

# Levy & Collection & Exemption from tax

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# LEVY & COLLECTION OF TAX (SEC:9) OF CGST ACT

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✓ Subject to the Provision of sub section (2), there shall be levied a tax called **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 **value determined under Section 15** and at such rates **not exceeding 20%** as may be notified. **9(1)**

## Components of Section 9(1):

1. Definition of Goods & Services
2. Definition of Supply
3. Definition of Intra-State
4. Valuation as per Section 15 of **this Act**

✓ Petroleum products to be brought within GST framework from the notified date. **9(2)**

✓ Central government will specify the categories of Services & goods on which tax shall be paid under RCM. **9(3)**

✓ The central tax in respect of the supply of taxable goods or services or both **by a supplier, who is not registered, to a registered person** shall be **paid by such person on RCM basis**, and all the provision of this Act shall apply to such person as if he is the person liable for paying the tax. **9(4)**

## SECTION 9...

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- ✓ The government will specify **categories of Services** on which tax shall be paid by Electronic commerce operator if such services are supplied through it. **9(5)**
- ✓ If such ecommerce operator **does not have physical presence in taxable territory** then any person representing such person shall pay the tax. **(proviso to Sec9(5))**
- ✓ If such operator **does not have Representative in taxable territory** then **he will appoint a person**, for the purpose of paying tax. **(Second Proviso to 9(5))**

# MEANING OF “GOODS” & “SERVICES” IN GST

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## Meaning of ‘Goods’ in GST:

*“goods” means every kind of **movable property***

*other than Money and **security***

*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 the contract of supply;*

*Explanation— For the purpose of this clause, **the term ‘moveable property’ shall not include any intangible property.**”*

## Meaning of ‘Services’ in GST:

*“services” means **anything other than goods, money & Securities** but it includes activities relating to the use of money or its conversion, for which separate consideration is charged.*

# SUPPLY (SECTION:7 OF CGST ACT)

Supply Includes:

- ✓ Sale
- ✓ Barter
- ✓ Transfer
- ✓ Exchange
- ✓ License
- ✓ Rental
- ✓ Lease
- ✓ Disposal *for a consideration by a person in the course or furtherance of Business.*

✓ **Importation of Services:** *for a consideration whether or not in a course or furtherance of Business.*

**(E.g.: If you receive any services of any architect who is situated in Dubai , for designing of your office, then GST will be levied. And if you receive same service to design your home, then also it will fall in GST preview.**

# COMPOSITE SUPPLY & MIXED SUPPLY

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## **Composite Supply:**

Comprising of two or more Supplies, one of which is a principal Supply, shall be treated as a supply of such Principal Supply.

## **Illustration:**

When goods are packed and transported with insurance, the supply of the goods, packing material, transport & Insurance is a composite Supply and Supply of a goods is the Principal Supply.

Therefore all other Supplies will be taxed at the rate of Principal Supply.

## **Mixed Supply:**

Comprising two or more individual supplies of goods or services, or any combination thereof .

- ✓ Should be for a single Price
- ✓ Does not constitute Composite Supply.

## **Illustration:**

A supply of Package consisting of Sweets, Chocolates, Dry fruits etc..  
Will be taxed which attracts highest rate of tax

# SCHEDULE I

## Matters to be treated as Supply even if made without consideration:

- ✓ Permanent transfer/disposal of business assets where ***Input tax Credit has been availed on such Asset.***
- ✓ Transaction between **Related Persons**, When made in the course or furtherance of Business
- ✓ Supply of Goods:
  - a) By a Principal to agent ,where agent undertakes to supply such goods on behalf of the principal or
  - b) By an agent to Principal where agent undertakes to receive such goods on behalf of the Principal.
- ✓ Importation of Service by a taxable person from a related person or from any of his other establishment outside India, **in the course or furtherance of Business.**

# RELATED PERSON

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- a) Person shall be deemed to be related person if-
  - i. Such persons are officers or directors of one other's business;
  - ii. Such persons are legally recognized partners in business
  - iii. Such persons are employer & employee
  - iv. Any person directly or indirectly owns, controls or holds 25% or more of the outstanding voting stock or shares of both of them
  - v. One of them directly or indirectly controls the other;
  - vi. Both of them are directly or indirectly controlled by a third person
  - vii. Together they directly or indirectly control a third person; or they are members of a same family
- b) The term person also includes legal persons
- c) Person who are associated in the business of one another in that one is the sole agent or sole distributor, howsoever described, of the other, shall be deemed to be related.



# SCHEDULE II

## (Matters to be treated as Supply of Services)

### *Services:*

- ✓ Any transfer of Goods or of right in goods or of undivided share in goods, without the transfer of title there of
- ✓ Lease, tenancy, License to occupy land
- ✓ Letting of a Building
- ✓ Job-Work
- ✓ Renting of a Immovable property
- ✓ Works Contract Services
- ✓ Permitting use of Intellectual Property
- ✓ Restaurant Service
- ✓ Refrain from an Act
- ✓ Development, designing, Programming, customisation of Software
- ✓ Construction of a Complex, building, civil structure intended for sale to buyer except:
  1. Entire consideration has been received after issuance of completion certificate
  2. Or after its first occupation whichever is **earlier**
- ✓ Supply of Food (Restaurant & Outdoor Catering Services)
- ✓ When Business Asset is put to a private purpose

# SCHEDULE II

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## (Matters to be treated as Supply of Goods)

- ✓ Any transfer in the title of Goods
- ✓ Any Transfer of title in goods under Agreement which needs that Property in goods will pass at future Date
- ✓ Supply of goods by unincorporated person to a member
- ✓ Where person ceases to be a taxable person, any goods forming part of the assets of Business carried on by him unless:
  1. The Business is transferred as going concern
  2. Business is carried on by a personal Representative who is deemed to be a taxable person

# SCHEDULE III

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(Matters to be treated as Neither Supply of Goods Nor Supply of Services)

- ✓ Services by Employer to Employee **in the course of Employment**
- ✓ Services by Court & Tribunal under any Law for the time being in force
- ✓ The function performed by Member of Parliament, State Legislature etc
- ✓ Services by a foreign Diplomatic mission located in India
- ✓ Services of a Funeral, Burial, crematorium, mortuary including transportation of deceased
- ✓ **Sale of Land & Building subject to clause(b) of Paragraph 5 of Schedule-II**

# INTRA-STATE SUPPLY

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**Subject to** the provision of Section 10, **supply of goods** where the **location of the supplier and the place of supply of goods** are in the **same state or same union territory** shall be treated as Intra-Supply.

Provided that following supply of goods **shall not** be treated as Intra-State Supply:

1. Supply of goods **to or by** a SEZ developer or SEZ unit
2. Goods imported into the territory of India till they cross the customs frontiers of India
3. Supplies made to a tourist referred to in Section 15

**Subject to** the provision of Section 12, supply of **services** where the location of the supplier and the place of supply of services are in the **same state or same union territory** shall be treated as Intra-Supply.

Provided that the Intra state supply of Services shall not include supply of **services to or by a SEZ developer or SEZ unit.**

# INTRA-STATE SUPPLY

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**Explanation:1** For the purpose of *this Act*;

1. An Establishment in India and any other establishment outside India
2. An Establishment in a state or union territory and any other establishment outside that State; or
3. An establishment in a state or union territory and any other establishment being a business vertical registered within that State or Union territory

Shall be **treated as establishment of distinct person.**

**Explanation:2**

A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated **as having an establishment in that territory**

# LEVY & COLLECTION OF TAX (SEC:5 OF IGST ACT)

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- ✓ **Subject to** the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-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 of the Central Goods and Services Tax Act** and at such rates, **not exceeding forty per cent**, as may be notified by the Government(**Section5(1)**)
- ✓ Provided that IGST on goods imported into India shall be levied and collected in accordance with **the provisions of section 3 of the Customs Tariff Act, 1975** on the **value** as determined under the said Act at the point when duties of customs are levied on the said goods under **section 12** of the Customs Act, 1962. (**Proviso to 5(1)**)
- ✓ **Other Provisions are same as CGST Act**

# INTER-STATE SUPPLY

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Subject to the provisions of section 10, supply of **goods**, where the **location of the supplier** and the **place of supply** are in—

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

shall be treated as a supply of goods in the course of inter-State trade or commerce

Supply of **goods imported into the territory of India**, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of **inter-State trade or commerce**.

Subject to the provisions of section 12, supply of services, where the **location of the supplier** and the **place of supply are in**—

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

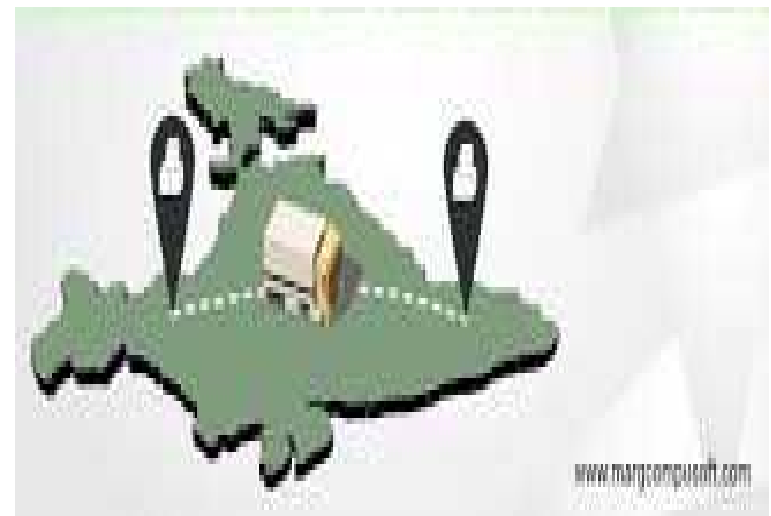
shall be treated as a supply of services in the course of inter-State trade or commerce.

Supply of **services imported into the territory of India** shall be treated to be a supply of services in the course of **inter-State trade or commerce**.

# INTER-STATE SUPPLY

Supply of goods or services or both,—

- (a) when the supplier is located in India and the place of supply is outside India;
  - (b) to or by a Special Economic Zone developer or a Special Economic Zone unit; or
  - (c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section,
- shall be treated to be a supply of goods or services or both in the course of inter-State trade OR commerce





# COMPOSITION SCHEME(SEC:10 OF CGST ACT)

A registered person, whose aggregate turnover in the **preceding financial year** did **not exceed fifty lakh rupees**, **may opt** to pay, in lieu of the tax payable by him, an amount calculated at such rate as may be prescribed, but **not exceeding**,—

(a) **1%** of the turnover in State or turnover in Union territory in case of a **manufacturer**,

(b) **2.5%** of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, (**Restaurant Services**)

**and**



(a) **0.5%** of the turnover in State or turnover in Union territory In case of other suppliers

Provided that the Government may, by notification, increase the said limit of 50 lakh rupees to such higher amount, **not exceeding 1 crore rupees**, as may be recommended by the Council

# PERSONS WHO ARE NOT ELIGIBLE...(SEC:10)

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- ✓ Service Providers other than Restaurant Services
- ✓ engaged in making any supply of goods which are **not leviable to tax under this Act**;
- ✓ he is **engaged in making any inter-State outward supplies** of goods;
- ✓ he is engaged in making any **supply of goods through an electronic commerce operator** who is required to collect tax at source under section 52; and
- ✓ he is a manufacturer of such goods as may be notified by the Government on the recommendations of the Council
- ✓ The option availed of by a registered person , shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit.
- ✓ A taxable person to whom the provisions of sub-section (1) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

# AGGREGATE TURNOVER SEC 2(6)

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“Aggregate turnover” means ;

- ✓ the aggregate value of all taxable supplies (**excluding the value of inward supplies on which tax is payable by a person on reverse charge basis**),
- ✓ Exempt supplies,
- ✓ Exports of goods or services or both and
- ✓ Inter-State supplies of persons having the same Permanent Account Number,
- ✓ to be computed on all India basis but excludes ;
- ✓ central tax, State tax, Union territory tax, integrated tax and cess;

# POWER TO GRANT EXEMPTION(SEC:11 OF CGST ACT)

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In nut shell;

- ✓ Central government has power to grant absolute or general exemption to particular goods and services
- ✓ Central government may grant exemption from payment of tax to any goods or Services or both.
- ✓ Central government has power to add any explanation within 1 year of issue of any notification.
- ✓ Such explanation shall have a effect as if it had always been part of the first notification

## FAQ

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**Whether Agriculture receipt will also be included in the definition of Aggregate turnover?**

Yes, As the definition also includes Turnover of Exempt Supply

## FAQ

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**Whether receipt from Petroleum products will also be included in the definition of Aggregate turnover?**

No, As the definition does not includes Turnover of Non-taxable supply

# FAQ

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## **Interest, dividend, loans, profit distribution to partners are subject to GST?**

No. as the same is covered under the definition of Money. And transaction in money is not covered under GST.

# FAQ

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## **Whether sale of used cars, sale of scrap are liable to GST?**

Yes, as the ancillary activities to the main business are covered under the definition of business.



# FAQ

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## What is the meaning of Business Vertical?

“business vertical” means a distinguishable component of an enterprise that is engaged in the supply of individual goods or services or a group of related goods or services which is subject to risks and returns that are different from those of the other business verticals.

# FAQ

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## **Will giving away essential commodities by a charitable institution be taxable activity?**

In order to be a supply which is taxable under GST, the transaction should be in the course or furtherance of business. As there is no quid pro quo involved in supply for charitable activities, it is not a supply under GST.

# FAQ

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## Whether Service imported for Charity purpose is subject to GST?

Import of Services for consideration will be subject to GST even if not made in course of Business, thus import for charity activities will be covered.

# FAQ

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## Whether GST is payable on Branch transfer within a state?

GST is payable only where the taxable person has more than one GST registration within the state. In case of single registration within a state, Bill of supply is sufficient.

## FAQ

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**Whether the rate of CGST,SGST & IGST will be common all over the India?**

Rate of CGST & IGST will be common all over India, but the rate of SGST may differ.

# FAQ

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## What is the ceiling limit for GST compensation cess?

The ceiling limit is 15%, but higher cess can be levied on pan-masala and tobacco products.

# FAQ

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## Who has the power to levy GST Compensation cess?

Only CG has power to levy such tax.

# FAQ

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## **Whether fringe benefit provided by Employer to employee/director will be subject to GST?**

Yes, As the employer & employee/director are defined as related persons.



## FAQ

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**Whether supplies made without consideration will also come within the purview of supply under GST?**

Yes, but only those activities which are specified in Schedule I to the CGST Act / SGST Act. The said provision has been adopted in IGST Act as well as in UTGST Act also.

# FAQ

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## **What will be the implications in case of receipt of supply from unregistered persons?**

In case of receipt of supply from an unregistered person, the registered person who is receiving goods or services shall be liable to pay tax under reverse charge mechanism.

## FAQ

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**Will a taxable person, having multiple registrations, be eligible to opt for composition scheme only for a few of registrations ?**

All registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one registered person opts for normal scheme, others become ineligible for composition scheme

# FAQ

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## **Can any person other than the supplier or recipient be liable to pay tax under GST?**

Yes, the Central/State government can specify categories of services the tax on which shall be paid by the electronic commerce operator, if such services are supplied through it and all the provisions of the Act shall apply to such electronic commerce operator as if he is the person liable to pay tax in relation to supply of such services.

# FAQ

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## **Can composition scheme be availed of by a manufacturer and a service supplier?**

Yes, a manufacturer can opt for composition scheme generally. However, a manufacturer of goods, which would be notified on the recommendations of the GST Council, cannot opt for this scheme. This scheme is not available for services sector, except restaurants.

## FAQ

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**Can the customer who buys from a registered person who is under the composition scheme claim composition tax as input tax credit?**

No, customer who buys goods from registered person who is under composition scheme is not eligible for composition input tax credit because a composition scheme supplier cannot issue a tax invoice.

# FAQ

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**When exemption from whole of tax collected on goods or services or both has been granted absolutely, can a person pay tax?**

No, the person supplying exempted goods or services or both shall not collect the tax in excess of the effective rate.

## Services we provide

- ✓ Registration of assessee under GST
- ✓ Analysis of impact of GST on business of Assessee
- ✓ Valuation of goods & Services under GST regime
- ✓ On time payment of taxes and filing various Returns under GST
- ✓ Corporate trainings and Educational seminars on GST



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