

2.1 SUPPLY: TAXABLE EVENT UNDER GST

Taxable event is very important matter in every tax law. Its determination is most crucial for the proper implementation of any tax law. Taxable event is that on the happening of which the charge is fixed. 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.'

2.2 RELEVANT DEFINITION

2.2.1 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.

2.2.2 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 while exchanging one currency for another also charges a commission (often inbuilt in the difference between the purchase price and selling price currency). The related activity of providing the services for which a commission is charged separately would be very much a 'supply'.

2.2.3 Consideration [Sec. 2(31)]

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

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

Note:

1. Consideration can be in monetary or non-monetary form or partly in monetary form and partly in non-monetary form.

(a) Monetary consideration includes payment by cash, cheque or credit card, bank transfer and deduction from bank account.

(b) Non-monetary consideration essentially means compensation in kind such as the following:

- ◆ Barter, Part Exchange
- ◆ Doing or agreeing to do an act

2. Meaning of “in respect of, in response to, or for the inducement of”

- ◆ It means there must be a **direct link** between the supply and the consideration.
- ◆ Inducement means to **gives something to a person** so that he will do something else in return.
- ◆ **For Example:** A restaurateur offered ‘free’ meals to drivers of buses carrying passengers as an inducement to bring potential customers to his business premise. Since the meals were not given to drivers of empty buses, there is a direct link between the act of bringing passengers to the food outlet and the provision of the free meals. The consideration here is the free meals provided.
- ◆ **For Example:** Donation is not a consideration because there is no supply of goods or services by the orphanage to the donor in return.

3. Consideration may flow from recipients of supply of from any other person:

When Mr. A has a binding contract with Mr. B to supply hampers to the clients, there is a taxable supply made by Mr. B to Mr. A since there is a direct link between the supply made and the consideration given.

- (b) the monetary value of any act or forbearance,
- ◆ in respect of, in response to, or for the inducement of,
 - ◆ the supply of goods or services or both,
 - ◆ whether by the recipient or
 - ◆ by any other person
 - ◆ but **shall not include** any subsidy given by the Central Government or a State Government:

Provided that a **deposit** given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply;

Note: For example: Mr. Parveen, partner of AB & Associates, retires from firm. Firm enters into ‘non-competence agreement’ with Mr. Parveen for 5 years against a consideration of ₹ 5 crore.

In this case, forbearance on part of Mr. Parveen *i.e.* not to carry on competitive business becomes a taxable supply and thus, liable to GST.

2.2.4 Business [Sec. 2(17)]

It includes—

(a) any

- ◆ trade, commerce, manufacture,
- ◆ profession, vocation,
- ◆ adventure, wager or any other similar activity,

whether or not it is for a pecuniary benefit;

Note:-

1. Even if there is no profit motive or even if no profit is earned an activity in the nature of trade, manufacture, commerce, profession may constitute business.
2. Charitable or religious activities are not specifically covered.

Example:

Akshay Kumar, a famous actor, paints some paintings and sells them. The consideration from such sale is to be donated to a Charitable Trust - 'Kind Human'. The sale of paintings by the actor qualifies as supply even though it is a one-time occurrence.

(b) any activity or transaction in connection with or incidental or ancillary to sub-clause (a);

Note:

1. By virtue of point (b) of definition, incidental activity is taxable only if main activity is business. For example, Sale of Laddu by Mehandipur Balaji temple cannot be business since main activity of temples is not business.
2. Sale of old Plant & Machinery, old computer, old furniture, old car, old printer, scrap would attract to GST even though taxable person are not in business to sell these assets.

(c) any activity or transaction in the nature of sub-clause (a),

- ◆ whether or not there is
 - volume,
 - frequency,
 - continuity or
 - regularity

of such transaction;

Note: Even transactions which are undertaken on casual or irregular basis are also covered within the term business by virtue of point (c) of the definition.

(d) **supply or acquisition** of

- ◆ goods including capital goods and services in connection with
- ◆ commencement or closure of business;

Note: when partners bring in capital assets or stocks in to the firm as their capital or assets distributed to partners at the time of dissolution of firm shall also amount to business.

(e) provision by a

- ◆ club,
- ◆ association,
- ◆ society, or
- ◆ any such body
- ◆ (for a subscription or any other consideration)
- ◆ of the facilities or benefits to **its members**;

<p>Note:</p> <ol style="list-style-type: none"> 1. Club and its members are treated as distinct persons. 2. Banquet Hall/Restaurant/Sports facilities/Library services etc. are some example of provided to their members. 3. A Resident Welfare Association provides the service of depositing the water bills of the residents in lieu of some nominal charges. Provision of service by a club or association or society to its members is treated as supply as this is included in the definition of 'business'.
<p>(f) admission,</p> <ul style="list-style-type: none"> ◆ for a consideration, ◆ of persons to any premises; <p>Note:</p> <ol style="list-style-type: none"> 1. Admission to any event or facilities like amusement park, Cinema hall or gaming event for a fee or other consideration. 2. For example: If A wants to hire a premises but the same is already hired to B. Now B agrees to vacate on payment of some money to him which is popularly called "Pagadi".
<p>(g) services supplied by a person</p> <ul style="list-style-type: none"> ◆ as the holder of an office ◆ which has been accepted by him ◆ in the course or furtherance of his trade, profession or vocation; <p>Note: If a practicing chartered accountant is appointed as an independent director of a company, it means that he accepts this office of directorship in the course or furtherance of his professional practice.</p>
<p>(h) services provided by a race club</p> <ul style="list-style-type: none"> ◆ by way of totalisator or ◆ a licence to book maker in such club ; and <p>Note:</p> <ol style="list-style-type: none"> 1. Totalisator is referred to a pari mutuel machine or a computer that records bets and divides the total amount of bet among winners. 2. A bookmaker provides wagering (betting) services to the general public at race courses or sporting grounds.
<p>(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities;</p> <p>Note:</p> <p>As per exemption list, GST is exempt on sovereign activities of Central Government, a State Government or any local authority.</p>

2.2.5 Job work [Sec. 2(68)]

Means any treatment or process undertaken by a person on goods belonging to another registered person and the expression "job worker" shall be construed accordingly.

2.2.6 Works contract [Sec. 2(119)]

Means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any immovable property wherein transfer of property in goods (whether as goods or in some other form) is involved in the execution of such contract.

2.3 MEANING AND SCOPE OF SUPPLY [SEC. 7]

<p>General meaning [Sec. 7(1)(a)]</p>	<p>Supply includes</p> <p>All forms of supply of goods and/or services such as</p> <ul style="list-style-type: none"> ◆ sale, ◆ transfer, ◆ barter, ◆ exchange, ◆ license, ◆ rental, ◆ lease or ◆ disposal <p>made or agreed to be made for a consideration by a person in course of or furtherance of business.</p> <p>Meaning of various Terms:</p> <table border="1"> <tr> <td>Sale</td> <td>Transferring the property in goods from one to another, upon valuable consideration.</td> </tr> <tr> <td>Transfer</td> <td>Any transfer of goods or right in goods or of undivided share in goods without transfer of title thereof.</td> </tr> <tr> <td>Barter</td> <td>To exchange one commodity for another without use of money.</td> </tr> <tr> <td>Exchange</td> <td>To swap, to part with, give or transfer for an equivalent with the use of money.</td> </tr> <tr> <td>Licence</td> <td>Permission granted by competent authority to exercise certain privileges without such authorization the activity would have constituted as an illegal act.</td> </tr> <tr> <td>Rental</td> <td>Periodical payment for the use of another property.</td> </tr> <tr> <td>Lease</td> <td>Contractual agreement by which one party conveys an estate in property to another party, for a limited period, subject to various conditions, in exchange for something of value, but still remain ownership.</td> </tr> <tr> <td>Disposal</td> <td>To pass or into the control of someone else; to alienate, bestow, or part with.</td> </tr> </table> <p>Analysis:</p> <ol style="list-style-type: none"> 1. It is an inclusive definition. 2. Supply can be supply of goods or services or both. 3. Supply should be made for consideration. 4. Supply should be made in the course or furtherance of business. 5. Supply should be of goods or services. Supply of anything other than goods or services like money, securities etc. does not attract GST. <p>Examples:</p> <ol style="list-style-type: none"> 1. Suppose Mr. Ram provides free coaching service to Mr. Shyam, in such case there is no supply due to lack of consideration. 2. When a new Mobile worth ₹ 10,000 is purchased in exchange of an old Mobile along with the monetary consideration of ₹ 2,000 paid for the said purchase. This is an example of exchange. 3. Where a laptop is supplied for ₹ 30,000 along with a barter of printer that is manufactured by the recipient is an example of Barter. 	Sale	Transferring the property in goods from one to another, upon valuable consideration.	Transfer	Any transfer of goods or right in goods or of undivided share in goods without transfer of title thereof.	Barter	To exchange one commodity for another without use of money.	Exchange	To swap, to part with, give or transfer for an equivalent with the use of money.	Licence	Permission granted by competent authority to exercise certain privileges without such authorization the activity would have constituted as an illegal act.	Rental	Periodical payment for the use of another property.	Lease	Contractual agreement by which one party conveys an estate in property to another party, for a limited period, subject to various conditions, in exchange for something of value, but still remain ownership.	Disposal	To pass or into the control of someone else; to alienate, bestow, or part with.
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	4. Manish buys a mobile phone for his personal use and after six months sells it to a mobile dealer. Sale of mobile by Manish to mobile dealer is not a supply under CGST Act because supply is not made by Manish in the course or furtherance of business.
Import of services [Sec. 7(1)(b)]	<p>Import of services for a consideration whether or not in the course or furtherance of business;</p> <p>Analysis:</p> <ul style="list-style-type: none"> ◆ Import of goods is dealt separately under the Customs Act, 1962, wherein IGST shall be levied as additional duty of customs in addition to basic customs duty under the Customs Tariff Act, 1975. ◆ Persons importing services for personal purposes shall also be liable to GST on reverse charge basis. ◆ It should be noted that there is no threshold limit in reverse charge. ◆ This is an exception of supply in the course or furtherance of business. <p>Example: Katrina Kaif has taken beauty parlour service from USA, she is liable to pay Tax under reverse charge mechanism.</p>
Supply without consideration [Sec. 7(1)(c)]	<p>The activities specified in Schedule I, made or agreed to be made without a consideration;</p> <p>(Please refer Schedule I given later in this chapter with analysis)</p>
Whether activity to be treated as Supply of goods or supply of services [Sec. 7(1)(d)]	<p>The activities to be treated as supply of goods or supply of services as referred to in Schedule II.</p> <p>(Please refer Schedule II given later in this chapter with analysis)</p>
Nor supply of goods or services [Sec. 7(2)]	<p>Notwithstanding anything contained in sub-section (1),—</p> <ul style="list-style-type: none"> (a) activities or transactions specified in Schedule III; or (b) 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, shall be treated neither as a supply of goods nor a supply of services. <p>(Please refer schedule III given later in this chapter with analysis)</p>
Issue of Notification by Government [Sec. 7(3)]	<p>Subject to the provisions of sub-sections (1) and (2), the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as—</p> <ul style="list-style-type: none"> (a) a supply of goods and not as a supply of services; or (b) a supply of services and not as a supply of goods.

SCHEDULE I

2.3.1 Activities to be treated as supply even if made without consideration

S. No.	Title	Provision	Analysis & Examples
1.	Permanent transfer or disposal of business assets	Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.	<ol style="list-style-type: none"> 1. It may be noted that this provision would apply only if input tax credit has been availed on such assets. 2. This is applicable to business assets only hence service provided without consideration would not attract GST.