

Chapter 2: Reverse Charge Mechanism & ECO



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Sec 9(3) CGST/SGST, Sec 5(3) IGST Act:
 ⇒ Applies to specified goods or services by Govt.
 ⇒ Recipient of the supply is liable to pay tax directly.

Sec 9(4) CGST Act, Sec 5(4) IGST Act:
 ⇒ Relates to specified goods or services by Govt. from URP to specified class of registered recipient.
 ⇒ Tax liability falls on registered recipients.

Sec 9(5) of CGST/SGST Act, Sec 5(5) of IGST Act: Liability of ECO
 If there is **intra-state or inter-state** supply of **notified 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.

| Construction | Sec 9(4) | 100% tax liability |
|--------------|---|--------------------|
| | Value of Inputs and Input services purchase from registered supplier is less than 80% by Promoter | Promoter |
| | In case of Cement supplied by unregistered person to Promoter | Promoter |
| | In case of Capital Goods supplied by unregistered person to Promoter | Promoter |

Proviso If ECO is not **having physical presence** in taxable territory:-
Person liable to pay tax = Person representing ECO in taxable territory for any purpose.

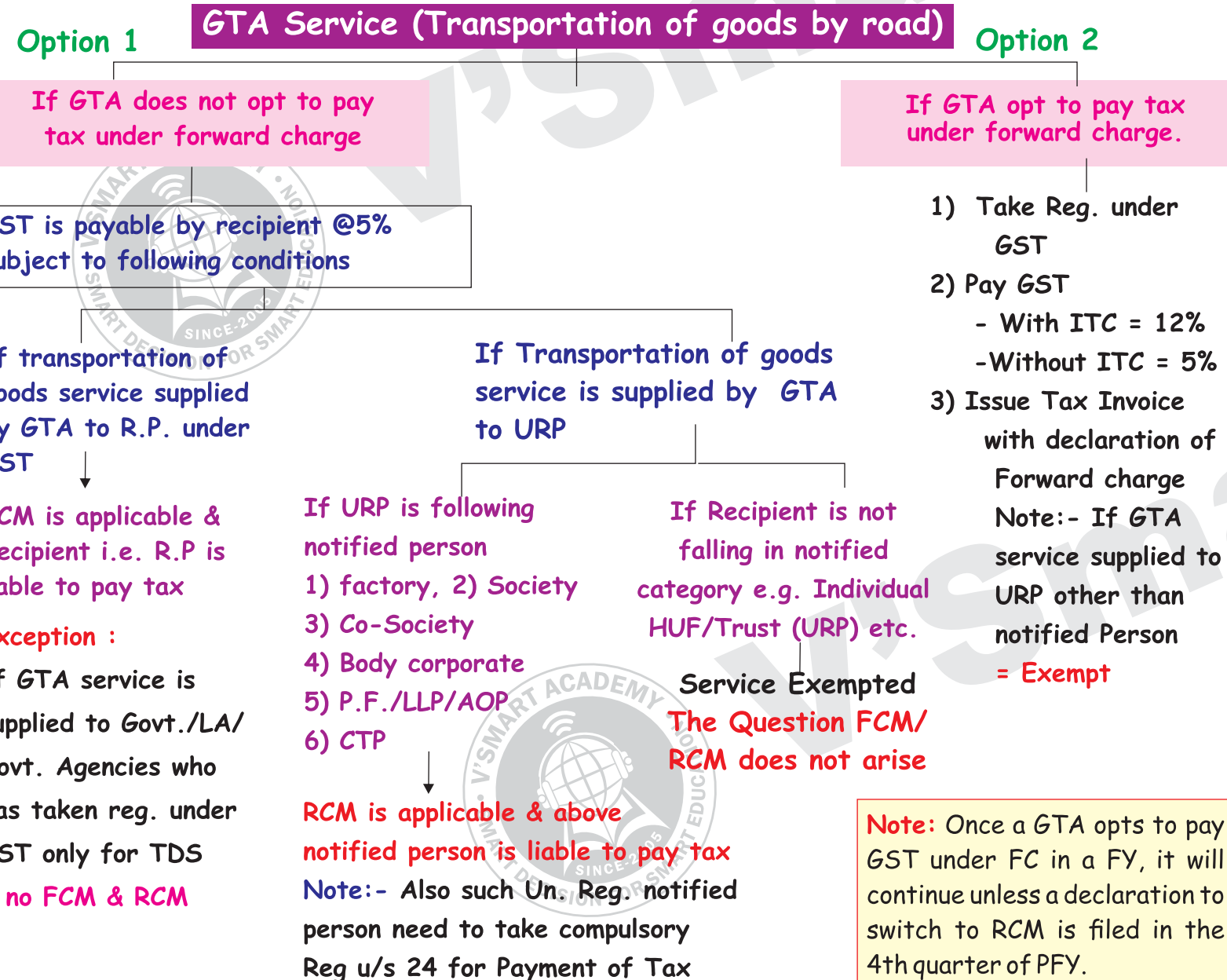
Proviso If ECO is not having physical presence as well as representative in taxable territory:-
Person liable to pay tax = Person shall be appointed by ECO in taxable territory for paying tax.

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.

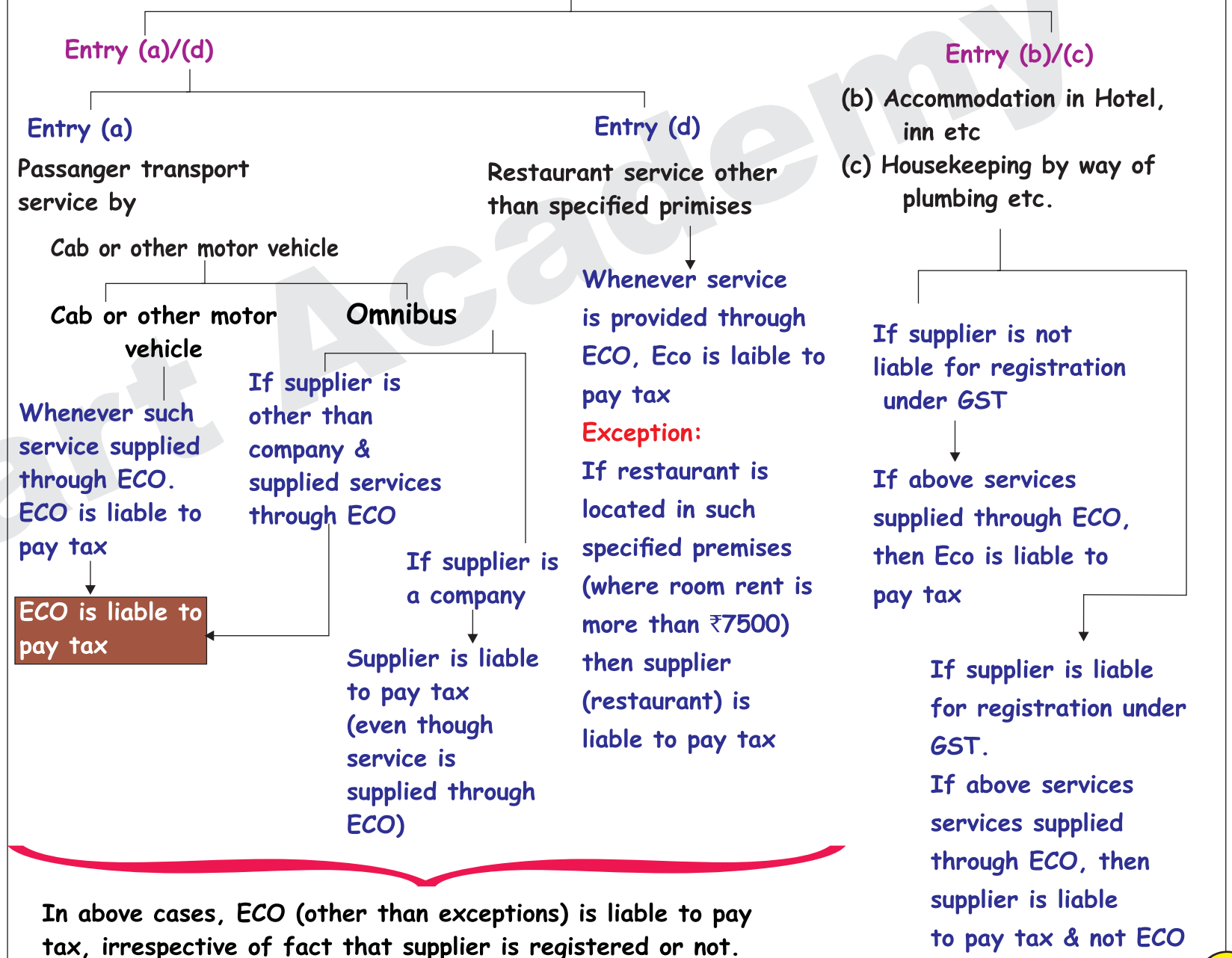
Reverse Charge Mechanism Under sec 9(3)

Transport Sector

1. GTA



Sec 9(5) : Liability of ECO for Notifies Services



Legal Sector

2. 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."

Analysis:-

| RCM if all following conditions are fulfilled | Forward Charge if 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 or firm of Advocate | Legal services supplied by CA/CS/CMA or other consultant | - |
| 3) Service is supplied to business entity | - | if legal Services supplied to ⇒ If service supplied by Adv to other than B.E. - Exempt |
| 4) B.E. (Recipient) is located in taxable territory | If B.E. is located in NTT (Subject to ZRS) | - |

3. Arbitral Tribunal

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

Un-organised to Organised Service Sector

4. Sponsorship

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

Analysis:-

| RCM if all following conditions are fulfilled | Forward Charge if 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 TT | 4) If Recipient in non taxable territory (Subject to ZRS) |

Government Service Sector

5. Government

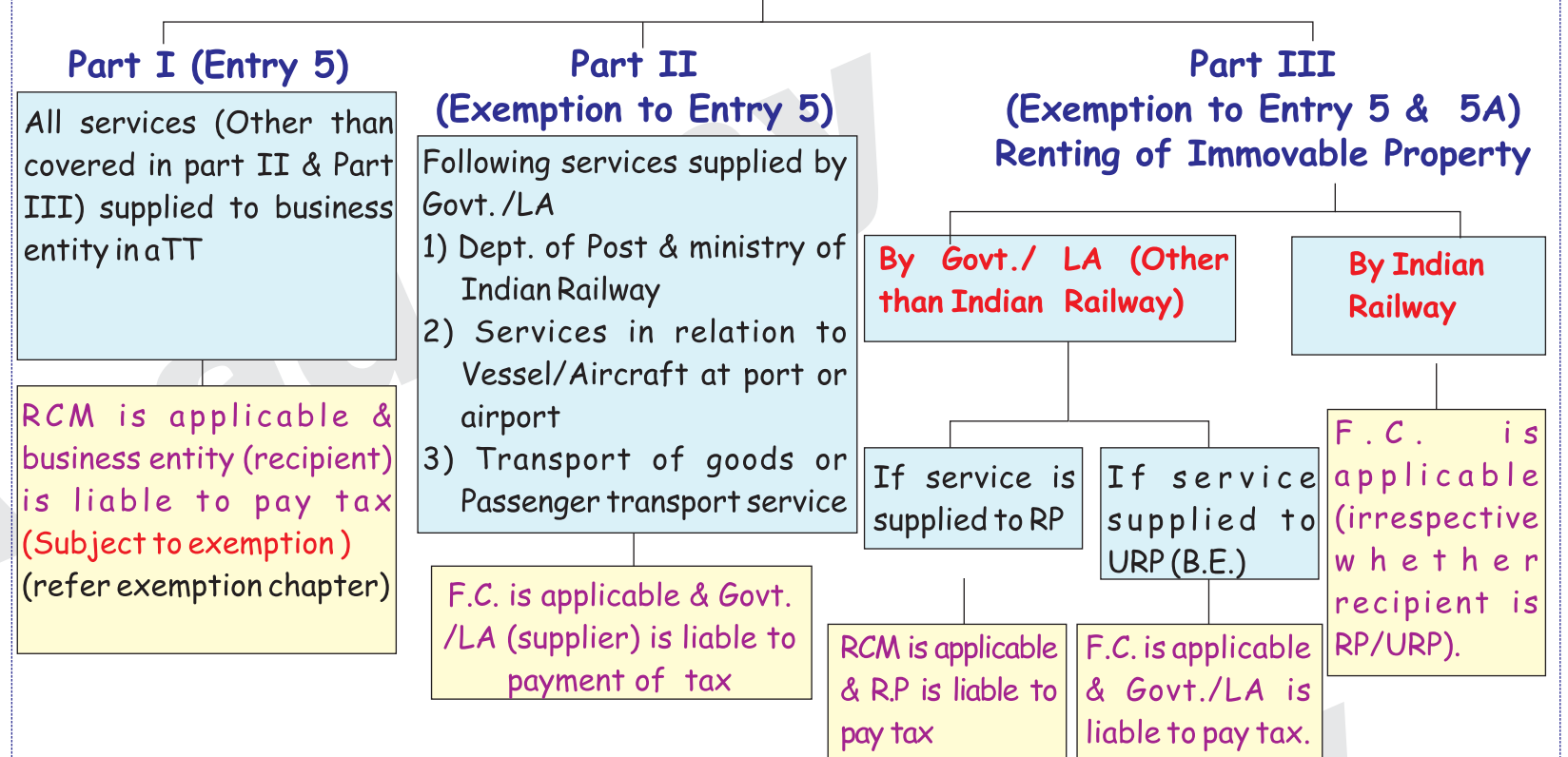
Any Services provided by Government or Local authority to business entity other than Any business entity located in the taxable territory
 ① renting of immovable property/ ② Service by Department of Post & Ministry of Railways (Indian Railways); ③ Service in relation to Aircraft, Vessel inside / outside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

5A. Government

Renting of immovable property by CG [excluding Ministry of Railways (Indian Railways)], SG, UT or LA to any RP Any registered person

Analysis:-

Supply of service by Govt or Local Authority



Renting of Residential Dwelling and Commercial Property

5AA. Renting of Residential Dwelling

Services by Any Person to a registered person Any Registered Person

5AB. Service by way of Renting of any immovable property other than residential Dwelling

Services by URP to a registered person Any Registered Person

Construction Service Sector

5B & 5C. Sec 9(3)

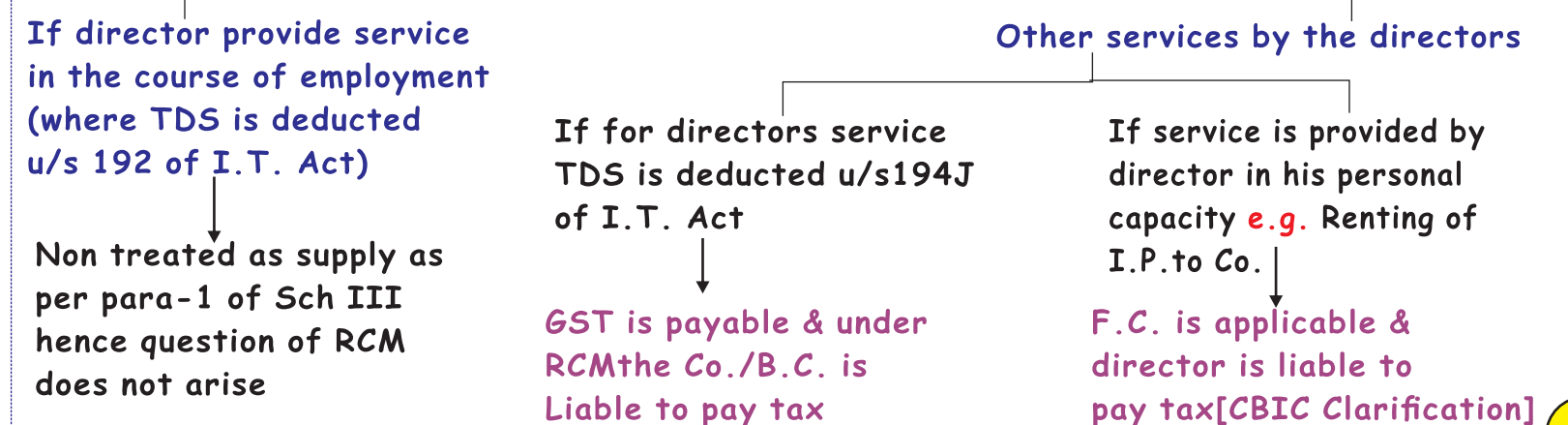
Construction (FSI etc.) Transfer of development rights or Floor Space Index (FSI) by any person to promotor for construction of a project Promotor

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

6 Director of company

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

Director service to Company/B.C



- Services supplied by director to company or body corporate in his private or personal capacity such as renting of immovable property are **not taxable** under RCM.
- But if supplied by director **as or in capacity of director**, it is **taxable** under RCM.

Insurance & Banking Service Sector

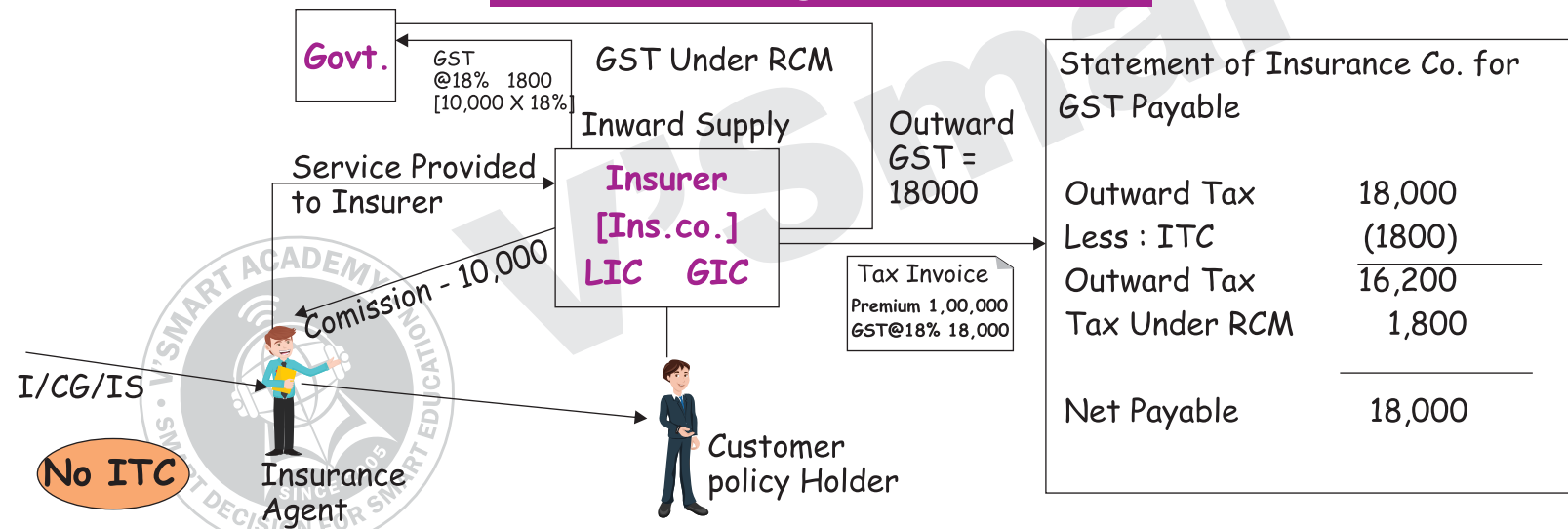
7. Insurance agent

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

Analysis:-

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

Insurance Agent & Insurer



8. 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 in TT

Copyright Service Sector

9. Copyright service

transfer or permitting use or enjoyment of a **copyright relating to Original, dramatic, musical works**
by Music composer, Photographer, Artist
to Music company, producer or the like
 Music company, producer or the like, located in the TT

Analysis:-

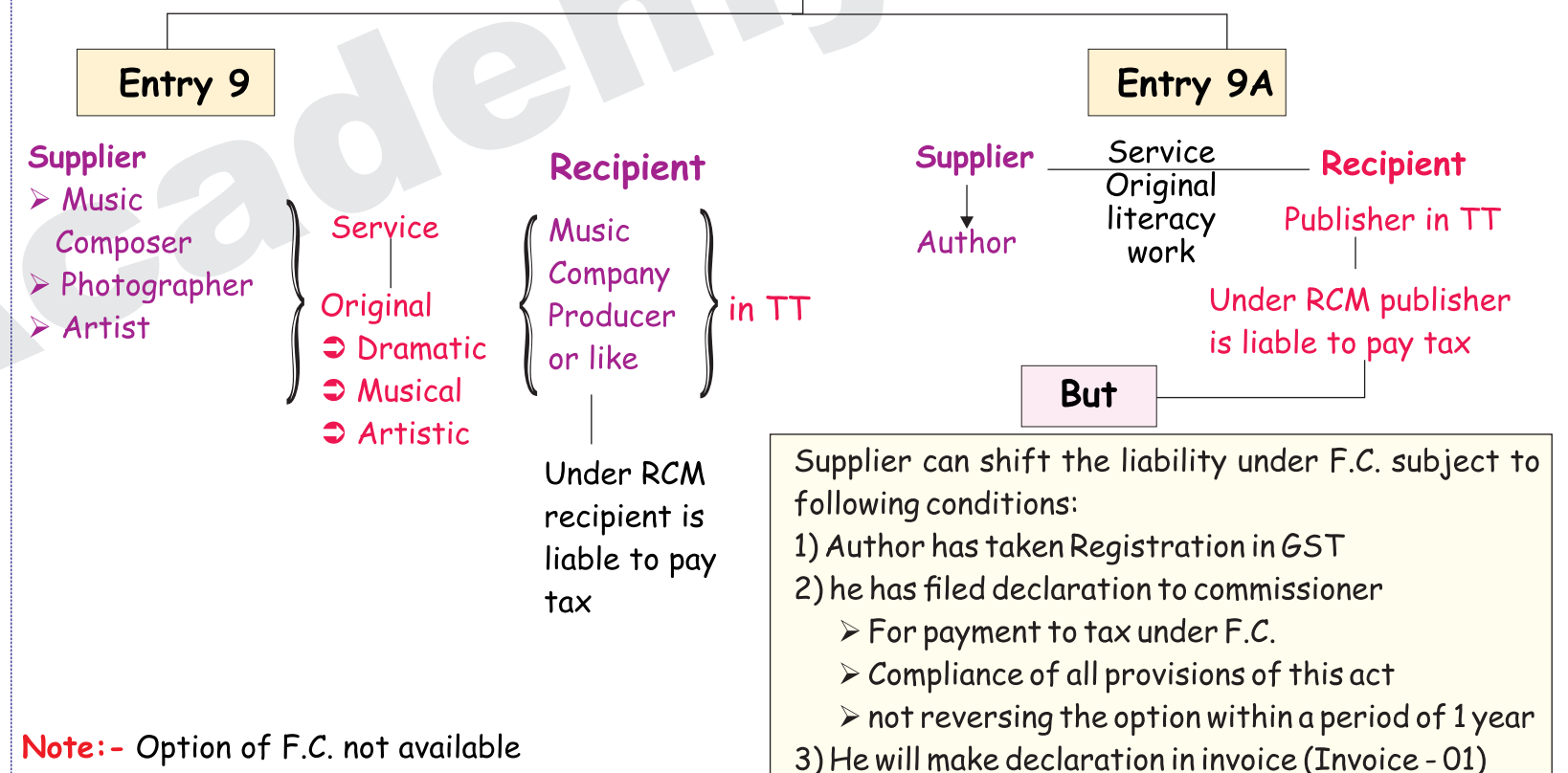
| RCM if all following conditions are fulfilled | Forward Charge if any of the cond's of RCM not fulfilled |
|---|--|
| 1) Copyright relating to original dramatic artistic or musical work | If it is not related to original work |
| 2) Supplier - music composer, photographer or artist | In case of other supplier |
| 3) recipient should be music company, producer or like | In case of other recipient |
| 4) Recipient in TT | If recipient in NTT (Subject to ZRS) |

9A.

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

Copyright Services



Note:- Option of F.C. not available

10. Members of Overseeing committee

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

11. 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.

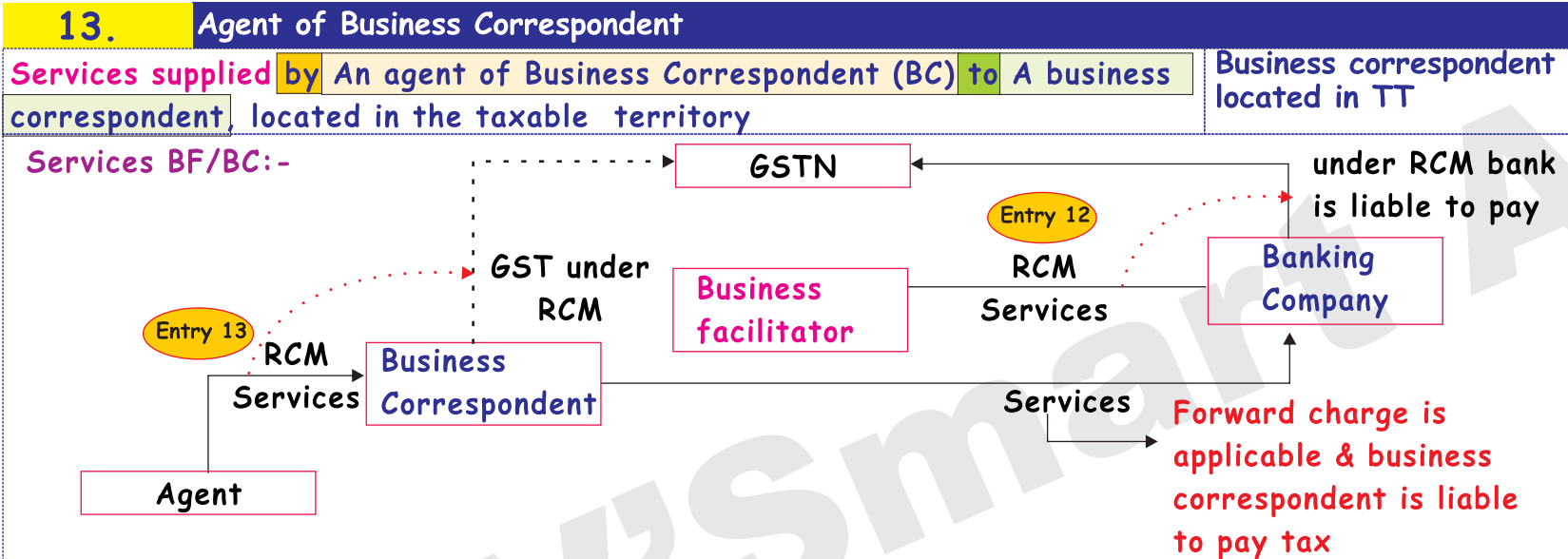
Analysis:-

| RCM if all following conditions are fulfilled | Forward Charge if 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 Firm or LLP |
| 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 |

12. Business Facillator

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

| RCM if all following conditions are fulfilled | Forward Charge if 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 TT | 3) Banking company located in NTT | |



14. Security Services

Supply Security services (as a security personnel) by Any person other than a body corporate to a registered person

RP located in Taxable Territory

Proviso In following cases F.C. is applicable, if security services are supplied to

i) ⇒ CG/SG/UT/LA departments } registered only for deducting TDS u/s 51
 ⇒ Governmental agencies

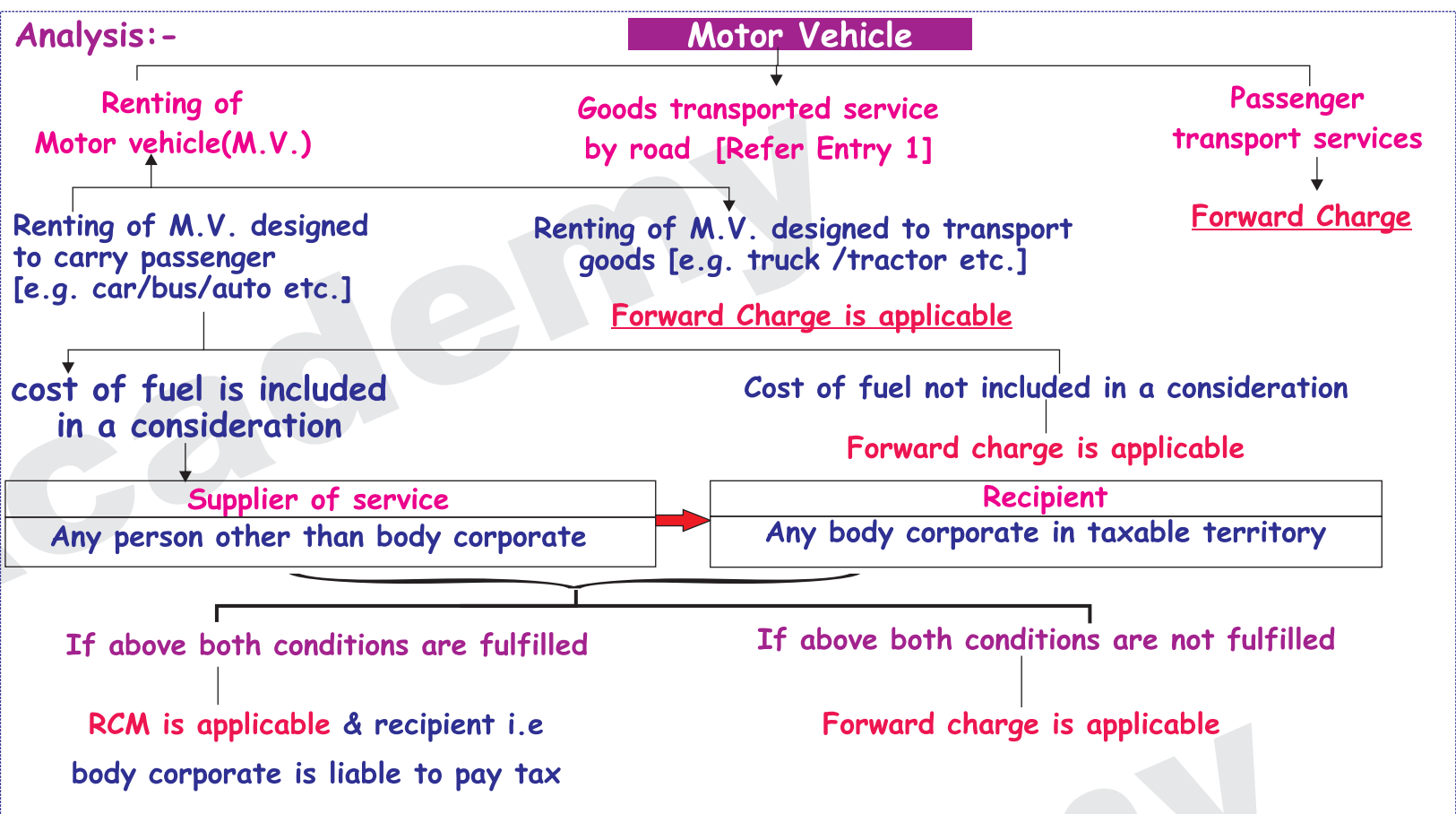
ii) a RP paying tax under composition scheme.

Analysis:-

| RCM if all following conditions are fulfilled | Forward Charge if 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 ⇒ URP or ⇒ RP but CG, SG, LA and etc. registered only for TDS ⇒ RP u/s 10 |

15. 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 |



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| | | |
|-----------------------------|--|----------------|
| Renting of Motor Vehicle | where the renter defines how and when the vehicles will be operated, determining schedules, routes and other operational considerations. | RCM Applicable |
| Passenger Transport Service | passenger transport services over pre-determined routes on pre-determined schedules. | FCM Applicable |

Other Service Sector

16. Lending of security

Lending of securities by lender to borrower

Borrower i.e. a person who borrows the securities

17. 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

Sec 2(16):- NTOR means any unregistered person receiving online information and database access or retrieval services located in taxable territory.

Explanation:- "unregistered person" includes a person registered solely to deduct TDS u/s 51.

Goods and services notified under reverse charge mechanism under section 9(3) of the CGST Act/ section 5(3) of the IGST Act are as follows:

| Liability under RCM for Supply of Goods (N/N 4/2017 Central Tax(Rate)) | | |
|---|--|---------------------------------------|
| Description | Supplier | Recipient (Liable to Pay Tax) |
| Cashew nuts, not shelled or peeled | Agriculturist | Any RP |
| Bidi Wrapper leaves (tendu) | Agriculturist | Any RP |
| Tobacco leaves | Agriculturist | Any RP |
| Essential oils excluding citrus oils like Peppermint oil, Spearmint, Water mint, horsemint etc. | Any URP | Any RP |
| Silk yarn | A person who makes silk yarn from raw silk or silk cocoons for sale. | Any RP |
| Raw cotton | Agriculturist | Any RP |
| Supply of lottery. | SG, UT or LA | Lottery distributor or selling agent. |
| Used vehicles, seized goods, old items and scrap. | CG excluding Indian Railways, SG, UT or LA | Any RP |
| Private Sector Lending certificate (PSLC) | Any RP | Any RP |
| Metal Scrap | Any URP | Any RP |

