

SUPPLY UNDER GST



LEARNING OUTCOMES

After studying this Chapter, you will be able to –

- ❑ understand and analyse the taxable event under GST – Supply – its meaning and scope.
- ❑ identify the transactions that will amount to supply even without any consideration.
- ❑ classify the transactions either as supply of goods or as supply of services.
- ❑ pinpoint the transactions which will be neither the supply of goods nor the supply of services.
- ❑ explain the composite and mixed supplies and their taxability under GST.

CHAPTER OVERVIEW



1. INTRODUCTION

A taxable event is any transaction or occurrence that results in a tax consequence. Before levying any tax, taxable event needs to be ascertained. It is the foundation stone of any taxation system; it determines the point at which tax would be levied.

Under the earlier indirect tax regime, the framework of taxable event in various statutes was prone to catena of interpretations resulting in litigation since decades. The controversies largely related to issues like whether a particular process amounted to manufacture or not, whether the sale was pre-determined sale, whether a particular transaction was a sale of goods or rendering of services etc.

The GST laws resolve these issues by laying down one comprehensive taxable event i.e. "Supply" - Supply of goods or services or both. Various taxable events namely manufacture, sale,



rendering of service, purchase, entry into a territory of State etc. have been done away with in favour of just one event i.e. **Supply**.

GST Law, by levying tax on the 'supply' of goods and/or services, departs from the historically understood concepts of 'taxable event' under the State VAT Laws, Excise Laws and Service Tax Law i.e. sale, manufacture and service respectively.

In the GST regime, the entire value of supply of goods and/or services is taxed in an integrated manner, unlike the earlier indirect taxes, which were charged independently either on the manufacture or sale of goods, or on the provisions of services.

2. RELEVANT DEFINITIONS



- ✔ **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. [Sec. 2(52) of CGST Act].
- ✔ **Principal:** means a person on whose behalf an agent carries on the business of supply or receipt of goods or services or both [Section 2(88) of CGST Act].
- ✔ **Competent authority:** means such authority as may be notified by the Government [Section 2(29) of the CGST Act].
- ✔ **Family:** means, —
 - (i) the spouse and children of the person, and
 - (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person [Section 2(49) of the CGST Act].



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 (a) above;

(c) any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;

(d) supply or acquisition of goods including capital assets 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, as the case may be;

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

(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) **activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club**

(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

[Section 2(17) of CGST Act].



Government: means the Central Government [Section 2(53) of the CGST Act].



Local authority: means —

(a) a “Panchayat” as defined in clause (d) of article 243 of the Constitution.

(b) a “Municipality” as defined in clause (e) of article 243P of the Constitution.

- (c) a Municipal Committee, a Zilla Parishad, a District Board, and any other authority legally entitled to, or entrusted by the Central Government or any State Government with the control or management of a municipal or local fund.
- (d) a Cantonment Board as defined in section 3 of the Cantonments Act, 2006.
- (e) a Regional Council or a District Council constituted under the Sixth Schedule to the Constitution.
- (f) a Development Board constituted under **article 371 and article 371J** of the Constitution.
- (g) a Regional Council constituted under article 371A of the Constitution [Section 2(69) of the CGST Act].



Consideration: in relation to the supply of goods or services or both includes:

- ✓ 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 or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government,
- ✓ the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government.

However, 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 such deposit as consideration for the said supply. [Section 2(31) of CGST Act].



Actionable claim: means a claim to any debt, other than a debt secured by mortgage of immovable property or by hypothecation or pledge of movable property, or to any beneficial interest in movable property not in the possession, either actual or constructive, of the claimant, which the civil courts recognise as affording grounds for relief, whether such debt or beneficial interest be existent, accruing, conditional or contingent [Section 2(1) of CGST

Act read with section 3 of the Transfer of Property Act, 1882].

- ❖ **Manufacture:** means processing of raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term "manufacturer" shall be construed accordingly [Section 2(72) of CGST Act].
- ❖ **Money:** means the Indian legal tender or any foreign currency, cheque, promissory note, bill of exchange, letter of credit, draft, pay order, traveller cheque, money order, postal or electronic remittance or any other instrument recognised by the Reserve Bank of India when used as a consideration to settle an obligation or exchange with Indian legal tender of another denomination but shall not include any currency that is held for its numismatic value [Section 2(75) of CGST Act].
- ❖ **Taxable supply:** means a supply of goods or services or both which is leviable to tax under this Act [Section 2(108) of CGST Act].
- ❖ **Taxable territory:** means the territory to which the provisions of this Act apply [Section 2(109) of CGST Act].
- ❖ **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.
Explanation: For the removal of doubts, it is hereby clarified that the expression "services" includes facilitating or arranging transactions in securities [Section 2(102) of CGST Act].
- ❖ **Supplier:** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied [Section 2(105) of CGST Act].
- ❖ **Recipient:** of supply of goods and/or services means-
 - (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration,
 - (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to

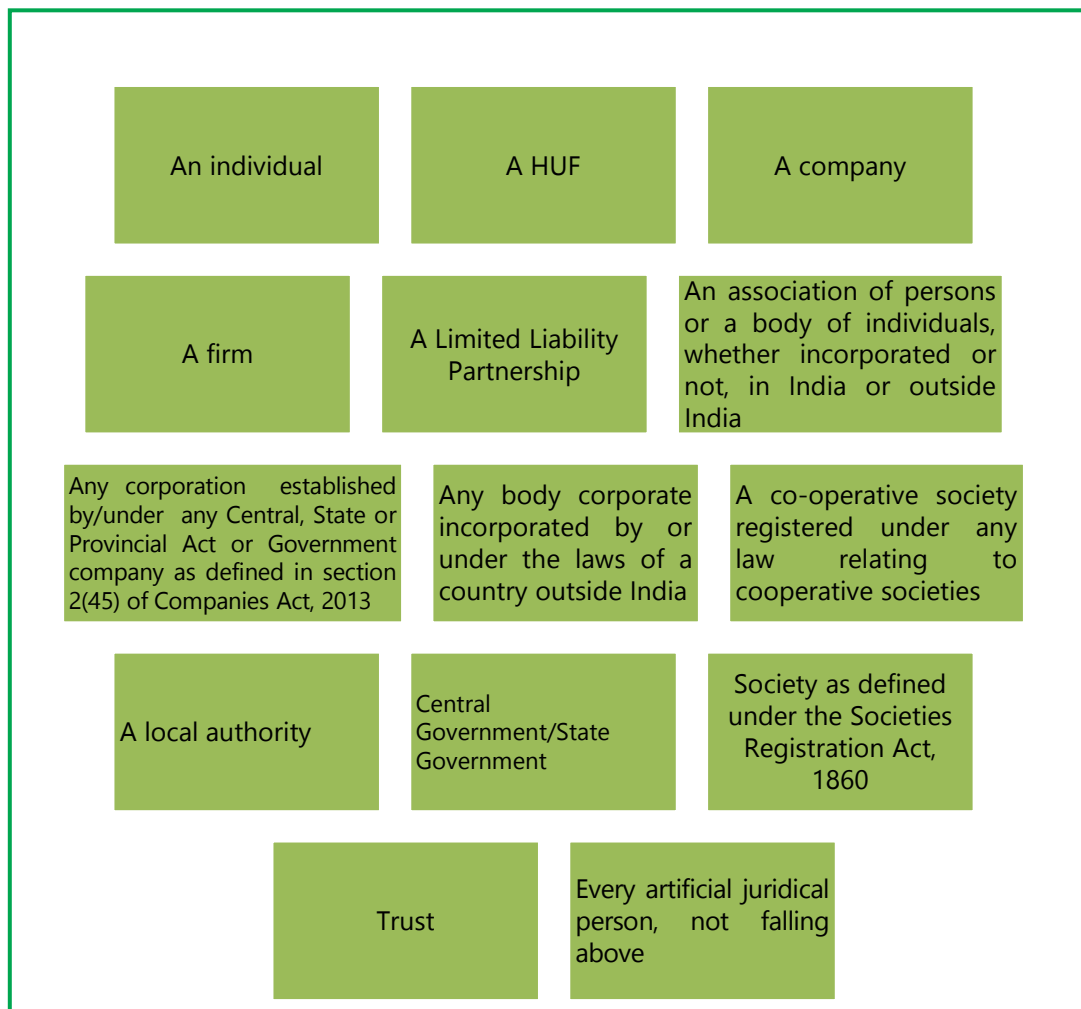
whom possession or use of the goods is given or made available, and

- (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply

and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied. [Section 2(93) of CGST Act]

 **Person:** includes [Section 2(84) of CGST Act]-



Our discussion in this Study Material will principally be confined to the provisions of CGST and IGST laws as the specific State GST laws¹ are outside the scope of syllabus.



3. CONCEPT OF SUPPLY [SECTION 7 OF CGST ACT]

The concept of 'supply' is the key stone of the GST architecture. The provisions relating to meaning and scope of supply are contained in Chapter III of the CGST Act read with various Schedules given under the said Act. Following sections and schedules shall be discussed in this chapter to understand the concept of supply:

Section 7	Meaning and scope of supply
Section 8	Taxability of composite and mixed supplies
Schedule I	Activities to be treated as supply even if made without consideration
Schedule II	Activities or transactions to be treated as supply of goods or as supply of services
Schedule III	Activities or transactions which shall be treated neither as supply of goods nor as supply of services.



STATUTORY PROVISIONS

Section 7	Meaning and Scope of Supply	
Sub Section	Clause	Particulars
(1)	Supply includes -	
	(a)	<i>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</i>

¹ It may be noted that GST laws of all the States and Union Territories are largely based on the CGST Act, 2017.

	(b)	importation of services , for a consideration whether or not in the course or furtherance of business, and
	(c)	the activities specified in Schedule I , made or agreed to be made without a consideration ,
(1A)	where certain activities or transactions, constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.	
(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.		
(3)	Subject to sub-sections (1), (1A) & (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 if made without consideration	
S. No.	Particulars	
1.	Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.	
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.	

	<i>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.</i>
3.	<i>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.</i>
4.	<i>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.</i>



ANALYSIS



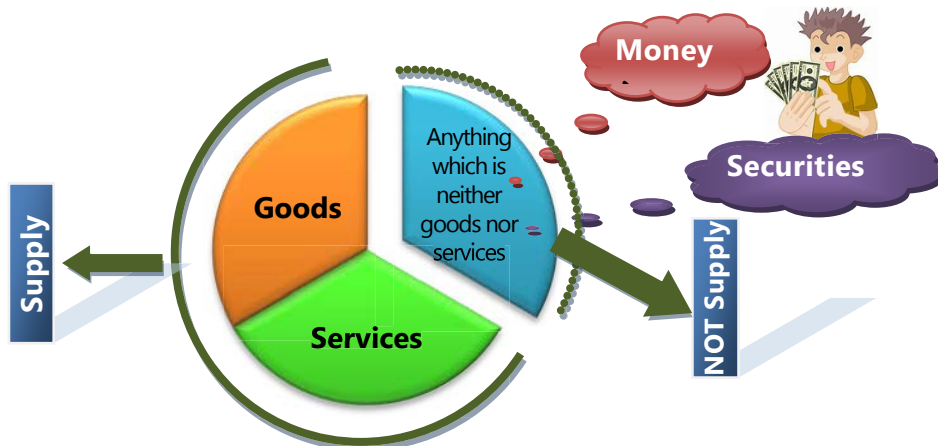
The definition of 'supply' as contained in section 7 of the CGST Act is an inclusive definition and does not define the term exhaustively. It defines the scope of supply in an inclusive manner. Clause (a) of sub-section (1) illustrates the forms of supply, but the list is not exhaustive. This is substantiated by the use of words '**such as**' in the definition.

Provisions of scope of supply under CGST Act have also been made applicable to IGST Act vide section 20 of the IGST Act.

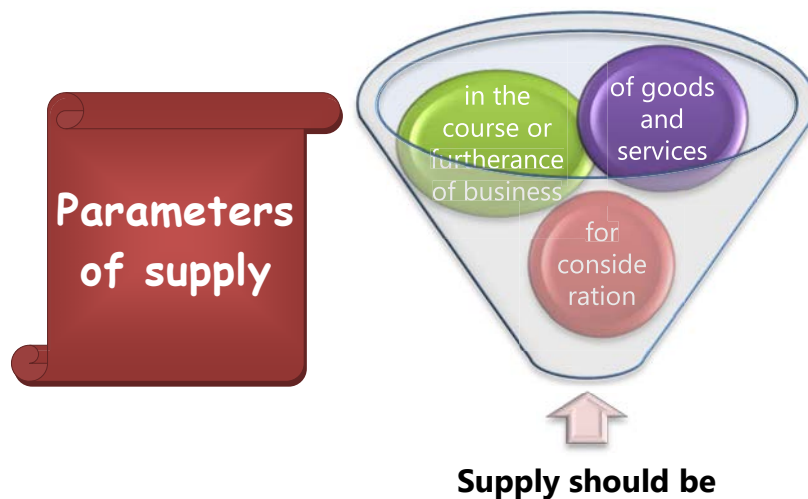


The meaning and scope of supply in terms of section 7 can be understood in terms of following **parameters**:

1. Supply should be of goods or services. Supply of anything other than goods or services like money, securities etc. does not attract GST.



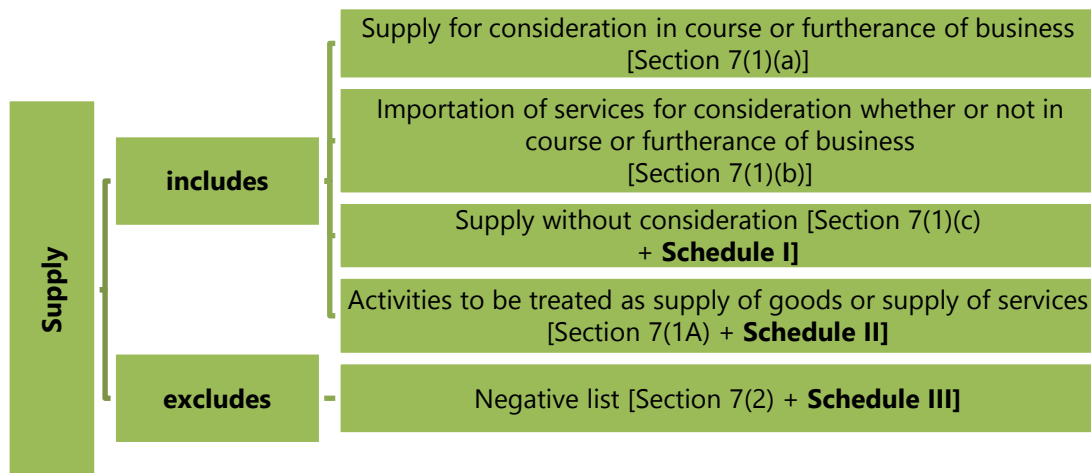
2. Supply should be made for a consideration.
3. Supply should be made in the course or furtherance of business.



Aforesaid parameters describe the concept of supply. However, there are a few exceptions to 2nd and 3rd parameters [the requirement of supply being made for a consideration and in the course or furtherance of business] in the GST law. Few exceptions have been carved out where a transaction is deemed to be a supply even **without consideration** [contained in Schedule I of the CGST Act – discussed later in this Chapter]. Similarly, the condition of supply to be made **in the course or furtherance of business** has been relaxed in case of import of services [Import of services for a consideration, whether or not in the course or furtherance of business, is treated as supply].

- Further, there are also cases **where a transaction is kept out of scope of supply despite the existence of the above parameters**, i.e. there is a list of activities which are treated neither as supply of goods nor as supply of services. In other words, they are outside the scope of GST.
- GST law has classified certain activities/transactions **either as supply of goods or as supply of services**. Government is also empowered to notify transactions that are to be treated as a supply of goods and not as a supply of services, or as a supply of services and not as a supply of goods.

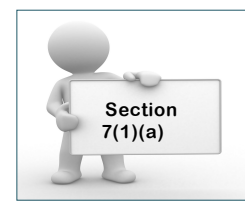
In the subsequent paras, the above aspects of supply have been extensively discussed. The discussion has been broadly categorised into following:

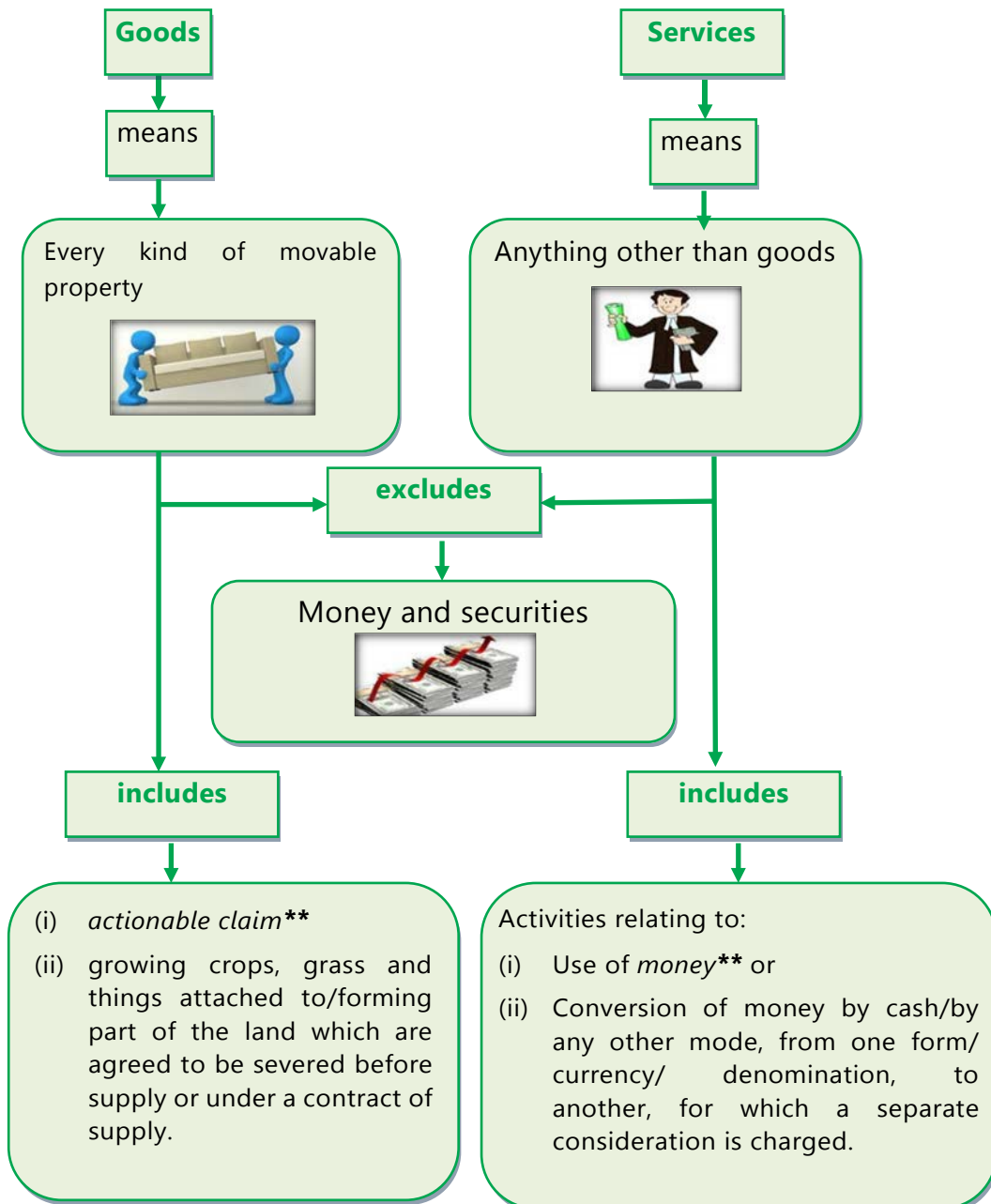


Supply for consideration in course or furtherance of business

The definition of supply begins with the term '**Supply includes**', thus making it clear that CGST Act intends to give an extensive meaning to the term 'supply'. Supply **includes** all forms of supply of goods or services or both. Supply of anything other than goods or services does not attract GST.

The terms goods and services as defined under the Act have been analysed by way of a diagram on next page. **Anything supplied other than goods and services is outside the scope of supply.**





****Please refer the definitions of 'actionable claims' and 'money' as provided in heading 2. – Relevant Definitions.**

The first part of section 7 [Clause (a) of sub-section (1)] includes 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 consideration in the course or furtherance of business**.



Thus, the forms of supply as contemplated in this first part have two pre-requisites:

- ✓ the supply should be for a consideration; and
- ✓ the supply should be in the course or furtherance of business.

We shall now discuss the various forms of supply as illustrated in section 7(1)(a) in detail:

A. FORMS OF SUPPLY

Various forms of supply contemplated in section 7(1)(a) are sale, transfer, barter, exchange, licence, rental, lease or disposal. These forms of supply are only illustrative and not exhaustive. However, none of these terms have been defined under the Act. In order to understand their meaning, we have taken recourse to their dictionary meaning or otherwise and have explained them as follows:

- I. **Sale and Transfer:** The dictionary meaning of term 'sale' is the act of selling; specifically: the transfer of ownership of and title to property from one person to another for a price². As per the Sale of Goods Act, 1930, a contract of sale of goods is a contract whereby the seller transfers or agrees to transfer the property in goods to the buyer for a price.

Further, the term 'transfer' has been defined in the Black's Law dictionary as to convey or remove from one place, person, etc., to another; pass or hand over from one to another; specifically, to make over the possession or control of.

² www.merriam-webster.com

- II. Barter and Exchange:** The dictionary meaning of term 'barter' is to exchange goods or services for other goods or services instead of using money³. Black's Law dictionary defines the term 'exchange' as an act of giving or taking one thing for another.

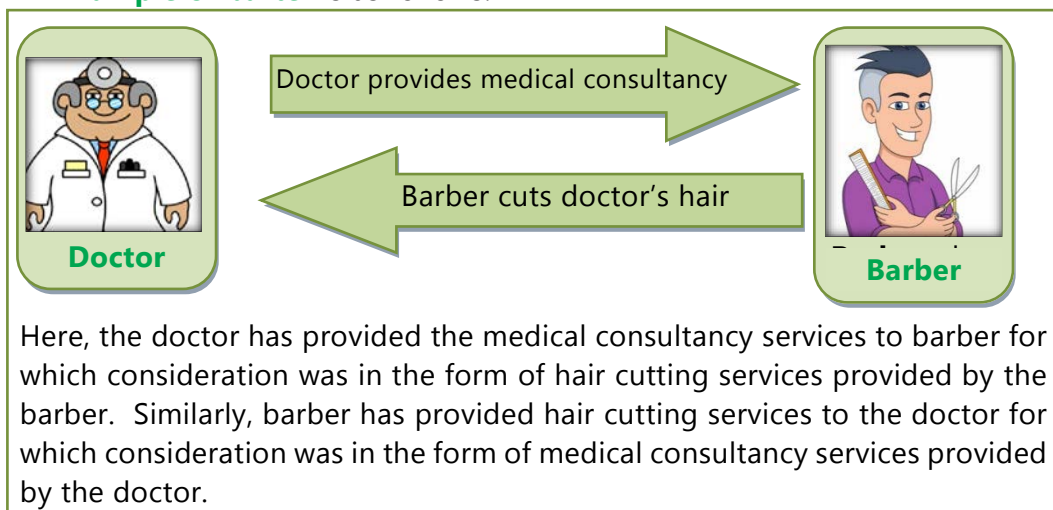
While barter deals with a transaction which only includes an exchange of goods/services, exchange may cover a situation where the goods are paid for partly in goods and partly in money. When there is a barter of goods or services, same activity constitutes supply as well as consideration.

Example of exchange



When a new car worth ₹ 5,00,000 is purchased in exchange of an old car alongwith the monetary consideration of ₹ 4,00,000 paid for the said purchase.

Example of barter is as follows:



- III. Licence, lease, rental and disposal:** The dictionary meaning of the term 'licence' is a permission granted by competent authority to engage in a business or occupation or in an activity otherwise unlawful⁴. Black's law dictionary defines disposal as the sale, pledge, giving away, use, consumption or any other disposition of a thing.

³ www.macmillandictionary.com

⁴ www.merriam-webster.com

The dictionary meaning of 'rental' is an arrangement to rent something, or the amount of money that you pay to rent something⁵ and that of 'lease' is to make a legal agreement by which money is paid in order to use land, a building, a vehicle, or a piece of equipment for an agreed period of time⁶.

Under GST, such licenses, leases and rentals of goods with or without transfer of right to use are covered under the supply of service because there is no transfer of title in such supplies. Such transactions are specifically treated as supply of service in Schedule-II of CGST Act [*Schedule-II has been discussed in detail in the subsequent paras*].

As discussed earlier, one of the parameters to qualify as a supply of goods and/or services is that a supply is made for a consideration. This parameter has been explicated in the following paras:

B. CONSIDERATION

Consideration does not always mean money. It can be in money or in kind. It covers anything which might be possibly done, given or made in exchange for something else. Further, a consideration need not always flow from the recipient of the supply. It can also be made by a third person.

However, any subsidy given by the Central Government or a State Government is not considered as consideration. 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 such deposit as consideration for the said supply.

The term consideration is defined under section 2(31) of the CGST Act [*Refer heading 'Relevant Definitions'*]. The said definition has been depicted in the form of a diagram on next page:

Art works sent by artists to galleries for exhibition is not a supply as no consideration flows from the gallery to the artists

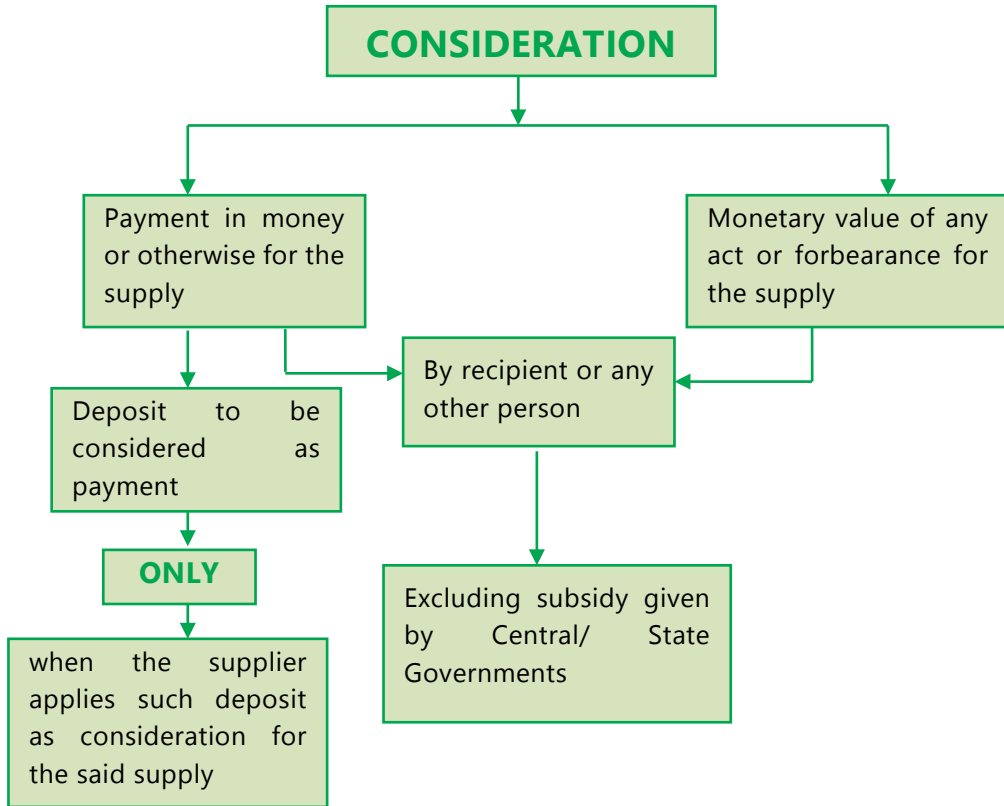
Artists give their work of art to galleries where it is exhibited for supply. However, no consideration flows from the gallery to the artist when the art works are sent to the gallery for exhibition and therefore, the same is not a supply.



⁵ www.dictionary.cambridge.org

⁶ www.dictionary.cambridge.org

It is only when a buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply [Circular No. 22/22/2017 GST dated 21.12.2017].



Any transaction involving supply of goods and/or services without consideration is not a supply unless it is deemed to be a supply under Schedule I of the CGST Act**.

**Provisions of Schedule I of the CGST Act have been discussed in detail later in this chapter.

Another parameter to qualify as supply of goods and/or services is that a supply is made in course or furtherance of business. This parameter has been expounded in the following paras:

C. IN COURSE OR FURTHERANCE OF BUSINESS

GST is essentially a tax only on commercial transactions. Hence, only those supplies that are in the course or furtherance of business qualify as supply under GST. Resultantly, any supplies made by an individual in his personal capacity do not come under the ambit of GST unless they fall within the definition of 'business'.

Meaning of supply made in the course or furtherance of business: Any activity



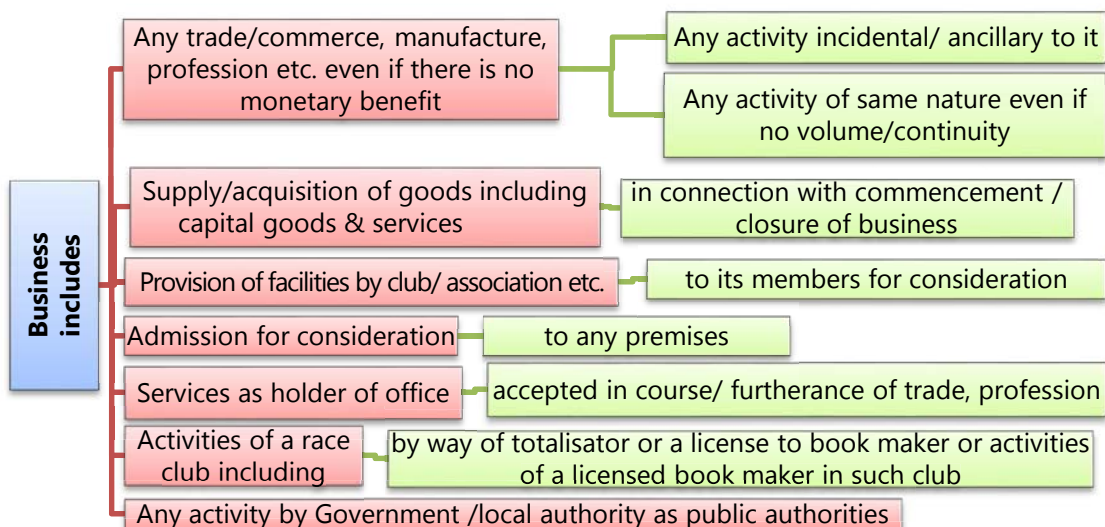
undertaken in course/ furtherance of business would constitute a supply. In order to understand the term



'in the course or furtherance of business', we need

to first understand the term 'business'. Business as defined under section 2(17) of the CGST Act, *inter alia*, includes any trade, commerce, manufacture, profession, vocation etc. whether or not undertaken for a monetary benefit.

The definition of business has been summarised in the diagram below:



Thus, business includes any activity/transaction which is incidental or ancillary to any trade, commerce, manufacture, profession, vocation, adventure, wager [bet] or any other similar activity. In addition, any activity undertaken by the Central Govt. or a State Govt. or any local authority in which they are engaged as public authority shall also be construed as business. For any trade, commerce, or any other similar activity to qualify as business, **frequency, volume, continuity or regularity of such transaction is not a pre-requisite.**

Some of the examples of 'in the course or furtherance of business' are as follows:



Rishabh buys a car for his personal use and after a year sells it to a car dealer. Sale of car by Rishabh to car dealer is not a supply under CGST Act because said supply is not made by Rishabh in the course or furtherance of business⁷.



Manikarnika sold her old gold bangles and earrings to 'Aabhushan Jewellers'. Sale of old gold jewellery by an individual to a jeweller will not constitute supply as the same cannot be said to be in the course or furtherance of business of the individual⁸.

*The view taken in above two examples is based on the view taken in the Departmental FAQs/ press release. However, as already seen, business includes trade, commerce, or any other similar activity, **whether or not there is frequency, volume, continuity or regularity** of such transaction.*

In view of this, it is also possible to take a view in the above examples that sale of car by Rishabh and sale of old gold jewellery by Manikarnika have been made in the course or furtherance of business and thus will constitute a supply.

Since 'business' includes vocation, therefore sale of goods or service **as a vocation** is also a supply under GST.



Sundaram Acharya, a famous actor, paints some paintings and sells them. The consideration from such sale is to be donated to a Charitable Trust – 'Kind Human'. The sale of paintings by the actor qualifies as supply.

Services provided by the club/association to its members for consideration is a supply.

⁷ Clarified vide GST FAQs issued by CBIC

⁸ Clarified by CBIC vide press release dated 13.07.2017



A Resident Welfare Association provides the service of depositing the electricity bills of the residents in lieu of some nominal charges. Provision of service by a club or association or society to its members is treated as supply as this is included in the definition of 'business'.

Admission of persons to any premises for a consideration is also included in business.



Services by way of admission to circus, cinema halls, amusement parks including theme parks, water parks, etc. are considered as supply as these are services by way of admission of persons to any premises for a consideration.

Business includes activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club.



Royal Turf Race Club is engaged in facilitating the wagering (betting) transactions on horses placed through totalisator⁹. For providing the service of facilitating wagering transactions, Royal Turf Race Club gets commission which is deducted and retained by the club from the total bet value. Said services amount to supply as the activities of a race club are included in business.



There is one exception to this 'course or furtherance of business' rule i.e., import of services for a consideration.



From the above discussion, it can be inferred that if an activity or transaction satisfies all the above parameters, as discussed in points A., B. and C. above, said activity or transaction qualifies as Supply under GST.

⁹ Totalisator is a computerised device that pools the wagers/bets (after deduction of charges and statutory taxes) of various punters [person who places the bet] and also divides the total wager amount to be distributed to the winning punters.

Supply leviable to GST

Once an activity or transaction qualifies as supply, one needs to determine whether the same is leviable to GST or not. Though the provisions relating to levy and collection of GST have been discussed at length in Chapter 3 – Charge of GST, a brief idea of the same is provided hereunder. For a supply to attract GST, primarily two additional conditions need to be satisfied. These are – (i) supply must be made by a taxable person and (ii) supply must be a taxable supply. These two additional conditions have been discussed hereunder:

(i) Supply by a taxable person

A supply to attract GST should be made by a taxable person. Hence, a supply between two non-taxable persons does not constitute taxable supply under GST.



A supply attracting GST can be made **TO** a non-taxable person also.

The restriction of being a taxable person is only on the supplier whereas the recipient can be either taxable or non-taxable.

Meaning of taxable person: A “taxable person” is a person who is registered or liable to be registered under section 22 or section 24 [*The said sections and the concept of taxable person thereto have been discussed in detail in Chapter 7 – Registration*].

Hence, 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.

(ii) Taxable supply

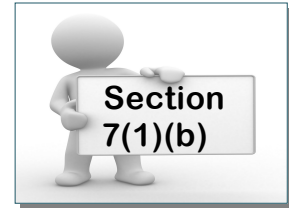
For a supply to attract GST, the supply must be taxable. Taxable supply has been broadly defined and means any supply of goods or services or both which, is leviable to tax under the GST Law [*Refer Chapter-3: Charge of GST for detailed discussion on leviability of GST*]. Exemptions may be provided to the specified goods or services or to a specified category of persons/ entities making supply [*Refer Chapter-4: Exemptions from GST for detailed discussion*].

In the subsequent paras, we have discussed the exceptions to the parameters of supply, *namely*, supply made for consideration but not in course or furtherance of business and supply made without consideration.



Importation of services for consideration whether or not in course or furtherance of business

The connotation of 'supply' gets expanded significantly through the second part of section 7 i.e. 7(1)(b) which brings within the ambit of 'supply', the importation of services for a consideration **whether or not in the course or furtherance of business**. This is the only exception to the condition of supply being made in course or furtherance of business.

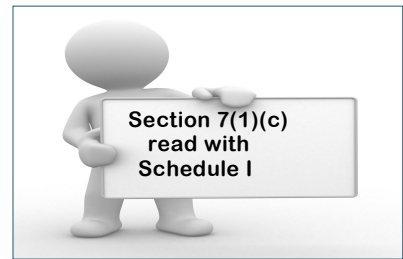


Ramaiyaa, a proprietor, has received the architect services for his house from an architect located in New York at an agreed consideration of \$ 5,000. The import of services by Ramaiyaa is supply under section 7(1)(b) though it is not in course or furtherance of business.



Activities without consideration - Deemed Supply

There are instances where an activity or transaction is treated as supply, **even if the same is made without consideration**. These are specifically mentioned in Schedule I appended to the CGST Act. The same has been discussed in the subsequent paras:



In the past regime, in every tax statute, "consideration" played the most important role for levying taxes. For instance, if any service was provided for free to a person, such service was not subject to service tax. However, under GST, the importance of consideration has been diluted in certain cases – this is an important departure from the earlier indirect tax regime.

As per Schedule I, in the following four cases, activities made without consideration will be treated as supply under section 7 of the CGST Act:

- I. Permanent Transfer/Disposal of Business Assets [Para 1. of Schedule I]:** Any kind of disposal or transfer of business assets made by an entity on permanent basis even though without consideration qualifies as

supply. However, it is important to note that this provision would apply only if input tax credit has been availed on such assets.

Therefore, in order to qualify as supply under this para, following conditions need to be satisfied:

- There must be a disposal or transfer of business assets**.
- Transfer/disposal must be permanent.
- ITC must have been availed on such business assets.

In view of the last condition stipulated above, permanent transfer/disposal of following business assets, without consideration, will not be covered within this para and thus will not be deemed as supply:

- (i) Business assets on which ITC is blocked/not available under GST¹⁰.
- (ii) Business assets though eligible for ITC, ITC has not been availed by the registered person.

***It is important to note that the term business assets has not been defined under the GST law.*



Dhruv gives old laptops being used in his business to his friend free of cost. This will qualify as supply provided input tax credit has been availed by Dhruv on such laptops.



A dealer of air-conditioners permanently transfers the motor vehicle free of cost. ITC on said motor vehicle is blocked. The transaction will not constitute a supply as the condition of availment of ITC on the business asset transferred is not fulfilled.

This clause is wide enough to cover transfer of business assets from holding to subsidiary company for nil consideration.

II. Supply between related person or distinct persons [Para 2. of Schedule I]: Supply of goods or services or both between 'related persons' or between 'distinct persons' as specified in section 25, will qualify as supply **provided it is made in the course or furtherance of business.**

Let us understand the terms 'related persons' and 'distinct persons'.

¹⁰ List of the goods in respect of which ITC is blocked has been elaborated in Chapter 6 – Input Tax Credit.

Related persons: A person who is under influence of another person is called a related person like members of the same family [See definition of family under 'Relevant Definitions'] or subsidiaries of a group company etc. Under GST law various categories of related persons have been specified. The term 'related person' has been defined in explanation to section 15. The said definition has been depicted by way of a diagram as follows:



Persons including legal person are deemed as related persons if

- Such persons are officers/directors of one another's business
- Such persons are legally recognised partners
- Such persons are employer & employee
- A third person controls/ owns/ holds (directly/ indirectly) $\geq 25\%$ voting stock/shares of both of them
- One of them controls (directly/indirectly) the other
- A third person controls (directly/indirectly) both of them
- Such persons together control (directly/indirectly) a third person
- Such persons are members of the same family
- One of them is the sole agent/sole distributor/sole concessionaire of the other



(i) Ms. Priya holds 30% shares of ABC Ltd. and 35% shares of XYZ Ltd. ABC Ltd. and XYZ Ltd. are related.

(ii) Q Ltd. has a deciding role in corporate policy, operations management and quality control of R Ltd. It can be said that Q Ltd. controls R Ltd. Thus, Q Ltd. and R Ltd. are related.

Distinct Persons specified under section 25: Before we go through the statutory provisions of 'distinct persons', let us first have an overview of the registration provisions for better understanding of the concept of distinct

persons. *Detailed and in-depth analysis of the registration provisions is contained in Chapter 7 – Registration.*

Under GST law, a supplier is required to obtain State-wise registration. He has to obtain registration in every State/UT from where he makes a taxable supply provided his aggregate turnover exceeds a specified threshold limit. Thus, he is not required to obtain registration from a State/UT from where he makes a non-taxable supply.

Since registration in GST is PAN based, once a supplier is liable to register, he has to obtain registration in each of the States/UTs in which he operates [and makes a taxable supply] under the same PAN. Further, he is normally required to obtain single registration in a State/UT. However, where he has multiple places of business in a State/UT, he has the option either to get a single registration for said State/UT or to get separate registrations for each place of business in such State/UT.

In simpler terms, the concept of distinct persons can be understood as follows:

The establishments of a person with separate registrations whether within the same State/UT or in different States/UTs are considered as **distinct persons**. Where a person having one registered establishment in a State/UT has another establishment in a different State/UT [not necessarily registered], these establishments are considered as **establishments of distinct persons**.

Statutory provisions relating to 'distinct persons' are contained in sub-sections (4) and (5) of section 25. They have been discussed as follows:

A person who has obtained/is required to obtain more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as **distinct persons** [Section 25(4) of the CGST Act].



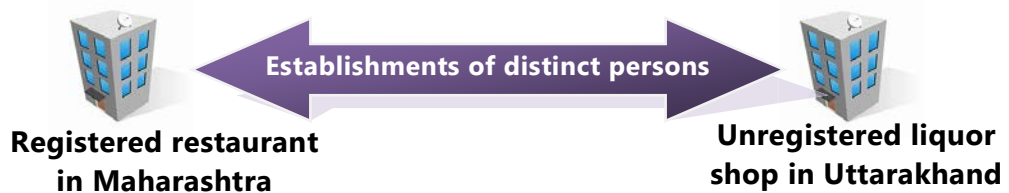
Mohan, a Chartered Accountant, has a registered head office in Delhi. He has also obtained registration in the State of West Bengal in respect of his newly opened branch office. Mohan shall be treated as distinct persons in respect of registrations in West Bengal and Delhi.



Further, where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as **establishments of distinct persons** [Section 25(5) of the CGST Act].



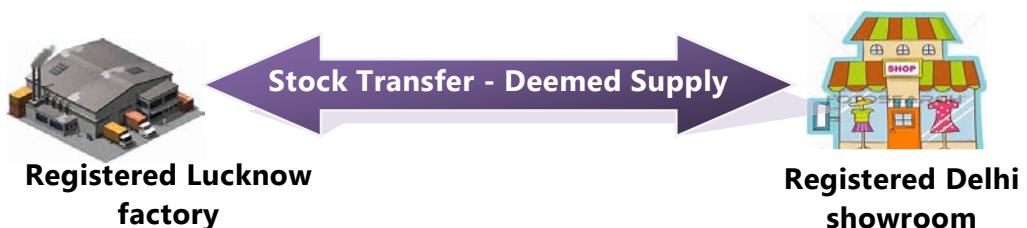
Rishabh Enterprises, a registered supplier, owns an air-conditioned restaurant in Virar, Maharashtra. It has opened a liquor shop in Raipur, Uttarakhand for trading of alcoholic liquor for human consumption. Since supply of alcoholic liquor for human consumption in Uttarakhand is a non-taxable supply, Rishabh Enterprises is not required to obtain registration with respect to the same in Uttarakhand. In this case, air-conditioned restaurant in Maharashtra and liquor shop in Uttarakhand [though unregistered] shall be treated as establishments of distinct persons. Supply by Maharashtra office to Uttarakhand office, in course or furtherance of business even without consideration will qualify as supply.



Stock transfers or branch transfers qualify as supply: In view of the aforesaid discussion, transactions between different locations (with separate GST registrations) of same legal entity (eg., stock transfers or branch transfers) will qualify as 'supply' under GST as these are transactions between distinct persons.



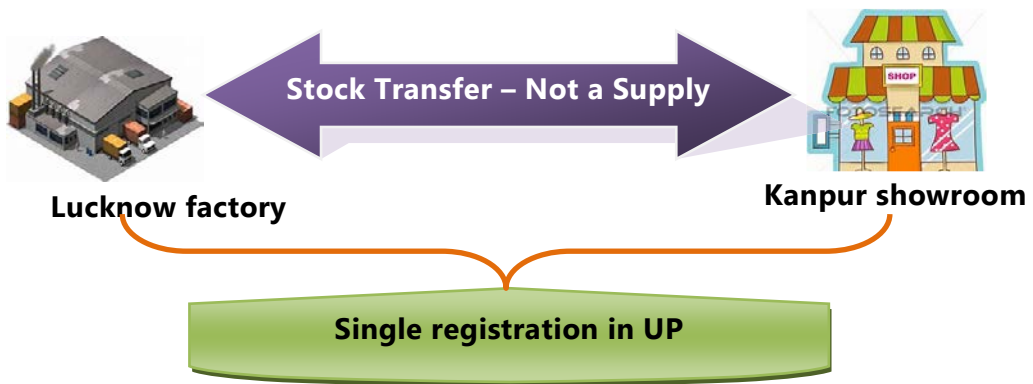
Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Delhi so that the same can be sold from there. The factory and retail showroom of Raghubir Fabrics are registered in the States where they are located. Although no consideration is charged, supply of goods from factory to retail showroom constitutes supply.



However, transfer between two units of a legal entity under single registration (apparently within same State) will not be considered as supply. This can be understood with the help of the following example:



Raghubir Fabrics transfers 1000 shirts from his factory located in Lucknow to his retail showroom in Kanpur so that the same can be sold from there. It has taken one registration in the State of Uttar Pradesh declaring Lucknow factory as its principal place of business and Kanpur showroom as its additional place of business. Since no consideration is charged, supply of goods from factory to retail showroom in same State under single registration does not constitute supply.



However, in the above example, if Raghubir Fabrics obtains separate registrations for Lucknow factory and Kanpur showroom, stock transfer between the Lucknow factory and Kanpur showroom will constitute supply.

Supply of goods or services or both between an employer and employee: In terms of the definition of related person given above, employer and employee are related persons. However, services provided by an employee to the employer in the course of or in relation to his employment are not treated as supply [Schedule III of CGST Act (*discussed subsequently in this chapter*)].

Gifts by employer to employee

Further, proviso to Para 2. of Schedule I provides that gifts upto ₹ 50,000 in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both. However, gifts of value more than ₹ 50,000 made without consideration are supply and are subject to GST, when made in the course or furtherance of business.



The term 'gift' has not been defined in the GST law. In common parlance, gift is made without consideration, is voluntary in nature and is made occasionally. It cannot be demanded as a matter of right by the employee and the employee cannot move a court of law for obtaining a gift.

Perquisites by employer to employee

As already mentioned that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services).

It follows therefrom that payment made by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST.

If services such as membership of a club, health and fitness centre etc. are provided free of charge to all the employees by the employer, the same will not be subjected to GST.

The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to company (C2C)¹¹.

¹¹ As clarified in a Press Release on 10.07.2017 by Ministry of Finance

III. Principal – Agent [Para 3. of Schedule I]: Supply of goods by a principal to his agent, without consideration, where the agent undertakes to supply such goods on behalf of the principal is considered as supply.

Similarly, supply of goods by an agent to his principal, without consideration, where the agent undertakes to receive such goods on behalf of the principal is considered as supply.



Points which merit consideration, in this regard, are as follows:

- ② Only **supply of goods and not supply of services** is covered here.
- ② Supply of goods between principal and agent **without consideration** is also supply.

Thus, the **supply of services** between the principal and the agent and vice versa would therefore require “consideration” to be considered as supply and thus, to be liable to GST.

In order to determine whether a particular principal-agent relationship falls within the ambit of the Para 3. of Schedule I as discussed above or not, the deciding factor is **whether the invoice for the further supply of goods on behalf of the principal is being issued by the agent or not?** In other words, 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.



❑ Where the **invoice for further supply is being issued by the agent in his name** then, any provision of goods from the principal to the agent would fall within the fold of Para 3. above.

❑ However, where the **invoice is issued by the agent to the customer in the name of the principal**, such agent shall not fall within the ambit of Para 3. above.

❑ Similarly, where the goods being procured by the agent on behalf of the principal are **invoiced in the name of the agent** then further



provision of the said goods by the agent to the principal would be covered by Para 3. above **[Circular No. 57/31/2018 GST dated 04.09.2018]**.

The above clarification can be understood with the help of following scenario based examples:



Anmol appoints Bholu to procure certain goods from the market. Bholu identifies various suppliers who can provide the goods as desired by Anmol, and asks the supplier (Golu) to send the goods and issue the invoice directly to Anmol.

In this scenario, Bholu is only acting as the procurement agent, and has in no way involved himself in the supply or receipt of the goods. Hence, in accordance with the provisions of this Act, Bholu is not an agent of Anmol for supply of goods in terms of Para 3. of Schedule I.



M/s Tintin, a banking company, appoints Mandaar (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders.

The highest bid is accepted and the goods are sold to the highest bidder by M/s Tintin. The invoice for the supply of the goods is issued by M/s Tintin to the successful bidder.

In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, Mandaar is not an agent of M/s Tintin for the supply of goods in terms of Para 3. of Schedule I.



Gautam, an artist, appoints Gambhir (auctioneer) to auction his painting. Gambhir arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder.

The invoice for the supply of the painting is issued by Gambhir on the behalf of Gautam but in his own name and the painting is delivered to the successful bidder.

In this scenario, Gambhir is not merely providing auctioneering services, but is also supplying the painting on behalf of Gautam to the bidder, and has the authority to transfer the title of the painting on behalf of Gautam. This scenario is covered under Para 3. of Schedule I.



A C&F agent or commission agent takes possession of the goods from the principal and issues the invoice in his own name. In such cases, the C&F commission agent is an agent of the principal for the supply of goods in terms of Para 3. of Schedule I. The disclosure or non-disclosure of the name of the principal is immaterial in such situations.



Ravi sells agricultural produce by utilizing the services of Kavi who is a commission agent as per the Agricultural Produce Marketing Committee Act (APMC Act) of the State. Kavi identifies the buyers and sells the agricultural produce on behalf of Ravi for which he charges a commission from Ravi.

As per the APMC Act, the commission agent is a person who buys or sells the agricultural produce on behalf of his principal, or facilitates buying and selling of agricultural produce on behalf of his principal and receives, by way of remuneration, a commission or percentage upon the amount involved in such transaction.

In cases where the invoice is issued by Kavi to the buyer, the former is an agent covered under Para 3. of Schedule I¹². However, in cases where the invoice is issued directly by Ravi to the buyer, the commission agent (Kavi) doesn't fall under the category of agent covered under Para 3.

Clarification of issues pertaining to Del-credere agent (DCA)

Let us first understand what is meant by a DCA? In commercial trade parlance, a DCA is a selling agent who is engaged by a principal to assist in supply of goods or services by contacting potential buyers on behalf of the principal. The factor that differentiates a DCA from other agents is that the **DCA guarantees the payment to the supplier.**

Del-credere agent

In such scenarios where the buyer fails to make payment to the principal by the due date, DCA makes the payment to the principal on behalf of

¹² It is important to note that services provided by the commission agent for sale or purchase of agricultural produce are exempt from GST.

the buyer (effectively providing an insurance against default by the buyer), and for this reason the commission paid to the DCA may be relatively higher than that paid to a normal agent.



In order to guarantee timely payment to the supplier, the DCA can resort to various methods including extending short-term transaction-based loans to the buyer or paying the supplier himself and recovering the amount from the buyer with some interest at a later date. This loan is to be repaid by the buyer along with an interest to the DCA at a rate mutually agreed between DCA and buyer.

Circular No. 73/47/2018 GST dated 05.11.2018 has clarified the following issues in this regard:

Sl. No.	Issue	Clarification
1	Whether a DCA falls under the ambit of agent under Para 3 of Schedule I of the CGST Act?	<p>As already clarified vide Circular No. 57/31/2018 GST (discussed above), whether or not the DCA will fall under the ambit of agent under Para 3 of Schedule I of the CGST Act depends on the following possible scenarios:</p> <ul style="list-style-type: none"> <input type="checkbox"/> In case where the <u>invoice</u> for supply of goods is issued <u>by the supplier to the customer</u>, either himself or through DCA, the DCA <u>does not fall</u> under the ambit of agent. <input type="checkbox"/> In case where the <u>invoice</u> for supply of goods is issued <u>by the DCA in his own name</u>, the DCA <u>would fall</u> under the ambit of agent.
2	Whether the temporary short-term transaction	<p>In such a scenario, following activities are taking place:</p> <ol style="list-style-type: none"> 1. Supply of goods from supplier (principal)

	<p>based loan extended by the DCA to the recipient (buyer), for which interest is charged by the DCA, is to be included in the value of goods being supplied by the supplier (principal) where DCA is not an agent under Para 3 of Schedule I of the CGST Act?</p>	<p>to recipient;</p> <ol style="list-style-type: none"> 2. Supply of agency services from DCA to the supplier or the recipient or both; 3. Supply of extension of loan services by the DCA to the recipient. <p><i>It is clarified that in cases where the DCA is not an agent under Para 3 of Schedule I of the CGST Act, the temporary short-term transaction based loan being provided by DCA to the buyer is a supply of service by the DCA to the recipient on Principal to Principal basis and is an independent supply¹³.</i></p> <p><i>Therefore, the interest being charged by the DCA would not form part of the value of supply of goods supplied (to the buyer) by the supplier.</i></p>
<p>3.</p>	<p>Where DCA is an agent under Para 3 of Schedule I of the CGST Act and makes payment to the principal on behalf of the buyer and charges interest to the buyer for delayed payment along with the value of</p>	<p>In such a scenario following activities are taking place:</p> <ol style="list-style-type: none"> 1. Supply of goods by the supplier (principal) to the DCA; 2. Further supply of goods by the DCA to the recipient; 3. Supply of agency services by the DCA to the supplier or the recipient or both; 4. Extension of credit by the DCA to the recipient. <p><i>It is clarified that in cases where the DCA is an agent under Para 3 of Schedule I of the</i></p>

¹³ Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card services) are exempt vide Entry 27 of Notification No. 12/2017 CT(R) dated 28.06.2017 [Discussed in detail in Chapter 4 – Exemptions under GST].

	<p>goods being supplied, whether the interest will form a part of the value of supply of goods also or not?</p>	<p>CGST Act, the temporary short-term transaction based credit being provided by DCA to the buyer no longer retains its character of an independent supply and is subsumed in the supply of the goods by the DCA to the recipient. It is emphasised that the activity of extension of credit by the DCA to the recipient would not be considered as a separate supply as it is in the context of the supply of goods made by the DCA to the recipient.</p> <p>It is further clarified that the value of the interest charged for such credit would be required to be included in the value of supply of goods by DCA to the recipient as per section 15(2)(d) of the CGST Act¹⁴.</p>
--	--	---

IV. Importation of services [Para 4. of Schedule I]: Import of services by a person from a related person or from his establishments located outside India, without consideration, in the course or furtherance of business shall be treated as “supply”.



Jhumroo Associates received legal consultancy services from its head office located in Malaysia. The head office has rendered such services free of cost to its branch office. Since Jhumroo Associates and the head office are related persons, services received by Jhumroo Associates will qualify as supply even though the head office has not charged anything from it.



Chakmak, a proprietor registered in Delhi, has sought architect services from his son located in US, with respect to his newly constructed house in Delhi. Although services have been received by Chakmak 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.

¹⁴ Section 15 of the CGST Act, 2017 has been discussed in detail in Chapter 5 – Time and Value of Supply.

Clarification on Sales promotion schemes

A number of sales promotion schemes are commonly employed by the businesses to increase sales volume or to encourage the use or trial of a product or service so that new customers get attracted towards their products. For instance, certain sections of trade and industry, such as, pharmaceutical companies often provide drug samples to their stockists, dealers, medical practitioners, etc., or sometimes, companies announce offers like 'Buy One, Get One free' - buy one soap and get one soap free or get one tooth brush free along with the purchase of tooth paste.



As we have already seen that as per section 7(1)(a), the goods or services which are supplied free of cost (without any consideration) shall not be treated as "supply" except in case of activities mentioned in Schedule I of the CGST Act. In view of the same, few sales promotion schemes have been examined as under:

★ **Free samples and gifts:** Samples which are supplied free of cost, without any consideration, do not qualify as "supply" under GST¹⁵, except where the activity falls within the ambit of Schedule I of the CGST Act.



★ **Buy one get one free offer:** It may appear at first glance that in case of offers like "Buy One, Get One Free", one item is being "supplied free of cost" without any consideration. In fact, it is not an individual supply of free goods, but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as supplying two goods for the price of one.



¹⁵ ITC on inputs, input services and capital goods to the extent they are used in relation to the gifts/free samples shall be available to the supplier only where the activity of distribution of gifts/free samples falls within the scope of supply - Discussed in detail Chapter 6 – Input Tax Credit.

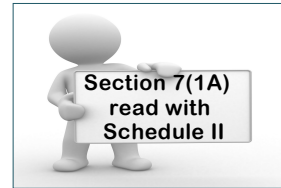
Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined accordingly – Concept of composite and mixed supply has been discussed subsequently in this chapter.

[Circular 92/11/2019 GST dated 07.03.2019]



Activities/transactions to be treated as Supply of goods or Supply of services

Section 7(1A) of the CGST Act classifies certain activities/ transactions constituting supply, either as supply of goods or supply of services. Schedule II to the CGST Act contains the list of activities or transactions which have been classified either as supply of goods or supply of service.



This helps in mitigating the ambiguities which existed in earlier laws.







Under earlier laws, the restaurants used to charge both service tax and VAT on the value of food served. This so because both sale of goods and provision of service were involved and therefore taxable event under both the Statutes i.e. respective VAT law and service tax law got triggered.




Under GST, the supply by a restaurant is treated as composite supply [*concept of composite supply is discussed subsequently in this chapter*] since food and service is naturally bundled in ordinary course of business. Further, Entry 6(b) of Schedule II [*refer table below*] specifically provides that such composite supply shall be treated as supply of service. Hence, the entire value of invoice shall be treated as value of service and leviable to GST accordingly.





The matters listed out in Schedule II are primarily those which had been entangled in litigation in the earlier regime owing to their complex nature and susceptibility to double taxation.

These are as follows :-

S.No.	Activity/ Transaction	Type	Nature of Supply
1.	Transfer	Any transfer of title in goods.  Shivaji sells ready-made garments to its customers.	Supply of Goods
		Any transfer of right in goods/ undivided share in goods without transfer of title in goods.  Genius Equipments Ltd. gives a machinery on rent to Suhaasi Manufacturers.	Supply of Services
		Any transfer of title in goods under an agreement which stipulates that property shall pass at a future date upon payment of full consideration as agreed.  (i) Dhruva Capitals supplied goods on hire purchase basis to customers. (ii) Optima Manufacturers supplies toys to retailers on 'sale or return basis'.	Supply of Goods
2.	Land and Building	Any lease, tenancy, easement, licence to occupy land ¹⁶ .  Lease agreement for land.	Supply of Services

¹⁶ Refer Circular No.44/18/2018 CGST dated 02.05.2018 discussed subsequently.

		<p>Any lease or letting out of building including a commercial, industrial or residential complex for business or commerce, wholly or partly.</p> <p> A shop let out in a busy market area.</p>	Supply of Services
3.	Treatment or Process	<p>Any treatment or process which is applied to another person's goods</p> <p> Damani Dying House dyes the clothes given by Shubham Textiles Ltd. on job work basis.</p>	Supply of Services
4.	Transfer of Business Assets	<p>Goods forming part of business assets are transferred or disposed off by/under directions of person carrying on the business so as no longer to form part of those assets, whether or not for consideration.</p>	Supply of Goods
		<p>Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/ under directions of person carrying on the business, whether or not for consideration.</p> <p> Arunodhya, a sole proprietor, owns a laptop used for making office presentations. He transfers said laptop to his son for making school projects.</p>	Supply of Services
		<p>Goods forming part of assets of any business carried on by a person who ceases to be a taxable person,</p>	Supply of Goods

		<p>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.</p> <p> Arun, a trader, is winding up his business. Any goods left in stock shall be deemed to be supplied by him.</p> <p>Exceptions:</p> <p> Business is transferred as a going concern to another person¹⁷.</p>	
		<p> Business is carried on by a personal representative who is deemed to be a taxable person.</p>	
<p>5.</p>	<p>(a) Renting of immovable property</p> <p> (i) Renting of a commercial complex.</p> <p>(ii) Renting of precincts of a religious place.</p> <p>(iii) Renting of property to an educational institution.</p> <p>(iv) Permitting use of immovable property for placing vending/dispensing machines.</p>	<p>(b) Construction of complex, building, civil structure, etc.</p> <p>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</p>	<p>Supply of Services</p>

¹⁷ Services by way of transfer of a going concern, as a whole or an independent part thereof are exempt from GST [Discussed in detail in Chapter 4 – Exemptions from GST.

of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.



Rathi Builders has constructed individual residential units for agreed consideration of ₹ 1.2 crore per unit. ₹ 90 lakh per unit were received before issuance of completion certificate by the competent authority and balance after completion.

The term **construction** includes additions, alterations, replacements, or remodeling of any existing civil structure.

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) an architect registered with the Council of Architecture constituted under the Architects Act, 1972; or
- (ii) a chartered engineer registered with the Institution of Engineers (India); or
- (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority.






(c) Temporary transfer or permitting use or enjoyment of any intellectual property right




Temporary transfer of patent.

(d) Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software

Supply of Services

	<p> Suvidha Solutions develops an accounting software for a business.</p> <p>(e) Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act.</p> <p> (i) Cable operator - Sakharam has entered into an agreement with Cable operator - Aatmaram that Sakharam will not provide cable connections in the specified areas where Aatmaram is providing the connections. Non-compete agreements constitute supply of service.</p> <p>(ii) Late delivery charges recovered from supplier for non-fulfilment of contract within stipulated time.</p> <p>(iii) Notice pay recovered from employee for leaving the job before agreed period of notice for leaving a job.</p> <p>(f) Transfer of right to use any goods for any purpose</p> <p> Machinery given on hire.</p>	<p>Supply Services of</p>
<p>6.</p>	<p>Following composite supplies :-</p> <p> Works contract services.</p> <p><i>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 [Section 2(119) of CGST Act].</i></p> <p> Supply by way of or as part of any service or in any other manner whatsoever, of goods, being</p>	<p>Supply Services of</p>

	food or any other article for human consumption or any drink.	
7.	Supply of goods by an unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.  Resident Welfare Association (RWA) of Sanskriti Society supplies air-conditioners to its members at a concessional price.	Supply of Goods

CBIC has clarified **Taxability of 'tenancy rights' under GST** as under:

Pagadi system, i.e. transfer of tenancy rights against tenancy premium, is prevalent in some States. In Pagadi system, the tenant acquires tenancy rights in the property against payment of tenancy premium (pagadi). The landlord may be owner of the property, but the possession of the same lies with the tenant. The tenant pays periodic rent to the landlord as long as he occupies the property. The tenant also usually has the option to sell the tenancy right of the said property and in such a case has to share a percentage of the proceed with owner of land, as laid down in their tenancy agreement. Alternatively, the landlord pays to tenant the prevailing tenancy premium to get the property vacated. Such properties in Maharashtra are governed by Maharashtra Rent Control Act, 1999.



It has been clarified that the activity of transfer of tenancy right against consideration [i.e. tenancy premium] is squarely covered under supply of service liable to GST.

It is a form of lease or renting of property and such activity is specifically declared to be a service in Para 2. of Schedule II as discussed in table above i.e. any lease, tenancy, easement, licence to occupy land is a supply of services.

Although stamp duty and registration charges have been levied on such transfer of tenancy rights, it shall be still subject to GST. Merely because a transaction/supply involves execution of documents which may require registration and payment of registration fee and stamp duty, would not preclude them from the 'scope of supply' and from payment of GST.



The transfer of tenancy rights cannot be treated as sale of land/ building in para 5. of Schedule III. Thus, it is not a negative list activity [this concept is discussed under

next heading] and consequently, a consideration for the said activity shall attract levy of GST.

To sum up, the activity of transfer of 'tenancy rights' is squarely covered under the scope of supply and taxable *per-se*. Transfer of tenancy rights to a new tenant against consideration in the form of tenancy premium is taxable[!]. Further, services provided by outgoing tenant by way of surrendering the tenancy rights against consideration in the form of a portion of tenancy premium is liable to GST [Circular No.44/18/2018 CGST dated 02.05.2018].

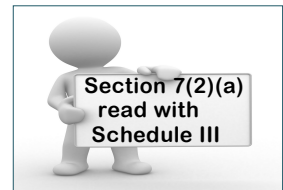




[!] It is important to note that grant of tenancy rights in a residential dwelling for use as residence dwelling against tenancy premium or periodic rent or both is exempt from tax [Entry 12 of Notification No. 12/2017 CT (R) dated 28.06.2017 – Discussed in Chapter 4 – Exemptions from GST].



Negative list under GST

- I. Activities/transactions specified under Schedule III of the CGST Act:** Activities/transactions specified under Schedule III can be termed "Negative list" under the GST regime. This schedule specifies transactions/activities which shall be neither treated as supply of goods nor a supply of services.



S.No.	Activities or transactions which shall be treated neither as a supply of goods nor a supply of services
1.	<p>Services by an employee to the employer in the course of or in relation to his employment.</p> <p> (i) Amounts received by an employee from the employer on premature termination of contract of employment are treatable as amounts paid in relation to services provided by the employee to the employer in the course of employment.</p> 

(ii) Services provided by casual worker to employer who gives wages on daily basis to the worker are services provided by the worker in the course of employment.

(iii) Casual workers employed by a construction contractor for execution of a building contract for him are services in the course of employment. Similarly, casual workers employed by a security services agency for provision of security services to a client are also services in the course of employment.



Only services that are provided by the employee to the employer in the course of employment are outside the realm of supply. However, services provided outside the ambit of employment for a consideration would qualify as supply.

For example, services provided on contract basis by a person to another i.e. principal-to-principal basis are not services provided in the course of employment¹⁸.

Any amount paid by employer to employee for not joining a competing business is paid for providing the service of forbearance to act and cannot be considered for providing services in the course of employment.

2. Services by any court or Tribunal established under any law for the time being in force.



Explanation – The term "**Court**" includes District Court, High Court and Supreme Court.



3. (a) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats,

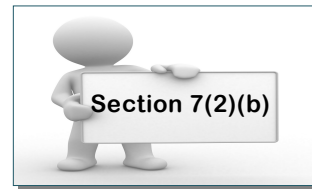


¹⁸ Discussion based on Service Tax Education Guide issued under erstwhile under service tax law.

	<p>Members of Municipalities and Members of other local authorities.</p> <p>(b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.</p> <p> Duties performed by President of India, Vice President of India, Prime Minister of India, Chief Justice of India, Speaker of the Lok Sabha, Chief Election Commissioner, Comptroller and Auditor General of India, Chairman of Union Public Service Commission, Attorney General of India, in that capacity.</p> <p>(c) 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>
4.	Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5.	<p>Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building.</p> 
6.	<p>Actionable claims, other than lottery, betting and gambling.</p> <p>'Actionable claims' are specifically included in the definition of goods under section 2(52) of the CGST Act [<i>Refer the definitions of 'actionable claims' and 'goods' given under heading 'Relevant Definitions'.</i>]</p> <p>However, this para of Schedule III specifically excludes actionable claims, other than lottery, betting and gambling from the ambit of definition of supply. Co-joint reading of said provisions implies that only lottery, betting and gambling are treated as supply. All other actionable claims are outside the ambit of definition of supply.</p> <p>Some of the other examples of actionable claims are: Right to recover insurance money, claim for arrears of rent, claims for</p>

future rents (if these can be assigned), unsecured loans, unsecured debentures, bills of exchange, promissory notes, bank guarantee, Fixed Deposit Receipt, right to the benefit of a contract, etc.¹⁹

- II. Activities/transactions notified by the Government:** Government is empowered to notify the activities/ transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities as the activities/transactions which shall be treated neither as a supply of goods nor a supply of services.



Notification No. 14/2017 CT (R) dated 28.06.2017/ Notification No. 11/2017 IT (R) dated 28.06.2017 as amended has notified the services by



way of any activity in relation to a function entrusted to a **Panchayat** under article 243G of the Constitution or to a **Municipality** under article 243W of the Constitution for the said purpose.

Further, CBIC has clarified that following activities/transactions are neither supply of goods nor supply of services.

(i) Inter-State movement of various modes of conveyance

Inter-State movement of various modes of conveyance, between distinct persons including-

- Trains,
- Buses,



¹⁹ Schedule III has two more entries - Entry 7 and 8 [as enumerated below]. These entries are covered in the syllabus of Paper 8: Indirect Tax Laws at Final Level.

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.
8. (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.

- Trucks,
- Tankers,
- Trailers,
- Vessels,
- Containers,
- Aircrafts,



- (a) carrying goods or passengers or both; or
 (b) for repairs and maintenance,

[except in cases where such movement is for further supply of the same conveyance] was discussed in GST Council's meeting held on 11th June, 2017 and the Council recommended that such inter-State movement shall be treated 'neither as a supply of goods or supply of service' and therefore not be leviable to IGST.

Thus, above activity may not be treated as supply and consequently IGST will not be payable on such supply. However, applicable CGST/SGST/IGST, as the case may be, shall be leviable on repairs and maintenance done for such conveyance [Circular No. 1/1/2017 IGST dated 07.07.2017**].

(ii) Inter-State movement of rigs, tools and spares, and all goods on wheels [like cranes]

Above circular shall *mutatis mutandis* apply to **inter-State movement of rigs, 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], such **inter-State movement shall be treated 'neither as a supply of goods or supply of service,' and consequently no IGST would be applicable on such movements**. In this context, it is also reiterated that applicable CGST/SGST/IGST, as the case maybe, is leviable on repairs and maintenance done for such goods [Circular No. 21/21/2017-GST dated 22.11.2017].



4. COMPOSITE AND MIXED SUPPLIES [SECTION 8]



STATUTORY PROVISIONS

Section 8

Tax liability on composite and mixed supplies

<i>Clauses</i>	<i>Particulars</i>
	<i>The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:-</i>
<i>(a)</i>	<i>a composite supply</i> comprising two or more supplies, one of which is a principal supply, shall be treated as a <i>supply of such principal supply</i> ; and
<i>(b)</i>	<i>a mixed supply</i> comprising of two or more supplies shall be treated as supply of that particular <i>supply that attracts highest rate of tax</i> .



ANALYSIS

GST is payable on individual goods or services or both at the notified rates. The application of rates poses no problem if the supply is of individual goods or individual services, which is clearly identifiable and such goods or services are subject to a particular rate of tax.

However, in certain cases, supplies are not such simple and clearly identifiable supplies. Some of the supplies are a combination of goods or combination of services or combination of goods and services both and each individual component of such supplies may attract a different rate of tax.

In such a case, the rate of tax to be levied on such supplies may be a challenge. It is for this reason, that the GST Law identifies composite supplies and mixed supplies and provides certainty in respect of tax treatment under GST for such supplies.

In order to determine whether the supplies are 'composite supplies' or 'mixed supplies', one needs to determine whether the supplies are naturally bundled or not naturally bundled in ordinary course of business.



Composite Supplies

Composite supply means a supply made by a taxable person to a recipient and:

- comprises two or more taxable supplies of goods or services or both, or any combination thereof.

- are naturally bundled and supplied in conjunction with each other, in the ordinary course of business
- one of which is a principal supply [Section 2(30) of the CGST Act].

This means that in a composite supply, goods or services or both are bundled owing to natural necessities. The elements in a composite supply are dependent on the 'principal supply'.



Principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary. [Section 2(90) of CGST Act]

How to determine the tax liability on composite supplies?: A **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**.



Poshaak Manufacturers entered into a contract with Cheeku Ltd. for supply of readymade shirts packed in designer boxes at Cheeku Ltd.'s outlet. Further, Poshagak Manufacturers would also get them insured during transit. In this case, supply of goods, packing materials, transport & insurance is a composite supply wherein supply of goods is principal supply.



When a consumer buys a television set and he also gets mandatory warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance services are ancillary.



A travel ticket from Mumbai to Delhi may include service of food being served on board, free insurance, and the use of airport lounge. In this case, the transportation of passenger, constitutes the pre-dominant element of the composite supply, and is treated as the principal supply and all other supplies are ancillary.

Works contract and restaurant services are classic examples of composite supplies. However, the GST law identifies both as supply of services and such services are chargeable to specific rate of tax mentioned against such services (works contract and restaurants).

How to determine whether the services are bundled in the ordinary course of business?

Whether the services are bundled in the ordinary course of business, would depend upon the normal or frequent practices followed in the area of business to which services relate. Such normal and frequent practices adopted in a business can be ascertained from several indicators some of which are listed below:

❑ **The perception of the consumer or the service recipient** - If large number of service recipient of such bundle of services reasonably expect such services to be provided as a package, then such a package could be treated as naturally bundled in the ordinary course of business.



❑ **Majority of service providers in a particular area of business provide similar bundle of services.**


For example, bundle of catering on board and transport by air is a bundle offered by a majority of airlines.


❑ The **nature of the various services in a bundle of services** will also help in determining whether the services are bundled in the ordinary course of business. If the nature of services is such that one of the services is the main service and the other services combined with such service are in the nature of incidental or ancillary services which help in better enjoyment of a main service.

For example, service of stay in a hotel is often combined with provision of breakfast and dinner provided free of cost during the stay. Such service is an ancillary service to the provision of hotel accommodation and the resultant package would be treated as services naturally bundled in the ordinary course of business.

❑ **Other illustrative indicators**, not determinative but indicative of bundling of services in the ordinary course of business are:

-  The elements are normally advertised as a package.
-  The different elements are not available separately.

 The different elements are integral to one overall supply. If one or more is removed, the nature of the supply would be affected.

 No straight jacket formula can be laid down to determine whether a service is naturally bundled in the ordinary course of business. Each case has to be individually examined in the backdrop of several factors some of which are outlined above.

The above principles explained in the light of what constitutes a naturally bundled service can be gainfully adopted to determine whether a particular supply constitutes a composite supply under GST and if so what constitutes the principal supply so as to determine the right classification and rate of tax of such composite supply.

For instance, in case of **servicing of cars involving supply of both goods (spare parts) and services (labour) where the value of goods and services are shown separately**, CBIC has clarified that the goods and services would be liable to tax at the rates as applicable to such goods and services separately [Circular No. 47/21/2018 GST dated 08.06.2018].



Further, given below is the illustrative list determining what constitutes the principal supply in the **given composite supplies**:

Activity/ transaction	Principal supply
Supply of printed books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address	<p>In the case of printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the principal supply and therefore such supplies would constitute supply of service.</p> <p>In case of supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. by the printer using</p>

or other contents supplied by the recipient of such printed goods	its physical inputs including paper to print the design, logo etc. supplied by the recipient of goods, predominant supply is supply of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods . [Circular No. 11/11/2017 GST dated 20.10.2017]
Activity of bus body building	The principal supply may be determined on the basis of facts and circumstances of each case [Circular No. 34/8/2018-GST dated 01.03.2018].
Retreading of tyres	Pre-dominant element is process of retreading which is a supply of service . Rubber used for retreading is an ancillary supply. Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods [Circular No. 34/8/2018-GST dated 01.03.2018].



Mixed Supplies

Mixed supply means:

- two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person
- for a single price where such supply does not constitute a composite supply [Section 2(74) of the CGST Act].

The individual supplies are independent of each other and are not naturally bundled.



How to determine if a particular supply is a mixed supply?: In order to identify if the particular supply is a mixed supply, the first requisite is to rule out that the supply is a composite supply.

A supply can be a mixed supply only if it is not a composite supply. As a corollary, it can be said that if the transaction consists of supplies not naturally bundled in the ordinary course of business then it would be a mixed supply.

Once the amenability of the transaction as a composite supply is ruled out, it would be a mixed supply, classified in terms of supply of goods or services attracting highest rate of tax.

How to determine the tax liability on mixed supplies?: A **mixed supply** comprising of two or more supplies shall be treated as supply of that particular **supply that attracts highest rate of tax.**



A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.



A shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold independently and are not naturally bundled. So, such supplies are mixed supplies.



A house is given on rent through a single rent deed - one floor of which is to be used as residence and the other for housing a printing press, at a lump sum rent amount. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Said supplies are mixed supply.



5. LET US RECAPITULATE



The taxable event under GST is supply. The scope of supply under GST can be understood in terms of following parameters:

Supply should be of goods or services

Supply should be made for a consideration

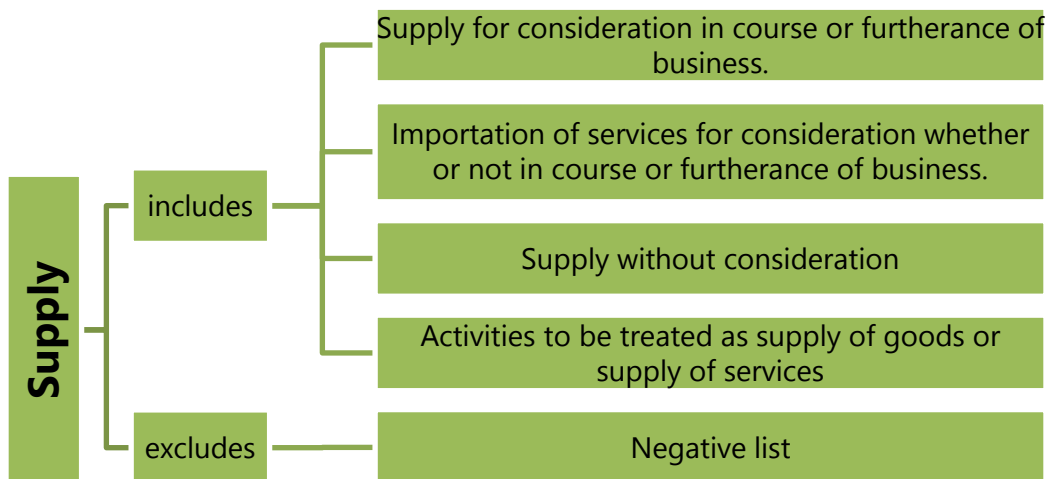
Supply should be made in the course or furtherance of business



While these parameters describe the concept of supply, under certain circumstances, transactions have been deemed as supply even when the supply is made without consideration or not in the course or furtherance of business. Activities specified in Schedule I are deemed to be a supply even

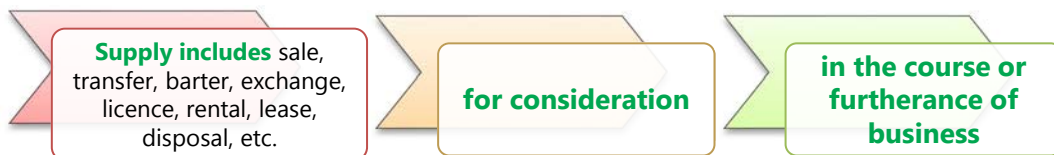
without consideration. Further, import of services for a consideration, whether or not in the course or furtherance of business is treated as supply.

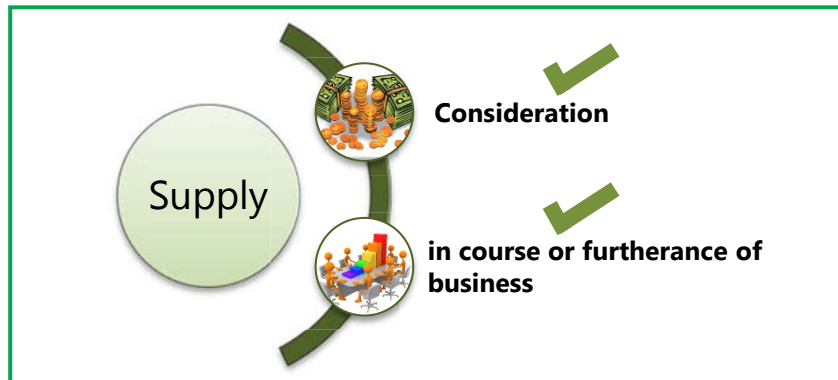
- ✎ Besides, some specified transactions/ activities are neither treated as supply of goods nor a supply of services. Furthermore, certain activities have been categorised as supply of goods or as supply of services.
- ✎ The discussion with respect to supply is broadly categorised into following:



Sub-sections of section 7 alongwith related Schedules has been summarised as follows:

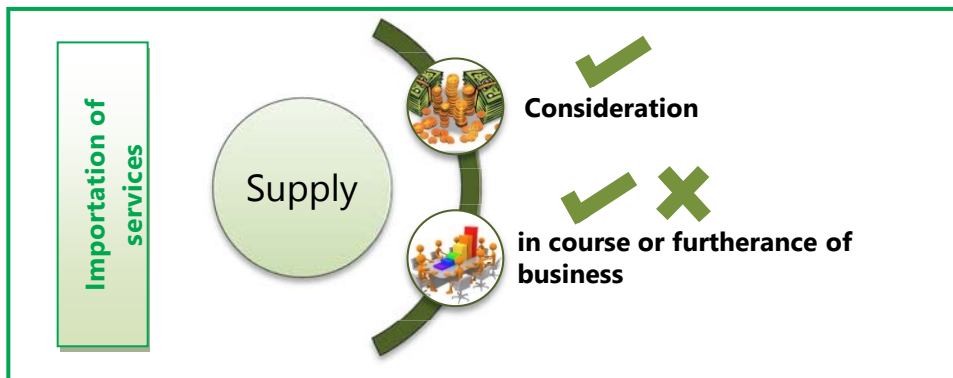
1. **Supply for consideration in course or furtherance of business [Section 7(1)(a)]**





2. Importation of services for consideration whether or not in course or furtherance of business [Section 7(1)(b)]

Supply should be in course or furtherance of business. The exception to said rule is import of services is deemed as supply even if the same has been imported not in course/furtherance of business.

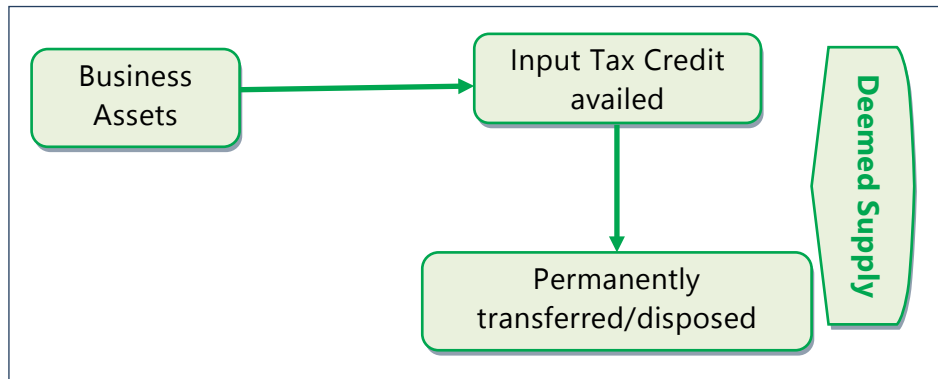


3. Supply without consideration - Deemed Supply [Section 7(1)(c) read with Schedule I]

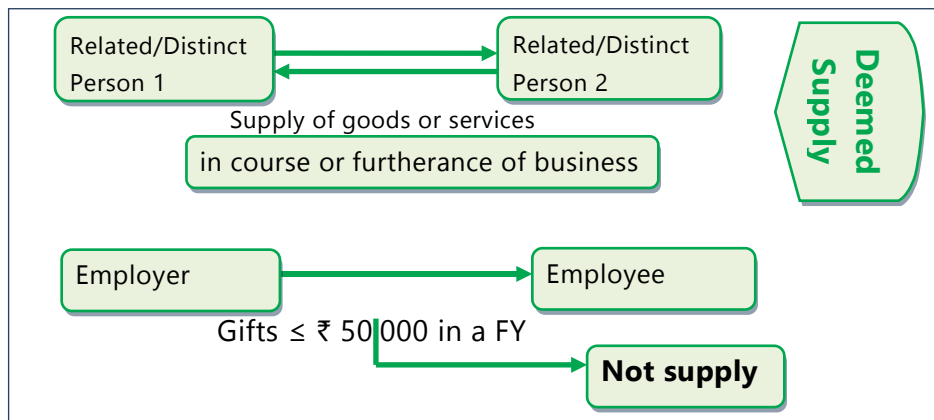
This includes all supplies made to a taxable or non-taxable person, even if the same is without consideration. These are specifically mentioned in Schedule I appended to the CGST Act.

As per Schedule I, in the following four cases, supplies made without consideration will be treated as supply under section 7 of the CGST Act:

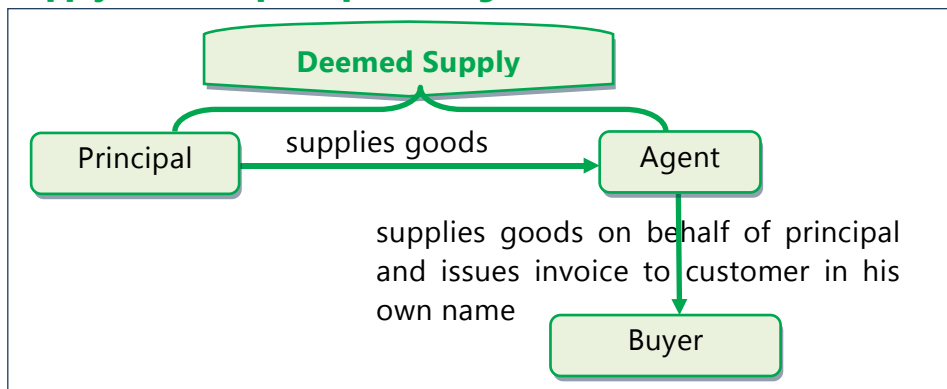
I. Permanent Transfer/Disposal of Business Assets

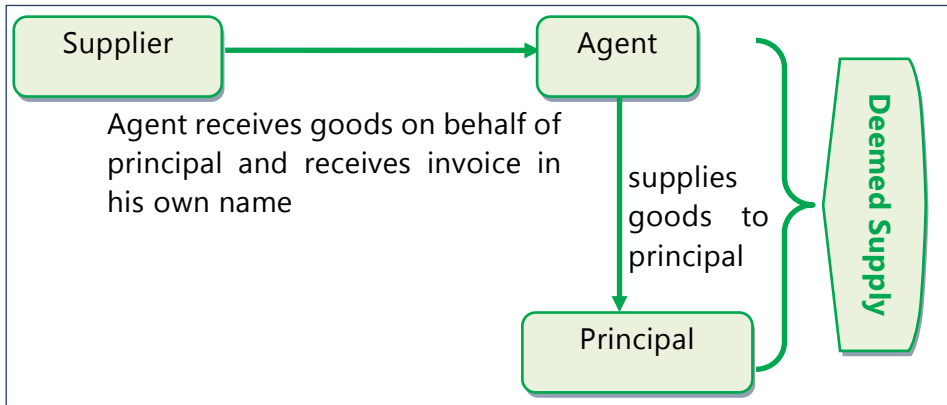


II. Supply between related persons or distinct persons

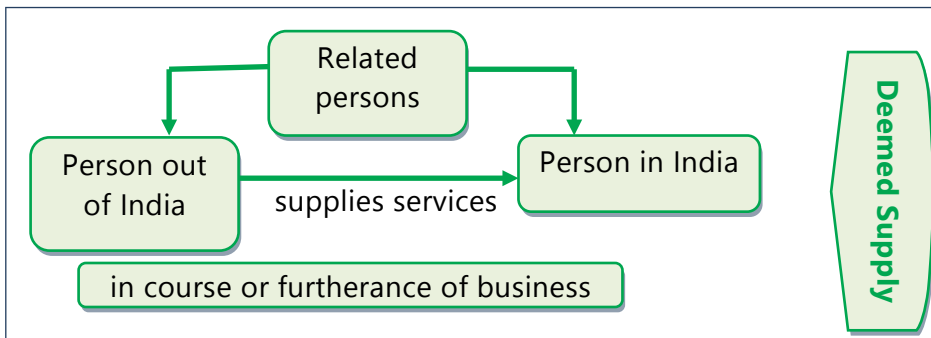


III. Supply between principal and agent



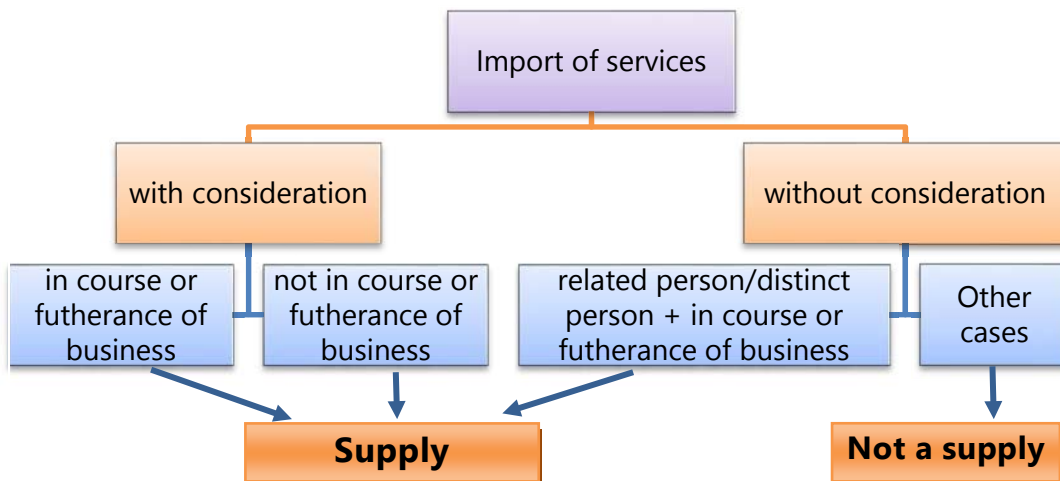


IV. Importation of services







The combined provisions of relating to import of services [as stipulated under section 7(1)(b) and section 7(1)(c) read with Schedule I] have been depicted in the below mentioned diagram:

Import of services



4. Activities or transactions to be treated as Supply of goods or Supply of services [Section 7(1A) read with Schedule II]

S.No.	Activity/ Transaction	Type	Supply of goods/ services
1.	Transfer	(i) Title in goods (ii) Title in goods under an agreement that property shall pass at a future date.	Goods
		Right/undivided share in goods without transfer of title in them	Services
2.	Land and Building	Lease, tenancy, easement, licence to occupy land	Services
		Lease/letting out of building including a commercial/ industrial/ residential complex for business/ commerce, wholly/ partly.	Services
3.	Treatment or Process	Applied to another person's goods	Services
4.	Transfer of Business Assets	Goods forming part of business assets are transferred/disposed off by/under directions of person carrying on business so as no longer to form part of those assets, whether or not for consideration	Goods
		Goods held/used for business are put to private use or are made available to any person for use for any purpose other than business, by/under directions of person carrying on the business, whether or not for consideration	Services

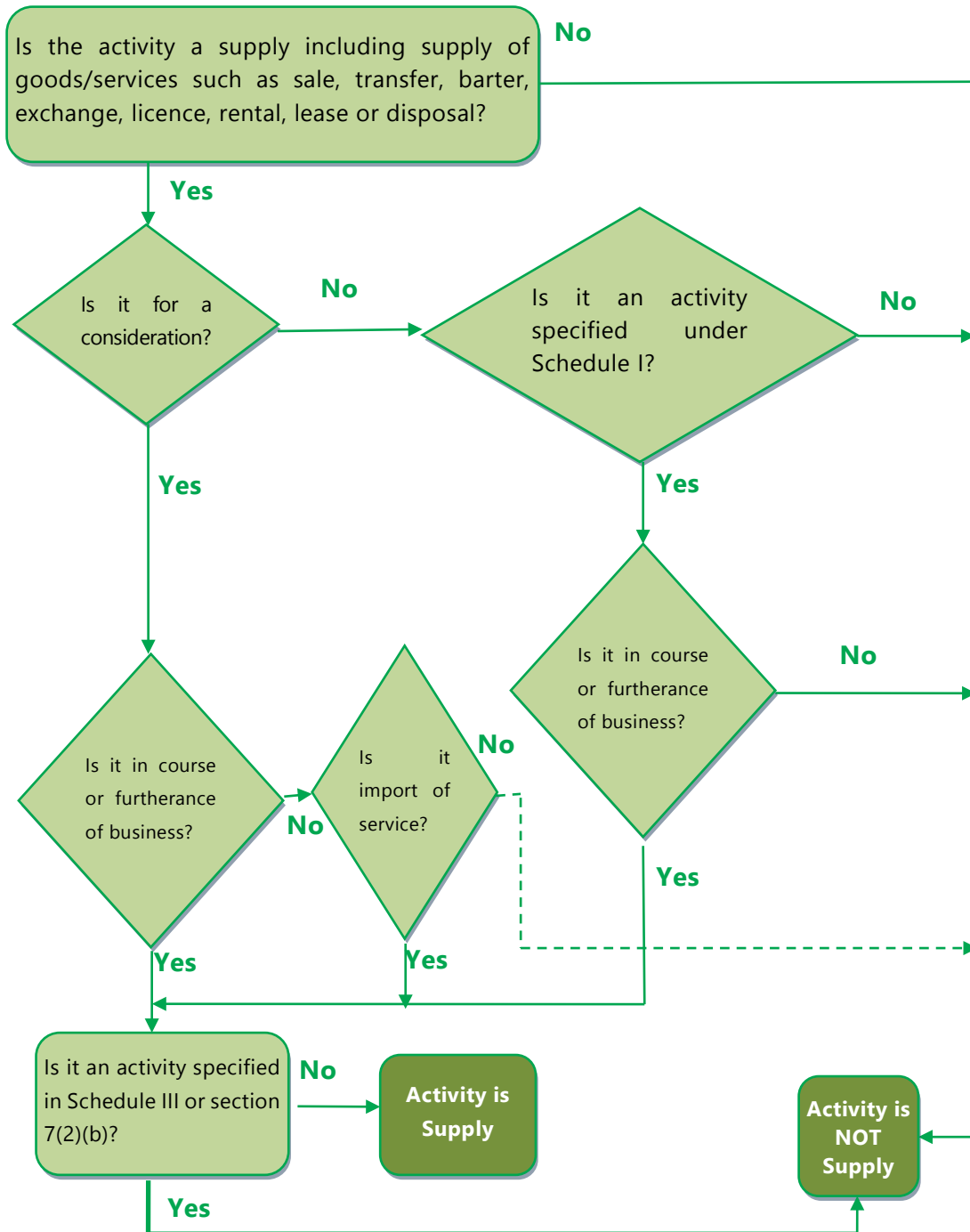
	<p>Goods forming part of assets of any business carried on by a person who ceases to be a taxable person, shall be deemed to be supplied by him, in the course or furtherance of his business, immediately before he ceases to be a taxable person.</p> <p>Exceptions:</p> <ul style="list-style-type: none">  Business transferred as a going concern.  Business carried on by a personal representative who is deemed to be a taxable person. 	Goods
5.	Renting of immovable property	Services
	Construction of complex, building, civil structure, etc.	
	Temporary transfer or permitting use or enjoyment of any intellectual property right	
	Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of IT software	
	Agreeing to obligation to refrain from an act, or to tolerate an act or situation, or to do an act.	
	Transfer of right to use any goods for any purpose	
6.	<p>Following composite supplies:-</p> <ul style="list-style-type: none">  Works contract services.  Supply of goods, being food or any other article for human consumption or any drink. 	Services
	7.	

	deferred payment or other valuable consideration.	
--	---	--

5. Negative list under GST [Section 7(2)(a) read with Schedule III]

S. No.	Activities or transactions which shall be treated neither as a supply of goods nor a supply of services
1.	Services by an employee to the employer in the course of or in relation to his employment.
2.	Services by any court or Tribunal established under any law for the time being in force.
3.	(a) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities; (b) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or (c) 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.
4.	Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5.	Sale of land and, subject to paragraph 5(b) of Schedule II, sale of building.
6.	Actionable claims, other than lottery, betting and gambling.

The diagram on the next page summarises the steps to determine whether an activity undertaken is Supply or not.



6. Composite and mixed supplies



Composite Supply

- Consist of two or more supplies
- **Naturally bundled**
- In conjunction with each other
- One of which is principal supply
- Tax liability shall be rate of principal supply
- **Example:** Charger supplied alongwith mobile phones.



Mixed Supply

- Consist of two or more supplies for a **single price**
- **Not naturally bundled**
- Though can be supplied independently, still supplied together
- Tax liability shall be the rate applicable to the supply that attracts highest rate of tax
- **Example:** A gift pack comprising of chocolates, candies, sweets and balloons.



6. TEST YOUR KNOWLEDGE

- Which of the following is not a supply as per section 7 of the CGST Act?
 - Management consultancy services not in course or furtherance of business
 - Import of service for consideration not in course or furtherance of business
 - Both (a) and (b)
 - None of the above
- _____ specifies the activities to be treated as supply even if made without consideration.

- (a) *Schedule I of CGST Act*
 - (b) *Schedule II of CGST Act*
 - (c) *Schedule III of CGST Act*
 - (d) *All of the above*
3. *Which of the following activity is outside the scope of supply and not taxable under GST?*
- (a) *Services by an employee to the employer in the course of or in relation to his employment*
 - (b) *Services of funeral*
 - (c) *Actionable claims, other than lottery, betting and gambling.*
 - (d) *All of the above*
4. *Which of the following supplies are naturally bundled?*
- (a) *Rent deed executed for renting of two different floors of a building-one for residential and another for commercial purpose to same person*
 - (b) *Pack of watch, tie and belt*
 - (c) *Package of canned food such as burger, chocolates, sweets, cake etc.*
 - (d) *None of the above*
5. *A _____ supply comprising of two or more supplies shall be treated as the supply of that particular supply that attracts highest rate of tax.*
- (a) *Composite*
 - (b) *Mixed*
 - (c) *Both (a) and (b)*
 - (d) *None of the above*
6. *Which of the following activities is a supply of services?*
- (a) *Transfer of right in goods/ undivided share in goods without transfer of title in goods*
 - (b) *Transfer of title in goods*
 - (c) *Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.*
 - (d) *All of the above*
7. *What is the taxable event under GST?*

8. *What is the tax treatment of composite supply and mixed supply under GST?*
9. *Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods?*
10. *Examine whether the following activities would amount to supply under section 7 read with Schedule I of the CGST Act:*
 - (a) *Sulekha Manufacturers have a factory in Delhi and a depot in Mumbai. Both these establishments are registered in respective States. Finished goods are sent from factory in Delhi to the Mumbai depot without consideration so that the same can be sold.*
 - (b) *Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute.*
 - (c) *Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?*
11. *State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of the CGST Act:*
 - (a) *Renting of immovable property.*
 - (b) *Goods forming part of business assets are transferred or disposed of by/under directions of person carrying on the business, whether or not for consideration.*
 - (c) *Transfer of right in goods without transfer of title in goods.*
 - (d) *Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.*
12. *Determine whether the following supplies amount to composite supplies:*
 - (a) *A hotel provides 4 days-3 nights package wherein the facility of breakfast and dinner is provided alongwith the room accommodation.*
 - (b) *A toothpaste company has offered the scheme of free toothbrush alongwith the toothpaste.*
13. *Whether goods supplied on hire purchase basis will be treated as supply of goods or supply of services? Give reason.*



7. ANSWERS/HINTS

1. (a) 2. (a) 3. (d) 4. (d) 5. (b) 6. (a)
7. Taxable event under GST is **supply of goods or services or both**. CGST and SGST/ UTGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies.
8. Composite supply shall be treated as supply of the principal supply. Mixed supply would be treated as supply of that particular goods or services which attracts the highest rate of tax.
9. Title as well as possession both have to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II(1)(b) of the CGST Act. In some cases, possession may be transferred immediately but title may be transferred at a future date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.
10. (a) Schedule I of CGST Act, *inter alia*, stipulates that supply of goods or services or both between related persons or between distinct persons as specified in section 25, is supply even without consideration provided it is made in the course or furtherance of business. Further, a person who has obtained more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as **distinct persons** [Section 25(4) of the CGST Act].
- In view of the same, factory and depot of Sulekha Manufacturers are establishments of two distinct persons. Therefore, supply of goods from Delhi factory of Sulekha Manufacturers to Mumbai Depot without consideration, but in course/furtherance of business, is supply under section 7 read with Schedule I of the CGST Act.
- (b) Schedule I of CGST Act, *inter alia*, stipulates that import of services by a taxable person from a **related person** located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, *inter alia*, provides that persons shall be deemed to be **“related persons”** if they are **members of the same family**. Further, as per section 2(49) of the CGST Act, 2017, family means, —

- (i) the spouse and children of the person, and
- (ii) the parents, grand-parents, brothers and sisters of the person **if they are wholly or mainly dependent on the said person.**

In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49)(ii) above, Raman and his brother cannot be considered to be related as Raman's brother is a well-known lawyer and is not wholly/mainly dependent on Raman. Further, Raman has taken legal advice from him in personal matter and not in course or furtherance of business. Consequently, services provided by Raman's brother to him would not be treated as supply under section 7 read with Schedule I of the CGST Act.

- (c) In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would still not be treated as supply under section 7 of the CGST Act read with Schedule I as although the same are provided in course or furtherance of business, such services have not been received from a related person.

11. (a) Supply of services
(b) Supply of goods
(c) Supply of services
(d) Supply of goods
12. Under composite supply, two or more taxable supplies of goods or services or both, or any combination thereof, are naturally bundled and supplied in conjunction with each other, in the ordinary course of business, one of which is a principal supply [Section 2(30) of the CGST Act]. In view of the same,
- (a) since, supply of breakfast and dinner with the accommodation in the hotel are naturally bundled, said supplies qualify as 'composite supply'.
 - (b) since supply of toothbrush alongwith the toothpaste are not naturally bundled, said supplies do not qualify as 'composite supply'.
13. Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.