

Place of Supply of Goods and Service

Q 1. What is the need for the Place of Supply of Goods and Services under GST?

Ans. The basic principle of GST is that it should effectively tax the consumption of such supplies at the destination thereof or as the case may be at the point of consumption. So place of supply provision determines the place i.e. taxable jurisdiction where the tax should reach. The place of supply determines whether a transaction is intra-state or inter-state. In other words, the place of Supply of Goods or services is required to determine whether a supply is subject to SGST plus CGST in a given State or union territory or else would attract IGST if it is an inter-state supply.

Q 2. Why are place of supply provisions different in respect of goods and services?

Ans. Goods being tangible do not pose any significant problems for determination of their place of consumption. Services being intangible pose problems w.r.t determination of place of supply mainly due to following factors:

(i) The manner of delivery of service could be altered easily. For example, telecom service could change from mostly post-paid to mostly pre-paid; billing address could be changed, biller's address could be changed, repair or maintenance of software could be changed from onsite to online; banking services were earlier required customer to go to the bank, now the customer could avail service from anywhere;

(ii) Service provider, service receiver and the service provided may not be ascertainable or may easily be suppressed as nothing tangible moves and there would hardly be a trail;

(iii) For supplying a service, a fixed location of service provider is not mandatory and even the service recipient may receive service while on the move. The location of billing could be changed overnight;

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(iv) Sometime the same element may flow to more than one location, for example, construction or other services in respect of a railway line, a national highway or a bridge on a river which originate in one state and end in the other state. Similarly, a copy right for distribution and exhibition of film could be assigned for many states in single transaction or an advertisement or a programme is broadcasted across the country at the same time. An airline may issue seasonal tickets, containing say 10 leafs which could be used for travel between any two locations in the country. The card issued by Delhi metro could be used by a person located in Noida, or Delhi or Faridabad, without the Delhi metro being able to distinguish the location or journeys at the time of receipt of payment;

(v) Services are continuously evolving and would thus continue to pose newer challenges. For example, 15-20 years back no one could have thought of DTH, online information, online banking, online booking of tickets, internet, mobile telecommunication etc.

Q 3. What proxies or assumptions in a transaction can be used to determine the place of supply?

Ans. The various element involved in a transaction in services can be used as proxies to determine the place of supply. An assumption or proxy which gives more appropriate result than others for determining the place of supply, could be used for determining the place of supply. The same are discussed below:

(a) location of service provider;

(b) the location of service receiver;

(c) the place where the activity takes place/ place of performance;

The logo for ANK, consisting of the letters 'A', 'N', and 'K' in a bold, blue, sans-serif font. The letters are slightly blurred and have a gradient effect, giving it a modern, digital appearance.

(d) the place where it is consumed; and

(e) the place/person to which actual benefit flows

Q 4. What is the need to have separate rules for place of supply in respect of B2B (supplies to registered persons) and B2C (supplies to unregistered persons) transactions?

Ans. In respect of B2B transactions, the taxes paid are taken as credit by the recipient so such transactions are just pass through. GST collected on B2B supplies effectively create a liability for the government and an asset for the recipient of such supplies in as much as the recipient is entitled to use the input tax credit for payment of future taxes. For B2B transactions the location of recipient takes care in almost all situations as further credit is to be taken by recipient. The recipient usually further supplies to another customer. The supply is consumed only when a B2B transaction is further converted into B2C transaction. In respect of B2C transactions, the supply is finally consumed and the taxes paid actually come to the government.

Q 5. What would be the place of supply where goods are removed?

Ans. The place of supply of goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient. (Section 10 of IGST Act)

Q 6. What will be the place of supply if the goods are delivered by the supplier to a person on the direction of a third person?

Ans. It would be deemed that the third person has received the goods and the place of supply of such goods shall be the principal place of business of such person. (Section 10 of IGST Act)

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Q 7. What will be the place of supply where the goods or services are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle?

Ans. In respect of goods, the place of supply shall be the location at which such goods are taken on board. (Section 10 of IGST Act)

However, in respect of services, the place of supply shall be the location of the first scheduled point of departure of that conveyance for the journey. (Section 12 and 13 of IGST Act)

Q 8. What is the default presumption for place of supply in respect of B2B supply of services?

Ans. The terms used in the IGST Act are registered taxpayers and non-registered taxpayers. The presumption in case of supplies to registered person is the location of such person. Since the recipient is registered, address of recipient is always there and the same can be taken as proxy for place of supply.

Q 9. What is the default presumption for place of supply in respect of unregistered recipients?

Ans. In respect of unregistered recipients, the usual place of supply is location of recipient. However, in many cases, the address of recipient is not available, in such cases, location of the supplier of services is taken as proxy for place of supply.

Q 10. The place of supply in relation to immovable property is the location of immovable property. Suppose a road is constructed from Delhi to Mumbai covering multiple states. What will be the place of supply?

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Ans. Where the immovable property 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. (The Explanation clause to section 12(3) of the IGST Act, for domestic supplies)

Q 11. What would be the place of supply of services provided for organizing an event, say, IPL cricket series which is held in multiple states?

Ans. In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event shall be the location of such person.

However, if the recipient is not registered, the place of supply shall be the place where event is held. Since the event is being held in multiple states and a consolidated amount is charges for such services, the place of supply shall be taken as being in each state in proportion to the value of services so provided in each state. (The Explanation clause to section 12(7) of the IGST Act)

Q 12. What will be the place of supply of goods services by way of transportation of goods, including mail or courier?

Ans. In case of domestic supply: If the recipient is registered, the location of such person shall be the place of supply.

However, if the recipient is not registered, the place of supply shall be the place where the goods are handed over for transportation (section 12 of the IGST Act).

For international supplies: The place of supply of transport services, other than the courier services, shall be the destination of goods. For courier, the place of supply of services is where goods are handed over to courier. However, if the courier services are performed even partially in India, the place of supply shall be deemed as India (section 13(3),13(6) and 13(9) of the IGST Act).

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Q 13. What will be the place of supply of passenger transportation service, if a person travels from Mumbai to Delhi and back to Mumbai?

Ans. If the person is registered, the place of supply shall be the location of recipient. If the person is not registered, the place of supply for the forward journey from Mumbai to Delhi shall be Mumbai, the place where he embarks.

However, for the return journey, the place of supply shall be Delhi as the return journey has to be treated as separate journey. (The Explanation clause to section 12(9) of the IGST Act)

Q 14. Suppose a ticket/ pass for anywhere travel in India is issued by M/s Air India to a person. What will be the place of supply?

Ans. In the above case, the place of embarkation will not be available at the time of issue of invoice as the right to passage is for future use. Accordingly, place of supply cannot be the place of embarkation. In such cases, the default rule shall apply. (The proviso clause to section 12(9) of the IGST Act)

Q 15. What will be the place of supply for mobile connection? Can it be the location of supplier?

Ans. For domestic supplies: The location of supplier of mobile services cannot be the place of supply as the mobile companies are providing services in multiple states and many of these services are inter-state. The consumption principle will be broken if the location of supplier is taken as place of supply and all the revenue may go to a few states where the suppliers are located.

The place of supply for mobile connection would depend on whether the connection is on postpaid or prepaid basis. In case of postpaid connections, the place of supply shall be the location of billing address of the recipient of service.

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In case of pre-paid connections, the place of supply shall be the place where payment for such connection is received or such pre-paid vouchers are sold. However, if the recharge is done through internet/e-payment, the location of recipient of service on record shall be taken as the place of service.

For international supplies: The place of supply of telecom services is the location of the recipient of service.

Q 16. A person in Goa buys shares from a broker in Delhi on NSE (in Mumbai). What will be the place of supply?

Ans. The place of supply shall be the location of the recipient of services on the records of the supplier of services. So Goa shall be the place of supply.

Q 17. A person from Mumbai goes to Kullu-Manali and takes some services from ICICI Bank in Manali. What will be the place of supply?

Ans. If the service is not linked to the account of person, place of supply shall be Kullu i.e. the location of the supplier of services. However, if the service is linked to the account of the person, the place of supply shall be Mumbai, the location of recipient on the records of the supplier.

Q 18. A person from Gurgaon travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in Mumbai. What will be the place of supply?

Ans. The location of the recipient of services on the records of the supplier of insurance services shall be the place of supply. So Gurgaon shall be the place of supply. (proviso clause to section 12(13) of the IGST Act)