

Integrated Goods and Service Tax (IGST)

Chapter XIII

Levy and Collection of Tax

FAQ's

Levy and Collection of Tax (Section 5)

Q 1. What type of tax is levied on inter-State supply?

Ans. In terms of Section 5 of the IGST Act, 2017, inter-State supplies are liable to IGST. The nature of supply (inter-State or intra-State) shall be ascertained based on the provisions prescribed under Section 7 and Section 8 of the IGST Act, 2017 respectively.

IGST on the import of goods shall be levied and collected in accordance with the provisions of Section 3 of the Customs Tariff Act, 1975 on the value determined under the IGST Act at the point when duties of customs are levied on the said goods under Section 12 of the Customs Act, 1962.

Q 2. How to ascertain the taxable value for levy of IGST?

Ans. In terms of Section 5(1) of the IGST Act, IGST shall be levied on the value of goods ascertained in terms of Section 15 of the CGST Act, 2017. The value of supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and price is the sole consideration for the supply. Further Section 15 of the CGST Act, 2017, provides for certain inclusions which will form part of the value of supply viz., incidental expenses, commission, interest or late fees or penalty for delayed payment of any consideration for any supply, etc. Value of supply excludes certain discounts in terms of Section 15(3) of the CGST Act, 2017.

Where the transaction value cannot be determined in terms of section 15(1) of the CGST Act, 2017, the value of supplies will be determined in terms of the CGST Rules [Chapter-4- Determination of Value of Supply-“Valuation Rules”].

Q 3. What is the rate of tax that is applicable on inter-State supplies?

Ans. The applicable rate of tax on inter-state supply of Services has been provided under *Notification No. 8/2017 –Integrated Tax (Rate) dated 28.06.2017* and rate on inter-state supply of goods has been provided under *Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017 [with 3 corrigendum dated 30.06.2017,12.07.2017 and 27.07.2017]* respectively as amended from time to time

However, Section 5(1) of the IGST Act, *inter alia* stipulates that the Government may specify rate of tax which shall not exceed 40%.

It is pertinent to mention here that:

- *Notification No.09/2017-Integrated Tax (Rate) dated 28.06.2017* exempts inter-state supplies of certain services over certain specified percentage subject to certain conditions [Though till date Rate specified and condition stipulated in notification is NIL]
- *Notification No.02/2017-Integrated Tax (Rate) dated 28.06.2017* exempts inter-state supplies of certain goods from whole of IGST leviable under Section 5 of the IGST Act
- *Notification No.03/2017-Integrated Tax (Rate) dated 28.06.2017* exempts inter-state supplies of goods over certain specified percentage subject to certain conditions
- *Notification No.07/2017-Integrated Tax (Rate) dated 28.06.2017* exempts supplies of goods by CSD to Unit Run Canteens; CSD to authorised customers and Unit Run Canteen to authorised customers, from whole of IGST leviable under Section 5 of IGST Act
- *Notification No.26/2017-Integrated Tax (Rate) dated 21.09.2017* exempts inter-state supply of heavy water and nuclear fuels falling in Chapter 28 of the First Schedule to the Customs Tariff Act, 1975 by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd from the whole of IGST leviable under section 5 of the IGST Act.
- *Notification No.30/2017-Integrated Tax (Rate) dated 22.09.2017* exempts inter-state supply of Skimmed milk powder or concentrated milk falling under tariff heading 0402 from whole of IGST leviable under Section 5 of IGST Act provided it is supplied to distinct person as per section 25(4) of the CGST Act, for use in production of milk [for distribution through dairy cooperatives *or companies registered under Companies Act 2013*] and not for further supply of skimmed milk powder, or concentrated milk as such.
[or companies registered under Companies Act 2013- added vide Notification No.50/2017-Integrated Tax (Rate) dated 14.11.2017, effect from 15.11.2017]
- *Notification No.40/2017-Integrated Tax (Rate) dated 18.10.2017*, subject to fulfillment of certain condition, notifies the rate of the integrated tax of 5% on inter-State supplies of Food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government.

- *Notification No.41/2017-Integrated Tax (Rate) dated 23.10.2017* prescribe Integrated Tax rate of 0.1% on inter-State supply of taxable goods by a registered supplier to a registered recipient for export subject to specified conditions.
- *Notification No.47/2017-Integrated Tax (Rate) dated 14.11.2017*, effective from 15.11.2017, provide concessional GST rate of 5% on scientific and technical equipments supplied to public funded research institutions.
- *Notification No.32/2017-Integrated Tax (Rate) dated 13.10.2017* exempts inter-State supply of goods or services or both received by a registered person from any supplier, who is not registered, from the whole of the integrated tax leviable thereon under section 5(4) of the IGST Act, 2017 till 31.03.2018.[i.e. exempt payment of tax under section 5(4) of the IGST Act, 2017 till 31.03.2018.]

[NOTE:

- *Notification no. 8/2017 –Integrated Tax (Rate) dated 28.06.2017* has been amended by *Notification no. 20/2017 –Integrated Tax (Rate) dated 22.08.2017*; *Notification no. 24/2017 –Integrated Tax (Rate) dated 21.09.2017*; *Notification no. 39/2017 –Integrated Tax (Rate) dated 13.10.2017* and *Notification no. 48/2017 – Integrated Tax (Rate) dated 14.11.2017 (w.e.f. 15.11.2017)*
- *Notification No.01/2017-Integrated Tax (Rate) dated 28.06.2017* has been amended by *Notification No.16/2017-Integrated Tax (Rate) dated 30.06.2017 (w.e.f.-1.07.2017)*; *Notification No.19/2017-Integrated Tax (Rate) dated 18.08.2017*; *Notification No.27/2017-Integrated Tax (Rate) dated 22.09.2017*; *Notification No.35 / 2017-Integrated Tax (Rate) dated 13.10.2017*; and *Notification No.43/2017-Integrated Tax (Rate) dated 14.11.2017 (w.e.f. 15.11.2017)*
- *Notification No.02/2017-Integrated Tax (Rate) dated 28.06.2017* has been amended by *Notification No.28/2017-Integrated Tax (Rate) dated 22.09.2017* *Notification No.36/2017-Integrated Tax (Rate) dated 13.10,2017*; and *Notification No.44/2017-Integrated Tax (Rate) dated 14.11.2017 (w.e.f. 15.11.2017)*
- *Notification No.09/2017-Integrated Tax (Rate) dated 28.06.2017* has been amended by *Notification No.21/2017-Integrated Tax (Rate) dated 22.08.2017*; *Notification No.25/2017-Integrated Tax (Rate) dated 21.09,2017*; *Notification No.31/2017-Integrated Tax (Rate) dated 29.09.2017*; *Notification No.33/2017-Integrated Tax (Rate) dated 13.10,2017*; *Notification No.42/2017-Integrated Tax (Rate) dated 27.10.2017*; and *Notification No.49/2017-Integrated Tax (Rate) dated 14.11.2017 (w.e.f. 15.11.2017)*

Q 4. Who is responsible to pay taxes?

Ans. Generally, the person effecting taxable supplies is liable to pay taxes. However, following are certain exceptions:

- (a) **Reverse charge on notified goods or services:** Section 5(3) of the IGST Act, 2017 inter alia provides that, the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both.

In this regard, the Central Government *vide Notification No. 04/2017-Integrated Tax (Rate), dated 28-06-2017* read with *Notification No 37/2017-Integrated Tax (Rate) dated 13-10-2017* and *Notification No 45/2017-Integrated Tax (Rate) dated 14-11-2017* specifies the supply of goods which are liable to IGST under RCM.

Notification No 10/2017-Integrated Tax (Rate) dated 26.06.2017 read with *Notification No 34/2017-Integrated Tax (Rate) dated 13-10-2017* specifies the supply of services which are liable to IGST under RCM.

- (b) Reverse Charge in case of specified class of person on notified category of goods or services from unregistered persons ¹, Notification No. 23/ 2018-Integrated Tax (Rate) dated 06.08.18 exempts inter-State supply of goods received by registered person from an un-registered dealer from whole of the integrated tax under section 5(4) till 30th September, 2019 .
- (c) **E-Commerce:** In case of the following categories of supplies of services, as notified by the Government *vide Notification No. 14/2017-Integrated Tax (Rate), dated 28-06-2017* read with *Notification No. 23/2017-Integrated Tax (Rate) dated 22.08.2017*, IGST shall be paid by the e-commerce operator in terms of Section 5(5) of the IGST Act, 2017.
- (1) services by way of transportation of passengers by a radio-taxi, motor cab, maxicab and motor cycle;
 - (2) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under clause (v) of section 20 of the IGST Act, 2017 read with section 22(1) of the CGST Act.

¹ Effective date yet to be notified.

- (3) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under clause (v) of section 20 of the Integrated Goods and Services Tax Act, 2017 read with section 22(1) of section 22 of the CGST Act.

In the event the e-commerce operator does not have physical presence in the taxable territory, following persons will be liable to pay tax:

- (i) a person who is representing the e-commerce operator in the taxable territory;
- (ii) in the absence of such representative, e-commerce operator should appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.

Q 5. Define reverse charge?

Ans. Section 2(98) of the CGST Act defines the terms reverse charge to mean liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both.

Q 6. Whether the tax on inter-State supplies is applicable to every supplies?

Ans. No. Section 5(1) which is the charging provision on inter-State supplies excludes supply of alcoholic liquor for human consumption. Further, in terms of Section 5(2), tax on supply of petroleum crude, high speed diesel, motor spirit, natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

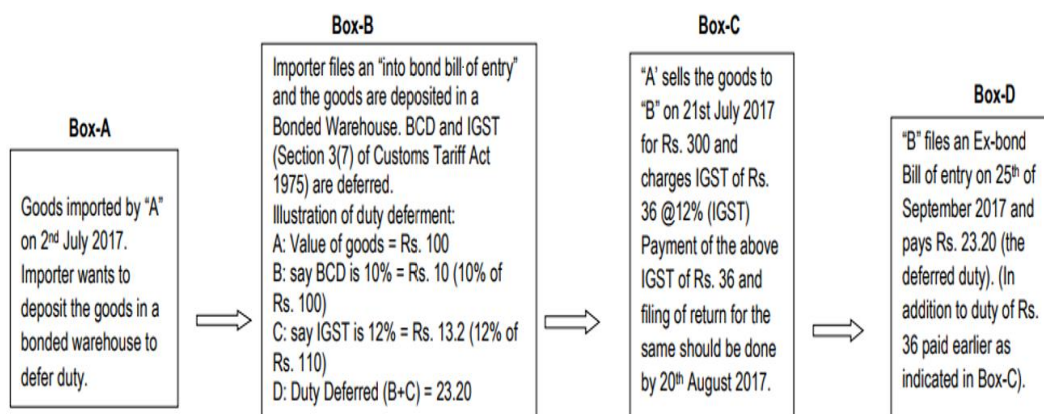
Q 7. Whether GST will apply on goods sold while being in a custom bonded warehouse?

Ans. The Central Board of Excise & Customs vide *Circular No. 46/2017-Customs dated 24th November, 2017* clarified that goods imported and deposited in a custom bonded warehouse will be chargeable to (Custom duty + IGST) at the time of filing of ex-bond bill of entry at the value determined at the time of filing into-bond bill of entry to be collected at ex-bond stage. However, if the importer sells the customs bonded goods to another person before clearance of goods from warehouse, IGST will be leviable on such transaction at the time of sale which the importer will have to pay by 20th of next month.

Therefore, IGST leviable on import shall remain deferred so long as such goods remain in custom bonded warehouse. However, IGST on sale /transfer of warehoused goods need to be paid on or before 20th of succeeding month.

Sale of goods in a Bonded Warehouse and clearance thereof:

ILLUSTRATION



Q 8. What is High Sea Sales? Whether the High Sea Sales of imported goods would be chargeable to IGST twice i.e. at the time of Customs clearance under section 3(7) of the Customs Tariff Act, 1975 and separately under Section 5 of IGST Act, 2017?

Ans. High Sea Sales is a situation whereby the original importer sells the goods to a third person before customs clearance. After the High sea sale of the goods, the Customs declarations i.e. Bill of Entry etc. is filed by the person who receives the goods from the original importer during the said sale. High Sea Sales being an Inter-state transaction under GST Laws are subject to IGST.

The Central Government vide *Circular No. 33 /2017-Customs dt 01-08-2017* clarified that IGST on high sea sale (s) transactions of imported goods, whether one or multiple, shall be levied and collected **only at the time of importation** i.e. when the import declarations are filed before the Customs authorities for the customs clearance purposes for the first time. Further, value addition accruing in each such high sea sale shall form part of the value on which IGST is collected at the time of clearance. [Thus IGST will be levied only once].

Q 9. What will be the value of the goods for the purpose of levying IGST?

Ans. Value of the goods for the purpose of levying IGST shall be, assessable value plus Customs Duty levied under the Act, and any other duty chargeable on the said goods under any law for the time being in force as an addition to, and in the same manner as, a duty of customs.

For e.g.,

Import Duty under GST

A. Assessable value	100
B. Basic Custom duty@7.5%	7.5
C. IGST (A+B)say @18%	19.4
D. Total Customs Duty (B+C)	26.9

[GST compensation cess, may also be leviable on certain luxury and demerit goods under the GST (Compensation to States) Cess Act, 2017.]

Q 10. Whether GST is leviable on inter-state transfer of aircraft engines, parts and accessories for use by their own airlines?

Ans. Yes. In terms of Schedule I of the CGST Act, supply of goods or services or both between related persons or between distinct persons as specified in Section 25, when made in the course or furtherance of business, even if, without consideration, attracts GST. Hence, GST will be levied on inter-state transfer of aircraft engines, parts and accessories for use by their own airlines.

Further, Circular No. 16/16/2017-GST dated 15.11.2017 also clarifies that in such cases cited supra the credit of GST paid on aircraft engines, parts & accessories will be available for discharging GST on inter-state supply of such aircraft engines, parts & accessories by way of inter-state stock transfers between distinct persons as specified in section 25 of the CGST Act, notwithstanding the fact that credit of input tax charged on consumption of such goods is not allowed for supply of service of transport of passengers by air in economy class at GST rate of 5%.

Q 11. Whether Inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes exigible to IGST?

Ans. In terms of Circular No. 21/21/2017-GST dated 22.11.2017, inter-state movement of rigs, tools and spares, and all goods on wheels [like cranes], where movement of such goods is for further supply of the same goods, shall be treated 'neither as a supply of goods or supply of service. Hence, no IGST would be applicable on such movements.

Further, CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods.

Q 12. Whether Inter-state movement of various modes of conveyance, carrying goods or passengers or for repairs and maintenance is exigible to IGST?

Ans. Inter-state movement of goods like movement of various modes of conveyance, between distinct persons as specified in section 25(4) of the CGST Act, 2017, including

Trains, Buses, Trucks, Tankers, Trailers, Vessels, Containers, Aircrafts, may not be treated as supply and consequently IGST will not be payable on such supply. [Circular No. 1/1/2017-IGST dated 7.07.2017]

Power to Grant Exemption (Section 6)

Q 13. Whether Council has powers to grant exemption on payment of taxes?

Ans. No. The power to grant exemption is vested with the Government. In other words, the Government by way of issuance of notification based on the recommendations of the Council may either grant the exemption absolutely or subject certain conditions.

Q 14. Whether import of goods by a SEZ is exempt from IGST?

Ans. No. As *Notification 15/ 2017-Integrated Tax (Rate) dated 30-06-17* has granted exemption from IGST on import of goods by a SEZ and this exemption was immediately rescinded *vide Notification 18/2017- Integrated Tax (Rate) dated 05-07-17* as granting such an exemption would have been out of harmony with the concept that goods have 'not yet' reached the 'point' when liability to customs duty is attracted

MCQ's

Levy and Collection of Tax [IGST] (Section 5 to 6)

Q 1. _____ Supply shall attract IGST?

- (a) Intra-State
- (b) Inter-State
- (c) Both

Ans. (b) *Inter-State*

Q 2. Is there any ceiling limit prescribed on the rate under IGST?

- (a) 14%
- (b) 40%
- (c) 26%
- (d) 30%

Ans. (b) 40%

Q 3. What if an e-commerce operator having no physical presence in the taxable territory, does not have a representative in the taxable territory?

- (a) His will have to discharge his tax liability in foreign currency

- (b) He will not be liable to tax
- (c) He has to appoint a person in the taxable territory for the purpose of paying tax on his behalf
- (d) None of the above

Ans. (c) *He has to appoint a person in the taxable territory for the purpose of paying tax on his behalf*

Q 4. Unless and until notified, IGST shall not be levied on the inter-State supply of which of the following:

- (a) Industrial alcohol
- (b) Works contract
- (c) Petroleum
- (d) None of the above

Ans. (c) *Petroleum*

Q 5. Goods deposited in warehouse by filing into-bond bill of entry do not attract liability to any customs duty until the date specified in section 15 is reached

- (a) True
- (b) False

Ans. (a) *True*

Q 6. Will a Bank qualify as a taxable person for sale of hypothecated/ pledged goods (auction)?

Ans. Yes, the nature of business as a bank does not affect tax liability. GST is payable if there is any supply of taxable goods or services even by a bank.

Q 7. Will a “not for profit entity” be liable to tax on any sales effected by it – e.g.: sale of assets received as donation?

Ans. Yes. NPEs do not distribute profit to promoters but that does not exclude from doing activities that conform to definition of business.

Q 8. Can an exemption be granted for inter-State supplies when such an exemption is not granted for intra-State supplies?

Ans. Yes.

Chapter XIV

Determination of Nature of Supply

Supply of goods and / or service in the course of inter-state trade or commerce (Section 7-Inter-State supply)

Q 1. When is supply of goods considered as supply in the course of inter-State trade or commerce?

Ans. Supply of goods will be considered as inter-State supply if the location of the supplier and place of supply are in different States or different Union territories or a State or a Union territory. This is subject to provisions contained in Section 10 of the IGST Act, 2017.

Q 2. When is supply of service considered as supply in the course of inter-State trade or commerce?

Ans. Supply of service will be considered as inter-State supply if the **location of the supplier and place of supply are in different States or different Union territories or a State or a Union territory**. This is subject to provisions contained in Section 12 of the IGST Act, 2017.

Q 3. What is the meaning of location of supplier?

Ans. The term location of supplier of goods has not been defined in the IGST Act, 2017. This is not an oversight of the draughtsman but a deliberate intention of the lawmaker to leave it to the facts of each case to determine the 'location of supplier of goods'.

Location of supplier of service is defined under Section 2(15) of the IGST Act, 2017 as under:

- (a) where a supply is made from a place of business for which registration has been obtained, the location of such place of business;
- (b) 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;
- (c) 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
- (d) in absence of such places, the location of the usual place of residence of the supplier

Q 4. What is the meaning of location of recipient?

Ans. The term location of recipient of goods has not been defined in the IGST Act, 2017.

However, location of recipient of service is defined under Section 2(14) of the IGST Act, 2017 as under:

- (a) where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;
- (b) 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;
- (c) 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
- (d) in absence of such places, the location of the usual place of residence of the recipient.

Q 5. What is the place of supply of goods in the course of import into India?

Ans. 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. Further, in terms of Section 11 of the IGST Act, 2017 the place of supply of goods imported into India will be the location of the importer.

Customs frontiers of India means the limits of the area of a customs station as defined in Section 2 of the Customs Act, 1962 in which imported goods are ordinarily kept before clearance by customs authorities.

Customs station is defined under Section 2 of the Customs Act, 1962 to mean any customs port, customs airport or land customs station.

Q 6. What is the place of supply of service in the course of import into India? Give Example

Ans. Supply of service in the course of import into the territory of India will be treated as supply in the course of inter-State trade or commerce. Thus, place of supply would be the location of the Importer.

Example – Annual maintenance contract entered into by a Company outside India for maintenance of goods located in India.

Q 7. What is the nature of supply, if the supplier of service is located in Mumbai and the recipient of service being an SEZ unit is in Nagpur?

Ans. The supply of services to a Special Economic Zone will be treated as a supply in the course of inter-State trade or commerce in accordance with section 7(5) (b) of the IGST

Act. Even though, the supplier and recipient both are located in the same State (i.e. Maharashtra), the place of supply of service to a SEZ unit will be treated as inter-State.

Intra-State Supply (Section 8)

Q 8. When is supply of goods considered as supply in the course of intra-State trade or commerce?

Ans. Supply of goods will be considered as intra-State supply, if the location of the supplier and place of supply are in the same State or same Union territory. This is subject to provisions contained in Section 10 of the IGST Act, 2017.

Q 9. When is supply of service considered as supply in the course of intra-State trade or commerce?

Ans. Supply of service will be considered as intra-State supply if the location of the supplier and place of supply are in the same State or same Union territory. This is subject to provisions contained in Section 12 of the IGST Act, 2017.

Q 10. State the taxability of satellite launch services provided to both international and domestic customers by ANTRIX Corporation Limited (“**ANTRIX**”) which is a wholly owned Government of India Company under the administrative control of Department of Space (DOS).

Ans. When location of supplier and recipient of services is in India, place of supply is governed by section 12 (8) of the IGST Act, which stipulates that place of supply will be the location of the recipient of services provided he is registered; if not registered, then the place of supply will be the place where goods are handed over for their transportation. Accordingly, where satellite launch service is provided by ANTRIX to a person located in India, the place of supply of satellite launch service would be governed by section 12 (8) of the IGST Act and would be taxable under CGST Act, UTGST Act or IGST Act, as the case may be.

Further, Section 13(9) of the IGST Act provides that where location of supplier of services or location of recipient of services is outside India, the place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods. Accordingly, place of supply of satellite launch services supplied by ANTRIX to international customers would be outside India and if such supply which meets the requirements of section 2(6) of IGST Act, thus constitutes export of service and shall be zero rated in accordance with section 16 of the IGST Act.

NOTE: In terms of section 2(6) of the IGST Act, export of services” means the supply of any service when, –

- (i) the supplier of service is located in India;
- (ii) the recipient of service is located outside India;
- (iii) the place of supply of service is outside India;
- (iv) the payment for such service has been received by the supplier of service in convertible foreign exchange or in Indian rupees wherever permitted by the Reserve Bank of India ²;

Receipt of payment in Indian rupees in case of export of services, where permitted by the Reserve Bank of India is allowed since, the payment is received in Indian rupees as per RBI regulations, particularly in the case of exports to Nepal and Bhutan.

- (v) 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.

Supplies in territorial waters (Section 9)

Q 11. What is the location of supplier in case of supplier is located in territorial waters?

Ans. The location of supplier in case the supplier is located in territorial waters shall be the coastal State or Union territory where the nearest point of the appropriate baseline is located.

Q 12. What is the place of supply in case of supply which is in territorial waters?

Ans. The place of supply in case of supply in territorial waters shall be the coastal State or Union territory where the nearest point of the appropriate baseline is located.

MCQ's

Supply of goods and / or service in the course of inter-state, intra-state trade or commerce (Section 7 to 9)

Q 1. Which of the following is an inter-State supply?

- (a) Supplier of goods located in Delhi and place of supply of goods is to an SEZ located in Delhi
- (b) Supplier of goods located in Delhi and place of supply of goods in Jaipur
- (c) Supplier of goods located in Delhi and place of supply of goods is to an SEZ located in Chandigarh
- (d) All the above

Ans. (d) All the above

² Effective date yet to be notified.

Q 2. Which of the following is an intrastate supply?

- (a) Supplier of goods located in Delhi and place of supply of goods SEZ located in Delhi
- (b) Supplier of goods located in Delhi and place of supply of goods in Jaipur
- (c) Supplier of goods located in Delhi and place of supply of goods in Delhi
- (d) All the above

Ans. (c) *Supplier of goods located in Delhi and place of supply of goods in Delhi*

Q 3. Which of the following transaction is inter-state supply of goods involving movement of goods?

- (a) Location of supplier is in Bangalore and location of recipient is in Mumbai and goods are shipped to Kolkata
- (b) Location of supplier is in Bangalore and place of supply is Mumbai
- (c) Location of supplier and place of supply is Bangalore
- (d) None of the above

Ans. (a) Location of supplier is in Bangalore and location of recipient is in Mumbai and goods are shipped to Kolkata; and (b) Location of supplier is in Bangalore and place of supply is Mumbai

Q 4. Supply of goods in the course of import into the territory of India is

- (a) Intrastate supply
- (b) Inter-State supply
- (c) Export
- (d) Neither Export nor Import

Ans. (b) *Inter-State supply*

Q 9. Whether goods taken to warehouse from port or customs station exigible to IGST

- (a) Yes
- (b) No

Ans. (a) Yes

Q 10. IGST and GST Compensation Cess will payable at the time of removal from warehouse

- (a) True
- (b) False

Ans. (a) True

Chapter XV

Place of Supply of Goods or Services or Both

FAQ's

Place of supply of goods other than supply of goods imported into, or exported from India (Section 10)

Q 1. What is the place of supply where movement of goods is involved?

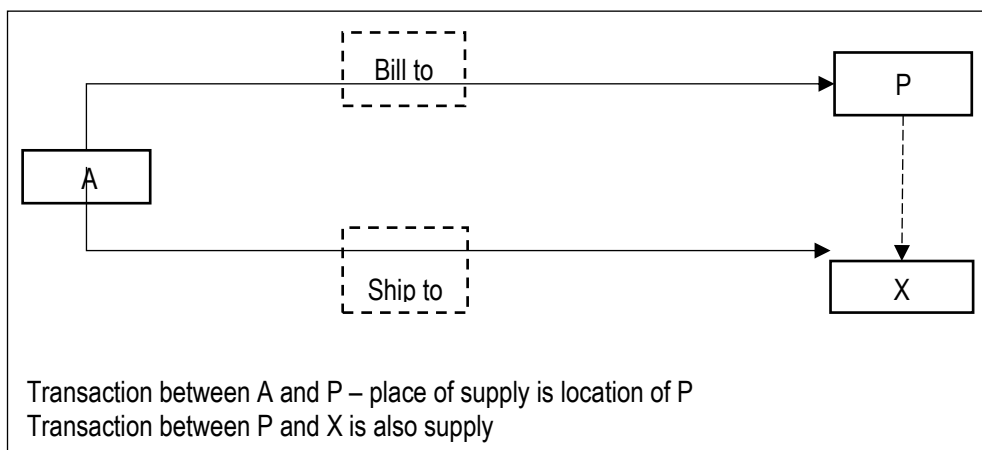
Ans. As per Section 10(1) (a) of IGST Act, 2017, place of supply where movement of goods is involved then place of supply of such goods shall be the location where movement of goods terminates for delivery to the recipient.

Illustration

Location of supplier	Delivery of goods terminates at	Place of supply	Nature of supply	Tax
Karnataka	Andhra Pradesh	Andhra Pradesh	Inter-state	IGST
Karnataka	Karnataka	Karnataka	Intra-state	SGST/CGST

Q 2. What is the place of supply where goods are delivered to a person on the direction of a third person?

Ans. As per Section 10(1) (b) of the IGST Act, 2017, if movement is at the instance of the third person to a recipient (by way of instruction or transfer of documents of title to goods or otherwise), the place of supply will be principal place of business of third person (i.e. address in Registration Certificate). A pictorial diagram is depicted to explain the same



Further, illustration are provided below to explain the same

- (a) Transaction between supplier (A in above diagram) and third party (P in the above diagram).

Compare column 1 and 2

Location of supplier (1)	Location of third party (2)	Delivery of Goods (3)	Place of supply	Nature of Supply	Applicability
Karnataka	Kerala	Tamil Nadu	Kerala	Inter-state	IGST
Karnataka	Karnataka	Kerala	Karnataka	Intra-state	SGST/CGST
Karnataka	Kerala	Karnataka	Kerala	Inter-state	IGST
Karnataka	Kerala	Kerala	Kerala	Inter-state	IGST

- (b) Transaction between third party (P in the above diagram) and person actually receiving the goods (X in the above diagram). Compare column 2 and 3

Location of supplier (1)	Location of third party (2)	Delivery of Goods (3)	Place of supply	Nature of Supply	Applicability
Karnataka	Kerala	Tamil Nadu	Tamil Nadu	Inter-state	IGST
Karnataka	Karnataka	Kerala	Kerala	Inter-state	IGST
Karnataka	Kerala	Karnataka	Karnataka	Inter-state	IGST
Karnataka	Kerala	Kerala	Kerala	Intra-state	SGST / CGST

Q 3. What is the place of supply where movement of goods is not involved?

Ans. Where supply does not involve movement of goods, the place of supply will be the location of goods at the time of delivery to the recipient. Neither in the CGST Act nor in

the IGST Act, the '*location of supplier of goods*' has been defined. Therefore, the location of goods where they are ready to be supplied can be understood to be the location of supplier. Considering that location of supplier will be location of goods, in this type of transaction there will not be any inter-State supply since the location of supplier and place of supply will be in the same State.

Example for this would be a case where the job worker develops a mould for the production of goods for the principal and retains the mould in his place itself for production of goods. The mould developed by the job worker is sold to the principal but the same are retained by the job worker without causing the movement of mould from job worker premise to principal premise. In this case the place of supply would be job worker premise.

Q 4. What is the place of supply in case of assembly or installation of goods at site?

Ans. The place of supply of goods in case of assembly or installation of goods will be the place of installation or assembly.

Q 5. What is the place of supply in case of goods sold on aircraft?

Ans. The place of supply in case of goods taken onboard for consumption in aircraft, is the place or location at which such goods are taken on board. For example, if an aircraft departs from Bangalore to Mumbai after taking on board goods for consumption at Bangalore, the place of supply will be Bangalore.

Place of Supply of Goods Imported into, or Exported from India (Section 11)

Q 6. What do you mean by import of goods into India?

Ans. Section 2 (10) of the IGST Act, 2017 defines import of goods to mean bringing goods into India from a place outside India.

Q 7. In case of import of goods into India what is the place of supply of goods?

Ans. The location of the importer is the place of supply of goods in case of import of goods into India. It may be noted that importer has not been defined in the IGST Act, 2017. Therefore, the meaning given under Customs Act, 1962 will have to be considered. As per Section 2(26) of the Customs Act, 1962 "importer", in relation to any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner or any person holding himself out to be the importer.

Q 8. In case of export of goods from India, what is the location of supply of goods?

Ans. The place of supply of goods exported from India shall be the location outside India.

Place of supply of services where location of supplier and recipient is in India (Section 12)

Q 9. State the general provision in respect of determination of place of supply of services?

Ans. Section 12 of the IGST Act, 2017 lays down the principles for identifying the place of supply of services in case of certain specified services. In respect of services other than the specified services the place of supply of service would be as under

- (a) Where the service is provided to registered person, place of supply shall be location of such person
- (b) Where the service is provided to a person other than registered person, place of supply shall be:
 - (i) location of the recipient where the address on record exists
 - (ii) location of the supplier of services in other cases

Q 10. What is the place of supply of service in relation to an immovable property?

Ans. Section 12 (3) (a) of IGST Act, 2017 provides that any service provided directly in relation to an 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 coordination of construction shall be the location at which the immovable property is situated. Provided that, 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.

Illustration - If Mr. A of Ahmedabad, is constructing a house in Mumbai and appoints Mr B of Delhi to provide architectural services with regard to proposed construction of house located in Mumbai, then the place of supply of such architectural services shall be Mumbai.

Q 11. What is the place of supply of accommodation services? Give an example.

Ans. As per Section 12(3) (b) of the IGST Act, 2017, the location of the hotel, inn, guest house, home stay, club or campsite or a houseboat or vessel, shall be the place of supply of service in relation to such accommodation service. In case, the accommodation service is provided for multiple locations situated in different states or the vessel or boat located in more than one state at a time of supply of service, then the value of the supply of service shall be treated as made in each of the States in proportion to the value for services separately collected or determined in the terms of the contract or arrangement entered into. In absence of such contract or agreement, the

place of supply shall be determined on such other reasonable basis as would be prescribed.

For example, OYO Rooms, based out of Bangalore, takes reservation for accommodation in its hotels across India from ABC airlines, based out of New Delhi, for overnight stay of its crew members. The place of accommodation services shall be the location of the hotel where the crew members have stayed. In case, the agreement between OYO rooms and ABC airlines is per night per room basis, then the value of service separately collected for each hotel shall be treated as the value of service for the respective State. In case, the agreement between OYO rooms and ABC airlines is on a lump sum basis for a month then the place of supply shall be determined as may prescribed in rules.

Q 12. What will be the place of supply for restaurant and catering services?

Ans. The place of supply for restaurant and catering services shall be the location where the services are actually performed. Section 12(4) of IGST Act, 2017 provides that place of supply of service shall be location where the services are actually performed in respect of restaurant and catering services, personal grooming, fitness, beauty treatment, health services including cosmetic and plastic surgery

Example, if Mr. X, resident of Mumbai, goes to Bangalore for plastic surgery then the place of supply will be the place where the plastic surgery services are rendered i.e. Bangalore.

Q 13. What will be the place of supply of training services?

Ans. Section 12(5) of the IGST Act, 2017 provides that when a training service is provided to a registered person, the location of such registered person shall be the place of supply of training services. In case the service is provided to a person other than a registered person, then the place of supply shall be the location where the services are actually performed.

Example - If Mr. A, a resident of Bangalore, conducts training for employees of Software Ltd, a company based out of New Delhi, in Shimla Resort located in Shimla, then the place of supply of training service shall be New Delhi if Software Ltd is a registered person. If Software Ltd is not a registered person, then to place of supply of training service shall be Shimla.

Q 14. What will be the place of supply of services for admission to sporting events?

Ans. Section 12(6) of the IGST Act, 2017 provides that the place of supply of services provided by way of admission to cultural, artistic, sporting, scientific, educational, or entertainment events or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located.

Example, Book My Ticket Private Limited, a company based out of Bangalore providing online ticketing services for admission to various events, sells online tickets for IPL tournament to be held across India, then the place of supply of services for admission to each cricket match shall be the location where the match is actually played.

Q 15. What will be the place of supply for services in relation to organising events?

Ans. Section 12(7) of the IGST Act, 2017 provides that services in relation to organisation of events when provided to a registered person shall be the location of such person. If the service is provided to a person not registered, then the place of supply shall be the place where event is actually held.

If the events are held in more than one State and consolidated amount is charged for supply of services relating to such event, then the place of supply of services shall be taken as being in each of the State 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. In absence of such contract or agreement then the place of supply shall be determined as may prescribed.

Example, Cars Limited, an automobile company based out of Bangalore, appoints Events Private Limited, a company based out of Mumbai providing event organisation services, to provide services for organising an event of launching their new vehicle in Indian market. The launch event is organised at Mumbai, Delhi, Calcutta, and Chennai by the Event Private Limited. The place of supply of organising such events shall be the location of Cars Limited, i.e., Bangalore, if Cars Limited is a registered person.

If Cars Limited is not a registered person, then the place of supply of such event organisation services shall be the location where the events are actually held.

Q 16. What will be the place of supply of sponsorship services?

Ans. Assigning of sponsorship to any of the cultural, artistic, sporting, scientific, educational or entertainment event shall be the location of the registered person (recipient). If the event is organised for an unregistered person, then the assignment of sponsorship shall be the location where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

Q 17. What will be the place of supply of services in relation to a sporting event organised/held outside India?

Ans. Section 12(7) of the IGST Act, 2017 provides that if an event is held outside India, the place of supply shall be the location of the recipient.

Example, if an IPL cricket match is played in South Africa, then the place of supply of service in relation to organising the cricket match shall be the location of IPL limited.

Q 18. What is the place of supply of services by way of transportation of goods?

Ans. Section 12(8) of the IGST Act, 2017 provides that services by way of transportation of goods provided to a registered person shall be the location of registered person. Such services if provided to a person other than a registered person, then place of supply shall be the location at which such goods are handed over for their transportation.

However, where the transportation³ of goods is to a place outside India, the place of supply shall be the place of destination of such goods.

It will provide a level playing field to the domestic transportation companies and promote export of goods. Therefore, the transportation of goods from a place in India to a place outside India by a transporter located in India would not be chargeable to GST, as place of supply will be outside India.

Example, if Express limited, a goods transport company based out of Chennai, provides transportation services to Cars Limited, an automobile company based out of Bangalore, for movement of their cars from the warehouse of Cars Limited at Silvassa to Delhi, then the place of supply of transportation services shall be Bangalore if Cars Limited is a registered person. If Cars Limited is not a registered person, then the place of supply of transportation services shall be Delhi (location at which such goods are handed over).

Q 19. What is the place of supply for services of passenger transportation?

Ans. Section 12(9) of the IGST Act, 2017 provides that place of supply of passenger transportation services to a registered person shall be the location of such registered person. If such services are given to a person other than a registered person, then the place of supply of passenger transportation services shall be the place where the passenger embarks (begins) on the conveyance for a continuous journey.

Example, if Mr. A, a registered taxable person based out of Mumbai, purchases air ticket from Airlines Ltd, an airline company based out of Chennai, for travel from New Delhi to NEW YORK via Dubai, then the place of supply of passenger transportation shall be Mumbai. If Mr. A is not a registered person then the place of supply of passenger transportation shall be New Delhi.

Q 20. What is the place of supply of services provided on board a conveyance such as aircraft?

Ans. Section 12(10) of the IGST Act, 2017 provides that the place of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle will be the location

³ Effective date yet to be notified.

of the first scheduled point of departure of that conveyance for the journey. [Irrespective of whether the supplies are B2B or B2C]

Example: Palace on wheels, a train running from Jaipur to Kanyakumari, provides on-board entertainment services to its passengers, then the place of supply of such on-board entertainment services shall be Jaipur (first scheduled point of departure). For return journey, the place of supply shall be Kanyakumari.

Q 21. What is the place of supply for the telecommunication services?

Ans. Section 12(11) of the IGST Act, 2017 provides for determination of place of supply for the telecommunication services as under:-

- (a) In case of services by way of fixed telecommunication line, leased circuits, internet leased circuits, cable or dish antenna, shall be the location where such installation for receipt of such services is done. Example, if Mr. A, resident of Bangalore purchases dish antenna from Tata sky, a company providing DTH cable services based out of Mumbai, then the place of supply of DTH services shall be the location where the dish antenna is installed that is Bangalore.
- (b) In case of postpaid mobile connection services, the place of supply of telecommunication services shall be the billing address of the recipient of services on record of the supplier of services. For Example, Mr. A, resident of Bangalore, takes services from Airtel Limited, a company based out of New Delhi, for he is postpaid mobile connection then, the place of supply of services in relation to the postpaid mobile connection shall be the billing address of Mr. A as per the records of Airtel Limited, regardless of where Mr. A utilises the mobile services.
- (c) In case of prepaid mobile connection services, the place of supply of telecommunication services shall be the location of the selling agent or a reseller or a distributor of SIM card or recharge voucher as per the record of supplier at the time of supply. Example, if Mr. A, a resident of Bangalore has a prepaid mobile collection from Airtel Limited and while travelling to Mumbai, he purchases a recharge coupon from a local distributor, then the place of supply of such services would be the address of the local distributor at the time of supply.
- (d) In case, the vouchers are not sold by aforementioned persons, then the place of supply of services shall be the location where such prepayment is received or such vouchers are sold by any other person to the final subscriber.
- (e) In case where address of the recipient as per records of the supplier of service is not available, the place of supply shall be location of the supplier of service.

- (f) In case of prepaid services, if the recharge is done through Internet banking or electronic mode of payment (online), then the location of the recipient of services on record of the supplier of services shall be the place of supply of such service.

Q 22. What will be the place of supply of leased line services when the leased circuit is installed at more than one location/State?

Ans. As per Section 12(11) of the IGST Act, 2017, if leased circuit is installed in more than one state 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 States in proportion to the value of 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.

Example, if Software Ltd, a company based out of Bangalore procures services of leased circuit lines for its branches in Mumbai and Calcutta and Chennai from DTH limited, a company based out of New Delhi, then the place of supply of service of leased circuit lines shall be proportionately at each branch where the installation is done.

In case, Software Ltd pays a lump sum amount for the latest circuit lines services of all branches, then the apportionment between states shall be done on reasonable basis as may be prescribed in this regard.

Q 23. What will be the place of supply of banking and other financial services, stock broking services?

Ans. As per Section 12(12) of the IGST Act, 2017, the place of supply of banking and other financial services including stock broking services, shall be the location of the recipient of service as available on the records of the supplier of services. If the location of recipient of service is not on records of the supplier, the place of supply shall be the location of supplier of service.

Example, if Mr. A, a resident of Mumbai opens a bank account in Mumbai with Bank Ltd, and submits his residence address in Mumbai that the place of supply of banking services shall be Mumbai.

If Mr. B goes to bank in Bangalore not having an account with the bank to take a demand draft, the place of supply shall location of the supplier i.e. bank in Bangalore issuing the demand draft?

Q 24. What is the place of supply of insurance services?

Ans. As per Section 12(13) of IGST Act, 2017, insurance services provided to a registered person shall be the location of such registered person. In case of insurance services provided to a person other than a registered person, place of supply shall be location of the recipient of services on record of the supplier of services.

Q 25. What is the place of supply of advertisement services are provided to Central Govt., a State Govt., a statutory body or a local authority meant for the States or Union territories?

Ans. As per Section 12(14) of IGST Act, 2017, provides that place of supply of advertisement services to the Central Govt., a State Govt., a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement shall be taken as being in each of such States or Union territories and 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 entered into in this regard or, in the absence of such contract or agreement, on such other basis of Rule 3 of the IGST Rules, 2017.

Place of Supply of Services where the Location of the Supplier or the Location of the Recipient is outside India (Section 13)

Q 26. What is the place of supply of services where the location of the supplier or the location of the recipient is outside India?

Ans. Section 13 (2) of the IGST Act, 2017 lays down the principles for identifying the place of supply of services except in case of certain specified services. Where the location of the supplier or the location of the recipient is outside India, in respect of services other than the specified services the place of supply of service shall be the location of recipient of service. Where the location of recipient of service is not known, the place of supply shall be the location of supplier of service.

Q 27. What is the place of supply in respect of goods that are required to be made physically available for providing the service?

Ans. As per Section 13 (3) (a) of the IGST Act, 2017 the place of supply of service in respect of goods that are required to be made physically available by the recipient of service to the supplier of service shall be the location where the services are actually performed.

Q 28. What is the place of supply of services provided from a remote location using electronic means on goods?

Ans. As per proviso to Section 13(3) (a) of the IGST Act, 2017 where services are provided in respect of goods from a remote location by electronic means, the place of supply shall be the location where the goods are actually located. Example, if Software Ltd, a company based out of Bangalore, awards online maintenance contract of its servers located in Mumbai office to X INC, a company based out of USA, and as per the terms of the online maintenance X INC shall be required to perform regular maintenance from USA using Internet, then the place of supply of maintenance services shall be Mumbai.

Likewise, if Software Ltd gets an order from a Japanese Bank, based out of Tokyo, to monitor load of transactions on the servers located in Tokyo using Internet facilities, then the place of supply of such monitoring services shall be at Tokyo.

Q 29. What is the place of supply of service in relation to an immovable property, hotel accommodation?

Ans. Section 13(4) of the IGST Act, 2017 provides that the place of supply of service in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply of hotel 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, shall be the place where the immovable property is located or intended to be located.

Example - If Mr. A of New York, is constructing a house in New York and appoints Mr. B of Delhi to provide architectural services with regard proposed construction of house located in New York, then the place of supply of such architectural services shall be New York.

Q 30. What will be the place of supply for services in relation to organising events?

Ans. As per Section 13(5) of the IGST Act, 2017 the place of supply of services supplied by way of admission to, or organization of, a cultural, artistic, sporting, scientific, educational, or entertainment event, or a celebration, conference, fair, exhibition, or similar events, and of services ancillary to such admission will be the place where the event is actually held.

Example: If Company X in India pays for conference to be attended by its CEO held in London, the place of supply of service will London.

Q 31. Which are the specified services where the place of supply is the location of the supplier of services?

Ans. As per Section 13(8) of the IGST Act, 2017 the place of supply of following services shall be location of supplier of services:

- (a) Services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;
- (b) Intermediary services;
- (c) Services consisting of hiring of means of transport other than aircrafts and vessels except yachts, upto a period of one month.

Example: If XY Bank in USA charges loan processing charges to AB Co. located in India, the place of supply of service will be USA.

Q 32. What is the place of supply of services by way of transportation of goods?

Ans. As per Section 13(9) of the IGST Act, 2017 the place of supply of services of transportation of goods, other than by way of mail or courier will be the place of destination of the goods.

Example: If PQ shipping Co. located in India charges ocean freight charges for transport of goods to Germany for a customer located in India, the place of supply of service will be Germany.

Q 33. What is the place of supply of services provided on board a conveyance such as aircraft?

Ans. Section 13(11) of the IGST Act, 2017 provides that the place of supply of services on board a conveyance during the course of passenger transport will be the location of the first scheduled point of departure of that conveyance for the journey.

Example: Air India departing from Mumbai to Paris providing food to its passengers, the place of supply will be Mumbai (first scheduled point of departure). For return journey, the place of supply shall be Paris.

Q 34. What is the place of supply of online information and database access or retrieval service?

Ans. As per Section 13 (12) of the IGST Act, 2017 the place of supply of the "online information and database access or retrieval services" will be location of recipient of service. However, person receiving such service will be deemed to be located in taxable territory (i.e. India) if any two of the following non-contradictory conditions are fulfilled:

- (i) the location of address presented by the recipient of service via internet is in taxable territory;
- (ii) 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;
- (iii) the billing address of recipient of service is in the taxable territory;
- (iv) the internet protocol address of the device used by the recipient of service is in the taxable territory;
- (v) the bank of recipient of service in which the account used for payment is maintained is in the taxable territory;
- (vi) the country code of the subscriber identity module (SIM) card used by the recipient of service is of taxable territory;
- (vii) the location of the fixed land line through which the service is received by the recipient is in taxable territory.

Example of such services are advertising on the internet; providing cloud services; provision of e-books, movie, music, software and other intangibles via 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, etc.); digital data storage; online gaming.

Q 35. Whether separate invoice needs to be issued, to a particular customer if multiple Places of Supply occur because of supply of distinct goods or services or both?

Ans. Yes, separate invoice needs to be issued, to a particular customer if multiple Places of Supply occur because of supply of distinct goods or services or both. Eg: servicing of a motor vehicle wherein there is independent service element and also spare parts getting replaced. Services are charged at 18% tax and spare parts majorly are taxed at 28%. Considering this case to be a B2C, for invoicing of services we have to go by address on record which could be other State hence place of supply is that other State. However, in case of goods since there is no evidence on record to the supplier that the goods which are replaced would be leaving the State of origin and would travel to the other State, the service provider would treat POS as his own State. This method is also supported by the fact that GSTR-1 (Outward supply) returns does not allow to key in 2 different place of supply for the same invoice.

Special provision for payment of tax by a supplier of online information and database access or retrieval services (Section 14)

Q 36. Who shall be liable to collect and discharge the Integrated tax liability in cases of provision of cross border B2C OIDAR services?

Ans. Service providers providing OIDAR services to a non-taxable online recipient in taxable territory would be responsible for collection and discharge of integrated tax.

Q 37. Under what circumstances an intermediary, who arranges or facilitates the supply of OIDAR services would not be liable to collect tax from non-taxable online recipient?

Ans. If the intermediary satisfies the following conditions, he shall not be liable to collect tax from non-taxable online recipient;

- (a) the invoice or customer's bill or receipt issued or made available by such intermediary taking part in the supply clearly identifies the service in question and its supplier in non-taxable territory;
- (b) the intermediary involved in the supply does not authorise the charge to the customer or take part in its charge which is that the intermediary neither collects or processes payment in any manner nor is responsible for the payment between the non-taxable online recipient and the supplier of such services;

- (c) the intermediary involved in the supply does not authorise delivery; and
- (d) the general terms and conditions of the supply are not set by the intermediary involved in the supply but by the supplier of services.

Q 38. Who is non-taxable online recipient?

Ans. "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.

Q.38 Where a person located in non-taxable territory should get himself registered?

Ans. Bengaluru West and all the officers subordinate to him as the officers empowered to grant registration in case of online information and database access or retrieval services provided or agreed to be provided by a person located in non-taxable territory and received by a non-taxable online recipient.

MCQ's

Place of Supply (Section 10 to 14)

Q 1. Which of the following supply involving movement of goods is an intra-State supply?

- (a) Location of supplier in Kerala and place of supply in Tamil Nadu
- (b) Location of supplier in Karnataka and place of supply in Karnataka
- (c) Location of supplier in Kerala and place of supply on Andhra Pradesh
- (d) None of the above

Ans. (b) *Location of supplier in Karnataka and place of supply in Karnataka.*

Q 2. Place of supply in case of installation of elevator is

- (a) Where the movement of elevator commences from the supplier's place
- (b) Where the delivery of elevator is taken
- (c) Where the installation of elevator is made
- (d) Where address of the recipient is mentioned in the invoice

Ans. (c) *Where the installation of elevator is made.*

Q 3. Place of supply of food taken on board at Delhi for an aircraft departing from Delhi to Bangalore via Hyderabad is

- (a) Address of the aircraft carrier mentioned on the invoice of the supplier

- (b) Delhi
- (c) Jaipur
- (d) Hyderabad

Ans. (b) *Delhi*

Q 4. What is location of supply in case of importation of goods?

- (a) Customs port where the goods are cleared
- (b) Location of the importer
- (c) Place where the goods are delivered after clearance from customs port
- (d) Owner of the goods

Ans. (b) *Location of importer*

Q 5. Real estate agent in Delhi charges brokerage fee to Company A located in Chandigarh for assistance in getting a commercial property in Kolkata. Which is the place of supply in this case?

- (a) Delhi
- (b) Chandigarh
- (c) Kolkata
- (d) None of the above

Ans. (c) *Kolkata*

Q 6. What is the place of supply of service where a restaurant provides catering service at the premise of the customer?

- (a) Address of the restaurant from where the food is supplied
- (b) Customer premise where catering service is provided

Ans. (b) *Customer premise where catering service is provided.*

Q 7. Mr. X a resident from Pune conducts training for employees of P Ltd. being a registered person under GST based out in Chennai at a resort in Darjeeling. The place of supply in this case is:

- (a) Chennai
- (b) Pune
- (c) Darjeeling

Ans. (a) *Chennai*

Q 8. Place of supply of service for DTH by ABC Pvt. Ltd. located in Mumbai to customer in Patna is:

- (a) Mumbai
- (b) Patna

Ans. (b) Patna

Q 9. Mr. X of Hyderabad not having bank account takes a demand draft in Kolkata from ABC Bank for his visa purpose. The place of supply is

- (a) Hyderabad
- (b) Kolkata

Ans. (b) Kolkata

Q 10. The provider of AMC service outside India has entered into an agreement for an aircraft company PQR located in India AMC. The service provider provides repair service to the aircraft when it was in India. The place of service in this case is:

- (a) Outside India
- (b) India

Ans. (b) India; since the aircraft is in India when the service is provided

Q 11. If XYZ Ltd a company based out of Bangalore, awards online maintenance contract of its servers located in Mumbai office to Y INC, a company based out of USA, and as per the terms of the online maintenance Y INC shall be required to perform regular maintenance from USA using Internet, then the place of supply is

- (a) Bangalore
- (b) Mumbai
- (c) USA

Ans. (b) Mumbai

Q 12. Mr. Y residing in Ahmedabad appoints an architect in Delhi to provide Indian traditional home design for his proposed construction at Los Angeles, the place of supply of service is:

- (a) Los Angeles
- (b) Ahmedabad
- (c) Delhi

Ans. (a) Los Angeles

Q 13. If NM shipping Co. located in Chennai charges ocean freight charges for transport of goods to California for a customer located in Bangalore, the place of supply of service will be:

- (a) Chennai
- (b) California
- (c) Bangalore

Ans. (b) California

Chapter XVI

Refund of Integrated Tax to International Tourist

FAQ's

Refund of integrated tax paid on supply of goods to tourist leaving India (Section 15)

Q 1. What is the scope of the Section 15 of IGST Act, 2017?

Ans. Section 15 of the IGST Act, 2017 applies to international tourists. The IGST paid by an international tourist on the supply of goods is eligible for refund to the said tourist, subject to such conditions and safeguards as may be prescribed.

[Note: Section 15 of IGST is not effective till date]

Q 2. Define "Tourist".

Ans. Tourist means a person not normally resident in India, who enters India for a stay of not more than six months for legitimate non-immigrant purposes.

Q 3. Supplies made to Tourists are leviable to which tax?

Ans. All the supplies made to tourists are inter-State supplies in accordance with Section 8 of the IGST Act, 2017 and accordingly are leviable to integrated tax.

Q 4. On what supplies made to him, can the tourist claim refund?

Ans. The tourist can claim refund of integrated tax only on the supply of goods taken out of India. The tourist cannot claim the refund of tax paid on the supply of goods consumed in India or on supply of services.

Q 5. Is the integrated tax paid by tourist on mixed supplies or composite supplies eligible for refund?

Ans. (A) In case of Composite Supplies, if the principal supply is of the goods, then same will be eligible for refund, though the element of service could be involved.

(B) In case of Mixed Supplies comprising of goods, or goods & services, if the supply of goods attracts highest rate of tax, then same will be eligible for refund. However, if the mixed supply consists of only services, then the same will not be eligible for refund.

Q 6. A tourist has purchased Wine to be taken outside India. Can he claim refund of the tax paid?

Ans. Since there is no levy on the alcoholic liquor for human consumption under GST, the question of refund doesn't arise.

Q 7. Can the crew members of the ship, aircraft or any other conveyance claim refund of tax paid under Section 15?

Ans. Yes, provided they satisfy the conditions as mentioned in Q1 and Q2.

Q 8. Can the NRI's claim refund of tax paid under Section 15?

Ans. Yes, since the NRI's are not normally resident in India they will be treated as tourist if the stay in India is for legitimate non-immigrant purpose for a period of less than 6 months.

MCQ's

Refund to International Tourist - IGST Act, 2017 (Section 15)

Q 1. The Tourist can claim refund of:

- (a) CGST and SGST/UTGST on supply of Goods and services
- (b) IGST on supply of goods
- (c) Tax paid on the supply of scotch to be taken out of India
- (d) None of the above

Ans. *(b) IGST on supply of goods*

Q 2. Tourist means a person:

- (a) Not normally resident in India
- (b) Stays for not more than 6 months in India
- (c) Stays for legitimate and Non-Immigrant purpose
- (d) All the above

Ans. *(d) All the above*

Chapter XVII

Zero Rated Supply

FAQ's

Zero Rated Supply (Section 16)

Q 1. What is the meaning of the term "Zero Rated Supply"?

Ans. "Zero Rated Supply" refers to supplies made to SEZ units / developers or exports of goods or services or both. Zero rated supply doesn't necessarily mean that the above supplies are not leviable to IGST or will be taxed at "0" (Zero) Rate or will be exempt from IGST unconditionally.

Q 2. What is the relevance of zero rated supplies?

Ans. Given that the Exports and SEZ play a pivotal role in the economic growth in India, the registered person will have two options, namely;

- (a) he can make Zero Rated Supplies without payment of IGST under Letter of Undertaking or Bond and claim refund of input tax credit w.r.t to such supplies; or
- (b) he can make Zero Rated Supplies with payment of IGST (either by utilizing Input tax credit or by cash) and claim refund of such tax paid.

However, the registered person will have to abide by the conditions, safeguards and procedures as specified in Rule 96 and 96A of the CGST Rules (*Refer Refund Chapter*).

[Please Note:

- *Notification 37/2017 dated 4.10.2017* of Central Tax provides for the conditions and safeguards for export of goods or services without payment of IGST which supersedes *Notification 16/2017 dated 4.7.2017* of Central tax
- *Circular No. 8/8/2017-GST dated 04th October 2017*- provide Clarification on issues related to furnishing of Bond/LUT for exports
- *Notification No. 55/2017 Central Tax dated 15/11/2017 inter alia* state insertion of Rule 97A where by manual filing of refund is allowed
- *Circular No. 17/7/2017-GST dated 15.11.2017* provide conditions and procedure for manual filing and processing of refund in respect zero rated supplies
- *Circular No. 17/7/2017-GST dated 15.11.2017* which stipulated the conditions and procedure for manual filing and processing of refund in respect zero rated supplies

- *Circular No.24/24/2017- GST dated 21-12-2017* provides manual filing and processing of refund claims on account of inverted duty structure, deemed exports and excess balance in electronic cash ledger- This Circular is relevant, as refund of utilized credit on inputs or input services used in making zero rated supplies.]

Q 3. Are exports and supplies to SEZ units/Developers out of the ambit of GST?

Ans. No. They are treated as IGST supplies under the IGST Act, 2017. However, the tax burden on the same will be neutralized by granting refunds to persons making such supplies.

Q 4. Can SEZ unit / Developers claim refund of IGST charged by his supplier?

Ans. No. The IGST Act, 2017 allows the supplier of SEZ unit / developer to claim refund of IGST paid by him on supplies to SEZ unit / Developers.

Q 5. Are supplies made by SEZ units/Developer are Zero rated supplies?

Ans. No. only the supplies made TO SEZ units/Developer are zero rates supplies. However, Exports made BY SEZ units/Developer will be zero rated supplies.

Q 6. How will you calculate refund amount in case of zero-rated supply of goods or services or both without payment of tax under bond or LUT?

Ans. In the case of zero-rated supply of goods or services or both without payment of tax under bond or LUT, refund of input tax credit shall be granted as per the following formula **with effect from 23.10.2017** pursuant to *Notification No. 75/2017 – Central Tax dated 29.12.2017*:

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Where, -

- Refund amount* means the maximum refund that is admissible;
- Net ITC* means input tax credit availed on inputs and input services during the relevant period other than the input tax credit availed for which refund is claimed under Rules 89(4A) or 89(4B) or both
- Turnover of zero-rated supply of goods* means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking, other than the turnover of supplies in respect of which refund is claimed under sub-rules (4A) or (4B) or both;
- Turnover of zero-rated supply of services* means the value of zero-rated supply of services made without payment of tax under bond or LUT

= Payments received during the relevant period for zero-rated supply of services
 + zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period
 – Advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period

(E) Adjusted Total turnover

= Turnover in a State or a Union territory as per section 2 (112),

Less : value of exempt supplies other than zero-rated supplies

Less : turnover of supplies in respect of which refund is claimed under Rules 89(4A) or 89(4B) or both, if any, during the relevant period;

(F) "Relevant period" means the period for which the claim has been filed.

Note:

(1) Where

- Rule 89(4A) states that- *"In the case of supplies received on which the supplier has availed the benefit of Notification No. 48/2017-Central Tax dated 18.10.2017, refund of input tax credit, availed in respect of other inputs or input services used in making zero-rated supply of goods or services or both, shall be granted."*
- Rule 89 (4B) states that- *"In the case of supplies received on which the supplier has availed the benefit of notification No. 40/2017-Central Tax (Rate) dated 23.10.2017 or notification No. 41/2017-Integrated Tax (Rate) dated 23.10.2017, or both, refund of input tax credit, availed in respect of inputs received under the said notifications for export of goods and the input tax credit availed in respect of other inputs or input services to the extent used in making such export of goods, shall be granted."*

(2) Before 23.10.2017, formula for refund of input tax credit in case of zero-rated supply of goods or services or both without payment of tax under bond or LUT was:

Refund Amount = (Turnover of zero-rated supply of goods + Turnover of zero-rated supply of services) x Net ITC ÷ Adjusted Total Turnover

Where,-

(A) "Refund amount" means the maximum refund that is admissible;

(B) "Net ITC" means input tax credit availed on inputs and input services during the relevant period;

- (C) "Turnover of zero-rated supply of goods" means the value of zero-rated supply of goods made during the relevant period without payment of tax under bond or letter of undertaking;
- (D) "Turnover of zero-rated supply of services" means the value of zero-rated supply of services made without payment of tax under bond or letter of undertaking, calculated in the following manner, namely:-

Zero-rated supply of services is the aggregate of the payments received during the relevant period for zero-rated supply of services and zero-rated supply of services where supply has been completed for which payment had been received in advance in any period prior to the relevant period reduced by advances received for zero-rated supply of services for which the supply of services has not been completed during the relevant period;

- (E) "Adjusted Total turnover" means the turnover in a State or a Union territory, as defined under clause (112) of section 2, excluding the value of exempt supplies other than zero-rated supplies, during the relevant period;
- (F) "Relevant period" means the period for which the claim has been filed.

Q 7. State in brief the provide conditions and procedure for manual filing and processing of refund in respect zero rated supplies?

Ans. Circular No. 17/7/2017-GST dated 15.11.2017 which stipulated the conditions and procedure for manual filing and processing of refund in respect zero rated supplies *inter alia* provides that:

- A registered person may make zero-rated supplies of goods or services or both on payment of integrated tax and claim refund of the tax so paid, or make zero-rated supplies of goods or services or both under bond or LUT without payment of integrated tax and claim refund of unutilized input tax credit in relation to such zero rated supplies
- Application for refund

S. No.	Category of Refund	Process of Filing
1	Refund of IGST paid on export of goods	No separate application is required as shipping bill itself will be treated as application for refund.
2	Refund of IGST paid on export of services / zero rated supplies to SEZ units or SEZ developers	Printout of FORM GST RFD-01A needs to be filed manually with the jurisdictional GST officer (only at one place - Centre or State) along with

		relevant documentary evidences, wherever applicable.
3	Refund of unutilized input tax credit due to the accumulation of credit of tax paid on inputs or input services used in making zero-rated supplies of goods or services or both	FORM GST RFD-01A needs to be filed on the common portal. The amount of credit claimed as refund would be debited in the electronic credit ledger and proof of debit needs to be generated on the common portal. Printout of the FORM GST RFD-01A needs to be submitted before the jurisdictional GST officer along with necessary documentary evidences, wherever applicable

- Entry to be made in the Refund register for receipt of refund applications (by department)
- Against complete application complete an acknowledgement in **FORM GST RFD-02** shall be issued within 15 days from the date of filing of the application and entry shall be made in the Refund register
- All communications (issuance of deficiency memo, issuance of provisional and final refund orders, payment advice etc.) shall be done in prescribed Forms manually within the timelines prescribed in the rules
- Provisional refund shall be completed within 7 days as per the CGST Rules and bifurcation of the taxes to be refunded under CGST (CT)/SGST (ST)/UTGST (UT) /IGST (IT) /Cess shall be maintained in the register mandatorily. Thereafter, final order will be issued within 60 days of the date of receipt of the complete application form.
- Amount not sanctioned and eligible for re-credit is to be recredited to the electronic credit ledger by an order made in **FORM GST PMT-03**. The actual credit of this amount will be done by the proper officer in **FORM GST RFD-01B**
- There after refund order issued either by the Central tax authority or the State tax/UT tax authority is communicated to the concerned counter-part tax authority within 3 days for the purpose of payment of the relevant sanctioned refund amount of tax or cess, as the case may be.

MCQ's**Zero Rated Supply (Section 16)**

Q 1. Zero rated supply includes:

- (a) Export of goods and services.
- (b) Supply of goods and services to a SEZ developer or SEZ Unit
- (c) Supply of goods and services by a SEZ developer or SEZ Unit
- (d) Both (a) and (b)

Ans. (d) *Both (a) and (b)*

Q 2. Is the SEZ developer or SEZ unit receiving zero rated supply eligible to claim refund of IGST paid by the registered taxable person on such supply?

- (a) Yes
- (b) No
- (c) Partially yes

Ans. (b) *No*

Q 3. A registered taxable person is eligible to claim refund in respect of export of goods and services in the following cases:

- (a) Under bond, without payment of IGST and claim refund of unutilized input tax credit.
- (b) On payment of IGST and claim refund of IGST paid on such goods and services.
- (c) None of the above
- (d) Both (a) and (b)

Ans. (d) *Both (a) and (b)*

Q 4. The supply of goods to SEZ unit is treated as _____ in the hands of the supplier:

- (a) Exempt Supply – Reversal of credit
- (b) Deemed Taxable Supply – No reversal of credit
- (c) Export of Supplies
- (d) Non-Taxable Supply – Outside the Scope of GST

Ans. (c) *Export of Supplies*

Q 5. Government has notified, Supplies of goods in respect of which no refund of unutilised input tax credit shall be allowed vide

- (a) Notification No. 05/2017-Integrated Tax (Rate), dt. 28-06-2017
- (b) Notification No. 06/2017-Integrated Tax (Rate), dt. 28-06-2017
- (c) Notification No. 09/2017-Integrated Tax (Rate), dt. 28-06-2017
- (d) Notification No. 11/2017-Integrated Tax (Rate), dt. 28-06-2017

Ans. (a) *Notification No. 05/2017-Integrated Tax (Rate), dt. 28-06-2017*

Chapter XVIII

Apportionment of Tax and Settlement of Funds

FAQ's

Apportionment of Tax and Settlement of Funds (Section 17 to Section 19)

Q 1. What is the need for apportionment of tax collected between Centre and State?

Ans. Unlike the CST Act, 1956, GST is destination based consumption tax. The State where the goods or services or both are consumed will get the right upon tax paid on the said goods or services or both so as to ensure the flow of input tax credit to the recipient in the consuming State. Further, in the case of inter-State supplies, where the tax is collected and paid by the supplier in the origin State, the burden is borne by the recipient in the consuming State. Hence, the integrated tax collected by the central government needs to be apportioned between center and consuming state in the proportion to CGST and the SGST. In case of consumption in the Union Territories, the entire tax will be retained by the central government though under different account.

Q 2. What is the mechanism of IGST apportionment between Centre and State?

Ans. The IGST paid on the inter-State supplies of goods or services or both to and Imports by

- (a) An unregistered person;
- (b) Registered Person paying tax under Section 10 of the CGST Act, 2017 (Composition Levy);
- (c) Registered Person who is not eligible for input tax credit on the said supply; and
- (d) Registered Person who does not avail credit within due date of filing annual return

will be first apportioned to the Central Government based on the rate of CGST on similar intra-State supply.

The balance amount of integrated tax will be apportioned to the

- (a) State Government where such supply takes place; and
- (b) Central Government in relation to Union Territories.

Q 3. How will the IGST be distributed if the place of supply made by any taxable person cannot be determined?

Ans. Such integrated tax shall be apportioned to each of the States and Central Government in relation to Union Territories, in proportion to the total supplies made by such taxable person to each of such States or Union Territories, as the case may be, in a financial year.

Ex: The following are the taxable supplies made by taxable person from Karnataka to persons specified in Q2

Particulars	Taxable Value	CGST	SGST	IGST
Intra-State Supplies	7,00,000	42,000	42,000	-
Inter-State supplies to:				
- Maharashtra	2,50,000	-	-	30,000
- Tamil Nadu	4,50,000	-	-	54,000
- Chandigarh	3,00,000	-	-	36,000
- Place of Supply Not known	2,25,000	-	-	27,000
Grand Total	19,25,000	42,000	42,000	1,47,000

Note: CGST Rate: 6% ; SGST Rate : 6% ; IGST Rate : 12%

The Apportionment of IGST Tax will be done in the following Manner

Place of Supply in	Apportion to	Tax to be apportioned	Central Government	Maharashtra	Tamil Nadu
	Taxable Value				
- Maharashtra	2,50,000	30,000	15,000	15,000	-
- Tamil Nadu	4,50,000	54,000	27,000	-	27,000
- Chandigarh	3,00,000	36,000	36,000	-	-
- Place of Supply Not known	2,25,000	27,000	8,100	6,750	12,150
Grand Total	12,25,000	1,47,000	86,100	21,750	39,150

Q 4. How will the balance IGST portion after the apportionment to central government be distributed if the taxable person making supplies cannot be identified?

Ans. The balance IGST portion will be distributed to all the States and Central Government in respect of Union Territories based on the amount collected as SGST and UTGST by the

respective States / Central Government in respect of Union Territories during the immediately preceding financial year.

Q 5. How will the Penalty, Interest etc. paid on IGST be distributed?

Ans. The penalty, interest etc will be distributed in the same manner as the IGST is distributed.

Q 6. How will the IGST be apportioned in case of supplies to Registered Person who utilize the same for the payment of CGST, SGST or UTGST?

Ans. The amount will be distributed to Central Government and appropriate State government to the extent the integrated tax credit is utilized for the payment of CGST/UTGST and SGST respectively on the outward supplies.

Ex: The taxable supplies made by registered person in Karnataka is as follows:

Particulars	Taxable Value	CGST	SGST	IGST
Intra-State Supplies	7,00,000	42,000	42,000	-
Inter-State supplies	7,00,000			84,000
Grand Total	14,00,000	42,000	42,000	84,000

Note: CGST Rate: 6%; SGST Rate: 6%; IGST Rate: 12%

The registered person has only IGST credit of ₹ 1,50,000/-

The utilization of IGST Credit and distribution thereof will as follows:

Particulars	CGST	SGST	IGST	Total
Output Tax payable	42,000	42,000	84,000	1,68,000
Utilization of IGST Credit	42,000	24,000	84,000	1,50,000
Net Tax payable in cash	-	18,000	-	18,000

Out of ₹ 1,50,000/- of IGST Credit,

- ₹ 84,000/- will remain in integrated tax account as the same is utilized for payment of IGST.
- ₹ 42,000/- and ₹ 24,000/- will be distributed to Central Government and Karnataka State Government respectively.

Q 7. What is the remedy to the registered person who has paid IGST by treating an intra-State supply as inter-State supply?

Ans. The IGST so paid will be refunded to the registered person as per Rule 96 and 96A of the CGST Rule 2017.

Further, the registered person will not be required to pay interest on the CGST and SGST / UTGST liability arising subsequently.

Q 8. What is the remedy to the registered person who has paid CGST, SGST/UTGST by treating an inter-State supply as intra-State supply?

Ans. The CGST and SGST/UTGST so paid will be refunded to the registered person in such manner and subject to such conditions as may be prescribed.

Further, the registered person will not be required to pay interest on the IGST liability arising subsequently.

MCQ's

Apportionment of Tax and Settlement of Funds (Section 17 to Section 19)

Q 1. Out of IGST paid to the Central Government, which of the following must be apportioned based on tax rate equivalent to the CGST on similar intra-state supply?

- (a) Interstate supply of goods and services to an unregistered person.
- (b) Interstate supply of goods and services to a taxable person paying tax under sec.10 of the CGST Act, 2017.
- (c) Interstate supply of good and services to taxable person not eligible for input tax credit.
- (d) All of the above.

Ans. (d) *All of the above*

Q 2. Can IGST amount apportioned to a State, if subsequently found refundable to any person and refunded to such person, be reduced from the amount apportioned to such State?

- (a) Yes
- (b) No
- (c) Partially
- (d) None of the above

Ans. (a) *Yes*

Q 3. Out of the IGST paid to the Central Government in respect of import of goods or services, if the registered taxable person does not avail the said credit within the specified period and so remains in the IGST account, what is the treatment?

- (a) Refund it back to the taxable person.
- (b) Can be claimed after the expiry of the specified period.

- (c) Apportion to the Central Government based on rate equivalent to CGST on similar intra-State supply and Apportion to the state where such supply takes place.
- (d) None of the above.

Ans. (c) Apportion to the Central Government based on rate equivalent to CGST on similar intra-State supply and Apportion to the State where such supply takes place

Q 4. The provisions of apportionment of tax also apply to

- (a) Apportionment of interest
- (b) Apportionment of penalty
- (c) Compounding amount realized in connection with tax so apportioned.
- (d) All of the above

Ans. (d) All of the above

Q 5. The registered person has paid IGST by treating an intra-State supply as inter-State supply. The officer has levied CGST and SGST as the same is intra-State supply. What is the remedy?

- (a) Pay CGST and SGST along with applicable interest
- (b) Pay CGST and SGST and Claim refund of IGST
- (c) Forgo IGST paid
- (d) None of the above

Ans. (b) Pay CGST and SGST and Claim refund of IGST

Chapter XIX

Miscellaneous

FAQ's

Application of provisions of the CGST Act (Section 20)

(Similar provisions are there in the UTGST Act, 2017 vide Section 21)

Q 1. What are the provisions of the CGST Act, which have been made applicable to IGST Act by virtue of Section 20 of the IGST Act?

Ans. The following provisions of the CGST Act shall *mutatis mutandis* apply, so far as they may be applicable to the IGST Act:

- (i) scope of supply;
- (ii) composite supply and mixed supply;
- (iii) time and value of supply;
- (iv) input tax credit;
- (v) registration;
- (vi) tax invoice, credit and debit notes;
- (vii) accounts and records;
- (viii) returns, other than late fee;
- (ix) payment of tax;
- (x) tax deduction at source;
- (xi) collection of tax at source;
- (xii) assessment;
- (xiii) refunds;
- (xiv) audit;
- (xv) inspection, search, seizure and arrest;
- (xvi) demands and recovery;
- (xvii) liability to pay in certain cases;
- (xviii) advance ruling;
- (xix) appeals and revision;

- (xx) presumption as to documents;
- (xxi) offences and penalties;
- (xxii) job work;
- (xxiii) electronic commerce;
- (xxiv) transitional provisions; and
- (xxv) miscellaneous provisions including the provisions relating to the imposition of interest and penalty,

Q 2. What are the provisions of the CGST Act, which shall apply to IGST Act, but with changes?

Ans. The following provision of the CGST Act shall apply to IGST Act, not identically but with the following changes;

1. In case of tax deducted at source, the deductor shall deduct tax at the rate of two per cent. from the payment made or credited to the supplier (instead of one percent under the CGST Act):
2. In case of tax collected at source, the operator shall collect tax at such rate not exceeding two per cent, as may be notified on the recommendations of the Council, of the net value of taxable supplies: (instead of one percent under the CGST Act):
3. The value of a supply shall include any taxes, duties, cesses, fees and charges levied under any law for the time being in force under the CGST Act (*to be read as IGST Act, in the context of IGST Act*), and the Goods and Services Tax (Compensation to States) Act, if charged separately by the supplier
4. In a case where penalty is leviable under the Central Goods and Services Tax Act and the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act, the penalty leviable under this Act shall be the sum total of the said penalties (i.e. sum total of penalties under CGST and SGST).
5. where the ⁴appeal is to be filed before the Appellate Authority or the Appellate Tribunal, the maximum amount payable shall be Rs. 50 crore and Rs. 100 crore respectively.

Q 3. Brief out the provisions related to charging of late fee while filling delayed return under which IGST Act?

Ans. The provisions related with charging of late fee while filling the delayed return is applicable under CGST, SGST/UTGST Act. However, there is an exception in section

⁴ Effective date yet to be notified.

20 of IGST Act that does not cover provisions related with charging of late fee in case of filling of delayed return.

Q 4. Who is authorised to accept or reject application of GST Practitioner?

Ans. Assistant Commissioner/Deputy Commissioner, having jurisdiction over the place declared as address in the application for enrolment as GST Practitioner in **FORM GST PCT-1** submitted in terms of section 48(1) of the CGST Act read with Rule 83(2) of CGST Rules, 2017, is authorized to approve or reject the said application.

Applicant shall be at liberty to choose either the Centre or the State as the enrolling authority. The choice will have to be specified by the applicant in Item 1 of **Part B** of **FORM GST PCT-1**

Import of Service made on after the appointed day (i.e. IGST Act has come into effect) (Section 21)

Q 5. If services are imported after the commencement of the IGST Act, would such service be liable to IGST, though the transaction has been initiated under service tax law (i.e. before the commencement of the IGST Act)?

Ans. Yes. If a service is imported on or after the day IGST has come into force, then such service shall be liable to IGST, regardless of the fact whether the transaction(s) for such import of services had been initiated before IGST has come into force (i.e. when service tax law was in force)

Q 6. When is a supply of service transaction deemed to be initiated before the commencement of the IGST Act?

Ans. A transaction of supply of service is deemed to have been initiated before the day IGST comes into existence, if either:

1. The invoice relating to such supply or
2. Payment, either in full or in part, has been received or made before IGST Act has come into existence.

Q 7. In the above circumstance, then should tax be paid twice, once under service tax law and secondly under IGST Act?

Ans. No. If service tax on such import of services has already been paid in full under the service tax law, then IGST shall not be payable again at the time of actual import of such service.

Q 8. What if tax is paid only in part under service tax law and part of the tax becomes payable under IGST law?

Ans. In certain cases, part of the consideration for import of service is paid in advance or part of the consideration is paid according to milestone completion method under service tax law. Service tax would not have been paid on the balance consideration since either service would not have been completed or part of the consideration remains payable on the day service tax law is rescinded. In such cases, IGST would be payable on the balance portion of service supplied/ consideration paid under the IGST regime.

Power to make Rules (Section 22)

(Similar provisions are there in the UTGST Act, 2017 vide Section 22)

Q 9. Which Section provides the Central Government with the power to make Rules for the IGST Act?

Ans. Section 22 of IGST provides the Central Government with the power to make Rules for the purpose of the IGST Act.

Q 10. What are the matters on which the Central Government may make Rules under the IGST Act?

Ans. The Central Government may make rules for all or any of the matters which under the IGST Act, it is required to prescribe or in respect of which provisions are to be made by way of rules.

Q 11. Can the Central Government make rules with retrospective effect?

Ans. The Government has been given the power to make rules with retrospective effect, from a date, not earlier than the date on which the provisions of the Act, under which the Rules are made have come into force.

Q 12. Does government have the power to prescribe penalty amount in the Rules? Can penalty be prescribed when the Rules are given retrospective effect?

Ans. Yes. The government has the power to enact provisions in the rules stating that contravention thereof would be liable to penalty. However, the penalty amount has been restricted to ₹ 10,000/-.

Power of Board to make Regulations (Section 23)

(Similar provisions are there in the UTGST Act, 2017 vide Section 23)

Q 13. Who can make rules?

Ans. The Central Board of Excise & Customs has been delegated with the power to make Regulations.

Q 14. What are the conditions subject to which the Regulations may be made by the Board?

Ans. The Regulations made by the Central Board of Excise & Customs must be consistent not only with the GST Act but also the Rules notified by the Central Government.

Laying of Rules, Regulations and Notification before the Parliament (Section 24)

(Similar provisions are there in the UTGST Act, 2017 vide Section 24)

Q 15. Whether the Rules and Regulations promulgated by the Central Government and Board respectively must be laid before the Parliament?

Ans. Yes. Every rule made by the Government, every regulation made by the Board and every notification issued by the Government under this Act, shall be laid, as soon as may be after it is made or issued, before each House of Parliament.

Q 16. When and for what period should the Rules, Regulations and Notification be laid before the Parliament?

Ans. The Rules, Regulations and Notification must be laid before the Parliament, while it is in session, for a total period of thirty days which may be comprised in one session or in two or more successive sessions.

Q 17. What if the Parliament makes modification/ annuls the Rules, Regulations and Notifications so laid?

Ans. If, before the expiry of the aforesaid period, both Houses agree in making any modification in the rule or regulation or in the notification, or both Houses agree that the rule or regulation or the notification should not be made, the rule or regulation or notification, shall *thereafter* have effect only in such modified form or be of no effect.

Q 18. What would be the sanctity of anything done/ omitted to be done on the basis of Rules, Regulations or Notifications, which are subsequently modified/ annulled by the Parliament?

Ans: The modification or annulment made by the Parliament shall be without prejudice to the validity of anything previously done under that rule or regulation or notification, as the case may be.

Removal of Difficulties (Section 25)

(Similar provisions are there in the UTGST Act, 2017 vide Section 26)

Q 19. What is the way out, if any difficulty arises in giving effect to the provisions of the IGST Act?

Ans. If any difficulty arises in giving effect to any provisions of the IGST Act, the Central Government may, on the recommendations of the Council, by a general or a special

order published in the Official Gazette, make such provisions, which are consistent with the provisions of the Act, the rules and regulations made thereunder, as may be necessary or expedient for the purpose of removing the said difficulty.

Q 20. Is there any time limit for the Central Government to issue the General Order/ Special Order to remove the difficulty?

Ans. The Central Government has the power to issue General Order/ Special Order to remove the difficulty arising while giving effect to the provisions of this Act, within a period of three years from the date of commencement of the IGST Act.

Q 21. Should the General/ Special Order so passed by the Central Government be laid before the Parliament?

Ans. Yes. Every General/ Special order shall be laid, as soon as may be, after it is made, before each House of Parliament.

MCQ's

Miscellaneous (Section 20 to 25)

Q 1. What provisions of CGST have been made applicable to IGST?

- (a) All the provisions
- (b) Only a few provisions
- (c) The provisions of CGST Act as would be applicable to IGST has not been mentioned
- (d) The exact provisions of CGST Act as would be applicable to IGST have not been enumerated. However, a list of items have been mentioned, whose corresponding provisions under CGST would apply to IGST Act.

Ans. (d) *The exact provisions of CGST Act as would be applicable to IGST have not been enumerated. However, a list of items have been mentioned, whose corresponding provisions under CGST would apply to IGST Act.*

Q 2. What would the TDS and TCS rates be under IGST?

- (a) TDS and TCS provisions not applicable to IGST since no such provisions have been incorporated under IGST Act
- (b) TDS and TCS @ 1% each
- (c) TDS @2% and TCS @ not exceeding 2%
- (d) TDS @1% and TCS not exceeding 2%

Ans. (c) *TDS @2% and TCS @ not exceeding 2%*

Q 3. When is import of services deemed to have been initiated before commencement of IGST Act?

- (a) When invoice relating to such supply has been received or made before IGST has come into existence
- (b) Payment is made/ received either in part or full before IGST has come into existence
- (c) Both of the Above
- (d) Any one of the Above

Ans. (d) *Any one of the Above*

Q 4. Canteen Stores Department under the Ministry of Defence, are entitled to claim a refund of% of IGST paid by it on all inward supplies of goods received by it for the purposes of subsequent supply of such goods to the Unit Run Canteens of the CSD or to the authorized customers of the CSD.

- (a) 25
- (b) 50
- (c) 100
- (d) 125

Ans. (b) 50

Q 5. Is IGST payable on services imported after the appointed day, though service tax has actually been paid under service tax regime?

- (a) No
- (b) Yes. Pay and avail the credit paid of IGST under reverse charge on full value
- (c) Yes. If tax has been paid partially under service tax regime and part of the service/ consideration paid has not suffered service tax under service tax regime

Ans. (c) *Yes. If tax has been paid partially under service tax regime and part of the service/ consideration paid has not suffered service tax under service tax regime.*

Q 6. Can government make retrospective rules?

- (a) Yes. But cannot impose penalty for contravention of rules for retrospective period
- (b) Yes and also can impose penalty for contravention of rules for retrospective period
- (c) No

Ans. (a) *Yes. But cannot impose penalty for contravention of rules for retrospective period*

Q 7. What is the effect, if the parliament annuls the rules/ notifications issued by government?

- (a) It is as good as no rules/ notifications were issued by the government
- (b) The rules/ notifications issued by the government would be effective for the period from the date of issue till the date they were annulled by the parliament
- (c) There would be no sanctity for the action taken by the department/ assessee on the basis of rules/ notification for the period from the date of issue till the date of annulment.
- (d) The action taken by the department /assesses on the basis of such rules would be void from the date of annulling the rules/notification.
- (e) (a) and (c)
- (f) (b) and (d)

Ans. (f) - (b) and (d)

Q 8. What is the maximum period for exercising this power of issuing general or a special order for removal of difficulties?

- (a) 4 years
- (b) 3 years
- (c) 2 years
- (d) 1 year

Ans: (b) 3 years

General

Q1. If an unregistered individual receives GST services for shifting his personal belongings from one State to another is liable to pay GST?

Ans. The GTA service supplier would be liable to pay GST under direct charge since, the service is supplied to an individual who is not registered under the provisions of GST law. Accordingly, the GTA should issue GST compliant invoice and charge CGST & SGST or IGST as the case may be.

Q2. Whether, under the provisions of GST law, a single ISD registration should be obtained for distribution of the credit for branches located across the country?

Ans. Any branch which receives the tax invoice for supply of services to another branch can obtain registration as ISD for distribution of credit to the respective branches. Accordingly, any branch receiving the tax invoice can obtain registration separately for distribution of input tax credit.

- Q3. A supplier of service located outside India is supplying services to unregistered person. Whether, this supply would qualify as import of services liable to GST under reverse charge mechanism?
- Ans. The supply of service by a person located outside India to a unregistered person would qualify as import of service in terms of Section 7(1)(b) of the CGST / SGST Act, 2017. Accordingly, the recipient of service shall pay IGST under reverse charge mechanism.
- Q4. Whether zero rated supply is an exempt supply for the purpose of issuance of e-way bill?
- Ans. Export of goods and / or services and supply of goods and / or services to a developer of SEZ or SEZ unit would qualify as zero rated supply under Section 16 of the IGST Act, 2017. An e-way bill should be generated for effecting the movement of goods for exports or supplies to SEZ developer or SEZ unit.
- Q5. Q 5. If a manufacturer produces goods in one state and supply goods to another State having turnover below 20 lacs can opt to pay tax under composition scheme?
- Ans. No. A taxable person effecting inter-State supply is restricted to opt for paying tax under the composition scheme.
- Q6. Whether input tax credit on goods can be claimed by the registered person effecting export of goods without payment of GST under LUT?
- Ans. Yes. The GST paid on inward supply of goods can be claimed as input tax credit on goods which are exported subsequently. The provisions of GST law do not restrict in claiming input tax credit on goods exported. Further, the turnover of export of goods without payment of IGST shall not be construed as exempt supplies for the purpose of reversal in terms of Rule 42 of CGST / SGST Rules, 2017.
- Q7. What will be the place of supply for a registered recipient of service of renting of immovable property owned by a non-resident? Whether, recipient would be liable to pay IGST under reverse charge mechanism?
- Ans. The place of supply in case of renting of immovable property would be the location where immovable property is located in terms of Section 13(4) of the IGST Act, 2017. It is relevant to note in the instant case that, in terms of Section 2(85), the place of business is defined to mean a place from where the business is ordinarily carried on. Therefore, the non-resident, in the instant case, should obtain the registration in the State where immovable property is located since, the taxable supply of service is being effected from such State.
- Q8. Whether high sea sale is non-GST supply or an exempt supply?

Ans. In the case of High Sea Sales, the duty of import (including IGST) will be paid / payable by the ultimate buyer who gets title to the imported goods by way of High Sea Sale agreement. The central Government has clarified by way of Circular No. 33/2017 - Customs dated 01.08.2017 that, the duties will be levied and collected only at the time of importation and the value addition accruing in each such high sea sale shall form part of the value on which IGST is collected at the time of clearance. Accordingly, supply of goods under high sea sale would qualify as non-GST outward supply.

Q9. In case of bill to ship to imports viz., a registered person in India place an order on China vendor directing him to supply goods to the customer located in Hong Kong – what shall be the place of supply?

Ans. The transaction where the supplier located in China ships goods to the customer of the Indian entity located in Hong Kong would be termed as 'merchanted trade' in terms of Master Circular No. 13/2015-16 dated 01.07.2015 (*as amended*). The Circular No. 33/2017-Cus dated 01.08.2017 clarifies that, IGST is applicable only at the time of importation. In the instant case, since the goods are not imported into India, the transaction will not be subject to tax either under the provisions of IGST Act, 2017 or CGST / SGST Act, 2017.

Q10. What would be the place of supply of repair service in relation to ship belonging to another person located outside India?

Ans. In the instant case, ship is required to be made physically available receipt of repair services. Accordingly, the place of supply in terms of Section 13(3)(a) of the IGST Act, 2017 shall be the location where the services are actually performed. Therefore, the supplier should charge tax under the provisions of CGST / SGST Act, 2017.

Q11. What would be the place of supply of promotional services for exhibition to be held outside India?

Ans. The registered person supplying promotional services would qualify as the services ancillary to organising the event. Therefore, in terms of Section 13(5) of the IGST Act, 2017 the place of supply shall be the location where the event is actually held. Accordingly, this will qualify as zero-rated supply in terms of Section 16 of the IGST Act, 2017 and is not liable to tax subject to compliance with other conditions.