



# DETERMINATION OF NATURE OF SUPPLY (INTER-STATE/ INTRA-STATE) & PLACE OF SUPPLY

Chapters IV & V, Sections 7-14 of the IGST Act

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# WE ALL KNOW THAT -

- Intra-State Supplies

WITHIN STATE

**CGST + SGST** is applicable

- Inter-State Supplies

OUTSIDE STATE

**IGST** is applicable

# BUT THE QUESTION HERE IS -

Are the terms

“Intra-State Supplies” and “Inter-State Supplies”

Specifically defined in the Act?

**Or we have to take its general meaning?**



# SECTIONS 7 & 8 DEFINE WHAT SHALL BE CONSIDERED AS 'INTER-STATE SUPPLY' AND 'INTRA-STATE SUPPLY' RESPECTIVELY

If we are to understand it in a simple way, then we need to just check two things in every supply-

- Location of supplier
- Place of Supply

LoS

PoS

# 'LOCATION OF SUPPLIER' & 'PLACE OF SUPPLY'

If both are in-

- (a) two different States;
- (b) two different Union territories;
- (c) a State and a Union territory

INTER-STATE SUPPLY

- If both are in Same State/  
Union Territory

INTRA-STATE SUPPLY

## 'FOLLOWING SHALL ALSO BE **DEEMED** 'INTER-STATE SUPPLY'' -

- **Import** of goods, till they cross customs frontier; and Import of services
- **Export** Supply (Supplier – India, PoS – Outside India)
- Supplies of goods or services to/ by an **SEZ** unit/ developer
- All other supplies **in taxable territory**, not being intra-state, and not covered above

## FOLLOWING ARE **DEEMED NOT TO BE** 'INTRA-STATE SUPPLY' -

- **Import** of goods, till they cross customs frontier
- Supplies to a **tourist** u/s 15
- Supplies of goods or services to/ by an **SEZ** unit/ developer

# EXPLANATION TO SECTION 8 -

Branches of same person,

- in different countries/ states/ UTs, or
- separate business verticals in same state/ UT; shall be treated as distinct persons



# LOCATION OF SUPPLIER

It is directly defined in Section 2(15) of the IGST Act as under-

*“Location of the supplier of services” means,—*

- *supply from a **place of business - registration** has been **obtained, such place** of business;*
- *supply from a **place other than registered (a fixed establishment elsewhere)**, location of **such** fixed establishment;*
- *supply from **more than one establishment**, location of the **establishment most directly concerned** with the provision of the supply; and*
- ***in absence of such places**, the location of the **usual place of residence** of the supplier;*





# BEFORE ASKING WHAT IS 'PLACE OF SUPPLY', WE NEED TO ASK WHY PLACE OF SUPPLY?



- Why are we not simply comparing 'location of recipient' with 'location of supplier'?
- Because GST = **destination** based consumption tax.
- Tax goes to that state where goods are destined/ consumed.
- That's why important what the "**place of supply**" is. It may be possible that 'location of recipient' is different than the actual place where goods or services are supplied/ destined/ consumed.

- The place of supply of **goods** and **services** are determined in separate fashion.
- The reason being, Goods = Have an **Independent identity**, while Services = Dependent, **connected** to recipient or something else that benefits the recipient.
- So our discussion now shall be divided into 4 parts –
  - Place of Supply of Goods – other than import/ export (Sec 10)
  - Place of Supply of Goods – import/ export (Sec 11)
  - Services – Location of supplier & recipient in India (Sec 12)
  - Services – Either Location of supplier or recipient is outside India (Sec 13)

# PLACE OF SUPPLY

## CHAPTER V OF THE IGST ACT

# I. PLACE OF SUPPLY OF GOODS – OTHER THAN IMPORT/EXPORT (SEC 10)

(i) Where movement of goods involved

- Place of supply → the location of the goods at the time, when movement terminates for delivery

(ii) Where goods delivered by transfer of documents of title or otherwise

- By the supplier to a recipient or any other person
- on the direction of a third person, (whether acting as an agent) **before or during movement of goods,**
- Deemed third person has received the goods and
- Place of supply → the principal place of business of such third person



## I. PLACE OF SUPPLY OF GOODS – OTHER THAN IMPORT/ EXPORT (SEC 10)

(iii) Where movement NOT involved

Place of supply → Location of such goods at the time of the delivery to the recipient

(iv) Where goods are assembled or installed at site

Place of supply → the place of such installation or assembly

(v) Where goods are SUPPLIED ON BOARD A CONVEYANCE

Place of supply → the location at which such goods are taken on board

(vi) WHERE THE PLACE OF SUPPLY OF GOODS CANNOT BE DETERMINED

Determined in such manner as may be prescribed (in rules)



## II. PLACE OF SUPPLY OF GOODS – IMPORT/ EXPORT (SEC 11)



(i) PoS of goods **IMPORTED** →

- Location of the importer

(ii) PoS of goods **EXPORTED** →

- Location outside India  
(Where being exported to)



# III. SERVICES – LOCATION OF SUPPLIER & RECIPIENT IN INDIA (SEC 12)

HERE, THERE ARE 12 SERVICES WITH SPECIFIC POS PROVISIONS, AND A GENERAL PROVISION

## (i) IMMOVABLE PROPERTY

- Directly in relation to IMMOVABLE PROPERTY (like architect, interior decorators, surveyors, engineers, real estate agents, grant of right to use, construction or its coordination etc.)
- All types of lodging accommodation
- Function related accommodation in, like marriage, reception, business function etc, related services
- Services ancillary to the above three

Place of Supply	Location of the Immovable Property (or the intended location)
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## (ii) PERFORMANCE BASED SERVICES

- Restaurant and catering
- Personal Grooming, Beauty Treatment, Cosmetic & plastic Surgery
- Health Services and fitness services

Place of Supply	Location where services actually performed
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### (iii) TRAINING & PERFORMANCE APPRAISAL SERVICES

<b>Place of Supply</b>	To a registered person	→ Location of such person
	To unregistered person	→ Location where services actually performed

### (v) ORGANISATION OF ANY EVENT

- Organisation of events and services or related services
- Assigning of sponsorship to such events

<b>Place of Supply</b>	To a registered person	→ Location of such person
	To unregistered person	→ Place where event actually held

Exception – If event held outside India ☐ POS = Location of recipient

### (vi) Goods Transport (including mail/ courier)

<b>Place of Supply</b>	To a registered person	→ Location of such person
	To unregistered person	→ Location at which goods handed over for transport

### (iv) ADMISSION TO EVENT/ AMUSEMENT PARK

- Cultural/ artistic/ sporting/ scientific/ educational/ entertainment events
- Amusement Park/ other place
- Services ancillary thereto

<b>Place of Supply</b>	<b>Event</b>	<b>→ Where event actually held</b>
	Amusement Park	→ Where amusement park is located

## (VII) PASSENGER TRANSPORT

<b>Place of Supply</b>	To a registered person	→ Location of such person
	To unregistered person	→ Location at which passenger embarks (climbs)

**Exception – If Right to passage is for future use, point of embarkation unknown – this specific rule not apply – GENERAL RULE apply**

Note: Return Journey treated as separate journey

## (viii) ON-BOARD A CONVEYANCE SERVICES

Whether it be a vessel, aircraft, train or motor vehicle

<b>Place of Supply</b>	<b>Location of first scheduled point of departure</b>
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## (X) BANKING/ FINANCIAL/ STOCK BROKING SERVICES ETC.

<b>Place of Supply</b>	<b>Address of recipient on record of supplier</b>
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(If address of recipient not available, Place of Supply – Location of supplier)

## (IX) TELECOMMUNICATION & TELEVISION SERVICES

	<b>Fixed lines/ cables &amp; antenna</b>	<b>→ Location where it is installed</b>	
<b>Place of supply</b>	Post-paid mobile & internet	→ Billing address on record	
	Prepaid mobile/ internet/ DTH	Through intermediary	→ Intermediary address on record
		All other cases	→ Location where payment received
	All other services		→ Address of recipient on record of supplier
(If address of recipient not available, place of supply – location of supplier)			

Note: If online payment used for prepaid recharge, **POS** = Location of recipient on record



## (XI) INSURANCE SERVICES

<b>Place of Supply</b>	To a registered person	→ Location of such person
	To unregistered person	→ Location of recipient on record of supplier

## GENERAL PROVISION

- It is the same as a common theme that we observed in the specific provisions too, i.e. -

<b>Place of Supply</b>	To a registered person	→ Location of such person
	To unregistered person	→ Location of recipient on record of supplier
<b>(If address of recipient not available, Place of Supply – Location of supplier)</b>		

## (XII) ADVERTISEMENT SERVICES TO CENTRAL GOVT/ STATE GOVT/ LOCAL AUTHORITY/ STATUTORY BODY

Where such advertisement services are to be provided in multiple States/ UTs, then-

<b>Place of Supply</b>	Each such State/ UT – to the extent of value attributable to them	As ascertained in the terms of agreement
	If not mentioned in contract, then on such basis as may be prescribed	

## IV. SERVICES – LOCATION OF SUPPLIER OR RECIPIENT IS OUTSIDE INDIA (SEC 13)

HERE, THERE ARE 8 SERVICES WITH SPECIFIC POS PROVISIONS, AND A GENERAL PROVISION

### (I) PERFORMANCE BASED SERVICES

Place of Supply	(a) Services in respect of goods required to be made physically available	→ Location where services actually performed
	(b) Services which require the person to be physically present	
	Provided if services on goods is provided from a remote location electronically, then	→ Location where goods are situated

Note: In case of services on goods temporarily imported into India for repairs & exported thereafter without being put to any other use, then this clause shall not apply.

### (II) IMMOVABLE PROPERTY



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- Directly in relation to IMMOVABLE PROPERTY (like architect, interior decorators, surveyors, engineers, real estate agents, grant of right to use, construction or its coordination etc.)
- All types of lodging accommodation
- Function related accommodation in, like marriage, reception, business function etc, related services
- Services ancillary to the above three

Place of Supply

Location of the Immovable Property (or the intended location)

**(iii) ADMISSION TO/ ORGANISATION OF AN EVENT (SIMILAR)**

- Cultural/ artistic/ sporting/ scientific/ educational/ entertainment events
- Services ancillary thereto

Place of Supply	Event	→ Where event actually held
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Note: If above three services provided at multiple locations, including a location at taxable territory then Place of Supply for all shall be the location in taxable territory

**(vi) ON-BOARD A CONVEYANCE SERVICES**



Whether it be a vessel, aircraft, train or motor vehicle

Place of Supply	Location of first scheduled point of departure
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**(iv) Goods Transport (OTHER THAN mail/ courier)**

Place of Supply	Place of Destination of such goods
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**(v) Passenger Transport**

Place of Supply	Location at which passenger embarks (climbs) on the conveyance for journey
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Note: Return Journey treated as separate journey

### (vii) SOME SPECIFIC SERVICES

- Services by Banking Co./ Financial Institution/ NBFC to its account holders
- Intermediary services
- Hiring means of transport (including yachts, excluding aircraft/ vessel) upto 1 month

<b>Place of Supply</b>	<b>Location of supplier of services</b>
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### (viii) Online Information and Database access or retrieval services (OIDAR)

<b>Place of Supply</b>	<b>Location of Recipient</b>
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### GENERAL PROVISION

<b>Place of Supply</b>	<b>Location of RECIPIENT</b>
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(If location of recipient not available, Place of Supply – Location of supplier)

# SECTION 9

When either

- Location of Supplier, or
- Place of Supply is in “TERRITORIAL WATERS”



Then they shall be deemed to be in the COASTAL STATE/ UT having the nearest base



# SECTION 14 –

Special provision for supplier of OIDAR (online information and database access or retrieval) services

Where **Supplier** is in **Non-Taxable Territory NTT**, and **Recipient** is a **Non-Taxable Online Recipient (NTOR)**

Supplier is liable to pay IGST

For paying this IGST, such supplier shall take a single registration in TT, under SIMPLIFIED REGISTRATION SCHEME

- If not present in TT, then any person representing such supplier located in TT
- If no such person, then appoint one

If there is an **intermediary** located in NTT who arranges/ facilitates such supply – deemed – he is recipient, and further supplying to NTOR, unless –

- Invoice issued by him clearly identifies service & supplier
- He is not involved in payment, delivery, or setting of terms & conditions)

# END OF PRESENTATION!

## WHAT WE COVERED-

Chapters IV & V,  
Sections 7-14 of the IGST Act

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