

Introduction to GST, Scope of Supply & Levy under 9(1) & 9(2)

Workshop on Basics of GST for Beginners – Session 1

Session Overview

1. Introduction to GST

2. Scope of Supply

3. Levy under GST



1. Introduction to GST

Need for GST

Pre-GST era

- Multiplicity of Indirect Taxes
- Cascading Effect (Tax on Tax);
- No cross utilisation of input credits in taxes levied by State and Centre;
- Origin Based State Tax;
- Complex taxation system with multiple registrations;
- Complexity in determining the nature of transaction; (Sales/service);
- Mechanism of taxation, exemption, refunds, etc differed from State to State;
- To limit multiple taxes and Compliances; and
- To have common Law and procedure for tax payers;

Legislative Background

- Constitutional Amendment
 - Need for Constitutional Amendment
 - Kelkar Committee 2004
 - The Constitution (101st Amendment) Act, 2016
 - President Assent on 08.09.2016
 - Implemented from 1st July 2017
 - The CGST Act, 2017(CGST),
 - The IGST Act, 2017(IGST),
 - The UTGST Act, 2017 (UTGST)
 - The GST (Compensation to States) Act, 2017 (Compensation Cess)
 - Respective State GST Acts (SGST)

Legislative Background

Article	Provision
Insertion of Article 246A	Gave special power to the Parliament & State Legislatures to make laws on GST. However, Parliament has exclusive power to legislate when supply is in the course of inter-state trade or commerce.
Omission of Article 268A	Omission of power of Central Government to levy taxes on services as tax on services has been brought under GST.
Amendment of Article 269	Consequential amendment in view of insertion of Article 269A. Article 269 provides for the taxes levied and collected by the Union but assigned to States.
Insertion of Article 269A	It provides for GST on supplies in the course of inter-state trade or commerce levied & collected by Central Government and apportion of such tax between Union & States in the manner provided by Parliament by law on the recommendations of GST Council. It also provides for devising the principles for determining place of supply and when a supply takes place in the course of inter-state trade or commerce.

Legislative Background

Article	Provision
Amendment to Article 271	The amendment restricts the power of Parliament to impose surcharge on the goods & services on which GST is levied.
Amendment of Article 366	This amendment provides for definition of “Goods & Services Tax”, ‘Services’ & ‘States’. ‘GST’ means any tax on supply of goods or services or both except on the supply of the alcoholic liquor for human consumption”. ‘Services’ means anything other than goods.
Amendment of Article 368	Insertion of Article 279A (GST Council) in clause (a) of Proviso to Article 368(2). Thus, any modification in GST Council shall require the ratification by the legislatures of one half of the states.

GST in India

[GST: Goods and Services Tax]

- Comprehensive Indirect Tax levied on
 - Sale, Service, Manufacture, Lease, Barter, Disposal, etc
- Single levy on Supply of Goods and Services;
- Destination based tax system
 - National Level VAT
 - Seamless Flow of Credit;
- GST is a common tax on goods and services. It aims at:
 - Integrating Taxes;
 - Uniformity in Tax Rates & commodity classification;
 - Creating National Market
 - Easing Compliances

GST in India

- Terms to become passé:
 - “Sale” of goods or “Provision” of services
 - New term ‘supply’ to be in-vogue
- Taxable Event: ‘Supply’ is the basis for imposing GST
 - Thus, Free Supplies will be subject to tax
 - Inter-state stock transfer & Branch Transfers will also be liable to GST
- New Governing Body in GST Council
- Exports will be tax free (zero rated)
- ‘Place of supply’ is determined by Rules
- ‘Services’ means anything other than goods
- No centralized registration
- No statutory forms
- Multiple Returns
- Cross utilization of credit
- Simplified Refunds
- Online Compliances

GST Council

- Goods & Services Tax Council (GST Council) is a **constitutional body** for making recommendations to the Union and State Government on issues related to Goods and Service Tax. As per Article 279A (4), the functions of the GST Council include making recommendations to the Union and the States on important issues like:
 - The goods and services that may be subjected or exempted from GST,
 - Principles that govern the place of supply,
 - Threshold limits,
 - GST rates including the floor rates with bands,
 - Special rates for raising additional resources during natural calamities/disasters,
 - Special provisions for certain States, etc.

Taxes Subsumed

Taxes Subsumed

Central Taxes – CGST

- Central Sales Tax (CST)
- Central Excise on Manufacture
- Additional Duties of Customs (CVD)
- Special Additional Duties of Customs (ADC)
- Service Tax on Services
- Surcharges and Cess

State Taxes – SGST

- VAT
- Purchase Tax
- Entertainment Tax
- Luxury Tax & Lottery Taxes
- State Cesses and Surcharges
- Entry Tax and Octroi

Taxes Retained

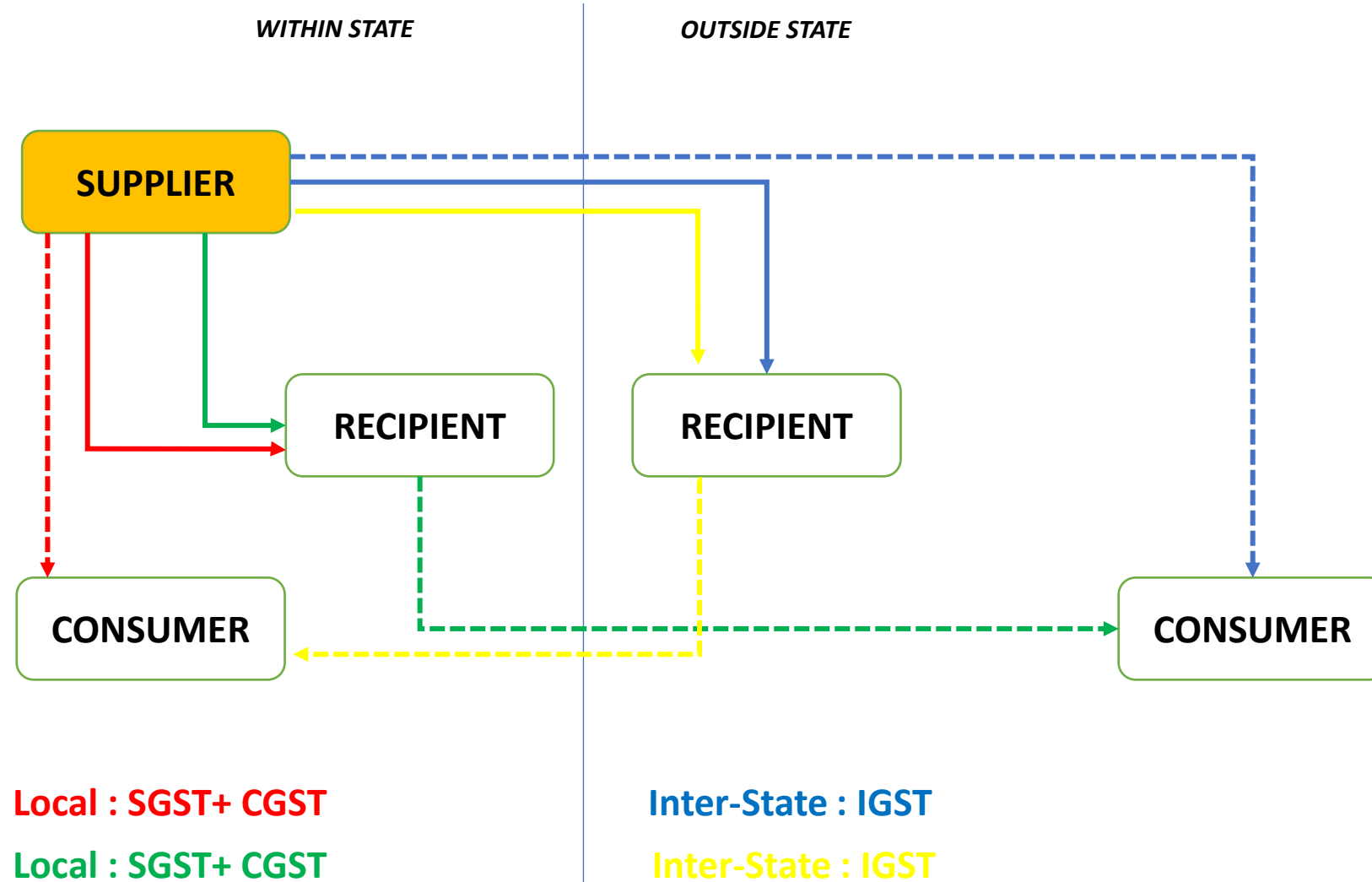
- Basic Customs Duty
- Stamp duty
- Taxes and Duties on Alcoholic Liquor for human consumption
- State Excise Duties
- Taxes and duties on electricity

Concept of GST

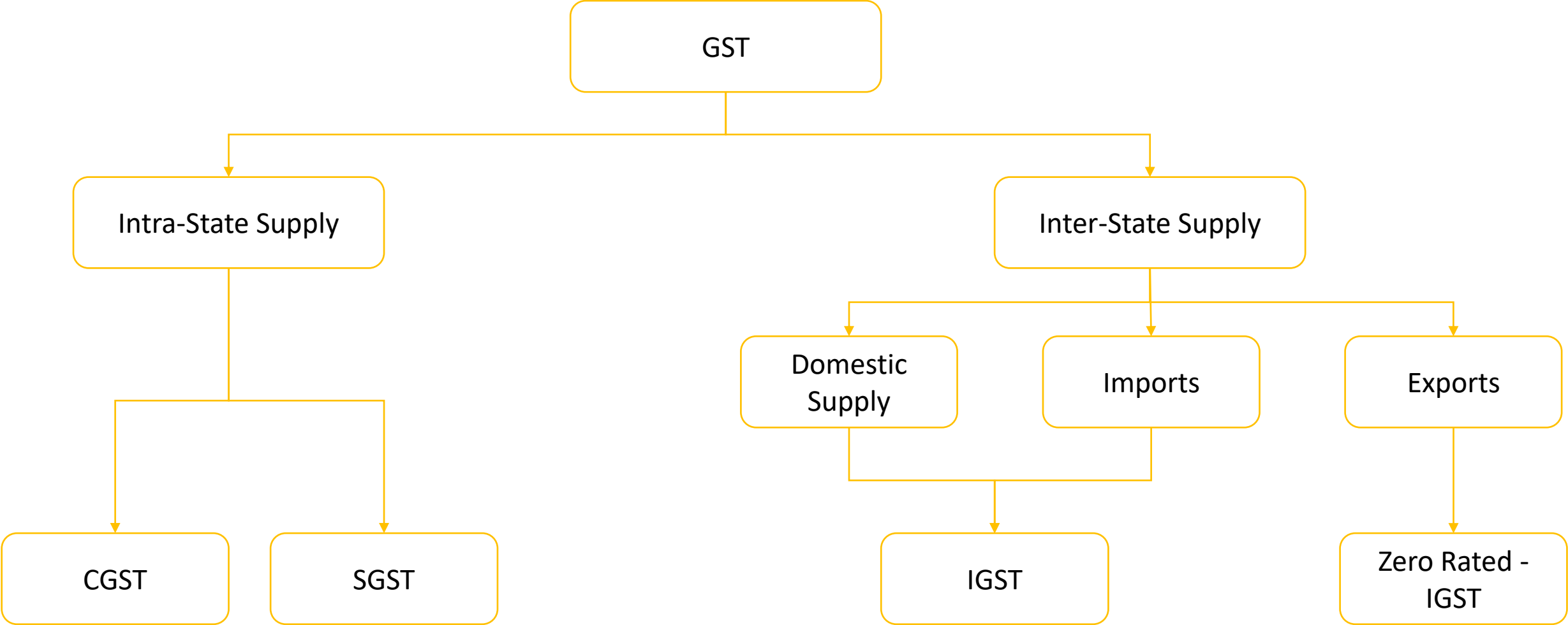
- Dual Levy and not Dual Taxation
- Intra-State trade will be charged:
 - Central-GST or CGST levied by Union Govt
 - State-GST or SGST (or UT-GST) levied by State/UT Govt
- **One State – Two Taxes**
 - Buyer and Seller in same State
 - [Both these taxes together form 'dual-tax' on intra-State trade]*
- Inter-State trade will be charged:
 - Integrated-GST or IGST payable to destination State and levied by Union Govt
- **Two States – One Tax**
 - Buyer and Seller not in same State
 - (Few Exceptions)

$$\text{IGST} = \text{CGST} + \text{SGST}$$

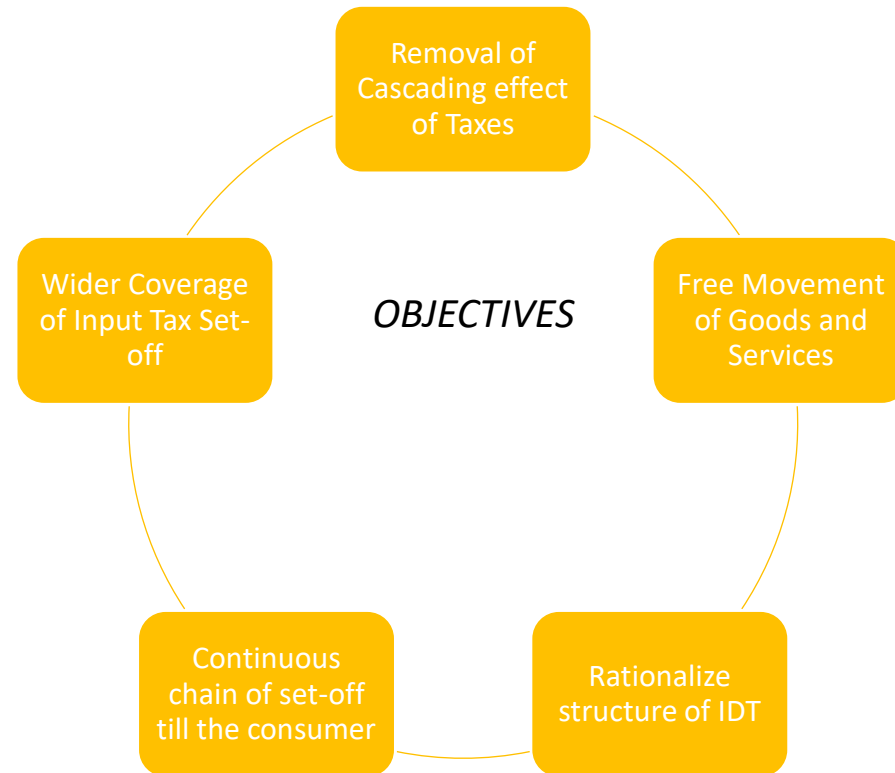
Concept of GST



Types of GST



Objectives of GST



Advantages of GST

FOR BUSINESS & INDUSTRY	FOR CENTRAL & STATE GOVT
Easy Compliance	Simple & easy to administer
Uniformity of Tax Rates & Structures	Better Controls on leakages
Removal of Cascading effect	Higher Revenue Efficiencies
Improved Competitiveness	
Gain to Manufacturers and Exporters	



2. Scope of Supply [Sec – 7]

Taxable Event

What is a Taxable Event??

- Happening of which attracts tax liability
- Levy and collection is based on happening of such event
- Taxable Event under Various Acts:
 - Manufacture
 - Provision of Services
 - Sale of Goods
 - Import of Goods
 - **Supply of Goods or Services or both**

Scope of Supply

Overview of “Supply”

SECTION 7	SCOPE OF SUPPLY
7(1)(a)	Forms of Supply (Sale, Transfer, Barter, Exchange, Licence, Rental, Lease & Disposal)
7(1)(aa)	Transactions between Person and its members and Constituents
7(1)(b)	Import of Services whether or not in the course or furtherance of business
7(1)(c)	Activities specified in Schedule I
7(1A)	Activities to be treated as supply of goods or services as per Schedule II
7(2)(a)	Activities specified in Schedule III not to be treated as Supply of Goods or Services
7(2)(b)	Notified activities undertaken by Govt Authorities not to be treated as Supply of Goods or Services
7(3)	Specified treatment of Transactions as service or goods

Scope of Supply – Sec 7(1)(a)

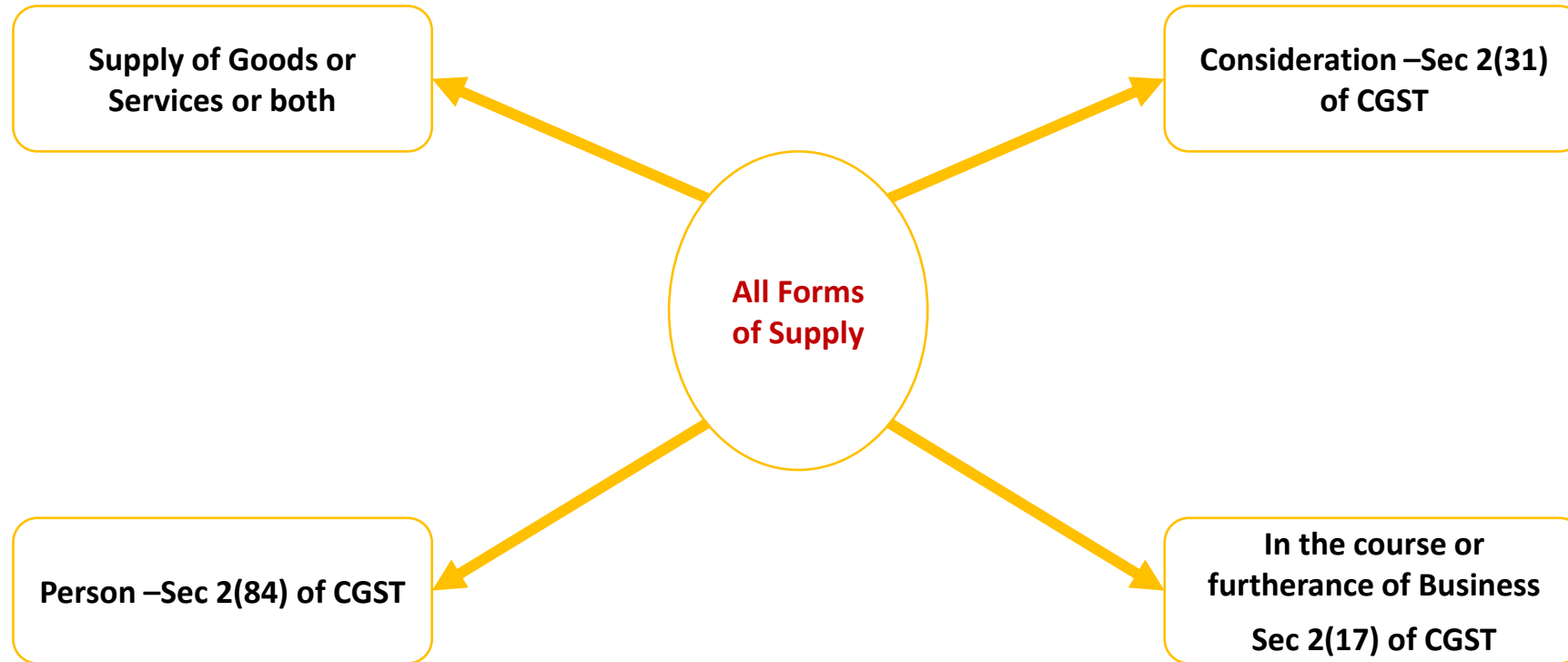
Section 7(1): *For the purposes of this Act, the expression “supply” includes—*

(a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;

INCLUSIVE VS. EXHAUSTIVE DEFINITION

The Supreme court in West Bengal State Warehousing Corporation Vs. Indrapuri Studio Pvt. Ltd. has examined the meaning of inclusive and exhaustive definition as appearing in various statutes. The word “include” when used, enlarge the meaning of expression defined so as to comprehend not only such things as they signify according to their natural import but also those things which the clause declared that they shall include.

Overview – Sec 7(1)(a)



Forms of Supply

<p>Sale</p>	<p>Sale is a lawful, permanent and absolute transfer of ownership of property in goods for money consideration under a valid contract such that no rights are left behind with the transferor; <i>Eg: Sale of Computer.</i></p>
<p>Transfer</p>	<p>Transfer is to lawfully convey property from one person to another. Here, consent of the transferor and capacity of transferee need not be present although all other ingredients of a lawful contract are incumbent; Transfer means to pass over, convey, relinquish a right, abandon a claim, alienate; each or any of the above acts, lawfully. <i>Eg: Land Acquisition; Sale of under construction building.</i></p>
<p>Barter</p>	<p>Barter is where the consideration is in the form of goods or services (and not in money) for a sale or transfer. Barter means a “thing or commodity” given ‘in return of’ another. In other words, no value is fixed-viz., barter of wrist watch with a wall clock. Barter is one of the other forms of supply whose consideration is non-monetary. Therefore, barter will involve two supplies and not one. Each of these supplies would need to be examined for its respective taxability;</p>

Forms of Supply

Exchange	Exchange is where consideration is still not in money but in the form of immovable property (CIT v. Motors and General Stores (P) Ltd. AIR 1968 SC 200). Similar to barter, exchange also involves two supplies . Given that land and (completed) building is excluded from supply, exchange would be the supply whose consideration is immovable property. The object of supply itself may be of goods or of services; <i>Eg: JDA Transactions</i> .
Lease	Lease is where possession is transferred along with the right to use immovable property with a duty to care, protect and return subject to normal wear and tear along with consideration in the form of non-recurring premium only or along with recurring rent. Essence of lease is delivery of possession along with user rights; that is the reason why lease is also used in the context of movable property (under the earlier laws). The Supplier of a lease does not have possession and hence does not enjoy the right to use but retains the right to repossess after the term of the lease. Lease is discussed first to contrast it with rental and license;

Forms of Supply

<i>Licence</i>	License is similar to lease except that possession is not transferred but mere permission to enter and use the property (movable or immovable) is granted along with all other ingredients of a lease. The supplier of a license retains possession of the property during the term of license without the right to use (if license precludes joint use). After expiry of the term of license or on termination of license, the licensee will be a trespasser;
<i>Rental</i>	Rental is a lease in respect of movable property. Since recurring payment in lease (of immovable property) is called rental, transfer of possession with user rights for recurring payment of consideration is interchangeably applied for movable and immovable property;

Forms of Supply

<i>Disposal</i>	<p>Disposal means distribution, transferring to new hands, extinguishment of control over, forfeit or pass over control to another but in respect of goods that are 'unfit for sale'. Discounted sale cannot be termed as disposal if the articles are still 'fit for sale'.</p> <p>Disposal is sale or transfer of property that does not possess merchantable warranty. Articles that are not merchantable are not 'fit for sale' but trade does take place for the reason that the supplier disposes the article without ascribing any worth but the recipient accepts the article for some intrinsic worth that he is able to extract or obtain. Article that does not answer to its description cannot normally bring a valid contract into existence but due to respective motivation of each party, such articles are lawfully disposed off. In other words, although there is no consensus as to the object of the supply, the parties are consenting to enter into such a contract for the respective reasons and considerations.</p>
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'Goods or Services'

'Supply of Goods or Services or Both'

- Goods:

- Every kind of movable property
- Excludes- Money, Securities
- Deemed Goods- Schedule II items
- Notified by Govt u/s 7(3)

Section 2(52) of CGST Act 2017 defines "goods" means every kind of **movable property** other than money and securities but **includes actionable claim**, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

- Services:

- anything other than 'goods'
- Excludes- Money and Securities
- Deemed Services - Schedule II items
- Notified by Govt u/s 7(3)

Section 2(102) of CGST Act 2017 defines "services" means **anything other than goods**, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged.

'Consideration'

Section 2(31) of CGST Act, 2017:

Consideration in relation to the supply of goods or services includes

- (a) any payment **made or to be made**, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government;
- (b) the monetary value of any act or forbearance, **whether or not voluntary**, in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but **shall not include any subsidy given by the Central Government or a State Government**:

PROVIDED that **a deposit**, given in respect of the supply of goods or services or both **shall not be considered as payment made** for such supply unless the supplier applies the deposit as consideration for the said supply;

'Consideration'

'Money or Otherwise'

- Consideration can be in monetary or non-monetary form or partly in monetary form and partly in non-monetary form.
 - Monetary consideration includes payment by cash, cheque or credit card, bank transfer and deduction from bank account.
 - Non-monetary consideration essentially means compensation in kind such as the following:
 - Supply of goods and services
 - Refraining or forbearing to do an act
 - Tolerating an act or a situation
 - Doing or agreeing to do an act

'Consideration'

'in response to, or for the inducement of, the supply'

- There must be a direct link between the supply and the consideration.
 - Inducement means to give something to a person so that he will do something else in return.
- A restaurateur offered 'free' meals to drivers of buses carrying passengers as an inducement to bring potential customers to his business premise. Since the meals were not given to drivers of empty buses, there is a direct link between the act of bringing passengers to the food outlet and the provision of the free meals. The consideration here is the free meals provided.
- An artist performing on a street does an activity without consideration even though passersby may drop some coins in his bowl kept after feeling either rejoiced or merely out of compassion. They are, however, under no obligation to pay any amount for listening to him nor have they engaged him for his services. On the other hand if the same person is called to perform on payment of an amount of money then the performance becomes an activity for a consideration.

'Consideration'

'by the recipient or by any other person'

- By a recipient of goods or services
- By another person
 - Example: Mr. A contracts with Mr. B to provide hampers worth Rs. 10,000 to its business clients. The consideration for the supply of the hampers is paid by Mr. A as stipulated in the contract. When Mr. A has a binding contract with Mr. B to supply hampers to the clients, there is a taxable supply made by Mr. B to Mr. A since there is a direct link between the supply made and the consideration given.
 - M/s L Ltd., being an authorized dealer of the TT brand, rendered services to buyer of car, but payment is made to authorized dealer by the TT Company. It is called as consideration is given by third person. Therefore, it is treated as supply of service and liable to tax in the hands of M/s L Ltd.

'Consideration'

- Excludes Security Deposit;
 - unless the supplier applies the deposit as consideration for the said supply;
- Fines & Penalties;
 - *Additional consideration??*
 - Example: A fine or a penalty charge for late return of a DVD compact disc is a consideration for a supply of hire as the customer has extended the use of the DVD compact disc for a longer period.
- Grants or Charitable Activity;
 - if the grantor receives a benefit in return, then the grant is treated as a consideration for the supply.
 - For Example, if a grant is given to a researcher and in return, the grantor receives a research finding exclusively for his own benefit, then the person receiving the grant must account for GST on the research services on a tax inclusive basis.

'Person'

Person Section 2(84) of CGST Act, 2017:

Person includes,

(a) an individual; (b) a Hindu Undivided Family; (c) a company; (d) a firm; (e) a Limited Liability Partnership; (f) an association of persons or a body of individuals, whether incorporated or not, in India or outside India; (g) any corporation established by or under any Central Act, State Act or Provincial Act or a Government company as defined in clause (45) of section 2 of the Companies Act, 2013; (h) any body corporate incorporated by or under the laws of a country outside India; (i) a co-operative society registered under any law relating to co-operative societies; (j) a local authority; (k) Central Government or a State Government; (l) society as defined under the Societies Registration Act, 1860; (m) trust; and (n) every artificial juridical person, not falling within any of the above.

'Taxable Person'

Taxable Person Section 2(17) of CGST Act, 2017:

- A supply to attract GST should be made by a taxable person.
- Hence, a supply between two non-taxable persons does not constitute supply under GST.
- Even an unregistered person who is liable to be registered is a taxable person.
- Similarly, a person not liable to be registered but has taken voluntary registration and got himself registered is also a taxable person.
- However, there is exception to this rule, supply from a non-taxable person to a registered person in case of RCM will attract GST.

'Business'

Section 2(17) of CGST Act 2017 defines "business" includes—

- (a) **any** trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) **any activity** or transaction in connection with or incidental or ancillary to sub-clause (a);
- (c) **any activity** or transaction in the nature of sub-clause (a), whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital goods and services in connection **with commencement or closure of business**;
- (e) provision by a club, association, society, or any such body (for a **subscription or any other consideration**) of the facilities or benefits to its members;

'Business'

*(f) admission, for a consideration, of persons to **any premises**;*

(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;

(h) services provided by a race club by way of totalisator or a licence to book maker in such club; and

(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.

'in the course or furtherance of business'

Sec - 7(1)(a) – Scope of Supply

- This implies that only such supplies of goods and/ or services by a business entity would be liable to tax, which are 'in the course' or in 'furtherance of business'.
- **No definition or test has been specified to find out whether the activity is in the course or furtherance of business.**

A recent order of the Authority for Advance Ruling–Kerala has ruled, in a matter involving recovery of food expenses from employees for the canteen facility provided by a company, that such recovery falls within the definition of 'outward supply' and are , therefore, taxable outward supplies under the GST law. In paragraph 9 of the order, the AAR-Kerala has concluded that the supply of food by the applicant (company) to its employees would definitely come under clause (b) of section 2(17) as a transaction incidental or ancillary to the main business and thereby the test of 'in the course or furtherance of business' is met by the applicant. *[Order No. CT /531/ 18-C3, dated 26.03.2018].*

'in the course or furtherance of business'

Sec - 7(1)(a) – Scope of Supply

Also, a question came up before Authority for Advance Ruling – Karnataka in the matter of Columbia Asia, whether allocation of expenses to other registered units by corporate office tant amounts to supply of services between related or distinct persons as per Para-2 of Schedule I to CGST Act and accordingly liable to tax. The Authority ruled that the activities performed by the employees at the corporate office in the course of or in relation to employment such as accounting, other administrative and IT system maintenance for the units located in the other States as well i.e. distinct persons as per section 25(4) of the CGST Act shall be treated as supply as per Para-2 of Schedule I of the CGST Act.

Drawing similarities from the erstwhile State VAT laws, it follows that the said transaction should be with a commercial motive, whether or not there is a profit motive in it or its frequency/ regularity. E.g.: sale of goods in an exhibition, participation in a trade fair, warranty supplies, sale of used assets/ scrap sales, etc. would be activities in the course of business.

Scope of Supply – Sec 7(1)(aa)

(aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.

*Explanation.—For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, **the person and its members or constituents shall be deemed to be two separate persons** and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;*

Scope of Supply – Sec 7(1)(b)

*b) import of **services** for a consideration whether or not in the course or furtherance of business*

Overview:

- Only SERVICES are covered
- Valid Consideration
- Taxable in the hands of Receiver (RCM)
- Business or Personal
 - Although, import for personal purposes is included in the definition of supply, Entry 10(a) to Notification No. 9/2017- Integrated Tax (Rate), dated 28.6.2017, exempts import of services under entire Chapter 99 from payment of GST.

Scope of Supply – Sec 7(1)(c)

*(c) the activities **specified in Schedule I**, made or agreed to be made without a consideration;*

Schedule - I

Para	Provision	Case Study
1	Permanent transfer or disposal of business assets <u>where input tax credit has been availed</u> on such assets.	<ol style="list-style-type: none">1. Naveen Associates, a registered supplier, disposes the computers owned by the business without consideration and it has not claimed input tax credit on such computers.2. A dealer of AC permanently transfers the motor vehicle free of cost. ITC on said motor vehicle is blocked.

Schedule - I

Para	Provision	Case Study
2	<p>Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:</p> <p>Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.</p>	<ol style="list-style-type: none"> 1. Inter unit transfers 2. CA Sairam, a Practicing CA, has a registered head office in Hyderabad. He has also obtained registration in the State of AP in respect of his branch office. Sairam shall be treated as distinct persons in respect of registrations in Telangana and AP. Transactions between head office and branch office will be considered as supply of service even though there is no consideration. 3. Radiant Fabrics transfers 1000 shirts from his factory located in Hyd to his retail showroom in Warangal so that the same can be sold from there. Supply?

Related and Distinct Person

Related Person (Sec 15)	Distinct Person (Sec 25)
<ol style="list-style-type: none"> 1. Officers or directors of one another's businesses; 2. Partners in business; 3. Employer and employee; 4. Directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them; 5. One of them directly or indirectly controls the other; 6. A third person directly or indirectly controls both of them; 7. Together they directly or indirectly control a third person; or 8. They are members of the same family; 9. Sole Distributor, sole agent, etc 	<ol style="list-style-type: none"> 1. Branch Office within or Outside the State 2. Branch office Outside India [GSTIN can be different but PAN has to be same i.e. same ;egal entity]

Schedule - I

Para	Provision	Case Study
3	<p>Supply of goods—</p> <p>(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or</p> <p>(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.</p>	<ol style="list-style-type: none"> 1. Only supply of Goods is covered; 2. If Invoice is issued directly by Agent to the customers of Principal, then the supply of goods by Principal to agent will be covered in this clause. 3. Commission agents who only facilitates in arranging supply are not covered. <p><i>The crucial point is whether or not the agent has the authority to pass or receive the title of the goods on behalf of the principal.</i></p>

Schedule - I

Para	Provision	Case Study
4	Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business.	<ol style="list-style-type: none">1. There should be import of services but not goods.2. Import should be from related person or from his establishment outside India.3. Import should be for business purpose <p>Mr. Shakeel, a proprietor registered in Hyd, has sought architect services from his son located in UAE, with respect to his newly constructed house in Hyd.</p> <p>Although services have been received by Shakeel without consideration from his son - a related person, yet it will not qualify as supply since the same has not been received in course or furtherance of business.</p>

Import of Service - Comparison

Comparison between import of service defined in Sec 7(1)(b) and 7(1)(c) [Sch I]

Section	Nature	from whom	Consideration	Business Test
Section 7(1)(b)	Import of service by a person	Any one	Mandatory	Not mandatory
Para 4 of Sch-I	Import of services by a person	a related person or any of his other establishments outside India,	NA	Mandatory

Scope of Supply – Sec 7(1A)

*(1A) where certain activities or transactions, constitute a supply in accordance with the provisions of subsection (1), they shall be treated either as supply of goods or supply of services as **referred to in Schedule II**.*

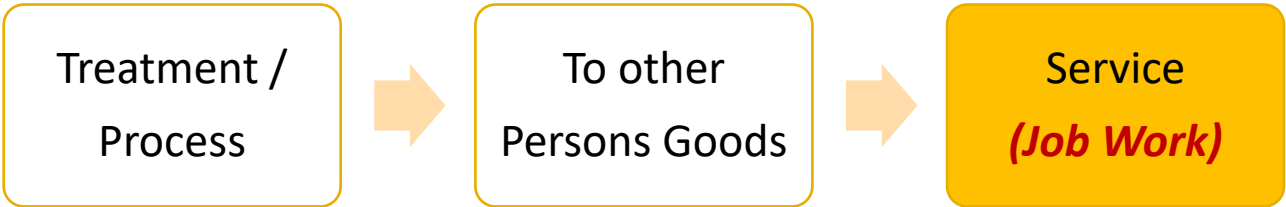
Schedule - II

Para	Provision	Analysis
1	<p>Transfer <i>(a) any transfer of the title in goods is a supply of goods;</i> <i>(b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;</i> <i>(c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.</i></p>	<pre> graph LR Transfer[Transfer] --> Goods[Goods] Transfer --> Service[Service] Goods --> TitleTransfer[Title Transfer (Sale)] Goods --> TitleTransferFuture[Title Transfer at future date (Hire Purchase)] Service --> RightShare[Right/Undivided Share but not Title (Renting/Leasing)] </pre>

Schedule - II

Para	Provision	Analysis
2	<p>Land and Building <i>(a) any lease, tenancy, easement, licence to occupy land is a supply of services;</i> <i>(b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.</i></p>	<pre> graph LR A[Land & Building] --> B[Goods] A --> C[Service] B --> D[Nil] C --> E["Lease, Tenancy, Easement, Licence to occupy land"] C --> F["Lease, Letting out of Building (Comm/Resi - Wholly/Partly)"] </pre>

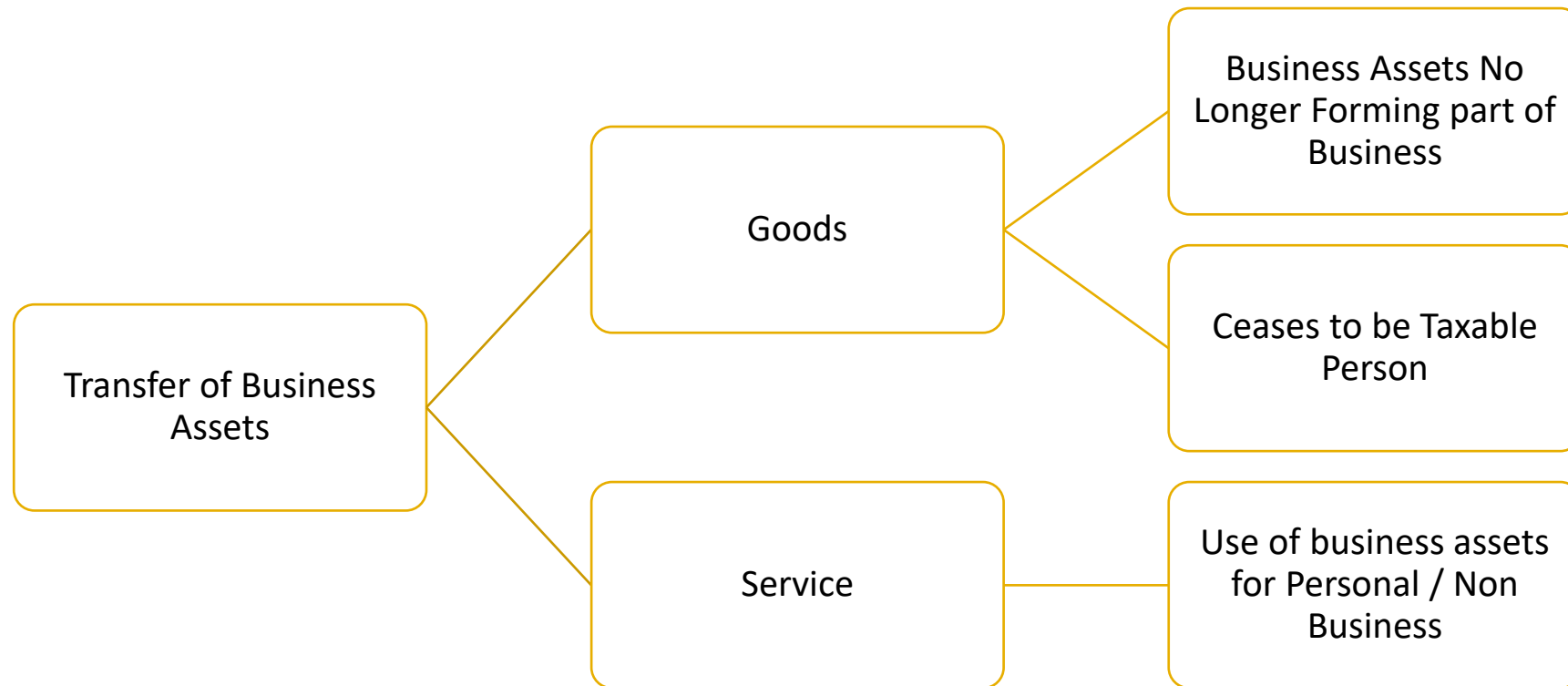
Schedule - II

Para	Provision	Analysis
3	<p>Treatment or process : <i>Any treatment or process which is applied to another person's goods is a supply of services.</i></p>	 <pre>graph LR; A[Treatment / Process] --> B[To other Persons Goods]; B --> C[Service (Job Work)];</pre> <p>The analysis flowchart consists of three rounded rectangular boxes connected by arrows. The first box is labeled 'Treatment / Process'. An arrow points to the second box, labeled 'To other Persons Goods'. A second arrow points to the third box, labeled 'Service (Job Work)'. The 'Service (Job Work)' box is highlighted in yellow.</p>

Schedule - II

Para	Provision
4	<p><i>Transfer of business assets</i></p> <p><i>(a) where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;</i></p> <p><i>(b) where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration, at both the places where they occur the usage or making available of such goods is a supply of services;</i></p> <p><i>(c) where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—</i></p> <p><i>(i) the business is transferred as a going concern to another person; or</i></p> <p><i>(ii) the business is carried on by a personal representative who is deemed to be a taxable person.</i></p>

Schedule – II (Para 4)



Schedule - II

Para	Provision
5	<p><i>Supply of services</i></p> <p><i>The following shall be treated as supply of services, namely:—</i></p> <p><i>(a) renting of immovable property;</i></p> <p><i>(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</i></p> <p><i>Explanation.—For the purposes of this clause—</i></p> <p><i>(1) the expression “competent authority” means the Government or any authority authorised to issue completion certificate under any law for the time being in force and in case of non-requirement of such certificate from such authority, from any of the following, namely:—</i></p> <p><i>(i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or</i></p> <p><i>(ii) a chartered engineer registered with the Institution of Engineers (India); or</i></p> <p><i>(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority;</i></p> <p><i>(2) the expression “construction” includes additions, alterations, replacements or remodelling of any existing civil structure;</i></p>

Schedule - II

Para	Provision
5	<p><i>Supply of services</i></p> <p><i>(c) temporary transfer or permitting the use or enjoyment of any intellectual property right;</i></p> <p><i>(d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;</i></p> <p><i>(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and</i></p> <p><i>(f) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.</i></p>

Schedule - II

Para	Provision	Analysis
6	<p>Composite supply <i>The following composite supplies shall be treated as a supply of services, namely:—</i> <i>(a) works contract as defined in clause (119) of section 2; and</i> <i>(b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.</i></p>	<pre> graph LR A[Composite supply of Service] --- B[Works Contract Sec 2 (119)] A --- C[Supply by way of or part of -Food or Drink (other than liquor)] </pre>

Schedule - II

Para	Provision	Analysis
7	<p>Supply of Goods <i>The following shall be treated as supply of goods, namely:—</i> <i>Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.</i></p>	<p>The definition of the term ‘business’ includes “provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members;”.</p> <p>In order to clarify that the supply of goods by such association etc., to its members is to be treated as a supply of goods and not as a service of providing facilities, this clause has been included.</p>

Scope of Supply – Sec 7(2)

(2) Notwithstanding anything contained in sub-section (1),—

*(a) activities or transactions **specified in Schedule III**; or*

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council,

shall be treated neither as a supply of goods nor a supply of services.

Schedule - III

Para	Provision	Analysis
1	Services by an employee to the employer in the course of or in relation to his employment.	<ul style="list-style-type: none"> • Only Services are covered and not goods • Only covers those services provided by an employee to the employer and not vice versa
2	Services by any court or Tribunal established under any law for the time being in force. “Explanation 1—” For the purposes of paragraph 2, the term “court” includes District Court, High Court and Supreme Court.	<ul style="list-style-type: none"> • The word Tribunal does not cover Arbitral Tribunal since such Tribunal is dissolved after the adjudication proceedings are concluded.

Schedule - III

Para	Provision	Analysis
3	<p>(a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;</p> <p>(b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or</p> <p>(c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.</p>	<ul style="list-style-type: none"> • Persons included in this clause may be Governor, Prime Minister, President etc.
4	<p>Services of funeral, burial, crematorium or mortuary including transportation of the deceased.</p>	<ul style="list-style-type: none"> • In consonance with the exemption available under the erstwhile service tax regime.

Schedule - III

Para	Provision	Analysis
5	Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.	<ul style="list-style-type: none"> • Relief to just land and (completed) building • Sale is absolute sale and not lease or license.
6	Actionable claims, other than lottery, betting and gambling.	<ul style="list-style-type: none"> • Except Lottery, Betting & Gambling • Lottery will be subjected to GST as Goods • Betting & Gambling as Services
7	Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.	<ul style="list-style-type: none"> • Drop Shipments • Therefore, any transaction involving supply of goods by a person in India would not be called a supply when they are supplied from one place to another, both of which are outside India.

Schedule - III

Para	Provision	Analysis
8	<p>(a) Supply of warehoused goods to any person before clearance for home consumption;</p> <p>(b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.”</p> <p>Explanation 2.— For the purposes of this paragraph, the expression “warehoused goods” shall have the same meaning as assigned to it in the Customs Act, 1962.”</p>	<ul style="list-style-type: none"> • High Sea Sales Transactions • Reversal of ITC would no longer be required

Services Notified under Sec 7(2)(b)

The Government has notified the following supplies in this regard:

- Services by way of any activity in relation to a function entrusted to Panchayat under Article 243G of the Constitution (*Inserted vide Notification No. 14/ 2017- Central Tax (Rate), dated 28.06.2017*)
- Service by way of grant of alcoholic liquor licence, against consideration in the form of licence fee or application fee or by whatever name it is called. (*Inserted vide Notification No. 25/ 2019- Central Tax (Rate), dated 30.09.2019*)
- Inter-State movement of goods like movement of various modes of conveyance, between 'distinct persons' as explained in this Chapter, including trains, buses, trucks, tankers, trailers, vessels, containers & aircrafts, carrying goods or passengers or both, or for repairs and maintenance, would also not be regarded as supplies except in cases where such movement is for further supply of the same conveyance (*Clarified vide Circular No. 1/ 1/ 2017-IGST, dated 07.07.2017*).
- The above logic would apply to the issue pertaining to inter -State movement of jigs, tools and spares and all goods on wheels like cranes, except in cases where movement of such goods is for further supply of the same goods, and consequently no IGST would be applicable on such movements (*clarified vide Circular No. 21/ 21/ 2017-GST, dated 22.11.2017*).

Scope of Supply – Sec 7(3)

(3) Subject to the provisions of sub-sections (1), (1A) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—

(a) a supply of goods and not as a supply of services; or

(b) a supply of services and not as a supply of goods.

Scope of Supply – Summary

Section	Specified Forms of Supply	Furtherance of Business	Existence of Consideration	Supply Made	Supply agreed to be made
7(1)(a)	✓	✓	✓	✓	✓
7(1)(b)	✓	✓/X	✓	✓	X
7(1)(c)	✓	✓	✓/X	✓	X

3. Levy under GST

[Sec – 9(1) & 9(2)]

Components of Valid 'Levy'

Components of a Valid Levy of Tax

1. The Taxable Event;
2. Clear indication of the person on whom the levy is imposed and who is obliged to pay the tax
3. The rate at which the tax is imposed and
4. The measure or value to which the rate will be applied for computing the tax liability

Levy & Collection – Section 9

Section 9 of CGST Act, 2017:

(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.

(2) The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.

Levy & Collection – Overview

Taxable Event	On Supply of Goods or Services
Value	On the Value determined u/s 15
Rate	At a rate affixed or applicable rate as notified
Person Liable	Payable by taxable person

Deferment of GST– 9(2)

Overview of Section 9(2)

CGST on the supply of

1. Petroleum crude;
2. High speed diesel;
3. Motor spirit (commonly known as petrol);
4. Natural gas and
5. Aviation turbine fuel

shall be levied with effect from such date as may be notified by the Government.

➤ ***Govt. has not yet notified the date for levy of CGST on above item.***



Thank You

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