



Section 9 of CGST Act

9(1)

Tax on supply of G/s/b
Rate - prescribed (not more than 20%)
Value- sec 15

9(2)

*GST on 5 petroleum products
from future date*

9(3)

Reverse Charge - Specified
goods and services

9(4)

*Reverse charge on specified
purchases from URD*

9(5)

*Right prescribe the ECO liable to
pay GST on supply via their
portal
1st Proviso- if no physical
presence at a place, rep will be
liable for GST
IInd Proviso- If no Rep, appoint
one*



Section - 9(1)

(9)1	Basic Levy	<p>Subject to the provisions of sub-section (2), there shall be <i>levied a tax called the central goods and services tax</i> on all <i>intra-State supplies of goods or services</i> or both,</p> <p>except on the supply of alcoholic liquor for human consumption, on the <i>value determined under section 15</i></p> <p>and at <i>such rates, not exceeding twenty per cent.</i>, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</p>
------	------------	--

The basic levy of GST is casted upon a supplier. The term is defined in the CGST Act. A supplier means-

“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 29(105).



	Notification	Description
Goods	01/2017-Central Tax(rate), dt 28-06-2017	Cgst rate schedule notified under section 9(1)
	02/2017-Central Tax(rate), dt 28-06-2017	Cgst exempt notified schedule notified under section 11(1)
	04/2017-Central Tax(rate), dt 28-06-2017	Reverse Charge on certain specified supplies of goods under section 9(3)
Services	011/2017-Central Tax(rate), dt 28-06-2017	To notify the rates of supply of services under CGST Act
	012/2017-Central Tax(rate), dt 28-06-2017	To notify Exemptions on supply of services under CGST Act
	013/2017-Central Tax(rate), dt 28-06-2017	To notify categories of services on which tax will be payable under reverse charge mechanism under CGST Act



We need to analyse the 1st sub-section of section 9. It answers many important questions.

- CGST is on intra state supply.
- It is on supply.
- Supply shall be of Goods or services or any combination thereof.
- It is on all supplies of goods and/or services but not on alcoholic liquor. It is out of the scope of GST. You can refer to the 101st constitutional amendment Act. It defines the GST as a tax on supply of goods and/or services except alcoholic liquor.
- Value of levy of GST - The value of supply shall be determined as per the provisions under section 15 of CGST Act. We will read it in detail in the Chapter no. 6 of this book. But for a quick reference we can fix in our mind that value for GST purpose is the value charged on a valid invoice. The price the buyer is required to pay for a supply whether in the form of money or in any other form.
- Rate for levy of GST - The rate of tax is required to be notified by the government. But in any case they can't be more than 20% for CGST. (Same provision is there in SGST Act also , thus the total rate can't be more than 40% for both Acts. In the IGST levy section the rate mentioned is 40%.

Let us try to understand the meaning of all these terms.





Section 7-Inter state supply

SS.1

Goods-

LOS & Place of supply

- Different states
- Different UT's
- One state and other UT

SS.2

Import of Goods-

-Till they cross the custom frontiers

SS.3

Services-

LOS & Place of supply

- Different states
- Different UT's
- One state and other UT

SS.4

Import of services-

SS.5

Goods/services-

- LoS- India & PoS is O/S India
- To/by SEZ developer or Unit
- In Taxable territory, not covered anywhere



Inter State Supply

Section 7 of IGST Act explains the inter state supply.

(1) Inter state supply of Goods	Subject to the provisions of section 10 , supply of goods, where the location of the supplier and the place of supply are in-- (a) two different States; (b) two different Union territories; or (c) a State and a Union territory, shall be treated as a supply of goods in the course of inter-State trade or commerce
(2) Import of Goods	Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce.
(3) Inter state supply of services	Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in-- (a) two different States; (b) two different Union territories; or (c) a State and a Union territory, shall be treated as a supply of services in the course of inter-State trade or commerce.



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



Analysis-

Inter state supply will include the following-

1. Supply from one state or UT to another state or UT. This applies on both goods and/or services. Location of supplier and place of supply shall be in different states or UT's. Now we need to understand the meaning of Location of supplier and place of supply.
 - Location of the supplier is the location to manage his outward supply. Generally it is his registered place of business. But there can be some exceptions also. Like if he has a fixed place of business in some state but that place is not registered. But he had the technical infrastructure or manpower, then it can also be a location of a supplier.
 - Place of supply is the location where a supply is delivered. Section 10,11,12,13 of IGST Act covers the place of supply. We will read these sections in detail to understand the place of supply.
2. In case of import of Goods or services their nature will be of inter state supply. The tax liability will be on the importer of Goods or services. Import is deemed as an inter state supply of Goods by the Constitution of India itself. In case of services, they are covered by the entry 1 of 10/2017 IGST-rate, the notification for RCM in IGST.
3. In the following scenarios the nature of supply will be inter state
 - The supplier is in India and the place of supply is outside India.
 - Supply to SEZ developer
 - Supply in Indian territory not covered by the intra state supply.





Section 8-Intra state supply

SS.1

Goods-

LoS & PoS both are in same state or UT

Proviso to SS.1

Exception-

I. Supply to or from SEZ developer or Unit

li. Import into India till they cross the custom frontiers

SS.2

Services-

LoS & PoS both are in same state

Proviso to SS.2

Exception-

I. Supply to or from SEZ developer or Unit

Exp. 1 to SS.2

Establishment of Distinct person-

- i-One in India and one Outside India
- ii-One in a state and other is outside the state
- iii-One in a state and other registered in same state

Exp. 2 to SS.2

branch or an agency or a representational office shall be treated as establishment in that territory



Intra state supply-

The term is defined by section 8 of IGST Act.

8. (1) Subject to the provisions of section 10, supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intraState supply:

Provided that the following supply of goods shall not be treated as intra-State supply, namely:--

- (i) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;
- (ii) goods imported into the territory of India till they cross the customs frontiers of India; or
- (ii) Supplies made to a tourist referred to in section 15.

(2) Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply:

Provided that the intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.



Explanation 1.--For the purposes of this Act, where a person has,--

(i) an establishment in India and any other establishment outside India;

(ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or

(iii) an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons.

Explanation 2.--A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.



Illustration

Please determine the nature of the transaction in following cases.

1.	Mr. Tanishk from Bangalore made a supply of Goods to Mr. Zian of Pune.
2.	Sainmy from Delhi made a supply at Thiruvananthapuram.
3.	CRL enterprises located in Tripura made a supply in Puducherry
4.	Msigno Private limited located in Chandigarh made a supply to Kerala
5.	ADCL Ltd , located in Gurugram , Haryana made a supply to Expo Ltd, located in SEZ of Gurugram
6.	AYSM of Gurugram made a supply to DLF Haryana, An SEZ developer
7.	Jigyasu of Vijaya Nagar, Telangana , made a supply to Chitra & Co. Of Nashik



Supply-

Defined in section 7 of CGST Act. Supply can be of Goods or services or a combination of both. But the basic requirement is that there should be a consideration and it should be in course or furtherance of business.

Goods

Section 2(52) “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.

Analysis- Goods will include the Following-

- Every kind of movable property.
- Growing crops, Grass and things attached to land , if there is a contract to sever them for supply
- Actionable Claims

Following are not included in the definition of Goods-

- Immovable property.
- Money
- Securities



- The goods will include all movable property. The term movable property or immovable property is not defined in CGST Act. The General clauses Act defines the term immovable property.
- Section 2(26) of The General Clauses Act- “immovable property” shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth.
- Land and anything attached to earth is immovable as per this definition. Now we need to understand the meaning of attached to Earth.

Services

Section (102) “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;



Alcoholic liquor for Human consumption

Alcoholic liquor for human consumption is out from the preview of GST. But Alcoholic liquor for industrial use will still be liable for GST.

Value of supply

The value of supply is covered by section 15 of CGST Act. We will read it in detail in Chapter 6 but for now we can take the value of supply as Transaction value. The amount payable for a supply, whether in money or some other benefits.

Tax rate notifications

The section provides the right to notify the tax rates. Following notifications were issued to notify the tax rates for goods and services.

01/2017- CTR	CGST Rate Schedule notified under section 9 (1)
11/2017-CTR	To notify the rates for supply of services under CGST Act



Section 9(2)

2	5 petroleum product out from levy	The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.
---	-----------------------------------	--

5 Petroleum products are out from the levy of GST for now. It was decided at the time of introducing the GST in India. But they are supposed to be a part of GST levy. Let us hope that in future they can be levied to GST. But till then GST is not leviable on these five petroleum products.



Section 9(3)

3	Reverse charge levy	The Government may, on the recommendations of the Council, by notification, specify the categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
---	---------------------	---

Reverse charge means reversing the Levy of GST. Normal levy of GST is called forward charge. In forward charge levy the supplier is required to collect the tax from the buyer and deposit it to the account of the government. In reverse charge exactly reverse of this happens. The buyer himself makes the payment of tax to the account of the government.

What is the difference in reverse charge and forward charge Levy?



Try to find out the changes yourself and then verify with the answer given below.

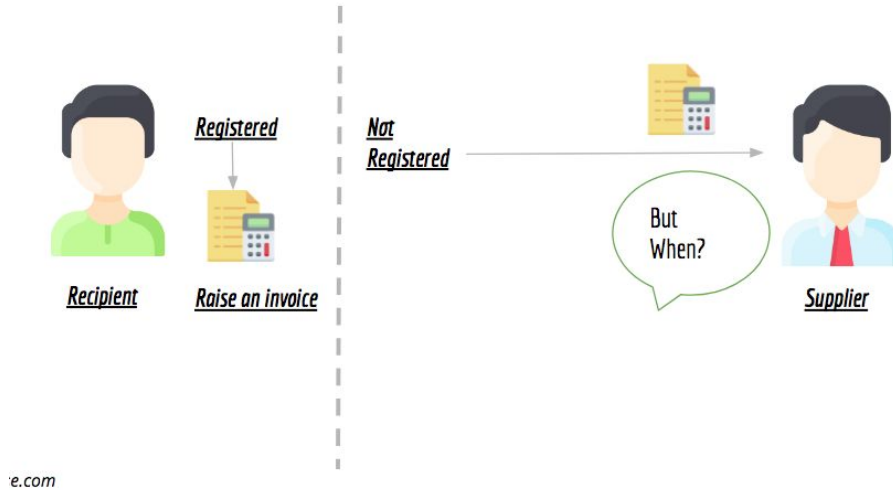
	Forward Charge	Reverse Charge
Collection of Tax	In forward charge the Tax is collected by the supplier.	In reverse charge, The tax is directly paid by the recipient of supply.
Payment of Tax	Payment to the account of the government is made by the Supplier.	Payment to the account of the government is made by the recipient.
Charging Section	Section 9(1) is the charging section for forward charge.	Section 9(3) & 9(4) is the charging section for Reverse charge.
Notification	Notification no. 1/2017 -CTR and 11/2017 -CTR provides for the tax rates for forward charge respectively.	Section 4/2017-CTR and section 13/2017 provide for the supplies covered under the reverse charge.
Invoice	The invoice in case of forward charge is raised by the supplier	In case of reverse charge, Invoice is issued by supplier only if he is registered. In case of Unregistered supplier the invoice is raised by the recipient under the self invoicing as mentioned in section 31(3)(f).



Availability of ITC	The ITC is available on an accrual basis.	In case of reverse charge ITC is available only when the payment of tax is made by the cash ledger. This tax cant be paid via ITC.
Prosecution and Penalty	The provisions related to the prosecution will be applicable on the supplier. He will be liable for penalty also.	IN this case the prosecution and penalty will belong to the recipient.
Reporting in GSTR 3b	In GSTR 3b , ITC is shown in table 4.	In GSTR 3b , It is shown in liability in Table 3 and then the ITC is shown in Table 4.
Time of Supply	Time of supply for forward charge supply is date of Invoice in case of Goods and Supply +30 days in case of Services.	In case of reverse charge , Time of supply is receipt of Goods , in case of goods and supply +60 days in case of services.



Invoicing for the reverse charge supply



This is another provision for the reverse charge. But it is applicable only in case of purchases from an unregistered supplier. Goods or services can be notified under this section. Similarities and differences between reverse charge u/s 9(3) & 9(4).



Section 9(4)

4	Reverse charge levy for purchase from unregistered buyer	<p>The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</p> <p>The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both. [Substituted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f 01-02-2019]</p>
---	--	---



<u>Similarities</u>	9(3)	9(4)
Tax collection	No need to collect tax from the buyer.	No need for collection of tax from buyer
Tax Payment	Tax is paid to the account of the government by the buyer of supply directly.	Same
Compliances	Recipients are liable for compliances related to tax.	Same
Offence and penalty	The penalty for compliance is also leviable on the recipient.	Same
ITC eligibility	ITC of tax payable in RCM is available only when it is paid via cash ledger.	Same



<u>Differences</u>		
Recipient	In this case the recipient can be registered or unregistered.	It applies only to purchases from an unregistered supplier.
Notification	These are notified by notification no. 4/2017 CTR for Goods and 13/2017-CTR for services.	There is no notification yet to notify any supply in this RCM.
Liability to register	In some cases there can be a liability to register on the recipient under this RCM.	In this Reverse charge, there is no liability on the recipient to get registered.
Invoice	The recipient is required to make an invoice if the supplier is registered. On the other hand if the supplier is registered he will raise the invoice.	In this case the recipient is liable to raise the invoice in every case.



Section 9(5)

5	ECO levy	The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:
First proviso to section 9(5)	Liability of representative when ECO is not present physically present	Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:
Second proviso to section 9(5)	Liability to appoint a representative	Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.



This levy is acted upon by an E-commerce operator. In case of notified supplies, the E-commerce operator is liable to pay tax. Only the services can be notified here under this section.

1.	17/2017-CTR	Services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab and motorcycle.
2.	17/2017-CTR	Services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes Except where the vendor is required to be registered under section 22(1) of this Act.
3.	23/2017-CTR	Services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section (1) of section 22 of the said Central Goods and Services Tax Act.

In these cases the ECO is liable to pay the tax on supply through their portal. But in case of Hotel Booking and house -keeping , if the vendor is liable to be registered , There is no need for payment of tax by ECO.



Illustration:-

Zexture Ltd is providing radio taxi services. Vendors register at their portal and then provide the services using their mobile application made for booking of cabs. Out of 800 vendors 50 are registered in GST. Who will be liable to pay tax i relation of services provided by-

- Registered Vendors
- Unregistered Vendors

Illustration:-

Flipkart has created an E-commerce portal. The portal registers the vendors and let them list their Goods for sale. They have 15000 vendors. Out of this number 12000 are registered in GST. Who is liable for payment of GST on the supplies via Flipkart.

- In case of registered vendors
- In case of Unregistered Vendors

