

Reverse Charge Mechanism & ECO



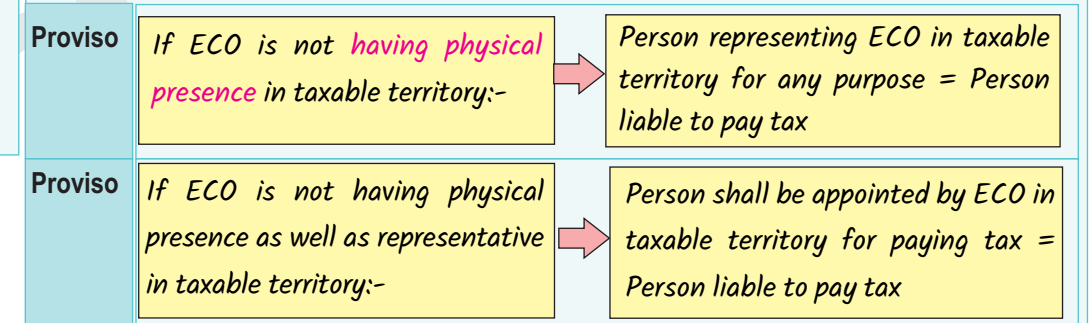
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Sec 9(3) : Reverse Charge under notified cases
 The Government may, on the recommendations of the Council,
 ➔ by notification, specify categories of supply of goods or services or both,
 ➔ the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Sec 2(98) : Reverse Charge
 means the 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 under section 9(3) or 9(4), or under section 5(3) or 5(4) of the Integrated Goods and Services Tax Act.

Sec 9(4) (CGST) Reverse Charge - when supply of goods or services by unregistered person to registered person
 The central tax in respect of the
supply of specified category of goods or services or both by a supplier, who is not registered, to **a specified class of registered person**
 shall be paid by such person on reverse charge basis as the recipient of such supply of goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

Sec 9(5) - CGST liability of E-commerce operator
 If there is **intrastate** supply of **specified services** through ECO,
 ➔ the tax on such supply shall be paid by ECO &
 ➔ All provisions of act shall apply to that ECO as if he is the person liable to pay tax in relation to such supply.
Note:- Here, Services are notified by govt. on recommendations of the council

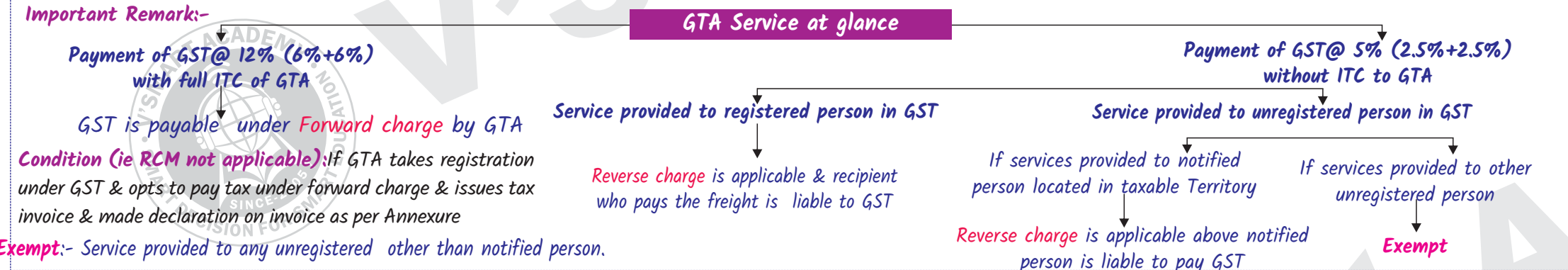


Definition u/s 2(45):- Electronic Commerce Operator (ECO) means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce.

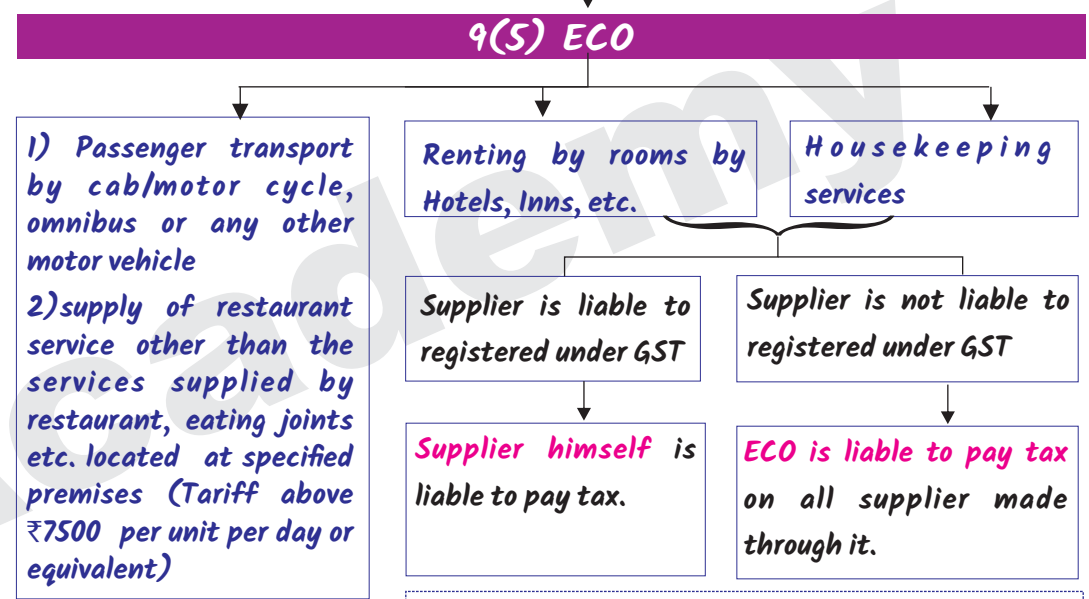
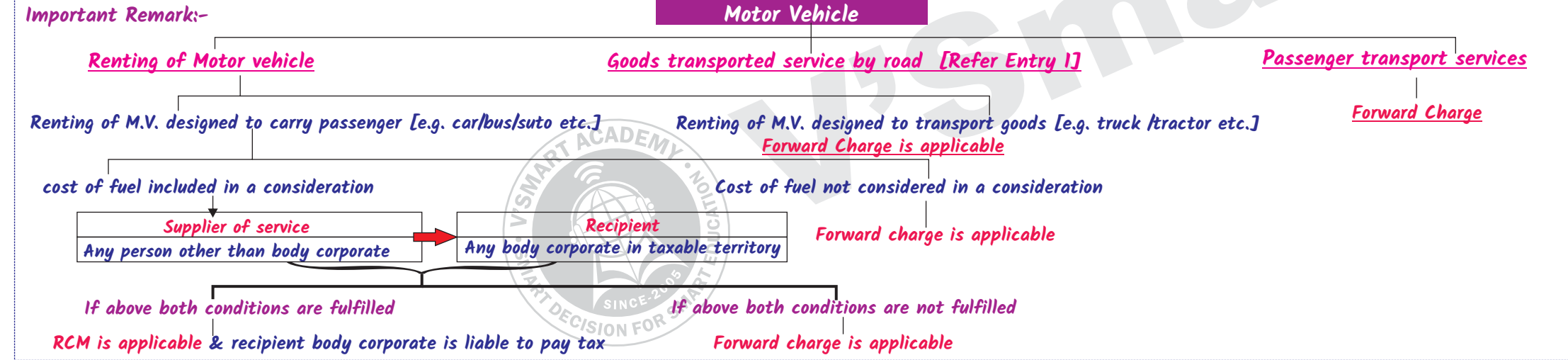
Reverse Charge Mechanism Under sec 9(3) & 9(4)

Transport and Motor vehicle Sector

1. GTA	Service	by	to	Liability
	Services in relation to transportation of goods by road	GTA (who has not paid GST @12%)	person (Notified Person) who pays freight is a) Any registered factory. b) Any registered Society c) Any Co-operative Society d) Any person registered under GST e) Body corporate or; f) firm, (including LLP & AOP) g) Any CTP.	Notified person who is liable to pay freight Note: GTA liable in following cases 1. If notified person located in non-taxable territory. 2. If person liable to pay freight is not falling under notified categories. 3. If department or establishment of government or local authority government agency opt for registration only for the purpose of Deducting TDS u/s 51



2. Renting of motor vehicle	Service	by	to	Liability
	Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged	any person other than body corporate (does not issue an invoice charging CGST @ 6% and SGST 6% to the service recipient)	Any body corporate	Any body corporate located in taxable territory



Student Notes:-

Legal Sector

3. Legal Services

Legal Services provided by an individual / senior / firm of advocates to business entity directly or indirectly. Any business entity located in the taxable territory

Explanation- "legal service" means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority."

Important Remark:-

RCM if all following conditions are fulfilled	Forward Charge in any of the cond's of RCM not fulfilled	Exemptions [No FC / RCM]
1) Only if legal services supplied by advocate	All other services supplied by Advocate	-
2) Services must be supplied by Individual Advocate/Senior Advocate firm of Advocate	Legal services supplied by ⊃ advocate company ⊃ CA/CS/CMA or other consultant	-
3) Service is supplied to business entity	-	Services supplied to ⊃ B.E. having Agg. T/O below threshold in P.F.Y ⊃ Non business entity ⊃ CG/SG/UT/ Govt. Entity
4) Recipient (B.E.) is located in taxable territory	If recipient is located in non- taxable territory	-

4. Arbitral Tribunal

Services by Arbitral Tribunal to business entity in a taxable territory Any business entity located in the taxable territory

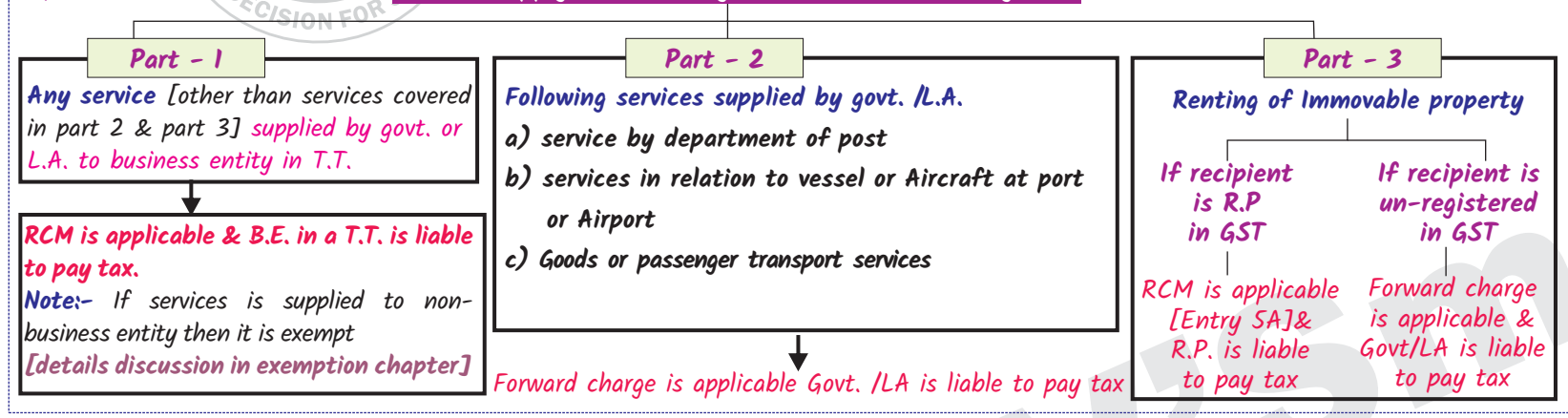
Government Service Sector

5. Government

Any Services provided by Government or Local authority to business entity other than 1) renting of immovable property/ 2) Service by Department of Post 3) Service in relation to Aircraft, Vessel inside or outside precincts of port or airport. 4) transportation of goods or passengers Any business entity located in the taxable territory

6. Government

Renting of immovable property by Govt or local authority to any registered person Any registered person



Construction Service Sector

7. Sec 9(3)

Construction (FSI etc.)	Transfer of development rights or Floor Space Index (FSI) by any person to promotor	Promotor
Construction (lease)	Long term lease of land (30 years or more) by any person to promotor against consideration in the form of upfront amount for construction of a project	Promotor

8. Sec 9(4)

Construction	Value of Inputs and Input services purchase from registered supplier is less than 80% (i.e. Extra purchase from unregistered person)	Promotor
	In case of Cement supplied by unregistered person (i.e. purchase from unregistered person)	Promotor
	In case of Capital Goods supplied by unregistered person (i.e. purchase from unregistered person)	Promotor

Insurance & Banking Service Sector

9. Insurance agent

Service by an Insurance Agent to a person carrying insurance business Insurer carrying life or general insurance business located in taxable territory

Important Remark

RCM if all following conditions are fulfilled	Forward Charge in any of the cond's of RCM not fulfilled
1) Only service supplied by Insurance Agent to Insurance Company	Other suppliers like actuary etc. supplies services to Insurance company
2) Insurance Agent is licences under Insurance Act.	Insurance Agent not licensed under Insurance Act

10. Recovery agent

Services by any recovery agent to a banking company, Financial Institution or NBFC in a taxable territory. Such banking company, Financial institution or NBFC

11. Members of Overseeing committee

Supply of Service by Members of Overseeing committee to Reserve Bank of India (RBI) Reserve Bank of India (RBI)

12. DSAs

Services Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or LLP by a banking company or a NBFC to A banking company or a NBFC, located in the taxable territory.

Important remark

RCM if all following conditions are fulfilled	Forward Charge in any of the cond's of RCM not fulfilled
1) RCM is applicable only if services is supplied by Individual DSA	If service is supplied by body corporate, partnership or LLP Firm
2) Recipient is banking or NBFC	If recipient is ⊃ Financial institution or ⊃ any other person
3) Recipient is located in taxable territory	If recipient is located in non- taxable territory

13. Business Facillator

Services supplied by Business Facillator to A banking company located in the taxable territory. Banking company located in Taxable Territory

Important remark

RCM if all following conditions are fulfilled	Forward Charge in any of the cond's of RCM not fulfilled	Exemptions
1) RCM is applicable only if supplier is Business facilitator	1) If supplier is ⊃ Business correspondent or ⊃ other	business facilitator to a banking company with respect to accounts in its rural area branch
2) Recipient is banking company only	2) If service is supplied to others like Insurance company, FI or NBFC etc.	
3) Recipient is located in taxable territory	3) Banking company located in non taxable territory	

14. Agent of Business Correspondent

Services supplied by An agent of Business Correspondent (BC) to A business correspondent, located in the taxable territory. Business correspondent located in Taxable Territory

Un-organised to Organised Service Sector

15. Sponsorship

Sponsorship Service by any person to any body corporate or partnership firm located in taxable territory. Such body corporate or Partnership Firm located in a Taxable territory.

Important remark

RCM if all following conditions are fulfilled	Forward Charge in any of the cond's of RCM not fulfilled
1) It is applicable only for sponsorship service	1) Advertising/ Marketing services
2) Supplier - Any person	-
3) Recipient - RCM is applicable only if recipient is body corporate / P.F.	3) If recipient is any person other than body corporate/ P.F. e. g. Individual /HUF/Trust etc.
4) Recipient - Body corporate or P.F. must be in taxable territory	4) If Recipient in non taxable territory

16. Director of company

Services by director of a company or body corporate to the said company or body corporate Such company or body corporate

17. Security Services

Supply Security services (as a security personnel) by Any person other than a body corporate to a registered person (other than - department of Govt. / local authority/ Govt. authority/ registered person u/s 10.) Registered Person located in Taxable Territory

Important remark

RCM if all following conditions are fulfilled	Forward Charge in any of the cond's of RCM not fulfilled
1) Service is supplied only by way of supply of security personal	If security service supplied by other ways e.g. dog sniffer, CCTV investigation etc.
2) Supplier is any person other than body corporate	If Supplier is body Corporate
3) Recipient is registered person under GST	If recipient is ⊃ Unregistered Person or ⊃ Registered Person but CG, SG LA and etc. registered only for TDS ⊃ Registered person u/s 10

Copyright Service Sector

18. Copyright service

transfer or permitting use or enjoyment of a **copyright relating to Original dramatic, musical works** Music company, producer or the like, located in the taxable territory

by Music composer, Photographer, Artist
to Music company, producer or the like

Important remark

RCM if all following conditions are fulfilled	Forward Charge in any of the cond's of RCM not fulfilled
1) Copyright relating to original dramatic artistic or musical work	If it is not related to original word
2) Supplier - music composer, photographer or artist	In other case
3) recipient should be music company, producer or like	In case of other recipient
4) Music company or producer in taxable territory	If they are in non taxable territory

19. Copyright relating to literary

Transfer or permitting use or enjoyment of a **copyright relating to original literary work** by an author to publisher A Publisher located in the taxable territory

Important Remark:- Copyright [Entry 9]

RCM if all following conditions are fulfilled	Forward Charge in any of the cond's of RCM not fulfilled	Special remark
1) Copyright relating to original literary work	1) If not related to original literary work	Shifting of RCM to F.C. the author has taken registration ,and filed a declaration commissioner comply with all the provisions for payment of tax he shall not withdraw the said option within a period of 1 year from the date of exercising such option;
2) Service is supplied by author	2) service is supplied by other	
3) Recipient is publisher	3) Recipient is other	
4) Recipient is located in taxable territory	4) If recipient is located in non taxable territory	

Renting of Residential Dwelling

20. Renting of Residential Dwelling

Services by Any Person to a registered person Any Registered Person

Analysis:-

Si. No	Property	Used for	Recipient	Now
1	Residential	Residence	Unregistered	Exempt
2			Registered	Taxable under Reverse Charge
3	Residential	Commercial	Registered	Taxable under Reverse Charge
4			Unregistered	Taxable under Forward Charge
5	Commercial	Commercial	Any Person	Taxable under Forward Charge

Other Service Sector

21. Lending of security

Lending of securities by lender to borrower Borrower i.e. a person who borrows the securities

22. Import service

Any service supplied by Any person from a non taxable territory to Any person other than non taxable online recipient (NTOR) Any person located in taxable territory

23. Transportation in vessel

Transportation of goods by a vessel from a place outside India up to the customs station of clearance in India Person located in non-taxable territory by Importer to Importer Liability Importer

Circular No.:- 177/09/2022

Issue:- The Question which arose for consideration is whether RCM is applicable on

- 1) Services of renting of motor vehicle designed to carry passengers or
- 2) Service of transportation of passengers

RCM would apply on renting of vehicles if the body corporate use in the manner **as it likes** subject to agreement with the person providing vehicle on rent.

RCM would not apply on transportation of passengers if body corporate avails said service for specific journeys or voyages and does not take vehicle on rent for any period of time.