

PLACE OF SUPPLY OF GOODS/SERVICES

GST regime provides for taxation on the basis of intra-state or inter-state supply of Goods and Services. In the case of intra-state supply, CGST/SGST is levied and in case of inter-state supply, IGST is levied. It is of paramount importance to correctly classify the supply either intra-state or inter-state at the time of transaction. In case of wrong classification i.e. Intra-state sale as inter-state sale and vice-versa, sec. 53 of the CGST Act and sec. 30 of the IGST Act provides for hardship to the taxpayers. For reference both of the above sections has been reproduced below:

*As per Section 53 of the CGST Act 2016, A taxable person who has paid CGST/SGST (in SGST Act) on a transaction **considered** by him to be an **intra-state supply**, but which is subsequently held to be an **inter-state supply**, shall, upon **payment of IGST**, be allowed to take the amount of CGST /SGST (in SGST Act) so paid as refund subject to the provisions of section 38 of the CGST Act, 2016 and subject to such other conditions as may be prescribed.*

*As per Section 30 of the IGST Act 2016, A taxable person who has paid IGST on a transaction **considered** by him to be an **interstate supply**, but which is subsequently held to be an **intra-state supply**, shall, upon **payment of CGST and SGST** in the appropriate State, be allowed to take the amount of IGST so paid as refund subject to the provisions of section 38 of the CGST Act, 2016 and such other conditions as may be prescribed.*

To classify supply as intra state or inter-state two components are important:

- 1) Location of supplier
- 2) Place of supply

In case location of supplier and place of supply are in same state, supply will be intra state. In case location of supplier and place of supply are in different states the supply will be inter-state. (Reference: section 3 and 3A of the IGST Act.)

Sl. No.	Location of supplier	Place of supply	Intra state/Inter state	Tax Applicable
1	State 'A'	State 'A'	Intra state supply	CGST and SGST
2	State 'A'	State 'B'	Interstate supply	IGST

There are different provisions to determine location of supplier and place of supply for supply of Goods and for supply of services.

This discussion covers provisions related to location of supplier and place of supply for Services.

SUPPLY OF SERVICES

LOCATION OF SUPPLIER

Section 2(65) of the CGST/SGST Act, 2016 defines the location of supplier of service. As per this section, location of supplier of service means:

- Place of Business (Registered with GST) from where supply is made;
- Location of fixed establishment (Other than the registered place of business) from where supply is made;
As per Section 2(46) of the CGST/SGST Act, 2016 "fixed establishment" means a place (other than the place of business) which is characterized 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;
- In case supply is made from multiple places, the location of supplier is the place which is most directly concerned with provision of the supply;
- In the absence of any such place, the location is the usual place of residence of the supplier.

PLACE OF SUPPLY

Section 6 of the IGST Act provides for provision to determine the place of Supply of Services. This section contains fifteen subsections. Section 6(4) to 6(15) cover different specific scenario for supply of Services. Section 6(1) talks about applicability of section 6 to determine the place of supply of Services and section 6(2) and 6(3) are the general section, which are applicable where specific sections are not applicable.

SUPPLY OF SERVICES TO REGISTERED PERSON or UNREGISTERED PERSON [Sec 6(2) & 6(3)]

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Place of supply of services, in case of services except services listed in sub sec. 4 to 15 of sec. 6, are provided to:

Registered person	Person other than registered person
<ul style="list-style-type: none"> • Location of Registered Person 	<ul style="list-style-type: none"> • Location of the recipient where address on record exists; • Location of Supplier of services in other cases; <p><i>“Address on Record” defines in terms of the address of the recipient as available in the records of the supplier. (Ref Sec 2(3) of the CGST Act, 2016)</i></p>

The situation can be better understood with following example:

- Masala Ltd in Chennai engaged in providing repair services of machinery goes to a registered person's factory located at Patna and repairs the machinery; the place of supply of services will be Patna i.e. Bihar.
- Masala Ltd in Chennai engaged in providing repair services of machinery goes to an unregistered person's factory located at Kolkata and repairs the machinery and the address of the recipient exist with the Masala Ltd; the place of supply of services will be Kolkata.
- Masala Ltd in Chennai engaged in providing repair services of machinery goes to an unregistered person's factory located at Kolkata and repairs the machinery and the address of the recipient does not exist with the Masala Ltd; the place of supply of services will be Chennai.
- Market research service provided to ABC Ltd, Mumbai, a company registered under GST. The place of supply shall be the location of the registered person i.e. Mumbai.

• **SUPPLY OF SERVICES TO IMMOVABLE PROPERTY [Sec 6(4)]**

Place of supply of services, in case of following services provided to any person:

- In relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work, or
- by way of lodging accommodation by a hotel, inn, guest house home stay, club or campsite, by whatever name called and including a house boat or any other vessel, or
- by way of accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official, social, cultural, religious or business function including services provided in relation to such function at such property, or
- any services ancillary to the services as described above.

Note: Where the immovable property or boat or vessel is located in more than one State, the supply of service shall be treated as made in each of the States in proportion to the value for services separately collected or determined, in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf.

Registered person	Person other than registered person
<ul style="list-style-type: none"> • Location at which the immovable property or boat or vessel is located or intended to be located. 	

The situation can be better understood with following example:

- Mr. A of Chennai rents out a building in Chandigarh. The place of supply of service is Chandigarh.
- Mr. B, director of PQ Ltd of India goes for a business tour to London and stayed in hotel there. As the hotel is located in London, the place of supply of service shall be London i.e. in non-taxable territory.

• **RESTAURANT AND CATERING etc. SERVICES [Sec 6(5)]**

Place of supply of services, in case of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery are made to:

Registered person	Person other than registered person
<ul style="list-style-type: none"> • Location where the services are actually performed. 	

The situation can be better understood with following example:

- A person located in Delhi which is registered under GST, book a restaurant ABC located in Haryana. The place of supply is the location of the registered person i.e. Haryana.
- M/s ABC (Registered person in Mumbai) providing Health Service to Individual Mr. A (unregistered person located in Delhi). Place of supply of services will be Delhi.

• **TRAINING AND PERFORMANCE APPRAISAL [Sec 6(6)]**

Place of supply of services, in case of supply of services in relation to training and performance appraisal are made to:

Registered person	Person other than registered person
<ul style="list-style-type: none"> • Location of such person 	<ul style="list-style-type: none"> • Location where the services are actually performed

The situation can be better understood with following example:

- ABC Ltd conducts a training to the employees of POR Ltd, a company registered under GST, in Mumbai. The place of supply of services shall be the location of PQR Ltd, in Mumbai.
- M/s ABC (Registered person in Mumbai) providing training to Individual Mr. A (unregistered person located in Delhi). Place of supply of services will be Delhi.

• **ADMISSION TO A CULTURAL, SOCIAL AND EDUCATIONAL EVENT [Sec 6(7)]** 6 ~

Place of supply of services, in case of services made by way of admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place and services ancillary thereto are made to:

Registered person	Person other than registered person
<ul style="list-style-type: none"> Place where the event is actually held or where the park or such other place is located. 	

The situation can be better understood with following example:

IIFA organizing an event for film fare awards and providing admission to participants in Mumbai, the place of supply shall be at Mumbai, which is location where event is actually held.

• **ORGANISING TO A CULTURAL, SOCIAL AND EDUCATIONAL EVENT [Sec 6(8)]**

Place of supply of services, in case of services made by way of organization of a

(a) cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events, or

(b) Services ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events.

Note: In terms of the explanation to section 6(8) of the IGST Act, 2016 where the event is held in more than one State and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in the each of the States in proportion to the value of services so provided in each State as ascertained from the terms of the contract or agreement entered into in this regard or, in absence of such contract or agreement, on such other reasonable basis as may be prescribed.

Registered person	Person other than registered person
<ul style="list-style-type: none"> Location of such person 	<ul style="list-style-type: none"> Place where the event is actually held

The situation can be better understood with following example:

- Service provided by an event organizer of Mumbai to company registered under GST, located in Bangalore for holding the beauty pageant. The place of supply is the location of the registered person i.e. Bangalore.
- In case the event organizer provides the services to Mr. X of Bangalore, who is not registered under GST, for holding the wedding celebration in Kolkata, the place of supply of service shall be the location where the service is actually performed i.e. Kolkata.

• **TRANSPORTATION OF GOODS INCLUDING MAIL OR COURIER [Sec 6(9)]**

Place of supply of services, in case of services made by way of transportation of goods including by mail or courier are provided to:

<i>Registered person</i>	<i>Person other than registered person</i>
<ul style="list-style-type: none"> • Location of such person 	<ul style="list-style-type: none"> • Location at which such goods are handed over for their transportation.

The situation can be better understood with following example:

- A company located in Delhi which is registered under GST, appointing a courier agency for transportation of the company documents to ABC located in Haryana. The place of supply is the location of the registered person i.e. Delhi.
- M/s ABC (Registered person in Mumbai) providing transportation of goods to Individual Mr. A for personal use (unregistered person located in Mumbai). Mr.A handing over goods at Mumbai for transportation. Place of supply of services will be Mumbai.

• **TRANSPORTATION OF PASSENGER [Sec 6(10)]**

Place of supply of services, in case of services made by way of transportation of passenger are provided to:

[Provided that 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 place of supply of such service shall be determined in the manner specified in sub-sections (2) or (3), as the case may be.]

Explanation.- For the purposes of this sub-section, the return journey shall be treated as a separate journey even if the right to passage for onward and return journey is issued at the same time.

As per Section 2(29) of the IGST Act, 2016, "continuous journey" means a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stop over between any of the legs of the journey for which one or more separate tickets or invoices are issued;

Explanation.- For the purposes of this clause, '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.

Registered person	Person other than registered person
<ul style="list-style-type: none"> • Location of such person 	<ul style="list-style-type: none"> • Place where the passenger embarks on the conveyance for a continuous journey.

The situation can be better understood with following example:

- A passenger Mr. A residing in Delhi, registered under GST, booked an air ticket from Mumbai to Chennai and Chennai to Mumbai. In this case, a single ticket has been issued for the entire journey. The place of supply of services shall be the location of the registered person i.e. Delhi.
- A passenger Mr. Z residing in Delhi, not registered under GST, booked an air ticket from Mumbai to Chennai and Chennai to Mumbai. In this case, a single ticket has been issued for the entire journey. The place of embarkation where

the continuous journey begins is Mumbai, hence the place of supply of services shall be place where the passenger embarks on the conveyance for the continuous journey i.e. Mumbai.

• **ON BOARD A CONVEYANCE [Sec 6(11)]**

Place of supply of services, in case of supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle are provided to:

<i>Registered person</i>	<i>Person other than registered person</i>
<ul style="list-style-type: none"> • Location of the first scheduled point of departure of that conveyance for the journey 	

The situation can be better understood with following example:

Rajdhani Express departs from Delhi at 5:30PM. A passenger Mr. A (registered/other person) under GST, scheduled his departure from Lucknow at 8:30PM. The place of supply of services shall be the location of the the first scheduled point of departure of that conveyance for the journey i.e Delhi.

• **TELECOMMUNICATION [Sec 6(12)]**

The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services by way of following mode to any person shall-

(a) Services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna.

(b) Mobile connection for telecommunication and internet services provided on post-paid basis.

(c) Mobile connection for telecommunication and internet service are provided on prepayment through a voucher or any other means.

(If such pre-paid service is availed or the recharge is made through internet banking or

other electronic mode of payment, the location of the recipient of services on record of the supplier of services shall be the place of supply of such service.)

Registered person	Person other than registered person
<ul style="list-style-type: none"> • In case of clause (a), Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services; • In case of clause (b), Location of billing address of the recipient of services on record of the supplier of services; • In case of clause (c), Location where such prepayment is received or such vouchers are sold. 	

The situation can be better understood with following example:

- Mr. Z located (unregistered in Bihar) is receiving dish services from TATA Sky (registered in Delhi), the place of supply of services shall be Bihar.
- Mr. P (unregistered person) has furnished Delhi address while obtaining post-paid connection from Vodafone (registered in Bangalore). He has now shifted his place of residence to Mumbai. Airtel issues invoice indicating Delhi address, Place of supply of service shall be Delhi.
- If Mr. P has prepaid mobile connection in the above example and recharges the same by obtaining recharge voucher at Mumbai, place of supply shall be Mumbai.

BANKING AND OTHER FINANCIAL SERVICES [Sec 6(13)]

Place of supply of services, in case of supply of banking and other financial services including stock broking services to any:

Registered person	Person other than registered person
<ul style="list-style-type: none"> • Location of the recipient of services on the records of the supplier of services; • Location of the supplier of services. If the service is not linked to the account of the recipient of services. 	

The situation can be better understood with following example:

- ABC Bank located in Delhi which is registered person under GST, providing services to XYZ located in Haryana with Bank through his location Bangalore. The place of supply is the location of the registered recipient on the records of ABC Bank i.e. Bangalore.

• **INSURANCE SERVICES [Sec 6(14)]**

Place of supply of services, in case of supply of insurance services are made to:

<i>Registered person</i>	<i>Person other than registered person</i>
<ul style="list-style-type: none"> • Location of such person 	<ul style="list-style-type: none"> • Location of the recipient of services on the records of the supplier of services.

The situation can be better understood with following example:

- ABC in Delhi which is registered under GST, providing Insurance services to XYZ located in Bangalore. The place of supply is the location of such person i.e. Bangalore.
- M/s ABC providing Insurance Service to Individual Mr. A (unregistered person located in Kolkata). Mr. A is living in Dehradun on record of Insurance company. Place of supply of services will be Dehradun .

• **ADVERTISEMENT SERVICES [Sec 6(15)]**

Place of supply of services, in case of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for identifiable States shall be each State.

The situation can be better understood with following example:

ABC Ltd., an advertising agency provides advertisement services to Karnataka Government tourism department for advertising in Bangalore. The place of supply of service shall be Karnataka State.

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