

Place of Supply of Goods and Service

Q 1. What is the need for the Place of Supply of Goods and Services under GST?

Ans. The basic principle of GST is that it should effectively tax the consumption of such supplies at the destination thereof or as the case may be at the point of consumption. So place of supply provision determines the place i.e. taxable jurisdiction where the tax should reach. The place of supply determines whether a transaction is intra-state or inter-state. In other words, the place of Supply of Goods or services is required to determine whether a supply is subject to SGST plus CGST in a given State or union territory or else would attract IGST if it is an inter-state supply.

Q 2. Why are place of supply provisions different in respect of goods and services?

Ans. Goods being tangible do not pose any significant problems for determination of their place of consumption. Services being intangible pose problems w.r.t determination of place of supply mainly due to following factors:

- (i) The manner of delivery of service could be altered easily. For example, telecom service could change from mostly post-paid to mostly pre-paid; billing address could be changed, billers address could be changed, repair or maintenance of software could be changed from onsite to online; banking services earlier required the customer to go to the bank, now the customer could avail service from anywhere;
- (ii) Service provider, service receiver and the service provided may not be ascertainable or may easily be suppressed as nothing tangible moves and there would hardly be a trail;
- (iii) For supplying a service, a fixed location of service provider is not mandatory and even the service recipient may receive service while on the move. The location of billing could be changed overnight;
- (iv) Sometime the same element may flow to more than one location, for example, construction or other services in respect of a railway line, a national highway or a bridge on a river which originate in one state and end in the other state. Similarly, a copy right for distribution and exhibition of film could be assigned for many states in single transaction or an advertisement or a programme is broadcasted across the country at the same time. An airline may issue seasonal tickets, containing say 10 leafs which could be used for travel between any two locations in the country. The card issued by Delhi metro could be used by a person located in Noida, or Delhi or Faridabad, without the Delhi metro being able to distinguish the location or journeys at the time of receipt of payment;
- (v) Services are continuously evolving and would thus continue to pose newer challenges. For example, 15-20 years back no one could have thought of DTH, online information, online banking, online booking of tickets, internet, mobile telecommunication etc.

Q 3. What proxies or assumptions in a transaction can be used to determine the place of supply?

Ans. The various element involved in a transaction in services can be used as proxies to determine the place of supply. An assumption or proxy which gives more appropriate result than others for determining the place of supply, could be used for determining the place of supply. The same are discussed below:

- (a) location of service provider;
- (b) the location of service receiver;
- (c) the place where the activity takes place/ place of performance;
- (d) the place where it is consumed; and
- (e) the place/person to which actual benefit flows

Q 4. What is the need to have separate rules for place of supply in respect of B2B (supplies to registered persons) and B2C (supplies to unregistered persons) transactions?

Ans. In respect of B2B transactions, the taxes paid are taken as credit by the recipient so such transactions are just pass through. GST collected on B2B supplies effectively create a liability for the government and an asset for the recipient of such supplies in as much as the recipient is entitled to use the input tax credit for payment of future taxes. For B2B transactions the location of recipient takes care in almost all situations as further credit is to be taken by recipient. The recipient usually further supplies to another customer. The supply is consumed only when a B2B transaction is further converted into B2C transaction. In respect of B2C transactions, the supply is finally consumed and the taxes paid actually come to the government.