

# Place of Supply of services

**GST Context**

## Covered by section 12 and 13 of IGST Act

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- ◉ Section 12(2) of the Act provides for the place of supply of services where location of supplier and recipient is in India.
- ◉ Section 13 provides for the place of supply of services where location of supplier or location of recipient is **outside** India.

# Location of supplier of services

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- Section 2(15) of the Act defines the expression 'location of supplier of services' as-
- supply is made from :
- Regd. Place - the location of such place of business;
- where a supply is made from a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment; (like job worker added as additional place)
- where a supply is made from more than one establishment whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
- in absence of such places, the location of the usual place of resident of the supplier.

# Location of recipient of services

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- Section 2(14) of the Act defines the expression 'location of the recipient of services' as-
- where a supply is received at place of business for which the registration has been obtained, the location of such place of business;
- where a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
- where a supply is received at more than one establishment, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the receipt of supply; and
- in absence of such places, the location of the usual place of residence of the recipient.

## Place of supply of services where location of supplier and recipient is in India

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- Section 12(1) of the Act provides that the provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.

# Place of supply directly in relation to an immovable property Section 12(3)

- **Section 12(3)** provides that the place of supply of services-
- directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or
- by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a housing boat or any other vessel; or
- by way of accommodation in any immovable property for organizing any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or
- any services ancillary to the services referred to above
- shall be the location at which the immovable property or boat or vessel is located or intends to be located. If the location of the immovable property or boat or vessel is **located or intended to be located outside India, the place of supply shall be the location of the recipient.**
- *E..g. A in Delhi wants to construct a building at Jaipur. He hires an engineer based at Kolkata. POS in this case would be Jaipur as immovable property is intended to be located in Jaipur.*
- *Sita registered in Jaipur. She goes to Kolkata and stays in a hotel at Kolkata. She also charges for use facility of Beauty treatment at hotel. POS would be Kolkata for accommodation service by hotel and Beauty treatment as it is an ancillary service to the accommodation*

## Location at more than one place

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- Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective State or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

## For restaurant etc.,

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- Section 12(4) provides that the place of supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery shall be the location **where the services are actually performed.**



## For training and performance appraisal

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- [Section 12\(5\)](#) provides that the place of supply of services in relation to training and performance appraisal to a **registered person** shall be the **location of such person** and to a person **other than a registered person**, it shall be the location where the services are actually performed.

*e.g. A located at Delhi provides training at Kolkata to employees of M Ltd, which is registered at Mumbai. POS will be Mumbai. If M Ltd is not a registered than POS will be Kolkata.*

For admission to a cultural, artistic, sporting  
etc.,

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- Section 12(6) provides that the place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other places is located.

# For organizing a cultural, artistic, sporting etc.,

- ⦿ Section 12(7) provides that the place of supply of services provided by way of-
- ⦿ organization of a cultural, artistic, sporting, scientific, educational or entertainment events including supply of services in relation to a conference, fair, exhibition, celebration of similar events; or
- ⦿ services ancillary to organization of any of the events or services referred to above, or assigning of sponsorship to such events-
  - to a registered person, shall be the location of such person;
  - to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply be the location of the recipient;
- ⦿ E.g. Example:1. K organizing a cultural event at Mumbai. He is registered in Kolkata. D is a registered person in Delhi, provides his services at Mumbai.
- ⦿ POS would be Kolkata. However if K is not registered than POS would be Mumbai.
- ⦿ Example:2. A who is resident in Mumbai hires B who is resident of Jaipur to provide services for organizing an event at USA. POS would be Mumbai

# More than one state

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- Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

# For transportation of goods

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- Section 12(8) provides that the place of supply of services for transportation of goods, including mail or courier to a registered person shall be the location of each such person; a person other than a registered person, the place of supply shall be the location at which such goods are handed over for their transportation.
- Example: D is registered person in Delhi. He sends some goods from transportation from Kolkata to Mumbai.
- POS would be Delhi. However if D is not registered person than POS would be Kolkata.

# For transportation of passengers

- Section 12(9) provides that the place of supply of passenger of transportation service to a **registered person** shall be **the location of such person**. The place of supply for a person **other than a registered person** shall be the place **where** the passenger **embarks on the conveyance** for a continuous journey.
- Example:1 Journey from Mumbai-Delhi-London-Delhi: POS Delhi
- Example:2 Journey from London-Mumbai-London: POS London
- Example:3 A books two tickets. 1<sup>st</sup> is Mumbai-Delhi and 2<sup>nd</sup> is Delhi-Mumbai for Return. In this case for 1<sup>st</sup> case POS is Mumbai and for 2<sup>nd</sup> Delhi.
- (all these example treated as unregistered.)

# For on board a conveyance

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- [Section 12\(10\)](#) provides that the place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the **first schedule point of departure** of that conveyance for the journey.

# For telecommunications

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- Telecommunication services including data transfer, broadcasting cable and direct to home television services
- Where the fixed telecommunication line is installed for receipt of service
- *Example: A Limited registered at Mumbai provides a dish antenna at house of B in Jaipur. POS would be Jaipur*



# Mobile connections

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- Mobile connection for telecommunication and internet services provided on post- paid basis  
Location of Billing address of the recipient of service of the supplier of service
- Mobile connection for telecommunication and internet services provided on pre payment through a voucher  
Location where such pre payment is received or vouchers are sold
- Mobile connection for telecommunication and internet services provided on pre payment through electronic mode or internet banking  
Location of the recipient of service on record of the supplier of service

## For banking and other financial rules

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- **Section 12(12)** provides that the place of supply of banking and other financial services, including stock broking services to any person shall be the **location of the recipient of services** on the records of the supplier of services. If the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the **supplier** of services.
- *Example: D in Delhi has a bank account with SBI. The address on record available with bank is in Kolkata. POS is Kolkata*

# For insurance services

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- Section 12(13) provides that the place of supply of insurance services shall to a **registered person**, be the **location of such person**. If it is to a person other than a registered person, the place of supply is the **location of the recipient of services** on the records of supplier of services.
- Example: A is person located at Jaipur and taken an insurance policy from a company based in Mumbai. If A is registered then POS would be Jaipur.
- Otherwise location of the recipient of services on the records of the supplier of services.

# For advertisement services

- Section 12(14) provides that the place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified on the contract or agreement shall be taken as being in each of such States or Union territories and the value of such suppliers specific to each State or Union territory shall be **in proportion** to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.
- Example: A Ltd, located and registered in Mumbai has been appointed as an Advertisement Agency by Government of Rajasthan for Advertisement of
- Make in India in the entire state of Rajasthan. POS would be Rajasthan.

## Other cases

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- [Section 12\(2\)](#) provides that the place of supply of services, except the services specified in [Section 12\(3\)](#) to [12\(14\)](#)-
- made to a registered persons shall be the location of such person;
- made to any person other than a registered person shall be-
- the location of the recipient where the address on record exists; and
- the location of the supplier of services in other cases.

# Supply of services outside India

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- where location of supplier or location of recipient is outside India. [Section 13 \(1\)](#) of the [Integrated Goods and Services Tax Act, 2017](#) provides that the provisions of [Section 13](#) shall apply to determine the place of supply of services where location of supplier or location of recipient is outside India.

# Definition of Exports of services

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- (6) “export of services” means the supply of any service when,—
- *(i) the supplier of service is located in India;*
- *(ii) the recipient of service is located outside India;*
- *(iii) the place of supply of service is outside India;*
- *(iv) the payment for such service has been received by the supplier of service in convertible foreign exchange; and*
- *(v) the supplier of service and the recipient of service are not merely establishments of a distinct person in accordance with Explanation 1 in section 8;*

# Place of supply of services related to goods

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- ④ [Section 13\(3\)](#) provides that the place of supply of the following services shall be the location where the services are actually performed-
- ④ services supplied in respect of goods which are required to be made-
- ④ physically available by the recipient of services to the supplier of services; or
- ④ to a person acting on behalf of the supplier of services
- ④ in order to provide the services.
- ④ When such services are provided from a remote location by way of electronic means, the place of supply shall be the location where the goods are situated at the time of supply of services.
- ④ Nothing in this section shall apply in respect of services supplied in respect of goods which are temporarily imported into India for repairs and are exported after repairs without being put to any other use in India, than which is required for such repairs;
- ④ services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which required the physical present of the recipient or the person acting on his behalf, with the supplier for the supply of services.



# For immovable property

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- [Section 13\(4\)](#) provide that the place of supply of services supplied directly in relation to an immovable property, including services supplied by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, shall be the place where the immovable property is located or intended to be located.
- [Section 13\(6\)](#) provides that where the above said services is supplied more than one location, including a location in the taxable territory, the place of supply shall be the location in the taxable territory.

## For admission or organization of an event

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- [Section 13\(5\)](#) provides that the place of supply of services supplied by way of admission to, or organization of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events and of services ancillary to such admission or organization shall be the place where the event is actually held.
- [Section 13\(6\)](#) provides where the above said service is supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory.

## Supply in more than one State or Union Territory

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- [Section 13 \(7\)](#) provides that where the above said services are supplied in more than one State or Union territory, the place of supply of such services shall be taken as being in each of the respective States or Union territories. The value of such supplies specific to each State or Union territory shall be in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such agreement, on such other basis as may be prescribed.

# For intermediary services

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- [Section 13\(8\) \(b\)](#) provides that the place of supply of the services supplied by intermediary shall be the location of the supplier of the services.
- [Section 2\(13\)](#) of the Act defines the term 'intermediary' as 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.

# For hiring of transport

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- Section 13(8) (c) provides that the place of supply of the services consisting of hiring of means of transport, including yachts but excluding aircraft and vessels, up to a period one month, shall be the location of the supplier of services.

## For transportation of goods other than mail or courier

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- Section 13(9) provides that 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.

## For the passenger transportation services

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- [Section 13\(10\)](#) provides that the place of supply in respect of passenger transportation services shall be the place where the passenger embarks on the conveyance for a continuous journey.
- [Section 2\(3\)](#) of the Act defines the expression 'continuous journey' as a journey for which a single or more than one ticket or invoice is issued at the same time, either by a single supplier of service or through an agent acting on behalf of more than one supplier of service, and which involves no stopover between any of the legs of the journey for which one or more separate tickets or invoices are issued. The term 'stopover' means a place where a passenger can disembark either to transfer to another conveyance or break this journey for a certain period in order to resume it at a later point of time.

## For the services provided on board a conveyance

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- Section 13(11) provides that the place of supply of services provided on board during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey.



## For Online information and database access or retrieval services

- [Section 13\(12\)](#) provides that the place of supply of online information and database access or retrieval services shall be the location of the recipient of services.
- The person receiving such services shall be deemed to be located in the taxable territory, if any two of the following non contradictory conditions are satisfied-
- the location of address presented by the recipient of services through internet is in the taxable territory;
- 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;
- the billing address of the recipient of services is in the taxable territory;
- the internet protocol address of the device used by the recipient of services is in the taxable territory;
- the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;
- the country code of the subscriber identity module card used by the recipient of services is of taxable territory;
- the location of the fixed land line through which the service is received by the recipient is in the taxable territory.

# Power of Government

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- [Section 13\(13\)](#) provides that in order to prevent double taxation or non taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.

## Place of supply of service – location of the recipient

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- [Section 13\(2\)](#) provides that the place of supply of services except the services specified in [section 13\(3\)](#) to [13\(13\)](#) shall be the location of the recipient of services. Where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.