

Place of Supply of Services (Location of supplier or recipient is outside India)

Q 30. What is the place of supply in respect of goods that are required to be made physically available for providing the service?

Ans. The place of supply of service in respect of goods that are required to be made physically available by the recipient of service to the supplier of service shall be the location where the services are actually performed. (Section 13 (3) (a) of the IGST Act, 2017)

Q 31. What is the place of supply of services provided from a remote location using electronic means on goods?

Ans. The place of supply shall be the location where the goods are actually located at the time of supply of services. (Proviso to Section 13(3) (a) of the IGST Act, 2017)

Illustration: A Laptop at Mumbai is repaired remotely by a software engineer from Bangalore using TeamViewer software. The place of supply shall be Mumbai, the place where the goods are located.

Q 32. Whether supplies by a banking company, or a financial institution, or a non-banking financial company, in Mumbai to its account holders in Dubai can be considered as export of service?

Ans. No. The place of supply of such services is location of supplier and therefore these cannot be considered as export of services. In the present case, the supplier being located in Mumbai and place of supply also in Mumbai, these services will be taxed and CGST plus SGST would be levied. [Section 13(8)(a) of IGST Act]

Q 33. Who is an intermediary?

Ans. “intermediary” means a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods or services or both, or securities, between two or more persons, but does not include a person who supplies such goods or services or both or securities on his own account.

Q 34. What is the place of supply of an intermediary?

Ans. The place of supply for intermediary services will be the location of supplier of service. It is to be noted that this rule will apply only when either the supplier or recipient is located outside India.

Q 35. What would be the place of supply in respect of services pertaining to goods transportation, wherein either the supplier or recipient is located outside India?

Ans. The place of supply of services of transportation of goods, other than by way of mail

or courier, shall be the place of destination of such goods. (Section 13(9) of IGST Act)
For goods transportation via mail or courier, the default provision of Section 13(2) will apply i.e. place of supply will be the location of the recipient of service.

Q 36. What would be the place of supply in respect of Online Information and Database Access or Retrieval (OIDAR) Services?

Ans. For OIDAR services the place of supply will be the location of recipient of services. In case the recipient of OIDAR services is registered, he will pay Integrated tax on reverse charge basis. However, if the recipient is unregistered, the supplier will be liable to pay the tax. For the purpose of determining place of supply, the location of recipient of service shall be deemed to be in the taxable territory if any two of the following seven non-contradictory conditions are satisfied, namely: -

- (a) the location of address presented by the recipient of services through internet is in the taxable territory;
- (b) the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;
- (c) the billing address of the recipient of services is in the taxable territory;
- (d) the internet protocol address of the device used by the recipient of services is in the taxable territory;
- (e) the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;
- (f) the country code of the subscriber identity module card used by the recipient of services is of taxable territory;
- (g) the location of the fixed land line through which the service is received by the recipient is in the taxable territory.

Q 37. Whether the launch service provided by ANTRIX Corporation qualifies to be considered as export of services?

Ans. In terms of Section 13(9) of IGST Act, 2017, the place of supply of satellite launch service by ANTRIX Corporation to international customers would be outside India and wherever such supply qualifies all conditions specified under Section 2(6) of the IGST Act, 2017, would constitute as export of service and shall be zero rated.

Where satellite service was provided to a person in India, the place of supply of satellite launch service would be location of the recipient of services, provided the recipient is registered. In case where the recipient is not registered then place of supply is the place where such goods are handed over for their transportation.

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Q 38. What is the place of supply in case of supply of services relating to R&D, technical testing etc. to a person located outside India who sends the goods temporarily into India as the same are required by the supplier to provide the services?

Ans. In such cases, the general principle as per section 13(3)(a) is that the place of supply shall be the location where the services are actually performed. However, following proviso has been inserted to section 13(3)(a) vide the IGST (Amendment) Act, 2018. This amendment is yet to be brought into force.

However, in the case of services supplied in respect of goods which are temporarily imported into India for repairs or for any other treatment or process and are exported after such repairs or treatment or process without being put to any use in India, other than that which is required for such repairs or treatment or process, the default rule would be applicable i.e. the place of supply shall be the location of recipient of services.

Thus, in such cases, the place of supply shall be the location of recipient of services (Default provision in section 13(2)) i.e. outside India.

Q 39. How will the place of supply be determined wherein the goods are supplied from the premises of job worker?

Ans. The principal may supply, from the place of business / premises of a job worker on payment of tax within India. The place of supply would have to be determined in the hands of the principal irrespective of the location of the job worker's place of business/premises.

Illustration: The principal is located in State A, the job worker in State B and the recipient in State C. In case the supply is made from the job worker's place of business / premises, the invoice will be issued by the supplier (principal) located in State A to the recipient located in State C. The said transaction will be an inter-State supply. In case the recipient is also located in State A, it will be an intra-State supply.

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