

Supply under GST

The determination of the taxable event is one of the most important matter in every tax law. It is that event which on its occurrence creates or attracts the liability to tax. **The taxable event under GST shall be the supply of goods or services or both made for consideration in the course or furtherance of business.** The taxable events under the existing indirect tax laws such as manufacture, sale, or provision of services shall stand subsumed in the taxable event known as 'supply.'

RELEVANT DEFINITION w.r.t above definition of supply

Meaning of goods [Sec. 2(52)]

As per 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.

Meaning of services [Sec. 2(102)]

As per section 2(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;

Example: A foreign exchange dealer exchanging one currency for another in lieu of a commission.

Consideration [Sec. 2(31)]

In relation to the supply of goods or services or both includes—

- (a) any payment made or to be made,
 - a. whether in **money or otherwise**,
 - b. in respect of, in response to, or for the inducement of,**
 - c. the supply of goods or services or both,
 - d. whether by the recipient or
 - e. by any other person
 - f. but shall not include any subsidy given by the Central or state Government;

Consideration can be in monetary (Cash or Card, etc.) or non-monetary form (Barter, Doing or agreeing to do or not to do an act.

What is supply under GST?

Supply includes sale, transfer, exchange, barter, license, rental, lease and disposal of all forms of Goods and/or Services. If a person undertakes either of these transactions during the course or furtherance of business for consideration, it will be covered under the meaning of Supply under GST.

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Elements of Supply

Supply has an inclusive definition under the Act. Its most important elements:

- Supply is done for a **consideration**
- Supply is done in course **of furtherance of business**
- Supply should be **of goods or services**. Supply of anything other than goods or services like money, securities etc. does not attract GST.

If the aforementioned elements are not met with, **it is not considered as a supply.**

Import of services for a consideration whether or not in the course or furtherance of business will be **included in the scope of supply**. IGST on Imports would be in addition to the Custom Duty that is leviable on the Imports of Goods and/or Services.

Activities specified in Schedule I made or agreed to be **made without a consideration would be considered as supply.**

- Permanent transfer or disposal of business assets where ITC has been availed on such assets.
- Supply of goods or services or both between related persons or between distinct persons.
Exception: Gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply .
- Supply of goods by a principal to his agent or vice versa where the agent undertakes to supply or receive such goods on behalf of the principal;
- Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Activities specified in Schedule II would **be considered as either supply of Goods or Services:-**

1. Transfer of title or rights

- any transfer of the title in goods is a supply of goods;
- any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services;
- any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods.

2. Land and Building

- Any lease, tenancy, easement, licence to occupy land is a supply of services;
- Any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.

3. Any Treatment or process which is applied to another person's goods is a supply of services (e.g –Jobwork)

4. Transfer of business assets

- where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business so as no longer to form part of those assets, whether or not for a consideration, such transfer or disposal is a supply of goods by the person;
- where, by or under the direction of a person carrying on a business, goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other

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than a purpose of the business, whether or not for a consideration, the usage or making available of such goods is a supply of services;

- where any person ceases to be a taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be a taxable person, unless—
 - the business is transferred as a going concern to another person; or
 - the business is carried on by a personal representative who is deemed to be a taxable person.

5. Supply of services

The following shall be treated as supply of services, namely:—

- renting of immovable property;
- construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier
- temporary transfer or permitting the use or enjoyment of any intellectual property right;
- development, design, programming, customisation, adaptation, Upgradation, enhancement, implementation of information technology software;
- agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and
- transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.

6. Composite Supply of-

- works contract ,and
- supply, by or as any service whatsoever, of goods, being food or drinks or any other article for human consumption where such supply or is for Consideration.

7. Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration shall be considered as supply of Goods.

Activities which shall be treated as neither Supply of goods nor of Services

1. SCHEDULE III

- a. Services by an employee to the employer in the course of or in relation to his employment.
- b. Services by any court or Tribunal established under any law for the time being in force.
- c.
 - i. the functions performed by the MPs, MLAs, Members of Panchayat and Municipalities and of local authorities;
 - ii. the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
 - iii. the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
- d. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
- e. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.

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- f. Actionable claims, other than lottery, betting and gambling.
- 2. 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,

Classification of supply

There are namely two types of Supplies:

- 1) Composite Supply
- 2) Mixed Supply

Composite Supply

Defined Under Section 2(30) “Composite Supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply:

Composite supply is when two or more goods are sold in together with one of them being a principle Supply. It is similar to the bundled services. They are generally provided together in the normal course of business and cannot be separated.

Example:

- (1) Booking of Air Tickets which involves the cost of a meal to be provided during travel will be composite supply and tax will be calculated on principal supply.
- (2) Where goods are packed and transported by insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply.
- (3) A 5-star hotel provides 4-days and 3-night packages with breakfast. This is a composite supply as the package of accommodation facilities and breakfast is also provided. In this case, hotel accommodation is the principal supply and breakfast is secondary to the hotel accommodation.
- (4) A Laptop bag is supplied with the laptop in the ordinary course of business, the principal supply of laptop and bag is ancillary. It is composite supply and rate of tax would be applicable on a laptop.

Taxability:

Composite supply shall be treated as a supply of the principal supply and the rate of GST shall be the rate as applicable to such principal supply.

2)Mixed Supply

Section 2(74) of CGST Act 2017, “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.

It consists of two or more individual supplies of goods or services or both or any combination thereof. Mixed supply does not fulfil the parameters of a composite supply i.e. supply is not naturally bundled and not supplied in conjunction with each other in the ordinary course of business. The supply should be made for a single price.

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Examples:

(1) Diwali gift hamper which consists of different Items like sweets, chocolates, cakes, dry fruits packed in one pack is Mixed supply as these items can be sold separately and it shall be treated as a supply of that particular item which attracts the highest rate of

(2) Big Bazar offers a free bucket of detergent purchased. The Product which the highest rate will be applied to mixed supply.

(3) A house is given on rent one floor of which is to be used as residence and the other floor to be used as a printing press. Such renting for two different purposes is not naturally bundled in the ordinary course of business. Therefore, if a single rent deed is executed where only residential use of house is specified, it will be treated as a mixed supply as it is not naturally bundled and the renting of house for commercial use is a taxable supply. Thus, the said supply shall be considered as service comprising entirely of such service which attracts highest liability of GST.

Taxability

A mixed supply comprising two or more supplies. It shall be treated as a supply of that particular supply which attracts the highest rate of tax.

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Contributors

Miss Anamika Khanna | CA Suraj Goyal

M/s Goyal Suraj & Co.

+91-98303-99783 | goyalsuraj92@gmail.com

www.gstbygoyals.blogspot.in | <https://www.linkedin.com/in/ca-suraj-goyal-97b72685/>