

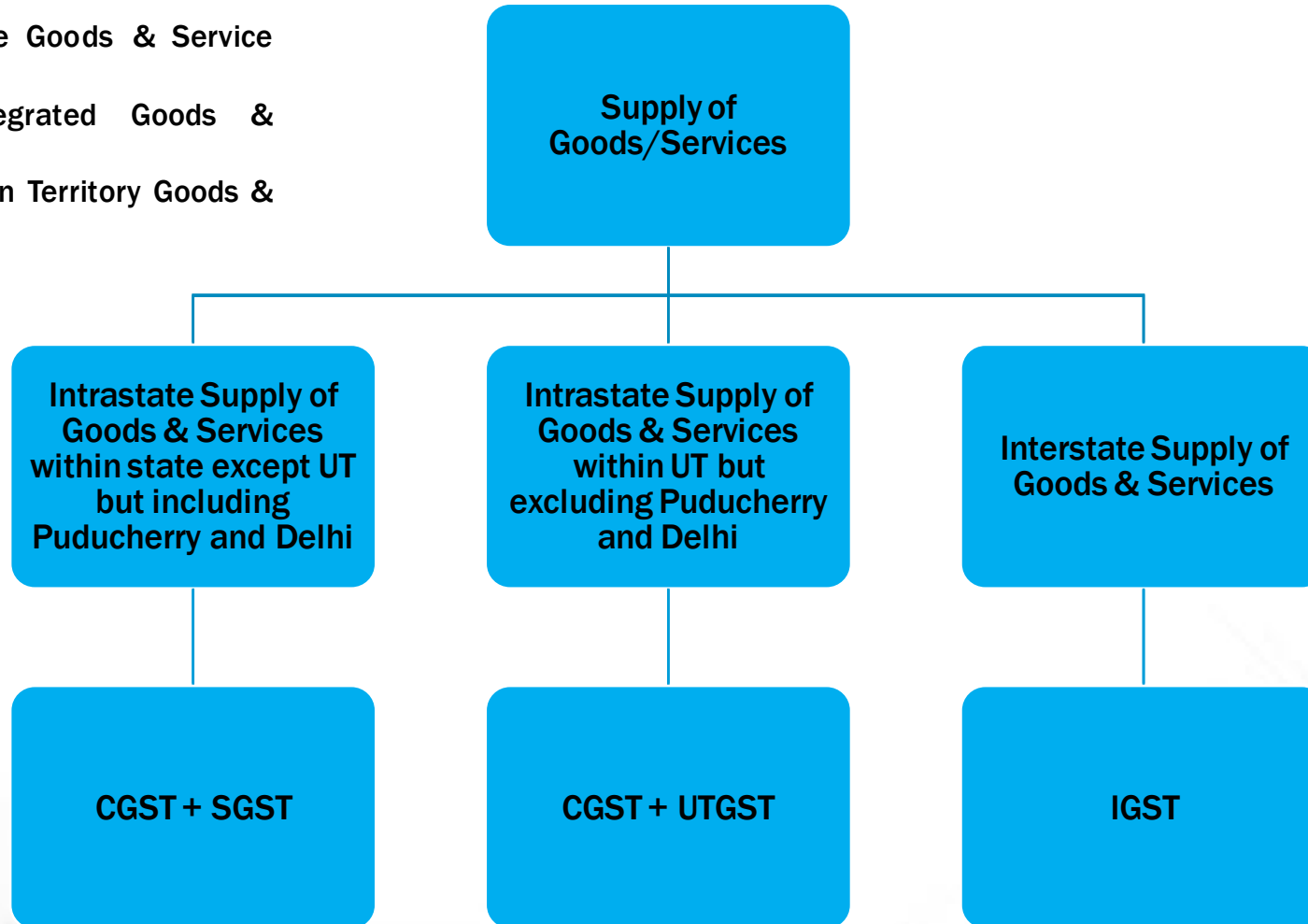
# Place of Supply and Time of Supply

The background of the slide is a blurred, high-angle photograph of a modern building's interior. It shows a staircase with a glass railing on the right side, leading down. The floor is made of light-colored tiles. A large window is visible on the right, showing a view of the outside. The overall lighting is bright and airy.

# Dual GST Structure in India

## Abbreviations

- CGST – Central Goods & Service Tax
- SGST – State Goods & Service Tax
- IGST – Integrated Goods & Service Tax
- UTGST – Union Territory Goods & Service Tax



## No. of GST Laws

Particulars	No.
CGST Law	1
IGST Law	1
UTGST Law	1
Compensation Law	1
State Laws	30
<b>Total GST Laws</b>	<b>34</b>

*There is no clarity on GST laws in J&K. Hence the same is not included in above.*

*In addition to above, Compensation cess shall be levied on such supplies **as may be notified by the Central Government**. The same will be levied under Compensation Law 2017.*

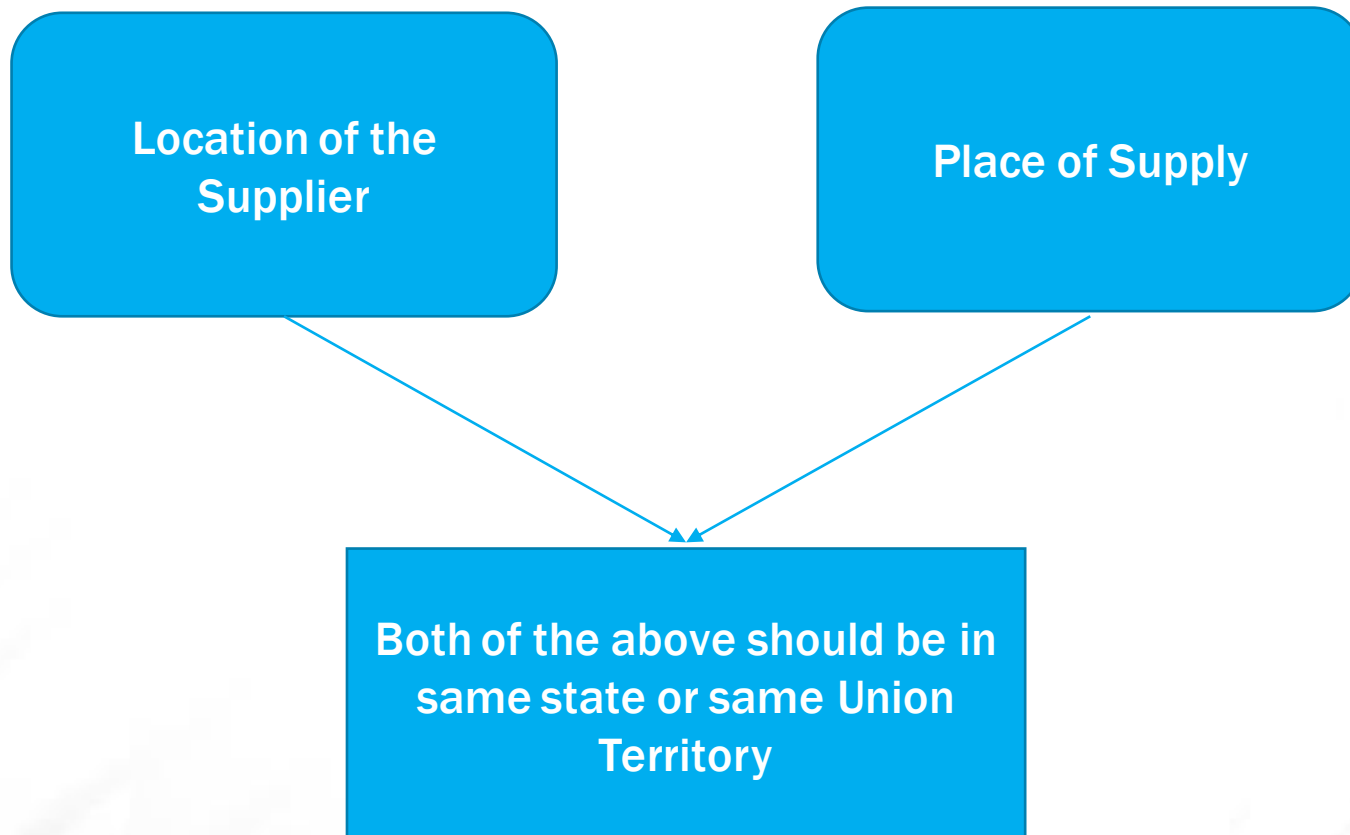
# Dual GST Structure in India

Particulars	Intrastate Supply of Goods & Services within state except UT but including Puducherry and Delhi	Intrastate Supply of Goods & Services within UT but excluding Puducherry and Delhi	Interstate Supply of Goods & Services	Remark
Value of Supply	1000	1000	1000	
CGST	90	90	NA	Accrue to CG
SGST	90	NA	NA	Accrue to SG
UTGST	NA	90	NA	Accrue to CG
IGST	NA	NA	180	Accrue to CG and will be distributed to SG on the basis of Place of Supply
Compensation Cess	100	100	100	Will be used by CG to compensate the States
<b>Total Taxes</b>	<b>280</b>	<b>280</b>	<b>280</b>	

## Assumptions

- **Rates - CGST – 9%; SGST – 9%; UTGST – 9%; IGST – 18%; Compensation Cess – 10%.**
- **It is assumed that supply in the example is a notified supply for the purpose of Compensation Cess**
- **Abbreviations - CG – Central Government; SG – State Government;**

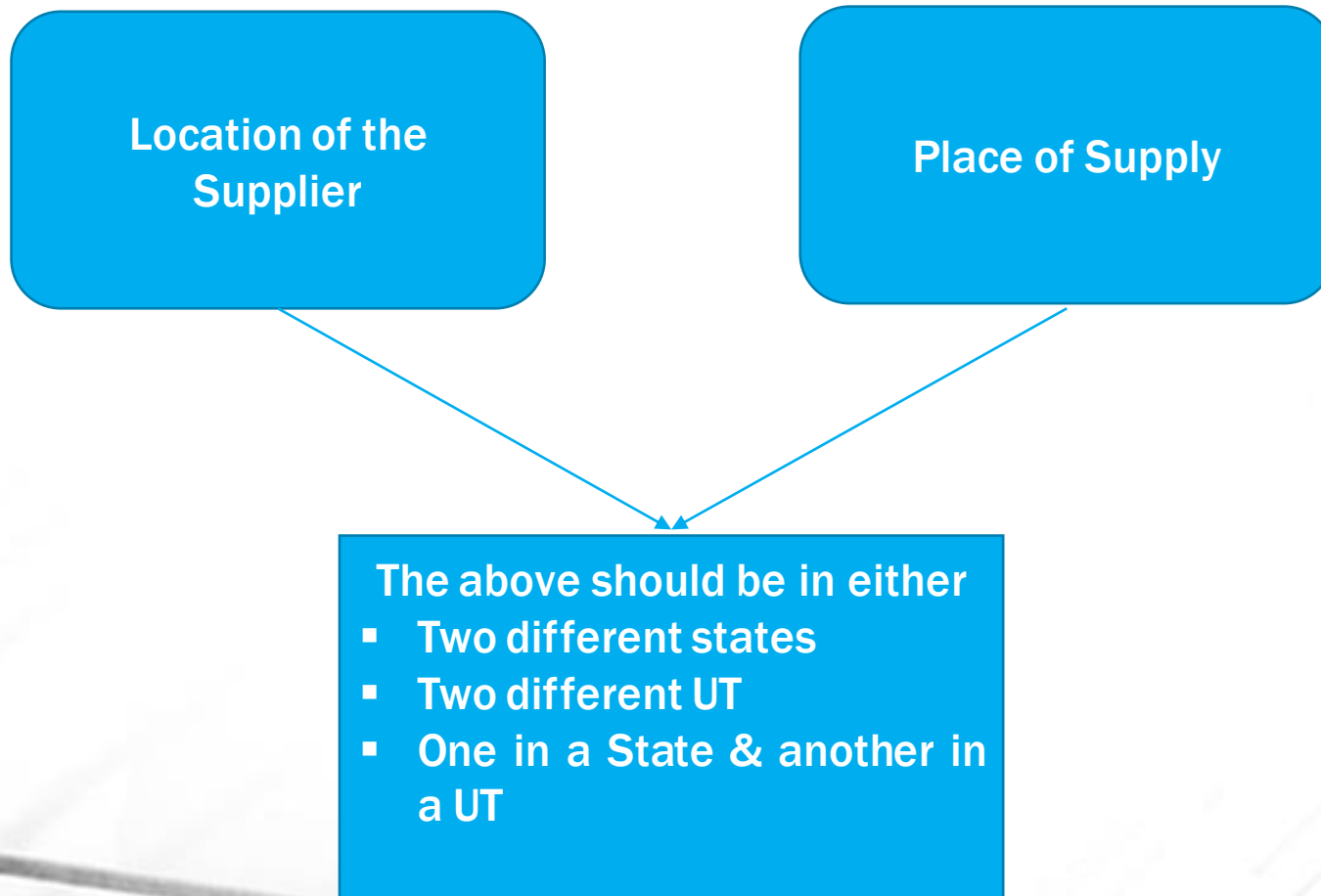
# Intrastate Supply of Goods & Services



## Exception to this Rule

- Supply of Goods/Services to SEZ developer or SEZ unit
  - Supply of Goods/Services from SEZ developer or SEZ unit
  - Supply of goods imported into the territory of India till they cross the customs frontiers of India e.g. High Seas Sales
  - Supply of Goods to a tourist as referred to in Section 15 of IGST
- *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*

# Interstate Supply of Goods & Services



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➤ *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*

# Location of the Supplier of Goods

- In part 3, we have discussed that Location of the Supplier of Goods/Services is crucial to determine the nature of supply i.e. Interstate Supply or Intrastate Supply. Broadly, if the Location of the Supplier and Place of Supply are in same state then supply constitutes intrastate supply whereas if the location of the supplier and place of supply are in different state then supply constitutes interstate supply.
- Location of the supplier helps us to determine the nature of supply which in turn helps us to determine the applicability of CGST&SGST/CGST&UTGST/IGST.
- The term 'Location of the supplier' with respect to goods has not been defined in GST Law. In my view, the term 'Location of the supplier' with respect to goods would refer to place from where movement of goods from supplier to recipient takes place for the purpose of supply or where the movement of goods is not involved then location of goods at the time of delivery to recipient. For e.g. a manufacturer having head office in Maharashtra and also having a Godown in Gujarat. A customer of Gujarat places an order on Maharashtra office and Maharashtra office instructs Gujarat Godown to make supplies of the same to Gujarat customer. In this case, in my view, Location of the Supplier would be the Gujarat because Gujarat Godown is the place from where movement of goods from supplier to recipient takes place for the purpose of supply.

# Location of the Supplier of Goods

- It could be inferred from the previous discussion that ‘Location of the Supplier’ with respect to Goods would be the place of business which is directly concerned with the Supply of Goods.
- The term ‘Place of Business’ is defined in the following manner: -

*“place of business” includes*

- a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or*
  - b) a place where a taxable person maintains his books of account; or*
  - c) a place where a taxable person is engaged in business through an agent, by whatever name called;*
- Where the location of the supplier is in the territorial waters, the location of such supplier shall be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located

# Location of the Supplier of Services

- **Section 2(71) of CGST Act 2017 defines the term 'Location of the Supplier of Services' in the following manner:**
  - a) where a supply is made from a place of business for which the 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 (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;
  
- e) Where the location of the supplier is in the territorial waters, the location of such supplier shall be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located
  
- **Section 2(50) of CGST Act 2017 defines the term 'Fixed Establishment' in the following manner: -**  
“Fixed establishment” means a place (other than the registered place of business) which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs;
  
- **Section 2(113) of CGST Act 2017 defines the term 'usual place of residence' in the following manner: -**
  - a) in case of an individual, the place where he ordinarily resides;
  - b) in other cases, the place where the person is incorporated or otherwise legally constituted;



# Location of the Supplier of Services

- The definition of term 'Location of the Supplier of Services' has four clauses.
- As per first clause, if supply is made from a place of business for which registration has been obtained then 'Location of the Supplier of Services' would be such place of business.
- As per second clause, if supply is made from a fixed establishment (other than the registered place of business) then 'Location of the Supplier of Services' would be such Fixed Establishment.
- As per third clause, if supply is made from more than one establishment, whether the place of business or fixed establishment then 'Location of the Supplier of Services' would be the location of the establishment most directly concerned with the provision of the supply.
- The fourth clause is residuary clause which provides that in absence of such place, 'Location of the Supplier of Services' will be usual place of residence of the supplier.
- Three clauses out of four clauses requires **the determination of place from where the Supply is made**. Unlike the goods, services are intangible in nature. Hence it becomes difficult to determine the Location of the Supplier of Services in view of above provisions.
- There may be practical scenarios where contract for supply is entered from one place but actual execution of contract takes place from various locations. Thus it become practically difficult to determine the Location of the Supplier of Services. It is expected that Government will issue clarification soon with respect to same.

# Place of Supply of Goods

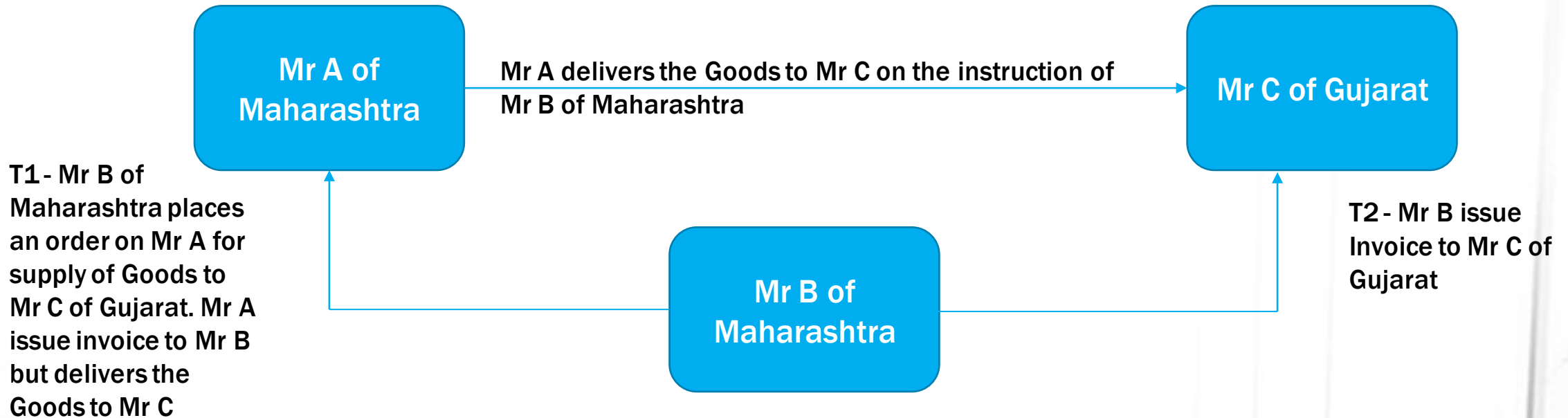
Situation	Place of Supply
Transactions involving movement of Goods whether by the supplier or recipient or any other person – 10(1)(a)	Location at the time movement of goods terminates for delivery to recipient.
Movement of goods not involved – 10(1)(c)	Location of goods at the time of delivery to recipient.
When goods are assembled or installed at site – 10(1)(d)	Place of such installation or Assembly
Where the goods are delivered by the supplier to a recipient or any other person, on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods (Bill to ship to Model) – 10(1)(b)	Principal place of business on whom the bill is raised (i.e. third person)
Goods supplied on board a conveyance including a vessel, an aircraft, a train or a motor vehicle. – 10(1)(e)	Location at which goods are taken on board.
Import of Goods – Section 11(a)	Location of the importer
Export of Goods – Section 11(b)	Location outside India

*Where the 'Place of Supply' is in the territorial waters, then 'Place of Supply' shall be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located*

# Place of Supply of Goods

- **Example of situation where supply involves movement of Goods** – Mr A of Maharashtra sells Goods to Mr B of Gujarat. Here Goods are transported from Maharashtra to Gujarat for delivery to Mr B in Gujarat. This is transaction where supply involves movement of Goods. Thus the Place of Supply of Goods will be the place where movement of goods terminates for delivery to recipient which is Gujarat here. Thus the Place of Supply will be Gujarat in this case.
- **Example of situation where supply does not involve movement of Goods** – Mr A of Maharashtra holds a warehouse in the State of Gujarat. Mr B of Maharashtra places a order on Mr A for 100 kg of goods, however he does not require actual delivery of Goods but require the same for speculation purpose. Mr A instructs the Gujarat warehouse keeper to transfer the 100 Kg of Goods in the name of Mr A. This the case of Constructive delivery where supply does not involves movement of Goods. Thus the Place of Supply will be Location of goods at the time of delivery (constructive delivery) to recipient i.e. Gujarat. Thus the Place of Supply will be Gujarat in this case.
- **Example of situation where Goods are assembled or installed at Site** – This situation may cover the cases, interalia, where property in Goods are transferred during execution of works contract. For e.g. erection of plant & machinery at customer's site will be covered in this case. Mr B of Rajasthan appoints Mr A of Maharashtra for erection of plant & Machinery at his Rajasthan's site. In this case, POS will be place of installation or assemble i.e. Rajasthan.

# Place of Supply of Goods



- T1 i.e. Place of Supply with respect to supply from Mr A to Mr B is covered by the section 10(1)(b). In this case, the place of supply will be the Principal Place of business of Mr B i.e. Maharashtra irrespective of the fact that delivery of Goods has taken place in Gujarat. Thus Mr A will charge CGST and SGST of Maharashtra on invoice issued to Mr B.
- T2 i.e. Place of supply with respect to issue of invoice by Mr B to Mr C is covered by normal provisions for e.g. section 10(1)(a) or 10(1)(c) etc. In this case, POS with respect to supply from Mr B to Mr C will be determined as per section 10(1)(c) i.e. location of goods at the time movement of goods terminates for delivery to recipient i.e. Gujarat. Thus POS will be Gujarat.

# Place of Supply of Goods

- **Example of situation where Goods supplied on board a conveyance including a vessel, an aircraft, a train or a motor vehicle** – A train departs from Mumbai Central station of Mumbai city and destined to Jaipur. During the journey, Goods are supplied to passengers. In this case, POS supply would be determined as per section 10(1)(e) i.e. POS would be the location at which such goods are taken on board. Assuming that Goods are taken on board at Mumbai Central Station. Thus the Place of Supply would be Maharashtra Only.
- **Example of Place of Supply with respect to Import of Goods** – Mr A, Rajasthan based trader, imports goods from Malaysia through JNPT port of Maharashtra. In this case POS would be determined as per section 11(a) of IGST Act 2017 i.e. POS would be the ‘Location of the Importer’. The term ‘Location of the Importer’ is not defined in IGST Law as well as CGST Law. Thus as per normal parlance, location of the importer would be Rajasthan. Consequently POS will also be Rajasthan.
- **Example of Place of Supply with respect to Export of Goods** – Mr A, Rajasthan based trader, exports goods to Malaysia through JNPT port of Maharashtra. In this case POS would be determined as per section 11(b) of IGST Act 2017 i.e. POS would be the ‘Location outside India’. Thus POS would be Malaysia.

# Place of Supply of Services – Section 12 of IGST Act

## Where Location of the Supplier and Recipient is in India

**S.12(3)**  
Supply of:

- a)(a) Services directly in relation to immovable property
- (b) Services provided by architects, interior decorators, surveyors, engineers, and other related experts or estate agents
- (c) Services provided by way of grant of right to use immovable property
- (d) Services provided for carrying out or coordination of construction work
- (e) Services by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called
- (f) Services by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious, or business function including services provided in relation to such function at such property
- (g) Any service ancillary to services referred above

Location of immovable property where immovable property is located within India

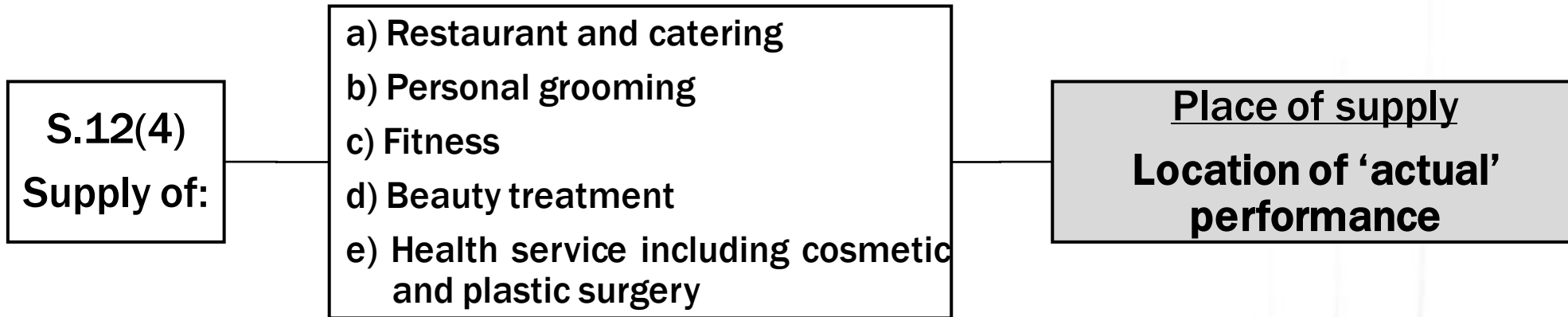
Location of recipient where immovable property is located outside India

# Place of Supply of Services – Section 12 of IGST Act

## Where Location of the Supplier and Recipient is in India

- **S.12(3)** - In respect of the lodging accommodation services provided by a house boat or any other vessel, the POS would be the Location where the House Boat or any other vessel is situated or intended to be situated. However if the House Boat or Vessel is situated outside India then POS would be the Location of Service Recipient.
- When the immovable property or house boat or vessel is situated in more than one state or UT then supply shall be deemed to made in each of the respective state or UT where house boat or vessel is located. Where a consolidated amount is charged for all house boat or vessels then value shall be determined: -
  - In terms of contract or agreement made in this regard or
  - In absence of such contract or agreement, on such other basis as may be prescribed

# Place of Supply of Services – Section 12 of IGST Act Where Location of the Supplier and Recipient is in India





# Place of Supply of Services – Section 12 of IGST Act Where Location of the Supplier and Recipient is in India

**S. 12(5) - Supply of Services in relation to Training and Performance Appraisal**

**Registered recipient:  
Location of recipient**

**Unregistered recipient:  
Place of 'actual' performance**

**S. 12(6): Supply of Services for admission to:**

- a) Cultural & artistic
- b) Sporting
- c) Scientific & educational
- d) Entertainment event
- e) Amusement Park
- f) Services ancillary to above

**Venue of event/ park**

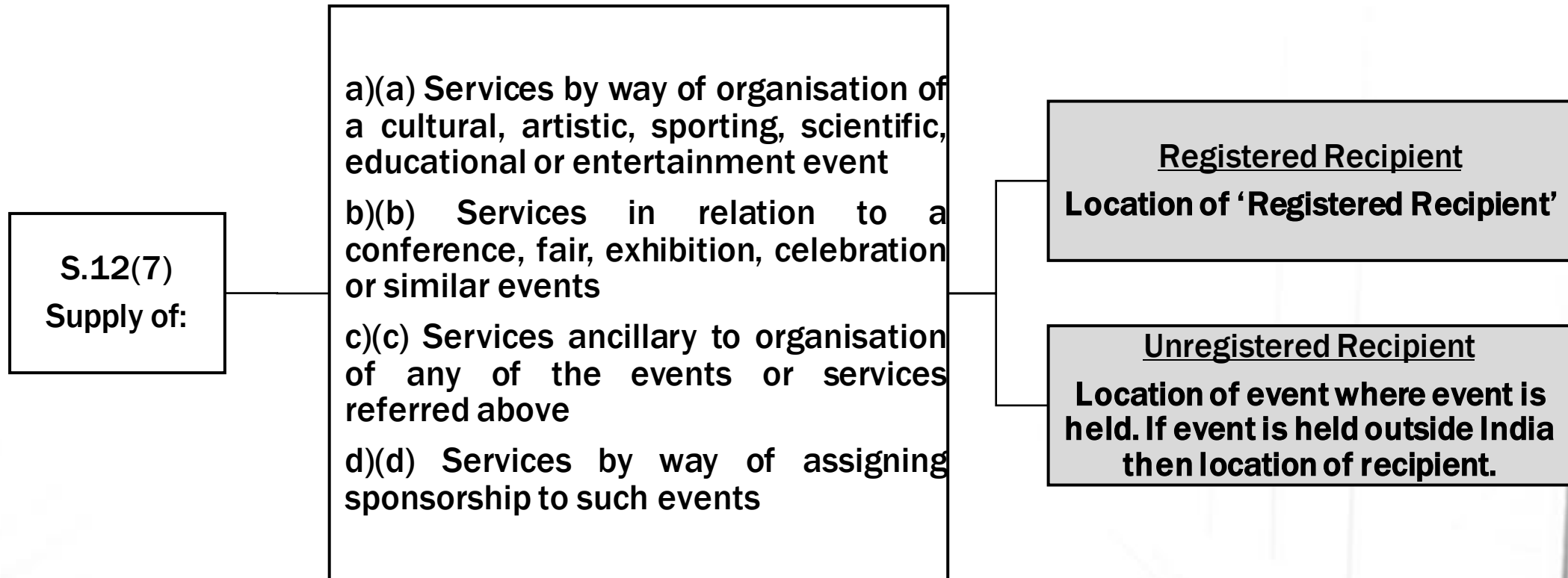
**S. 12(8): Supply of services by way of transportation of Goods, including mail or courier**

**Registered recipient:  
Location of recipient**

**Unregistered recipient:  
Location at which goods are handed over for their transportation**

# Place of Supply of Services – Section 12 of IGST Act

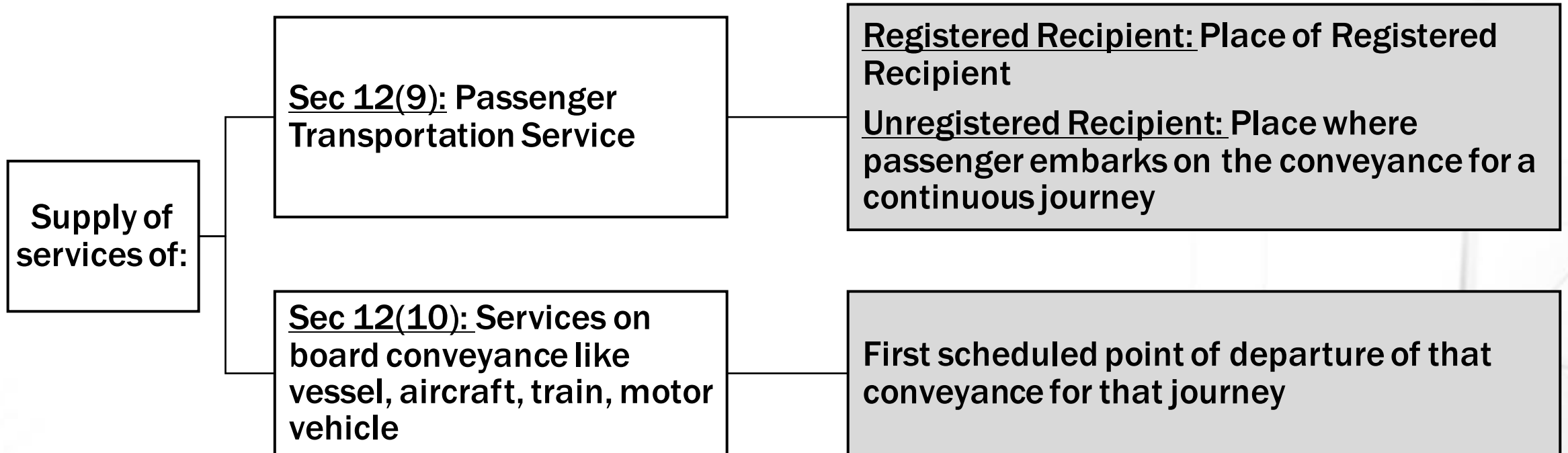
## Where Location of the Supplier and Recipient is in India



- When the event is held in more than one state or UT then supply shall be deemed to made in each of the respective state or UT where event is held. Where a consolidated amount is charged for all such events then value shall be determined: -
  - In terms of contract or agreement made in this regard or
  - In absence of such contract or agreement, on such other basis as may be prescribed

# Place of Supply of Services – Section 12 of IGST Act

## Where Location of the Supplier and Recipient is in India



### Important Points

- Where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the POS shall be determined in following manner: -
  - Location of recipient where address on record exists and
  - The location of the supplier of services, in any other cases
- The return journey shall be treated as separate journey even if the right to passage for onward and return journey is issued at the same time

# Place of Supply of Services – Section 12 of IGST Act

## Where Location of the Supplier and Recipient is in India

### Meaning of Continuous Journey

A “continuous journey” means a journey for which :-

- i. a single ticket has been issued for the entire journey; or
- ii. more than one ticket or invoice has been issued for the journey, by one service provider, or by an agent on behalf of more than one service providers, at the same time, and there is no scheduled stopover between any of the legs of the journey in the journey.

### Meaning of ‘Stopover’

- “Stopover” means a place where a passenger can disembark either to transfer to another conveyance or break his journey for a certain period in order to resume it at a later point of time.
- All stopovers do not cause a break in continuous journey.
- Only such stopovers will be relevant for which one or more separate tickets are issued.

# Place of Supply of Services – Section 12 of IGST Act

## Where Location of the Supplier and Recipient is in India

### Single Ticket

Journey	Place of Supply where recipient is unregistered	Taxability
Mumbai-Delhi-Jaipur	Mumbai	Yes, Mumbai being the place of embarkation
New York-London-Delhi	New York	No, New York is place of supply for continuous journey with single return ticket.
Kolkata-New-York-Kolkata	(a) Kolkata is the place of supply for Kolkata to New-York Journey	(a) Kolkata to New-York is taxable since place of supply is in taxable territory (b) New-York to Kolkata is not taxable since place of supply is out side taxable territory

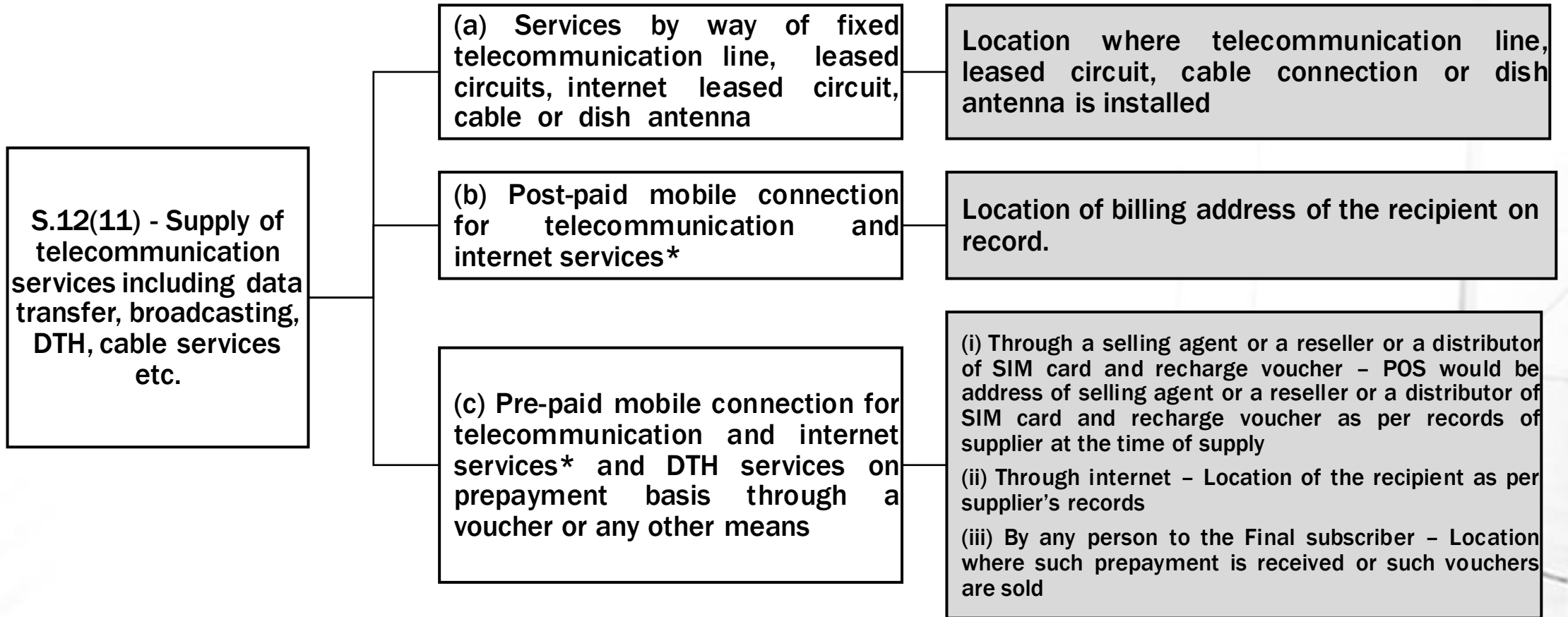
## Place of Supply of Services – Section 12 of IGST Act Where Location of the Supplier and Recipient is in India

More than one ticket for a journey (issued by a single service provider, or by a single agent, for more than one service providers)

Journey	Place of Supply where recipient is unregistered	Taxability
(a) Mumbai-Delhi (b) Delhi-Jaipur	(a) Mumbai (b) Delhi	(a) Journey (a) is the taxable since Place of supply is in taxable territory i.e. Mumbai (b) Journey (b) is the taxable since Place of supply is in taxable territory i.e. Delhi
(a) New York-London (b) London-Delhi	(a) New-York (b) London	(a) Journey (a) is non taxable since Place of supply is in non taxable territory i.e. New-York (b) Journey (b) is non taxable since Place of supply is in non taxable territory i.e. London

# Place of Supply of Services – Section 12 of IGST Act

## Where Location of the Supplier and Recipient is in India



\* In cases not covered in (b) and (c), address of recipient on records shall be the place of supply;

\* Where no address of the recipient available in records, location of the supplier shall be the place of supply

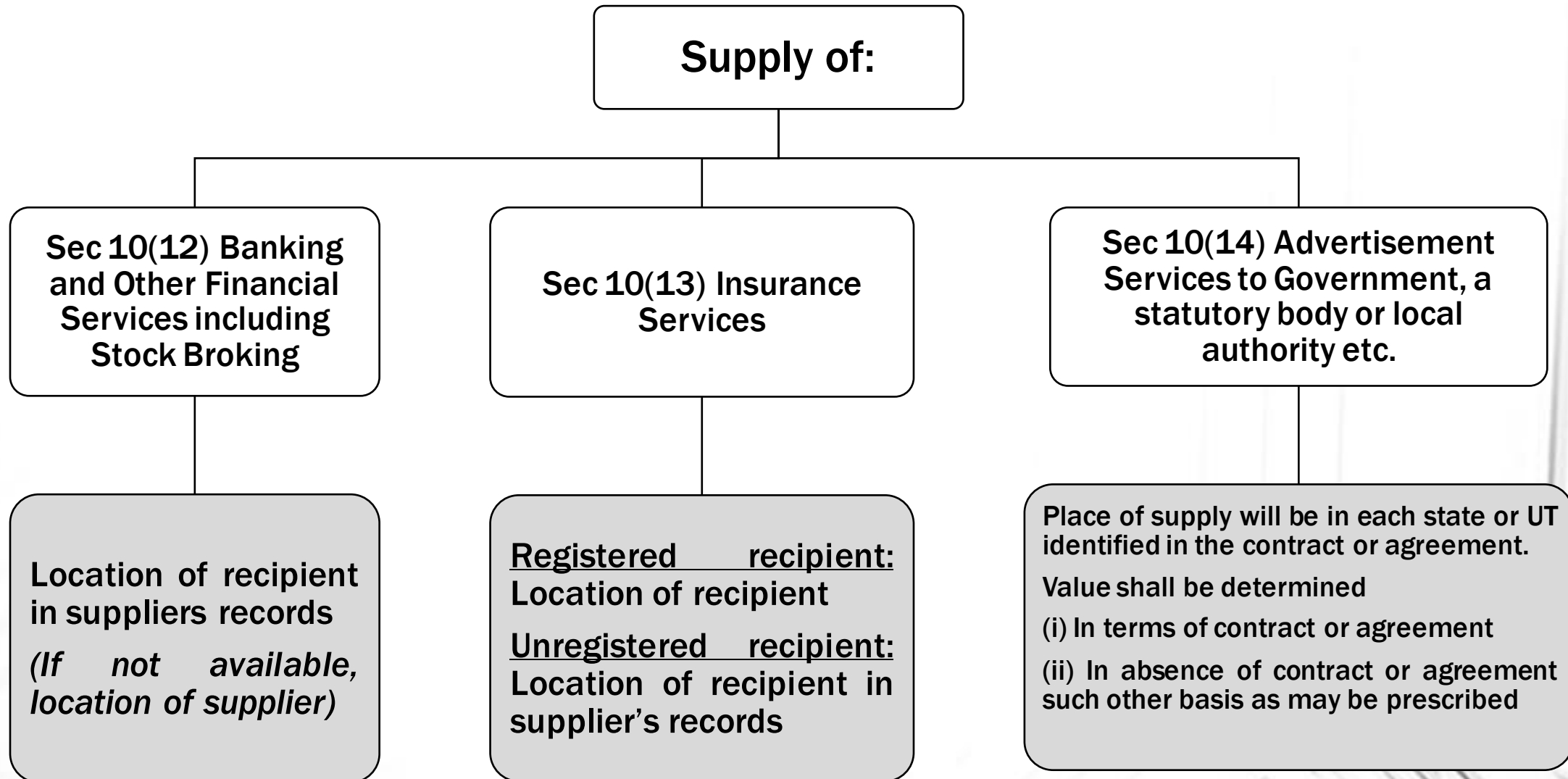
# Place of Supply of Services – Section 12 of IGST Act

## Where Location of the Supplier and Recipient is in India

- When the leased circuit is installed in more than one state or UT then supply shall be deemed to be made in each of the respective state or UT where leased circuit is installed. Where a consolidated amount is charged for all such leased circuit then value shall be determined: -
  - In terms of contract or agreement made in this regard or
  - In absence of such contract or agreement, on such other basis as may be prescribed



# Place of Supply of Services – Section 12 of IGST Act Where Location of the Supplier and Recipient is in India



# Place of Supply of Services – Section 12 of IGST Act

## Where Location of the Supplier and Recipient is in India

For Supply of any other Service which is not covered above,  
Place of supply is:

**Section 12(2)(a): Registered recipient: Location of recipient**

**Section 12(2)(b)(i): Unregistered recipient: Address in supplier's records**

**Section 12(2)(b)(ii): Unregistered recipient: Location of supplier if address not available**

# Place of Supply of Services – Section 13 of IGST Act

## Where either Location of the Supplier or Recipient is outside India

**Section 13(3) of IGST Act 2017 determines the Place of Supply with respect to performance based services. As per this section, the POS shall be the location where services are actually performed. The following services is covered by this section: -**

- **Services provided in respect of goods that are required to be made physically available by the recipient of service to the supplier of services, or to a person acting on behalf of the supplier of services, in order to provide the service :**

**Provided that when such services are provided from a remote location by way of electronic means the POS shall be the location where goods are situated at the time of supply service:**

**Provided further that this clause shall not apply in the case of a service supplied in respect of goods that are temporarily imported into India for repairs and are exported after the repairs without being put to any other use in the India, other than that which is required for such repair;**

- **Services supplied to an individual, represented either as the recipient of service or a person acting on behalf of the recipient, which require the physical presence of the recipient or the person acting on behalf of the receiver, with the supplier for the supply of the services.**

# Place of Supply of Services – Section 13 of IGST Act

## Where either Location of the Supplier or Recipient is outside India

- **Section 13(4) of IGST Act 2017 determines the POS with respect to immovable property.** As per said section, the POS with respect to following services would be the location where immovable property is located or intended to be located.
  - Services directly in relation to immovable property
  - Services provided by architects, interior decorators, surveyors, engineers, and other related experts or estate agents
  - Services provided by way of grant of right to use immovable property
  - Services provided for carrying out or coordination of construction work
  - Services by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called
- As per section 13(5) of IGST Act 2017, the POS 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, shall be the place where the event is actually held

# Place of Supply of Services – Section 13 of IGST Act

## Where either Location of the Supplier or Recipient is outside India

- As per section 13(6), if services referred to in section 13(3), 13(4) and 13(5) of IGST Act 2017 are supplied at more than one location including a location in the taxable territory then POS shall be the location in taxable territory.
- As per section 13(7), if services referred to in section 13(3), 13(4) and 13(5) of IGST Act 2017 are supplied in more than one state or UT and a consolidated amount is charged for all such states or UT then value shall be determined: -
  - In terms of contract or agreement made in this regard or
  - In absence of such contract or agreement, on such other basis as may be prescribed
- As per section 13(8), the POS of following services shall be the location of the supplier of services.
  - Services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;
  - Intermediary services\*
  - Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month

**\*Section 2(13) of IGST Act 2017 defines the term ‘intermediary’ in the following manner: -**

*“intermediary” means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account;*

# **Place of Supply of Services – Section 13 of IGST Act**

## **Where either Location of the Supplier or Recipient is outside India**

- **As per section 13(9), the POS of services of transportation of Goods other than by way of supply of mail or courier shall be the place of destination of such goods**
- **As per section 13(10), the POS in respect of passenger transportation services shall be the place where the passenger embarks on the conveyance for continuous journey.**
- **As per section 13(11), the POS of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey.**
- **As per section 13(12), the POS of online information and database access or retrieval services shall be the location of the recipient of services.**

# Place of Supply of Services – Section 13 of IGST Act

## Where either Location of the Supplier or Recipient is outside India

- Section 2(17) of IGST Act 2017 defines the term ‘online information and database access or retrieval services’ in following manner: -
- *“online information and database access or retrieval services” means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,–*
  - i. advertising on the internet;*
  - ii. Providing cloud services;*
  - iii. Provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;*
  - iv. providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;*
  - v. online supplies of digital content (movies, television shows, music and the like);*
  - vi. digital data storage; and*
  - vii. online gaming;*



## **Export and Import of Services**



# Definition of Export and Import of Service

## **Export of Service**

- As per section 2(6) of IGST Act 2017, “export of services” means the supply of any service when
  - the supplier of service is located in India
  - the recipient of service is located outside India
  - the place of supply of service is outside India
  - the payment for such service has been received by the supplier of service in convertible foreign exchange; and
  - the supplier of service and the recipient of service are not merely establishments of same person for e.g. Head Office and Branch Office etc.

## **Import of Service**

- As per section 2(11) of IGST Act 2017, “import of services” means the supply of any service, where
  - the supplier of service is located outside India;
  - the recipient of service is located in India; and
  - the place of supply of service is in India;

## **Time of Supply**

**Time of Supply determines the point of time when the GST liability in respect of a Supply arises. The same also helps in determining applicable rate of GST**

# Time of Supply pertaining to Supply of Goods where Supplier is liable to Pay GST

As per Section 12(2) of CGST Act, time of supply of goods shall be **earlier of date i.e.,**  
-

**Actual date of issue of invoice by the supplier**

**Due date for issue of invoice by the supplier**

**Date on which payment is entered in the books of supplier**

**Date on which payment is credited to the supplier's bank a/c**

- *Where the supplier of taxable goods receives an amount upto one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.*

# Due Date for Issue of Invoice pertaining to Supply of Goods

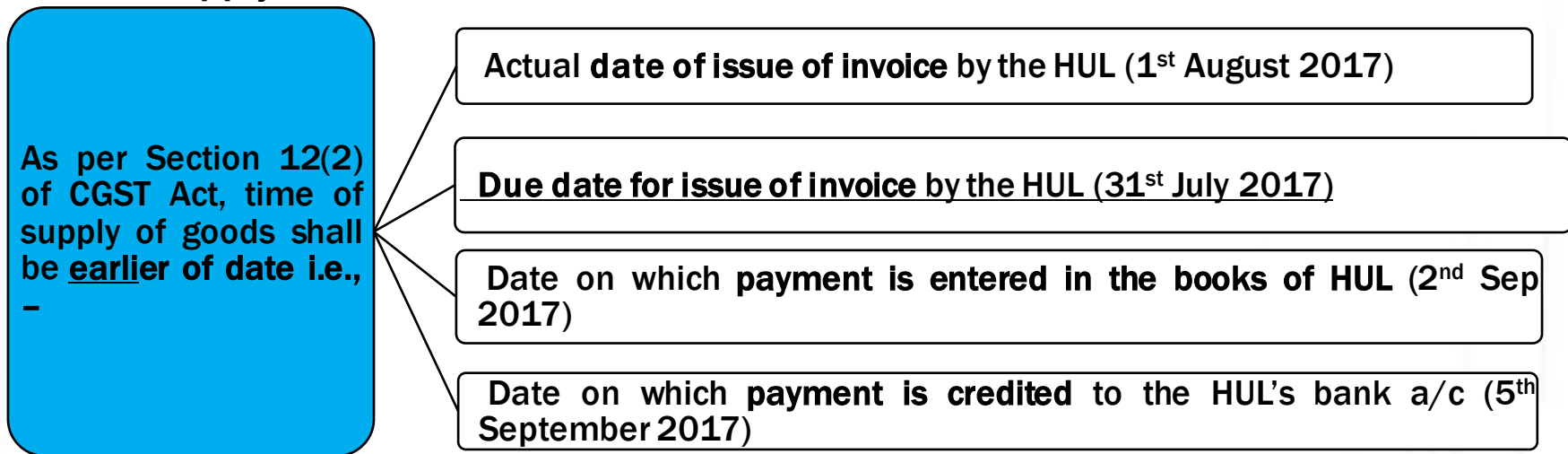
Situation	Due Date for issue of Invoice
Supply involves movement of Goods	Before or at the time of removal of Goods for supply to recipient
Supply does not involve movement of goods or in any other case	Before or at the time of delivery of goods or making available thereof to the recipient
Continuous Supply of Goods*	<ul style="list-style-type: none"> <li>i. <b>If successive statement of accounts involved</b> - Before or at the time each statement is issued</li> <li>ii. <b>If successive payments are involved</b> – Before or at the time each payment is received</li> </ul>
Removal of Goods before it is known whether a supply will take place (being sent or taken on approval or sale or return or similar terms)	<b>Earlier of the following two:-</b> <ul style="list-style-type: none"> <li>i. Before or at the time when it becomes known that the supply has taken place</li> <li>ii. 6 months from the date of removal</li> </ul>

➤ As per section 8(4) of Tax Invoice Rules, where goods being transported are for the purpose of the supply to the recipient but tax invoice could not be issued at the time of removal of goods for the purpose of supply, the supplier shall issue tax invoice after the delivery of Goods.

*\*“continuous supply of goods” means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis;*

# Time of Supply pertaining to Supply of Goods where Supplier is liable to Pay GST - Example

M/s HUL Limited removes goods to Mr. Ram (buyer) on 31<sup>st</sup> July 2017 and issue invoice for the same on 1<sup>st</sup> August 2017 of value of Rs.99,000. Mr. Ram makes payment of Rs1,00,000 for the same vide cheque dated 2<sup>nd</sup> September which is credited to HUL Ltd's Bank account on 5<sup>th</sup> September 2017. The time of supply will be determined as follows: -



- *The time of supply in above case will be 31<sup>st</sup> July 2017. Thus M/s HUL has to pay GST on the same considering July 2017 liability.*
- *The time of supply with respect to Rs1,000 received in excess of amount indicated on the invoice i.e. 99,000 will be 2<sup>nd</sup> September 2017 or issue of invoice in respect of the same, at the option of HUL Limited*

# Time of Supply pertaining to Supply of Services where Supplier is liable to Pay GST

As per Section 13(2) of CGST Act, time of supply of services shall be **earlier of date** i.e., -

Actual date of issue of invoice by the supplier

Actual date of provision of service if invoice is not issued within the due date for issue of invoice by the supplier

Date on which payment is entered in the books of supplier

Date on which payment is credited to the supplier's bank a/c

- *Where the supplier of taxable services receives an amount upto one thousand rupees in excess of the amount indicated in the tax invoice, the time of supply to the extent of such excess amount shall, at the option of the said supplier, be the date of issue of invoice in respect of such excess amount.*
- **Where time of supply of SERVICES cannot be determined in the above manner then the date on which the recipient shows the receipt of services in his books of account**

# Due Date for Issue of Invoice pertaining to Supply of Services

Situation	Due Date for Issue of Invoice
Not a Continuous Supply of Service	<ul style="list-style-type: none"> <li>i. Before the provision of taxable service</li> <li>ii. After the Provision of Taxable Service but within a period of 30* days from the date of supply of Service</li> </ul>
Continuous Supply of Service#	
<ul style="list-style-type: none"> <li>i. Due date of payment is ascertainable from the contract</li> </ul>	<ul style="list-style-type: none"> <li>i. On or before the due date of payment</li> </ul>
<ul style="list-style-type: none"> <li>ii. Due date of payment is NOT ascertainable from the contract</li> </ul>	<ul style="list-style-type: none"> <li>i. On or before the receipt of payment</li> </ul>
<ul style="list-style-type: none"> <li>iii. Payment is linked to the completion of an event</li> </ul>	<ul style="list-style-type: none"> <li>i. On or before the completion of an event</li> </ul>
Supply of Service ceases under a contract before the completion of supply	At time of supply ceases Quantum – Invoice shall be issued to the extent of supply effected before such cessation

*\*Where the supplier of services is an insurer or a banking company or a financial institution, including a NBFC then period of 30 days will be replaced by 45 days*

*#“continuous supply of services” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify.*

# Time of Supply pertaining to Supply of Services where Supplier is liable to Pay GST - Example

A Chartered Account Firm provided a opinion to his client on 25<sup>th</sup> July 2017 and issued invoice for the same on 2<sup>nd</sup> September 2017. The client made the payment of the same vide cheque dated 5<sup>th</sup> September 2017 and credited in the firm's bank account on 8<sup>th</sup> September 2017. The time of supply will be determined as follows: -

As per Section 13(2) of CGST Act, time of supply of goods shall be earlier of date i.e., -

Actual date of issue of invoice by the supplier (2<sup>nd</sup> Sep 2017)

Actual date of provision of service if invoice is not issued within the due date i.e. 24 Aug 2017 (25<sup>th</sup> July 2017)

Date on which payment is entered in the books of supplier (5 Sep 2017)

Date on which payment is credited to the supplier's bank a/c (8 Sep 2017)

- *The time of supply in above case will be 25<sup>th</sup> July 2017 since invoice is not issued within 30 days of provision of service. Thus Firm has to pay GST on the same considering July 2017 liability. Thus if the Firm has not discharged the GST on the same considering July 2017 liability then Interest liability will arise on the same.*



# Time of Supply pertaining to Supply of Goods/Services where GST is liable to be paid under reverse charge

As per Section 12(3)/13(3) of CGST Act, time of supply of goods/ services shall be **earlier of –**

Date of the receipt of Goods (Not applicable for Services)

Date immediately following 30 days (Goods)/60 days (services) from the date of issue of invoice or any other document

Date on which payment is entered in the books of recipient

Date on which payment is debited to the recipient's bank a/c

- *In case of supply of services by associated enterprises, where the supplier of service is located outside India, the time of supply shall be the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.*
- *If time of supply cannot be determined in above manner the time of supply shall be date of entry in the books of account of the recipient of supply.*

# Time of Supply pertaining to Supply of Goods where GST is liable to be paid under reverse charge - Example

M/s HUL Ltd procured goods from unregistered person. Date of receipt of Goods – 15 July 2017; Date of Invoice issued by unregistered person – 16 July 2017; Date of payment by HUL – 2 Aug 2017. With this date, time of supply will be determined in the following manner: -

As per Section 12(3) of CGST Act, time of supply of goods shall be **earlier of –**

Date of the receipt of Goods (15 July 2017)

Date immediately following 30 days from date of invoice (15 Aug 2017)

Date on which payment is entered in the books of recipient (2 Aug 2017)

Date on which payment is debited to the recipient's bank a/c (2 Aug 2017)

- In above case, time of supply is 15 July 2017. Thus HUL has to discharge the GST under reverse charge considering the same as liability towards July 2017.
- **As per GST Act, whenever Goods or Services are procured by a registered person from unregistered person then GST liability has to be discharged by the registered person.**

# Time of Supply pertaining to Supply of Services where GST is liable to be paid under reverse charge - Example

M/s HUL Ltd procured Service from unregistered person. Date of receipt of Services – 15 July 2017; Date of Invoice issued by unregistered person – 16 July 2017; Date of payment by HUL – 2 Aug 2017. In this case, time of supply will be determined in the following manner: -

As per Section 13(3) of CGST Act, time of supply of services shall be **earlier of –**

Date immediately following 60 days (14 Sep 2017)

Date on which payment is entered in the books of recipient (2 Aug 2017)

Date on which payment is debited to the recipient's bank a/c (2 Aug 2017)

- In above case, time of supply is 2 Aug 2017. Thus HUL has to discharge the GST under reverse charge considering the same as liability towards Aug 2017.
- **As per GST Act, whenever Goods or Services are procured by a registered person from unregistered person then GST liability has to be discharged by the registered person.**

# Time of Supply pertaining to Voucher

## Voucher

- Time of Supply shall be –
  - the date of issue of voucher, if the supply is identifiable at that point; or
  - the date of redemption of voucher, in all other cases.
- The term ‘voucher’ has been defined vide section 2(118) of CGST Act in following manner: -

*“voucher” means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;*

**Fore.g.** Jet Airways issued Travel Discount voucher of Rs1,000 which entitles the holder thereof to claim discount of Rs1,000 from total amount payable at the time of booking of domestic economy class journey. In this case, supply is identifiable at the time of issue of voucher, thus GST will be payable at the time of issue of Voucher.

# **Time of Supply pertaining to Supply of Goods/Services – Miscellaneous Points**

- **Where the time of supply cannot be determined in the above mentioned manner then time of supply will be determined in the following manner: -**
  - **in a case where a periodical return has to be filed, be the date on which such return is to be filed; or**
  - **in any other case, be the date on which the tax is paid.**
- **The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.**

# Time of Supply pertaining to Interest, Late Fees etc for delayed payment of Consideration - Example

- For e.g. HUL supplied Goods of Rs1,00,000 on 15 July 2017. The payment terms is 30 days from the date of invoice i.e. payment is due by 14 August 2017. Buyer made the payment on 30 Sep 2017. HUL charged a penalty of Rs2,000 for delayed payment of original due amount. Buyer also made the payment of same on 30 Sep 2017.

In this case, time of supply with respect to Rs1,500 is 30 Sep 2017 i.e. GST liability on penalty charged for delayed payment of original liability will be discharged considering the same as liability of September Month.

- **It is to be noted that as per section 15(2) of CGST Act 2017, interest or late fee or penalty for delayed payment of any consideration for any supply will be included in the valuation of supply i.e. same will be liable for GST.**

# Time of Supply when there is change in the rate of tax in respect of Goods or Services or both

Sr. No.	Combination of Events occurred <u>before</u> change in rate of Tax	Time of Supply	Sr. No.	Combination of Events occurred <u>after</u> change in rate of Tax	Time of Supply
1	Date of Supply of Goods or Service and Date of Issue of Invoice	Date of Invoice	4	Date of Supply of Goods or Service and Date of Issue of Invoice	Date of Invoice
2	Date of issue of invoice and date of receipt of payment against that invoice.	Date of Invoice or Payment whichever is earlier	5	Date of issue of invoice and date of receipt of payment against that invoice.	Date of Invoice or Payment whichever is earlier
3	Date of Supply of Goods or Service and Date of receipt of Payment	Date of receipt of Payment	6	Date of Supply of Goods or Service and Date of receipt of Payment	Date of receipt of Payment

*The date of receipt of payment” shall be the date on which the payment is entered in the books of account of the supplier or the date on which the payment is credited to his bank account, whichever is earlier.*

# Time of Supply when there is change in the rate of tax in respect of Goods or Services or both - Comments

- The previous slides deals with the determination of Time of Supply with respect to Goods or Services or both whenever there is a 'Change in rate of Tax'.
- The term 'Change in Rate of Tax' is not defined in the Act. As per common parlance, the same would mean simple change in rate of tax for e.g. GST rate increased from 18% to 20%
- As per CGST Act 2017, whenever there is change in rate of tax, then time of supply (which will help in determination of rate of GST) will be determined by 2/3 rule i.e. If two events out of following three events occurs before the change in rate of tax then old GST rate will be applicable and occurs after the change in rate of tax then new GST rate will be applicable. The three events is as follows: -
  - Date of Supply of Goods or Services
  - Date of issue of Invoice
  - Date of receipt of payment



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