

# SCOPE OF SUPPLY UNDER GST




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# TOPICS FOR DISCUSSION


- Section 7- Scope of Supply
- Schedule I of CGST Act, 2017
- Schedule II of CGST Act, 2017
- Schedule III of CGST Act, 2017
- Non Supplies Notified vide Notification
- Non Supplies Clarified vide Circulars
- Concept of Mixed Supplies & Composite Supplies

# SECTION 7 OF THE CGST ACT, 2017

- "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;
- [(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.

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- b) import of services for a consideration whether or not in the course or furtherance of business; <sup>2</sup>[and]
  - (c) the activities specified in Schedule I, made or agreed to be made without a consideration;
  - (IA) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (I), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.]


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- (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.

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- (3) Subject to the provisions of <sup>6</sup>[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.

# SCHEDULE I- Activities to be treated as Supply even when made without consideration

- I. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets

*Example- A Ltd. purchased a computer worth Rs. 40,000+GST and few months later decides to sell it to his B Ltd. at nil value*



2. 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,

- *Provided that gifts not exceeding **50,000** 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.*



- 3. Supply of goods— (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

*[Main parameter- Invoicing of further supply of goods]*

- 4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

*Example- Legal consultancy services provided by foreign branch*

# SUMMARY OF IMPORT OF SERVICES

BUSINESS	CONSIDERATION	IMPORT OF SERVICES
Yes	Yes	Supply
Yes	No	Supply
No	Yes	Supply
No	No	Not a Supply

# SCHEDULE II- Whether an Activity is Supply of Goods or Supply of Service

- **1. Transfer**

- of 'title'- Supply of goods
- 'right to use' in goods- Supply of services

- **2. Land and Building**


- Lease, tenancy, easement, license to occupy land- Supply of services
- lease or letting out of building including a commercial, industrial or residential complex for business wholly or partly- Supply of services


- **3. Treatment or process applied to another person's goods- Supply of Services**



- **4. Transfer of Business Assets- Three Cases**

- (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, such transfer or disposal is a supply of goods by the person

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- (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, the usage or making available of such goods is a supply of services;


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- (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) the business is transferred as a going concern to another person; or
    - (ii) the business is carried on by a personal representative who is deemed to be a taxable person.




- **5. Supply of services**

- renting of immovable property
- 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 i) **AFTER** issuance of completion certificate, where required, by the competent authority or ii) after its first occupation, whichever is earlier.




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- temporary transfer or permitting the use or enjoyment of any intellectual property right;
  - development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
  - agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and
  - 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


- Composite supply- The following composite supplies shall be treated as a supply of services, :— (a) works contract - As per Section 2(119) of CGST Act, 2017, “works contract” means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract
- (b) Supply of food and beverages 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.

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- Supply of Goods- The following shall be treated as supply of goods, namely:
    - Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration

# SCHEDULE III- NEGATIVE LIST

- Services by an employee to the employer in the course of or in relation to his employment.
- Services by any court or Tribunal established under any law for the time being in force
- (a) the functions performed by the MPs, MLAs, Members of Panchayats, Members of Municipalities and Members of other local authorities;
- (b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or

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- (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.
  - Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
  - Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.
  - Actionable claims, other than lottery, betting and gambling.
  - Out & Out Supplies- Merchant Trading

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- (a) Supply of warehoused goods to any person before clearance for home consumption
  - (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.

# NON-SUPPLIES NOTIFIED VIDE NOTIFICATION

- Activity in relation to Panchayat/Municipality functions (*Notification No. 14/2017 CT (R) dt. 28.06.2017*)
- Grant of alcoholic liquor license by the State Govts, against consideration in the form of licence fee or application fee or by whatever name it is called. (*Notification No. 25/2019 CT (R) dt. 30.09.2019*)

# NON-SUPPLIES CLARIFIED VIDE CLARIFICATION

- Inter-state movement of various modes of conveyance (except in cases of movement for further supplies of such conveyances) (*Circular No. 21/21/2017- GST dt. 22.11.2017*)
- Inter-state movement of rigs, tools and spares, and all goods on wheels (like cranes) (except in cases of movement for further supplies of the same). (*Circular No. 21/21/2017- GST dt. 22.11.2017*)



# MIXED AND COMPOSITE SUPPLIES (SECTION 8)

- (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
- (b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.

# QUIZ TIME!


- Question 1:

According to Schedule I of the CGST Act, 2017, which of the following activities are considered as supplies even if made without consideration?

- a) Goods supplied between related persons
- b) Goods transferred from one branch to another
- c) Import of services by a taxable person from a related person
- d) All of the above


- Question 2: True or False:

As per Schedule II of the CGST Act, 2017, the transfer of title in goods by a person to an unregistered person is considered as a supply.

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- Question 3: According to Schedule 2 of the CGST Act, 2017, which of the following activities are treated as a supply of goods?
    - a) Transfer of business assets
    - b) Transfer of title in goods under an agreement
    - c) Provision of services in exchange for a consideration
    - d) None of the above

- Question 4: ABC Corporation, an Indian company, entered into an agreement with XYZ Inc., a foreign company based in the United States, for the provision of digital marketing services. The agreement states that XYZ Inc. will provide these services to ABC Corporation free of charge as part of a collaboration between the two companies. ABC Corporation intends to avail of these services for its business operations in India.

Which of the following statements is correct regarding the Goods and Services Tax (GST) on the import of services without consideration in this case?

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- A) The import of services without consideration is exempt from GST.
  - B) ABC Corporation is not liable to pay GST since no monetary consideration is involved.
  - C) The import of services without consideration is subject to GST as it falls within the definition of "supply" under GST laws.
  - D) GST is only applicable if the services received are valued above a certain threshold.

**ANY QUESTIONS?**



*dreamstime*