off filed before or after cut over date would be governed by provisions of the earlier law.

Any amount of refund rejected would lapse.

No refund would be allowed for the balance CENVAT Credit/set off carried forwarded in GST regime.

## **Pending appeals/revisions/ Review**

All such proceedings initiated under earlier law before or after the cut over date shall be disposed of in accordance with earlier law.

Any amount that becomes recoverable on account of above the same shall be recovered as arrears of the GST law. The amount so recovered would not be eligible as CENVAT Credit.

# ***THANKS***

For any Clarification, Please Contact  
Indirect Taxes Committee of ICAI  
Email: [idtc@icai.in](mailto:idtc@icai.in) ; Website: [www.idtc.icai.org](http://www.idtc.icai.org)  
or <https://www.youtube.com/indirecttaxcommittee>