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Chapter – Supply of Goods and Services

TAXABLE EVENT IN GST

Goods and services tax mean a tax on supply of goods or services, or both, except taxes on supply of alcoholic liquor for human consumption [Article 366(12A) of constitution of India inserted w.e.f 16-9-2016]

Note that the word used is 'supply' and not 'sale' or 'manufacturer'. 'Consideration' is not required for supply.

MEANING OF THE TERM “SUPPLY”:“Supply” includes all forms of supply (goods and/or services) includes agreeing to supply when they are:

- For your consideration; and
- In the course of furtherance of business.

Following are the forms of “Supply”:

- Sale
- Transfer
- Barter
- Exchange
- License
- Rental
- Lease; or
- Disposal

Time, place and value of supply under GST

According to all the law, the point of taxation means the point in time when goods have been deemed to be provided. The point of taxation enables us to determine the rate of tax, value, and due date for payment of taxes.

How to determine time of supply. –

The time of supply of goods/Services shall be the earlier of the following dates:

The date of issuing invoice (or the last day by which invoice should have been issued). OR

The date of receipt of payment which your is earlier

If the supplier of taxable goods/services receives amount and amount of two up to INR 1000 in excess of invoice amount, the time of supply for the extra amount shall be date of issue of invoice (at the option of the supplier).

For both the above classes, the supply shall be assumed to have been made to the extent it is covered by the invoice or the payment (as the case may be).

For the second clause, the date of receipt of payment shall be earlier of; The date on which the dealer enters the payment in their books. OR The date on which the payment is credited to their bank account.

For example, if the date of invoice is 15th May 2020, and date of receipt of payment is 10th July 2020. The date when the supplier recorded the received in his book is 11th July 2020.

Thus, the time of supply will be 15th May 2020.

How to determine place of supply –

'Place of supply' under GST is an important factor as it defines whether construction will be counted as intra-state and accordingly the changeability of tax, i.e. levy of SGST, CGST & IGST will be determined.

Why determining the levy of taxes depends on place of supply, two things are considered -

1. Location of supplier – It is the registered place of business of the supplier

2. Place of supply - It is the registered place of business of the recipient. There are specific provisions for determination of place of supply of goods which depend on –

The place of supply of goods: where the supply involves movement of goods. The place of supply of goods: where the supply involves no movement of goods. The place of supply of goods: in case of export and import of goods. How to determine the place of supply of services – GST is destination-based tax, which means tax will be levied on goods and services consumed and will accrue to the state.

Under GST, there are three levels of tax, IGST, CGST, and SGST based on the **"place of supply"** so determined, the respective tax will be levied. IGST is levied where transaction is inter-state, and CGST and SGST are levied whether transaction is intra-state.

For understanding place of supply for services the following two concepts are very important namely

1. Location of the recipient of services
2. Location of the supplier of services

Time of supply under reverse charge:

Reverse charge means the liability to pay tax is by the recipient of goods/services instead of the supplier. In case of reverse charge, the time of supply shall be the earliest of the following dates:

The date of payment. **OR**

Date immediately after sixty(60) days from the date of issue of invoice by the supplier (30 days for goods).

If it is not possible to determine the time of supply using the above rules, then the time of supply shall be the date of entry in the books of account of the receiver of service.

Valuation of supply under GST –

GST will be charged on the 'transaction value'. Transaction value is the price actually paid (or payable) for the supply of goods/services between unrelated parties (i.e. price is the sole consideration)

The value of supply under GST shall include:

Any taxes, duties, cess, fees and charges levied under any act, except GST. GST compensation Cess will be excluded if charged separately by the supplier.

any amount that the supplier is liable to pay which has been incurred by the recipient and is not included in the price.

The value will include all incidental expenses in relation to sale such as packing, admission etc.

Subsidies linked to the supply, except government subsidies will be included.

Interest/late fees/penalty for delayed payment of consideration will be included. Discounts:

Under GST, discounts given before or at the time of supply will be allowed as deduction from transaction value. Such discounts must be clearly mentioned on the invoice.

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Long Answer Type Questions:

1. What do you mean by supply? What is the time of supply and when it is taxable? Explain the effects of change in rate of tax on time of supply.

2. What is the value of supply for levy of GST? How the value could be determined if consideration not wholly in money?

Short Answer Types Questions:

1. What do you understand Time of supply of goods and services?
2. What will be the time of supply under Reverse Charge Mechanism (RCM)?

References:

1. *Goods And Services Tax: Dr. H. C Mehrotra and Prof. V. P. Agrawal (Sahitya Bhawan Publication, Agra)*
2. *GST and Customs Law: CA Anup Modi and CA Mahesh Gupta (SBPD Publication, Agra)*
3. *CGST Act 2017*
4. *GST: Sudhir Halakhandi (PDF)*

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