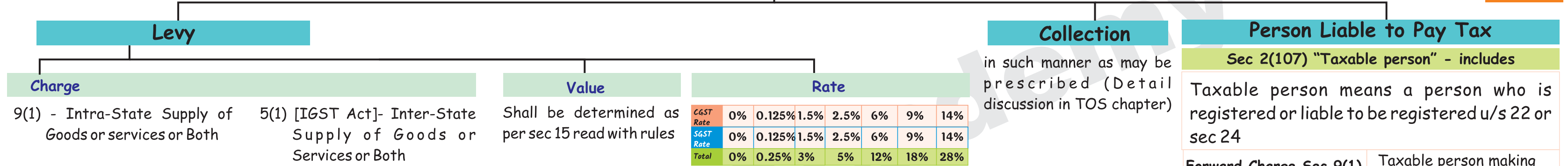


CHAPTER - 1 : Charge of GST & Concept of Supply



Section 9(1) of CGST Act / Sec 5(1) of IGST Act :- Charging Section



Goods not Subject to Levy of GST - alcoholic liquor & un-denatured extra neutral alcohol/rectified spirit used for manufacture of alcoholic liquor (applicable for Nov 25 exam), for human consumption.

Sec 9(2): - Levy on Petroleum Products from Notified date :- Supply of petroleum crude, high speed diesel, petrol, natural gas and ATF shall be levied from the notified date on recommendation of GST Council.

Note : Still levy of GST on such products is not notified

Analysis: The type of levy existing or to be continued after GST

	(Supply) GST	(Production) ED	(Sale) VAT	CST
1. Alcoholic Liquor for Human Consumption	X	State	✓	✓
2. Petroleum crude, High speed Diesel, Motor spirit (Petrol), Natural gas, Aviation Turbine fuel	X	Central	✓	✓
3. Tobacco & Tobacco products	✓	Central	X	X
4. Opium, Indian Hemp and other Narcotic Drugs	✓	State	X	X
5. All other Products	✓	X	X	X

Sec 2(84) "Person" - includes

- (a) An Individual
- (b) A hindu undivided family
- (c) A Company
- (d) A Firm
- (e) A limited Liability Partnership
- (f) An AOP or a BOI, whether incorporated or not, in India or outside India
- (g) Corporation established under any Act
- (h) any body corporate incorporated by or under the laws of a country outside India
- (i) A co-operative society registered under any law relating to co-operative societies
- (j) A local authority
- (k) CG or a SG
- (l) Society as defined under the Societies Registration Act, 1860
- (m) Trust
- (n) Every artificial juridical person, not falling within any of the above

Deemed Distinct Persons : Sec 25 CGST Act

25 (4) A person who has obtained or is required to obtain more than one registration.

- whether in one State or Union territory or
- more than one State or UT shall,

in respect of each such registration, be treated as distinct persons for the purposes of this Act.

25 (5) Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, **has an establishment in another State or Union territory,** then such establishment shall be treated as establishment of distinct persons for the purposes of this Act.

SEC 2 (56) "INDIA"

Means

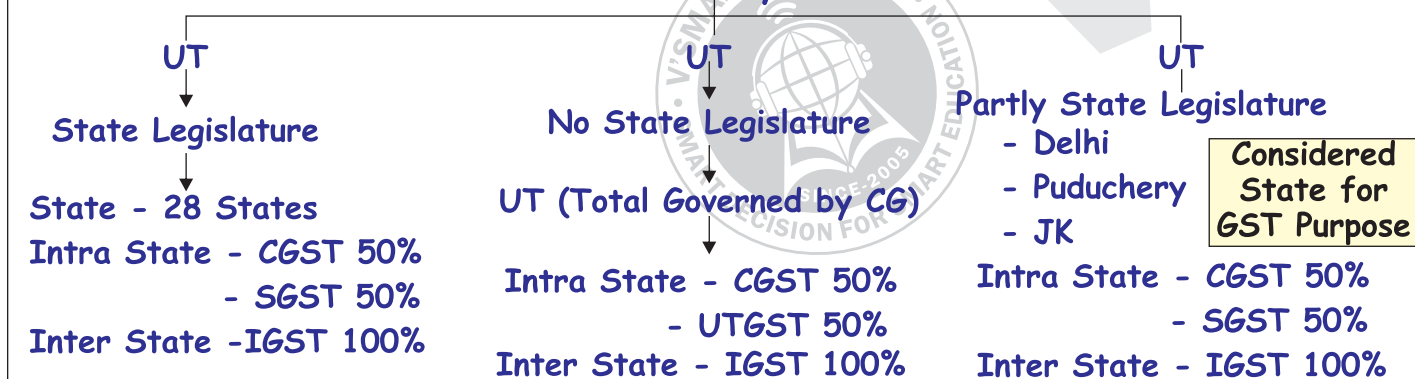
- Territory of India (state and the Uts.)
- Its
 - Terrestrial Water, seabed and sub-soil underlying such waters,
 - continental shelf, Exclusive economic zone (EEZ) or
 - Any other maritime Zone under Maritime Zones Act.
- Air space above its territory & territorial waters

SEC 2(114) "UNION TERRITORY"

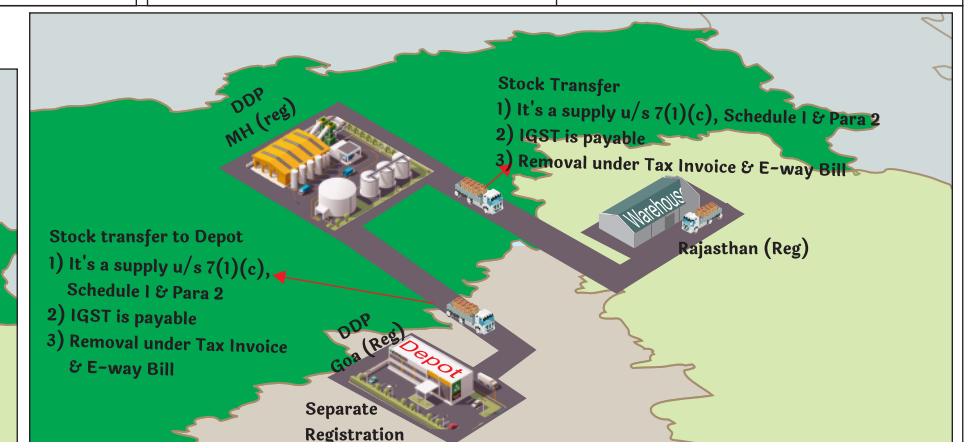
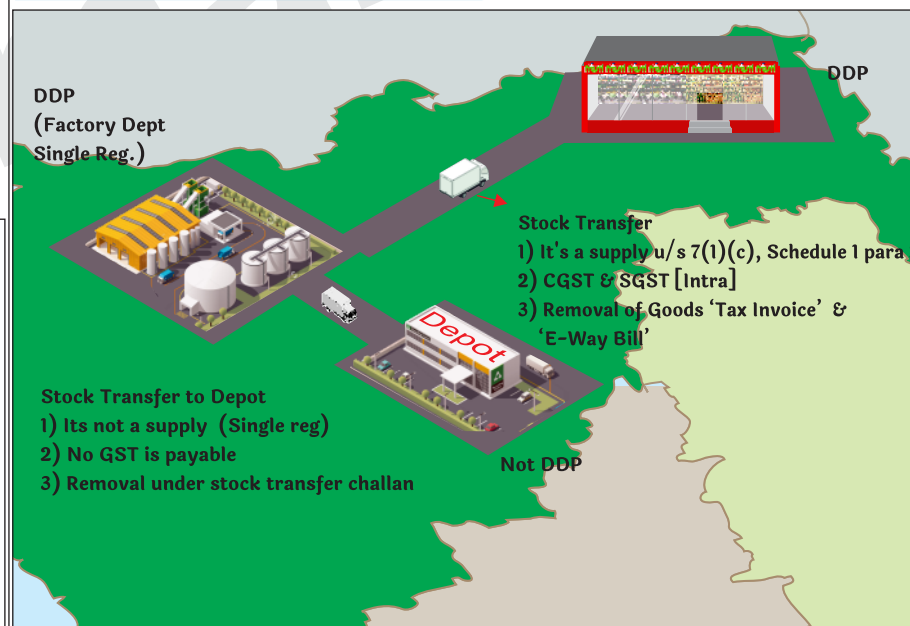
Means the territory of -

- the Andaman and Nicobar Islands
- Lakshadweep
- Daman and Diu and Dadra and Nagar haveli
- Ladakh
- Chandigarh

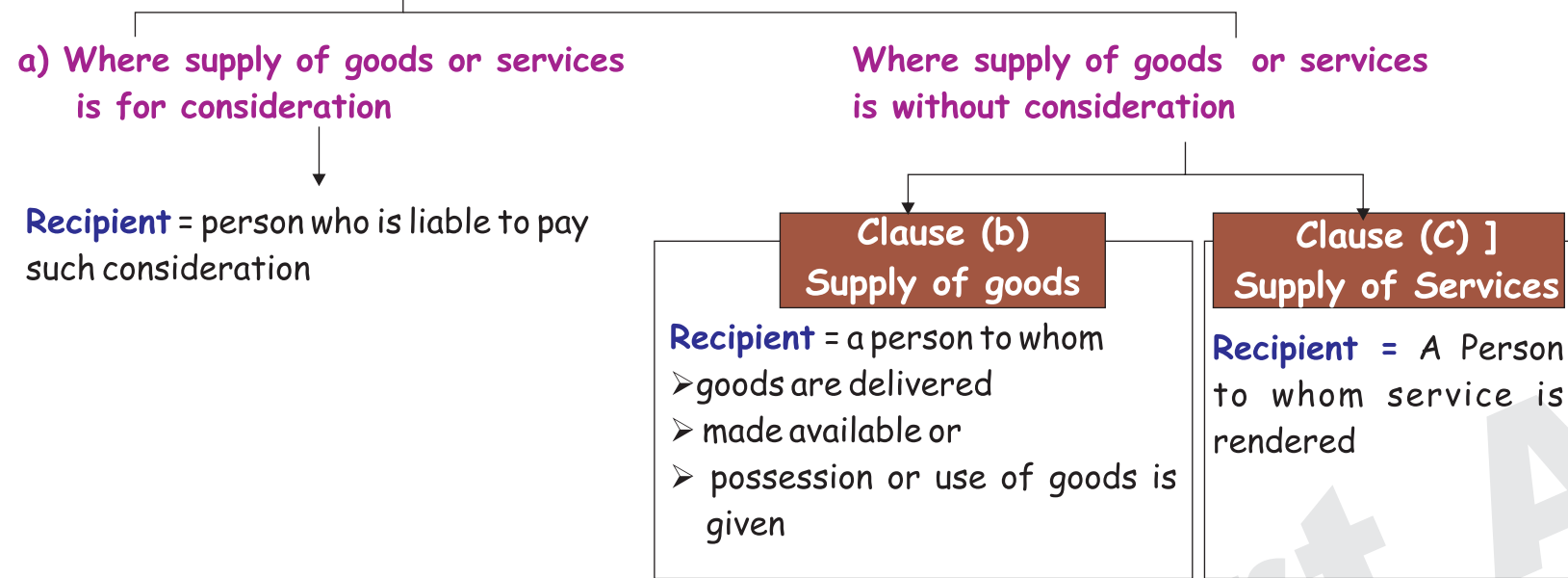
Union Territory of India



Single/ Multiple Registration



Sec 2(93) "Recipient"



Recipient also includes agent acting on behalf of the recipient

Sec 2(94) "Registered person" - includes

"Registered person" means a person -

➤ who is registered under section 25

➤ but does not include a person having a Unique Identity Number (UIN)

Sec 2(80A):- Online Gaming

Means offering of a game on internet or electronic network & includes online money gaming

Sec 2 (105) "Supplier"

means person supplying the said goods or services or both and **shall include** an agent acting as such on behalf of such supplier

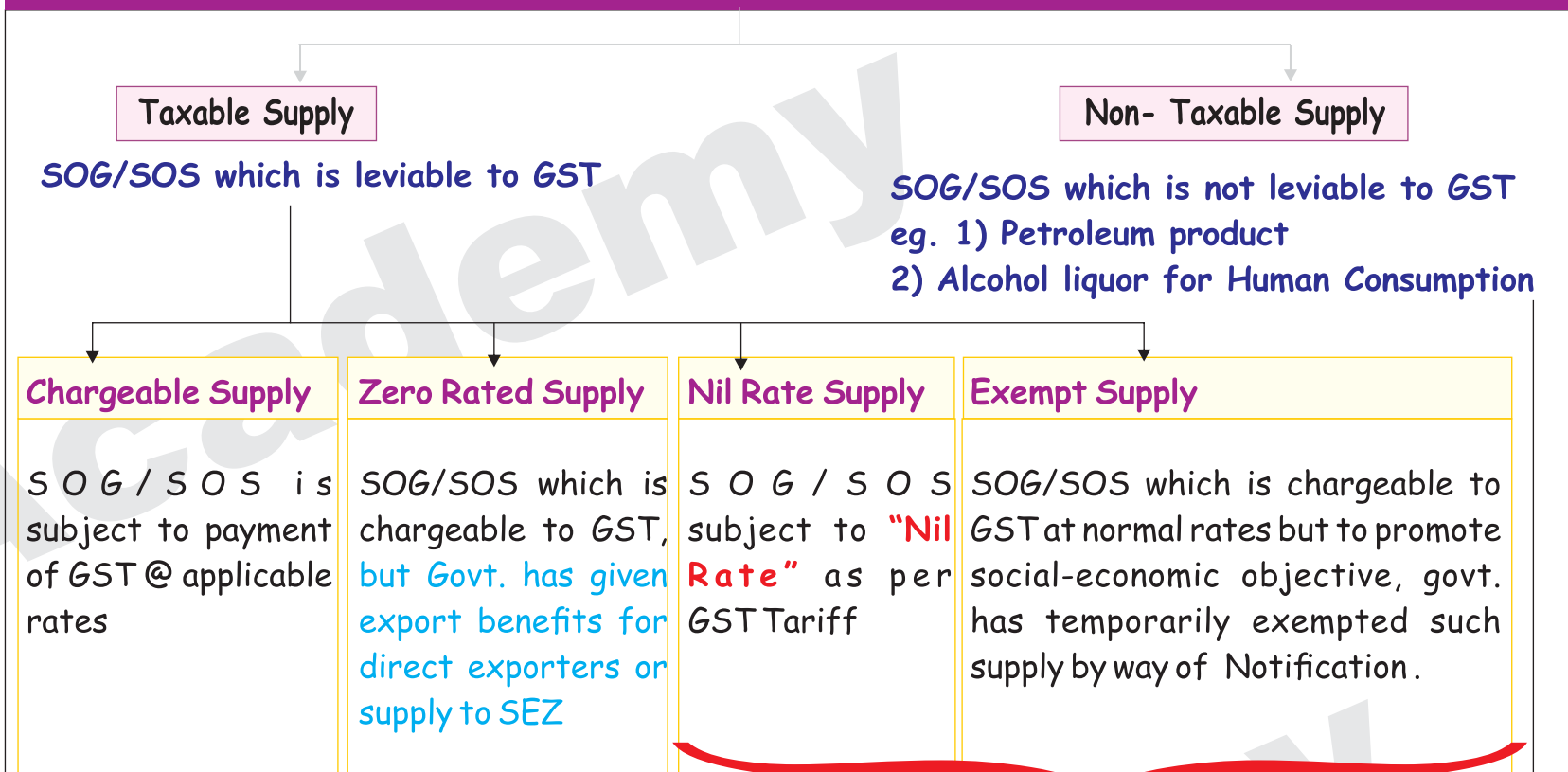
Proviso:- Supplier includes person arranging supply of specified actionable claims & also who owns / operates / manages e-platform for supply.

Sec 2(102A):- Specified actionable claim

Means actionable claim involved in/by

1	betting	2	casinos	3	gambling
4	horse racing	5	lottery	or	
6	online money gaming.				

Type of Supply



Note:- As per Sec 2(47) : For GST Purpose Exempt Supply includes Nil Rate, Wholly Exempt & non taxable supply

Sec 2 (52) Goods

MEANS Any kind of movable property

INCLUDES

- 1) Actionable Claims,
- 2) Growing Crop, grass & things attached to or forming part of land agreed to be severed before/under a contract of supply

Interest on Loan/Adv/Deposits
It's a service but Govt. has exempted such interest by N/N 12/2017 **Except interest on credit card**

Sec 16 of IGST Act: Zero Rated Supply

ZRS means Export of goods/services or both or SOG/ SOS for authorised operations to a SEZ developer/ unit.

Sec 2(102) Services

Anything other than goods

INCLUDES

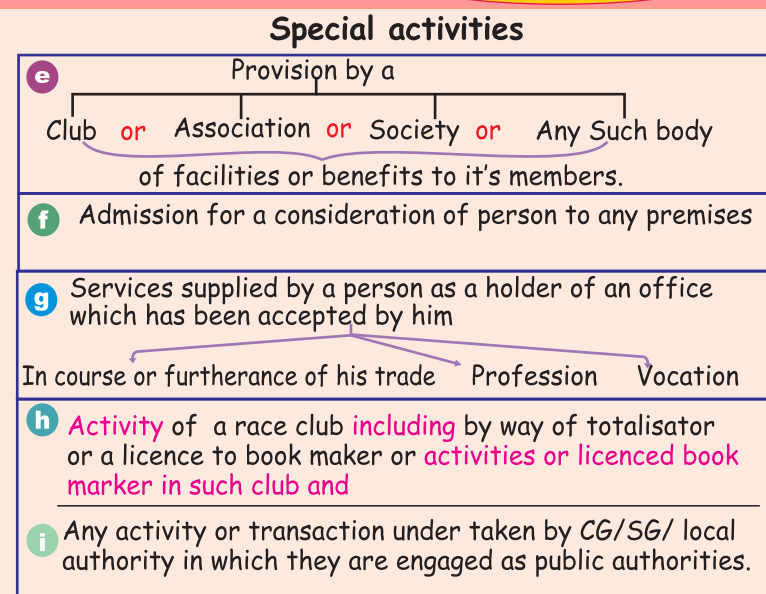
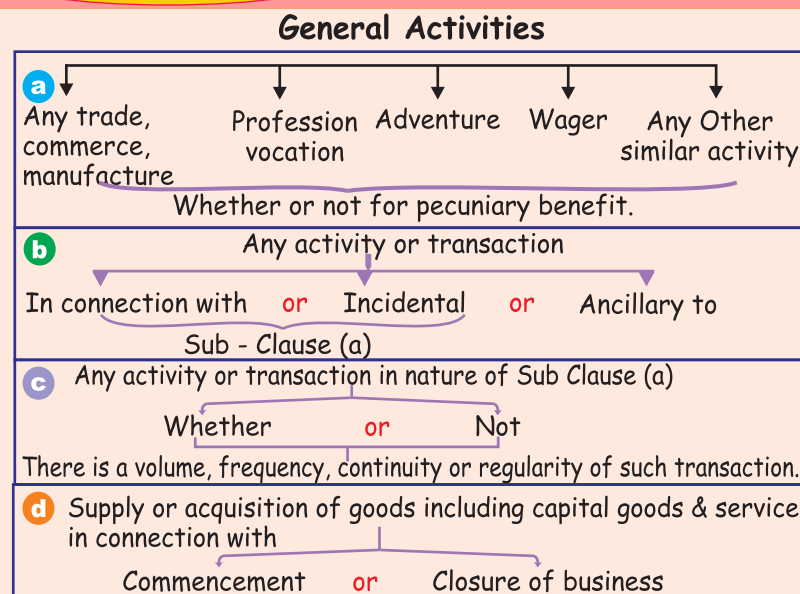
Separate consideration is charged for

- Use of Money (eg. Interest)
- Conversion of money (eg. Commission)
- to Facilitate or arranging transaction of securities (e.g. brokerage/ portfolio management fees)

General Activities

Business includes [Sec 2(17)]

Special Activities

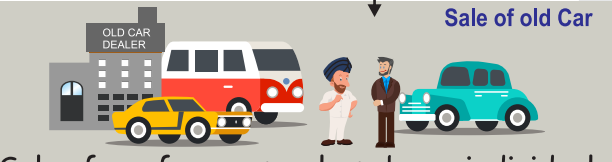




CHAPTER - 1 : CONCEPT OF SUPPLY (SEC 7)

Sec 7(1)=Supply Includes

Supply of goods / Services with consideration

Sec 7(1) (a) All forms of supply of goods / services/both

Such as	Made or Agreed to be made	For consideration	In the course or furtherance of Business (of supplier)						
<ul style="list-style-type: none"> Sale Transfer Barter Exchange Disposal Licence Rental Lease 	<table border="1"> <thead> <tr> <th>NoParticulars</th> <th>Explanation</th> </tr> </thead> <tbody> <tr> <td>1 Made</td> <td>Goods are already delivered or Service is already provided to the recipient</td> </tr> <tr> <td>2 Agreed to be Made</td> <td>This is split up in two parts namely: (i) There is an agreement for supply of goods or provision of service (ii) An advance has been received against the supply of goods or provision of service</td> </tr> </tbody> </table>	NoParticulars	Explanation	1 Made	Goods are already delivered or Service is already provided to the recipient	2 Agreed to be Made	This is split up in two parts namely: (i) There is an agreement for supply of goods or provision of service (ii) An advance has been received against the supply of goods or provision of service		 <p>Sale of old Car Sale of car for personal use by an individual- Not a supply in course or furtherance of business</p>  <p>Sale of old Jewellery Sale of old jewellery which was used personally- Not a supply in course or furtherance of business</p>  <p>Prasadam supplied by religious places like temples, mosques etc.-Not a supply in Course of furtherance of business</p>
NoParticulars	Explanation								
1 Made	Goods are already delivered or Service is already provided to the recipient								
2 Agreed to be Made	This is split up in two parts namely: (i) There is an agreement for supply of goods or provision of service (ii) An advance has been received against the supply of goods or provision of service								

Sec 2(31) for consideration

a Any payment made or agreed to be made whether in **money or otherwise**

b The monetary value of any **act or forbearance**

Whether by recipient or otherwise

-In respect of or -In response to or -For inducement

Whether by recipient or otherwise

Supply of goods/services

Exclusion:- it shall not includes

- Any **subsidy** given by central or state govt.
- Deposits** for concerning SOG/SOS except the supplier applies the deposits as a consideration for said supply

Import of Service (Analysis)

Free import services is not treated as supply **unless it imported from**

- Related person or DDP outside India &
- In the course of business

Sec 7(1) (b) Importation of Services

Import of service

- for **consideration**
- whether or not** in the course or furtherance of **business**

Analysis: -

- GST on import of goods governed by Customs Tariff Act [ACD 3(5)/3(7)]
- RCM is applicable on such service except OIDAR (FCM)
- Import of services other than for business purpose (for personal use) Exempt N/N 04/2017

Schedule I

Sec 7 (1)(c) Deemed supply

Supply of goods/service without consideration

- Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
- Supply of goods or services or both
 - between related persons or
 - between distinct person as specified in u/s 25, in the course of furtherance of business

Proviso - Gift by employer to employee not exceeding ₹50,000 in a financial year not be treated as supply
- Supply of goods
 - by a principal to his agent who further undertakes supply [selling agent]
 - *Invoice in the name of agent
 - by an agent to principal who procures the goods on behalf of principal [buying agent]
 - *Invoice in the name of agent
- Import of Services from
 - from a related person outside India or
 - from any of his other establishments outside India, in the course or furtherance of business

Sec 7(2)(a)=Supply Excludes

Sch III (Transaction not be treated as supply)

- Services by an employee to the employer in the course of or in relation to his employment.

i. Compensation for premature termination	Non Taxable as it is in relation to employment.
ii. Non compete fees received by an employee from employer	Taxable as it is not in the course of or in relation to employment
iii. Casual labour appointed on daily basis for wages	Non Taxable as it is in relation to employment contract
iv. Directors Remuneration	a) If TDS under IT Act is deducted u/s 192 - Not a Supply b) If TDS under IT Act is deducted u/s other sec - Supply
v. Circular no. 172/04/2022:	
Scenario	Taxability under GST
Perquisites provided as per contract	Not taxable (Under Schedule III)
Perquisites not in terms of contract	Taxable if value exceeds ₹50,000 (Under Para 2, Schedule I)
- Services by any court or Tribunal established under any law for the time being in force.
- The functions performed by the MP , MLA, Members of Panchayats, Members of Municipalities and Members of other local authorities
 - The duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity
 - The duties performed by any person as a Chairperson or a Member or a Director in a body established by the CG/SG/LA

Sec 7(1) (aa) :- Activities or Transactions

By Any person [other than Individual]

Member or Constituents

For

Cash Deferred payment Other valuable consideration

Explanation:- the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another

Related Person (as per explanation to Sec 15) of CGST Act

- (i) such persons are officers or directors of one another's business
 - (ii) such persons are legally recognized partners in business
 - (iii) **such person are employer and employee**
 - (iv) any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them
 - (v) one of them directly or indirectly controls the other
 - (vi) both of them are directly or indirectly controlled by a third person
 - (vii) together they directly or indirectly control a third person
 - (viii) **they are members of the same family**
 - (ix) sole agent/sole distributor/sole concessionaire of the other.
- Family [Sec 2(49)] :** means,-(i) the spouse and children of the person, and (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

Schedule II : Activities or transactions to be treated as supply of goods or services

Sec 7(1A):- Where certain activities or transaction constitute a supply in accordance with the provisions of subsection (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

Para 1 : Transfer of goods

Supply of goods
1) Transfer of title in goods
2) Transfer of Title in Goods on future date (Ex. Hire Purchase)

Supply of Service
Transfer of rights in goods or undivided share in goods without transfer of title in goods

Para 2 : Land & Building

Supply of Service
Any lease, tenancy, easement, license to occupy land
Supply of Service
Any lease, letting of building including commercial, industrial complex for business/commerce either wholly or partly

Note : Sale of land & building not treated as supply as per schedule 3 other than construction intended for sale [of para 5(b)]

Para 3: Treatment or process

Supply of Service
Any treatment or process which is applied to another person's goods (Jobwork)

Process of Job worker

Job worker Polishing Job Charges
GAC xxx

Dispatch to Owner

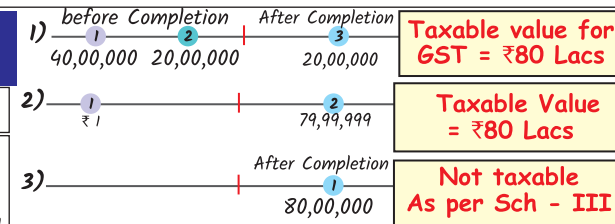
Para 4 : Transfer of business asset

Supply of goods
Permanent transfer of Business Asset:- If goods as a part of the asset are permanently transferred or disposed off

Supply of Service
Temporary transfer of business assets:- If goods as a part of business asset are put to any private use or are used for any purpose other than business

Para 5 : Following activities always treated as supply of service under GST

- a Renting of immovable property
- b Construction of complex, building, civil structure including a complex, building intended for sale to buyer. But in following case it shall not be treated as supply. When entire consideration has been received after - issuance of completion certificate - It's 1st occupancy **whichever is earlier**
Note :- Construction - it includes addition, alteration, replacement, remodeling of any existing civil structure
- c Temporary transfer of IPR
- d Development, design, programming, customisation etc. of info. Tech. Software
Customized Software SOS
Sale of Pre-packed Software SOG
License to use prepacked Software SOS
- e Agreeing to the obligation - to refrain from an act or - to tolerate an act/to do an act.
- f Transfer of right to use any goods for any purpose for cash, deferred payment or other consideration.

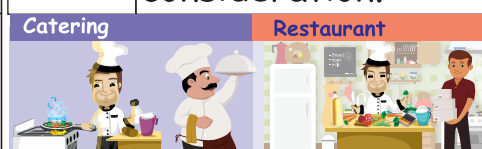


Para 6 : Composite supply treated as supply of service

Supply of Service
a Works contract
Labour + Material = Works Contract (construction)



Supply of Service
Restaurant, catering or any supply of service where food/drink is supplied for consideration.



(c) Deemed Supply : If any person ceases to be a taxable person then goods forming part of business asset shall be **deemed to be supplied (In the course or furtherance of business)** unless :-

- (i) Business is transferred as going concern to another person.
 - (ii) Business is carried on by personal representative who is deemed to be a TP.
- not a deemed supply**

4	Services of funeral, burial, crematorium or mortuary including transportation of the deceased.						
5	Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building Analysis <table border="1"> <tr> <td>Sale of land and Building</td> <td>Not treated as supply as per sch III , No GST</td> </tr> <tr> <td>Rental, Leasing & licensing of Land & Building</td> <td>Treated as Supply & GST Payable</td> </tr> <tr> <td>Sale of Building before completion certificate or 1st occupancy whichever earlier</td> <td>Treated as supply para 5(b), Sch II & GST payable</td> </tr> </table>	Sale of land and Building	Not treated as supply as per sch III , No GST	Rental, Leasing & licensing of Land & Building	Treated as Supply & GST Payable	Sale of Building before completion certificate or 1st occupancy whichever earlier	Treated as supply para 5(b), Sch II & GST payable
Sale of land and Building	Not treated as supply as per sch III , No GST						
Rental, Leasing & licensing of Land & Building	Treated as Supply & GST Payable						
Sale of Building before completion certificate or 1st occupancy whichever earlier	Treated as supply para 5(b), Sch II & GST payable						
6	Actionable claims, other than specified actionable claims.						
7	Merchant Trading: Goods are supplied from one non-taxable territory to another non-taxable territory, without entering in India						
8	a) Warehouse Sale: Supply of warehoused goods to any person before clearance for home consumption. b) High sea sales: Supply of goods by the consignee to another person, through transfer of ownership documents, after the goods leave the foreign port but before clearance for home consumption.						

Sec 7(2)(b)= Notified activities by Government

- ⇒ Services under Article 243G & 243W of Panchayats & Municipality **and**
- ⇒ Services of granting liquor license against consideration in the form of license fee by SG.

Sec 8 : Composite Supply & Mixed Supply

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:

- (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
- (b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

Definition - Composite Supply

Composite Supply as per Sec 2 (30) : means a supply made by a taxable person to a recipient consisting of

- two or more taxable supplies of goods or services or both or any combination thereof
- which are naturally bundled and
- supplied in conjunction with each other in ordinary course of business one of which is a principal supply



Illustration.— (Goods + Service) Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

Definition - Mixed Supply

Mixed Supply as per Sec 2 (74) : means

- Two or more individual supplies of goods or services or any combination thereof
- Made in conjunction with each other by a taxable person for a single price
- Where such supply does not constitute a composite supply



Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately

IMPORTANT CLARIFICATIONS

Cir. no. 1/1/2017: Inter-state movement of modes of conveyance or repairs between DDP:

Scenario (Inter/Intra State movement of conveyance bet ⁿ DDP)	GST Levy
Conveyance carrying goods/passengers/ both between DDP	No GST on conveyance
Conveyance for repair & maintenance	No GST on conveyance
Repair & maintenance on conveyance by DDP	GST payable (deemed supply Sch- I)
Conveyance moved for further supply	GST payable (Treated as SOG/SOS)

Renting of residential property for use as residence	Exempt
Execution of documents (registration, stamp duty) involved in the transaction.	Does not affect GST liability

Cir. No. 57/31/2018: Principal-Agent-Relationship, under Para 3 of Sch I, in context of Agents:

Scenario	Covered under Para 3, Schedule I
Selling Agent SOG by Principal to Agent (Invoice in Agent's name for further supply)	Yes (Transaction bet ⁿ P to A = taxable)
SOG by Principal to Agent (Invoice in Principal's name for further supply)	No (Transaction bet ⁿ P to A = not taxable)
Buying Agent SOG by Agent to Principal (Invoice in Agent's name)	Yes (Transaction bet ⁿ A to P = taxable)
SOG by Agent to Principal (Invoice in Principal's name)	No (Transaction bet ⁿ A to P = not taxable)

Cir. no. 21/21/2017: : Inter-state movement of Rigs, tools, spare parts between DDP:

Scenario	IGST Levy
Inter-state movement of rigs, tools, spare parts accompanied with conveyance between DDP	No GST on rigs, tools etc.
Further supply of these goods between DDP	CGST/SGST/IGST applicable

Cir. no. 116/35/2019: Donations received by charitable institutions from individual, without quid pro

Scenario	GST Levy
Displaying name/placing name plates of donors in charitable organizations	No GST (Philanthropic purpose, no commercial gain)
Note: The institution places name plates to show gratitude, not for advertisement.	
Displaying name/placing name plates of donors to promote his business	GST payable (its advertisement service)

Cir. No. 44/2018: Taxability of 'tenancy rights' under GST

Issue	GST Levy
Tenancy premium for transfer of tenancy rights to incoming tenant	Taxable
Surrendering tenancy rights by the outgoing tenant for a portion of the premium	Taxable (Service provided by outgoing tenant)

Cir. No. 73/47/2018 Principal-Agent-Relationship, under Para 3 of Sch I, in context of DCA:

Scenario	Taxability	Treatment of Interest charges by DCA
1. DCA don't have authority to pass title in his own invoice	Not covered in para 3 of Sch- 1	➤ It is treated as finance charges for start term loan ➤ Interest = Exempt
2. DCA have authority to pass title in his own invoice	Covered in para 3 Tr. bet ⁿ P-A = Taxable	VOS = As per Rule 29
	Tr. by agent in his own invoice with customer	VOS = T.V. charges by A + Interest (delay payment of consideration)

Cir. no. 178/10/2022 Applicability of liquidated damages, compensation & penalties for breach of contract or legal violations.:

Agreeing to obligation ➤ to refrain from an act, or ➤ to tolerate an act or situation, or ➤ to do an act.	Parameters for taxability under GST: ➤ Contractual relationship between supplier and recipient. ➤ Express or implied promise for services; ➤ payment can't be assumed. ⇨ Independent arrangement or activity.
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If payment is merely & event in the course of main contract & it is not the main objective = No GST

Scenario	Taxability under GST
Liquidated damages	Normally not taxable, but taxable in some cases
Compensation for cancellation of coal blocks	Not taxable (No contract between govt and allottee)
Cheque dishonour fine/penalty	Not taxable (No express or implied agreement)
Penalty for violation of law	Not taxable (No agreement with govt)
Forfeiture of salary or bond payment	Not taxable (Not consideration for tolerating the act)
Compensation for not collecting toll charges	Taxable (Treated as supply)
Late payment surcharge/fee	Taxable (Part of the principal supply)
Fixed capacity charges for power	Not taxable (Exempt as sale of electricity)
Cancellation charges	Taxable (Assessed as principal supply, same rate as service contract)

Cir. No. 11/11/2017 Taxability of printing contracts

Scenario	SOG/SOS Classification
Printing of books, pamphlets, brochures, annual reports, etc (where content is from recipient & physical inputs are from printer).	Supply of Service - Printing
Supply of printed envelopes, letter cards, boxes, napkins, wallpapers, etc. (using recipients designer logo only)	Supply of Goods - Printed items

Cir. no. 190/02/202 Incentives by MeitY to banks for promoting RuPay and BHIM-UPI3

Scenario	Taxability
Incentives paid by Ministry of Electronics & IT (MeitY) to acquiring bank for promoting digital payments	Not taxable (Treated as Subsidy)

Cir. No. 196/08/2023 Taxability of Holding company's share capital in its subsidiary.

Scenario	Taxability
Holding of shares by a holding company in a subsidiary	Not taxable (Shares are neither goods nor services)

Cir.No. 201/13/2023 Supply of food or beverages in cinema hall

Scenario	Taxability
Supply of food/beverages in cinema hall as part of service or independently	Taxable as restaurant service
Sale of cinema ticket bundled together with food & beverages	Entire supply is taxed at cinema exhibition rate

Cir. No. 213/07/2024:- Taxability of ESOP/ESPP/RSU provided by an Indian company to its employees through its overseas holding company

Scenario	Taxability	Reason
ESOP/ESPP/RSU [Reimbursement by Indian Co. to foreign] Co. on cost to cost basis	Not a supply & no GST	➤ It's a part of employees remuneration as per para 1 of Sch III ➤ Securities or shares neither goods/services
Additional fees, mark-up, commission (charges by foreign co. to India co.)	Supply & taxable	SOS of facilitating the transaction in securities

Cir No. 215/09/2024:- Settlement of claim by insurance co. Salvage value of damage vehicle

Scenario	Reason	Taxability
1) Deduction of salvage value from settlement	➤ Claim is settled after deducting salvage value ➤ Ownership of salvage value with person insured ➤ Salvage does not become property of Insurance Co.	Deduction of salvage value = Not a supply [no GST is payable by insurance co.]
2) Full Insured declared value settlement	➤ Claim is settled on full value without deducting salvage ➤ Ownership of salvage is with insurance Co.	Sale of salvage by Insu. Co. = Supply [Insurance co. liable to GST]

Cir. no. 234/28/2024 :- Preferential location charges (PLC) collected by builder along with sale of residential or commercial property

PLC charge with construction service is a composite supply

Scenario	Taxability
If construction intended for sale & taxable as SOS under para 5(b) of Sch - II	Supply of construction service is main service & PLC is naturally bundled with it.
Sale of building after completion	Not a supply as per para 5 of Sch - III, so PLC also not liable to tax