



CHAPTER

GST in India - An Introduction



Goods & Services



Supply

The Taxable event



Charge of GST (Levy)



Composition Levy



Registration



Exemptions from GST



Value of Supply



Tax Invoice, Cr & Dr note



GST FLOW (Index)

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CHAPTER

Accounts and Records

E-way Bill



Time of Supply

Input tax credit

Payment of Tax



Tax deduction at Source

Tax Collected at Source



Returns & GST Practitioner



Place of supply



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GST in India - An Introduction

Alcoholic liquor for Human Consumption



Article 366(12A): GST means any Tax on supply of g/s/B except AL for HC

A Compulsory payment → under an act → to govt → to provide public services

Direct tax	Indirect tax [Features]
<ul style="list-style-type: none"> Imposed on Taxpayer Burden is on the person tax is imposed Example: Income tax Progressive in nature 	<ul style="list-style-type: none"> Imposed on Goods & Services Burden is shifted to ultimate Consumer Example: GST & Custom duty Regressive in nature

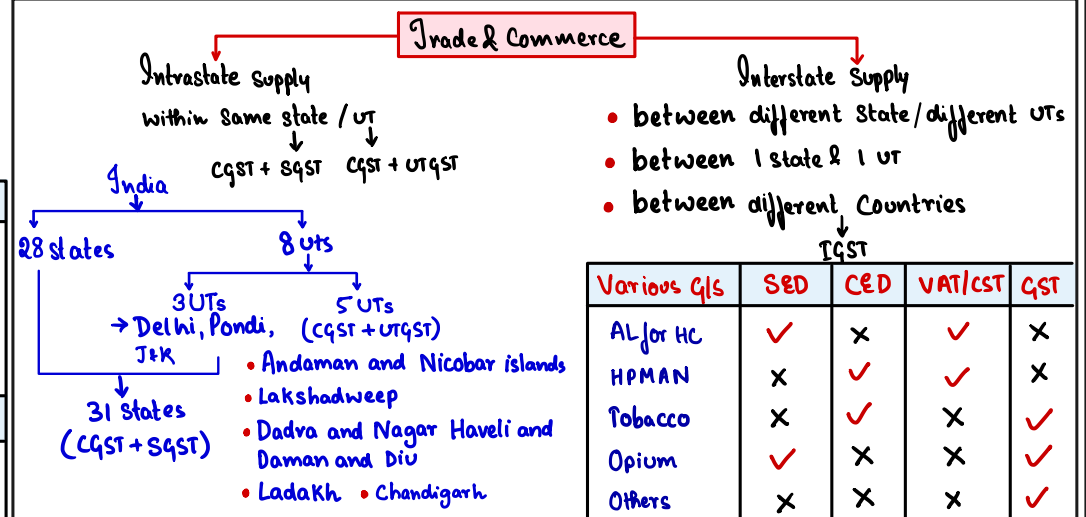
Deficiencies in existing tax System	Benefits of GST
<ul style="list-style-type: none"> Cascading effect (tax on tax) No Input Credit to dealers/traders Double taxation due to non integration of VAT & ST Several taxes were not Subsumed: LT, ET, etc. 	<ul style="list-style-type: none"> Creation of Unified national market Boost to make in India initiative Enhanced investment & Employment Mitigation of ill effects of cascading

Various features of GST
<ul style="list-style-type: none"> It is a tax on Supply of g/s It is a consumption tax It is a destination based tax It is a value added tax

Central taxes subsumed	State taxes subsumed	Taxes Not subsumed into GST
<ul style="list-style-type: none"> Central Excise duty Service tax CVD & SPL CVD Central sales tax Surcharges & cesses 	<ul style="list-style-type: none"> State surcharges & cesses Entertainment tax except → Tax on lottery, betting & Gambling Entry tax, purchase tax VAT & Sales tax, Luxury tax 	<ul style="list-style-type: none"> Basic Custom duty ET levied by local bodies Property tax & Stamp duty Electricity duty SED on AL for HC, CED on HPMAN

Dual model of GST: India has adopted dual model of GST which is imposed Concurrently by the centre & the state. GST levied by Centre: CGST, levied by State/UT: SGST/UTGST. Now centre has power to tax intrastate & states empowered to tax services. India has adopted its GSt model from Canada.

GSPs: IT, ITES, Financial tech Cos, appointed by GSTN to develop application for taxpayers to interact with GSTN, facilitating tax payers in uploading invoice & filing returns, & customise products according to needs of users. GSPs take help of ASPs, GSPs act as a link b/w taxpayers & GSTN. ASPs act as a link b/w taxpayers & GSPs. **GST Suvidha Providers, Application Service Providers (ASPs)**



Constitutional Provisions: Articles
→ 265: No tax shall be levied/collected except by authority of law
→ 245: Parliament may make law for whole/any part of the territory of India State legislature may make law for whole/any part of the state
→ 246(1 st Schedule): Divides power to make law into 3 lists. List I: Union list: Parliament (CG), List II: State list: state legislature, List III: Concurrent list
→ 246A: Provides power to Parliament and State legislature to levy gst simultaneously Parliament has exclusive power to make gst law w.r.t. Interstate trade & Commerce
→ 269A: IGST shall be levied & collected by CG & apportioned b/w Union & State
→ 279A: GST Council: Constituted on 15.09.16, 33 members → 2 UM + 31 SFMs/Minister nominated. Quorum $\frac{1}{2}$ x no. of members, Majority for decision → $\frac{3}{4}$ th of weighted votes of mem. present & voting. Weightage of votes - Centre - $\frac{1}{3}$ rd, Sgs - $\frac{2}{3}$ rd of votes cast.
Functions: To make recommendation to Union & States on: taxes, cesses & surcharges to be subsumed, Rate of GST, g/s subject to/exempted from GST, Special provisions w.r.t. special Category states, Date on which GST be levied on HPMAN, Threshold limit of turnover for registration.

Common Portal: www.gst.gov.in, ewaybillgst.gov.in, einvoice1-to.gst.gov.in

Managed by: Goods & Services Tax Network [GSTN], National Informatics Centre

Function of GSTN includes

- Facilitating Registration
- Computation & settlement of IGST
- Matching of tax payment details with Banking networks
- Providing MIS reports
- Forwarding Returns to central & state authorities
- Providing analysis of tax payer's profile



Goods & Services

Goods

Means: Every kind of **Movable** property



Immovable property

- Land, Benefit arising out of Land
- Things attached to the earth/
- Permanently fastened to anything attached

Other than (Excludes)

Money → Indian Legal tender, Foreign Currency, cheque, demand draft.
 or any instrument recognised by RBI
 when used as a Consideration to settle an obligation
 but shall not include currency held for its numismatic value



Securities → Shares, stock, bond, debentures, MF
 Government Securities
 Rights in Securities



but Includes

Actionable Claim: Mean a claim to any debt, other than a debt secured/to any beneficial interest in movable property not in the possession of claimant, which the civil Courts recognize as affording ground for relief, whether such debt/beneficial interest be existent, accruing, Conditional/Contingent.
 Eg: Betting, Gambling, Lottery, Right to recover arrears of rent, etc.

Growing Crops, Grass & things attached to/forming part of the Land which are agreed to be Severed before Supply/ Under a Contract of Supply

Services

Means: Anything



Other than: Goods Money & Securities

but Includes: Activities relating to the use of Money/ Its Conversion by Cash/any other mode

↓ from
 One form, Currency/ denomination

↓ to
 Another form, Currency/ denomination

For which Separate Consideration is charged



Explanation:

Services includes facilitating/arranging transactions in Securities
 Eg: Demat charges, brokerage, Portfolio maintenance charges, Commission, etc

Discuss the applicability of gst in the following Cases:

1. **Sale of debentures** : Neither goods nor Services : no GST
2. **Sale of Plot of Land** : Its a service, but no gst as per sec 7(2)(a) read with Schedule III
3. **Cash deposit into bank** : Transaction in money : money is neither goods nor service : No GST
4. **Housing loan** : Transaction in money : money is neither goods nor service : No GST
5. **Interest on loan** : Activity relating to use of money, it is a service.

The Taxable event

Section 7: Scope of Supply

Note: For circulars refer next page

7(1): Includes

- (a) All forms of Supply of G/S/B
Such as: Sale, Transfer, Barter, Exchange, lease, Rental, License Disposal [STB ELR LD]
• Made/agreed to be made
• For a Consideration
• in the Course/furtherance of business
- (b) Importation of Services (IOS)
For a Consideration
Business Supply Taxable (RCM)
Non Business Purpose Supply Taxable but Exempted
- (c) Activities specified in Schedule I
- made/ agreed to be made
- Without a Consideration
(1) Permanent Transfer/disposal of Business Asset (Where ITC availed on Such assets)
(2) Supply between related person/distant person in the course/furtherance of business
Exception: Gift to employee upto Rs. 50,000 per annum per employee.
① [Refer Circular on interstate movement of Conveyance/between distinct person.]
(3) Supply of goods b/w Principal & Agent
② [Refer Circular on Principal Agent relationship]
(4) IOS → RP/Own establishment outside India → in the course/furtherance of business.

Related Person (RP)

SCOPE ⊕ Family ⊕ Sole agent/distributor
Stock/shares ≥ 25% in both of them, Control (Direct/Indirect)
Officer/Directors of one another's businesses, Partners in business, Employer & Employee
Family: Spouse & children (SC) Only if dependent
Parents, Grandparents, Brother & Sister (PGBS)

7(1A): SoG/SOS (Schedule II)

- (1) Transfer of
(a) Title in goods (ownership): SoG
(b) Right in goods/undivided share: SOS
(c) Title in future (Hire purchase): SoG
- (2) (a) Lease, tenancy, easement to occupy land: SOS
(b) Lease, letting out of building: SOS
③ [Refer circular on Pagadi System]
- (3) Treatment/process applied on another person's goods: SOS
④ [Refer circular on Rethreading & bus bodybuilding]
- (4) Transfer of Business Asset
(a) Permanent transfer/disposal: SoG
(b) Put to pvt use/made available for non business use: SOS
(c) At the time of closure of business: Deemed SoG
Exception: Business transferred as going concern Business carried on by a personal representative (TP)
- (5) SOS: (a) Renting of Immovable property
(b) Construction of Complex, building, etc. (Consideration received before CC/FO (e))
(c) Temporary transfer / Use of IPR
(d) Development, Upgradation, etc. of IT Software
(e) Agreeing to the obligation to RTA Refrain/tolerate/to do an act
⑤ [Refer circular on RTA]
(f) Transfer of right to use goods

(6) Following Composite Supplies: SOS



- (a) Works Contract (Immovable property)
(b) Restaurant/Catering

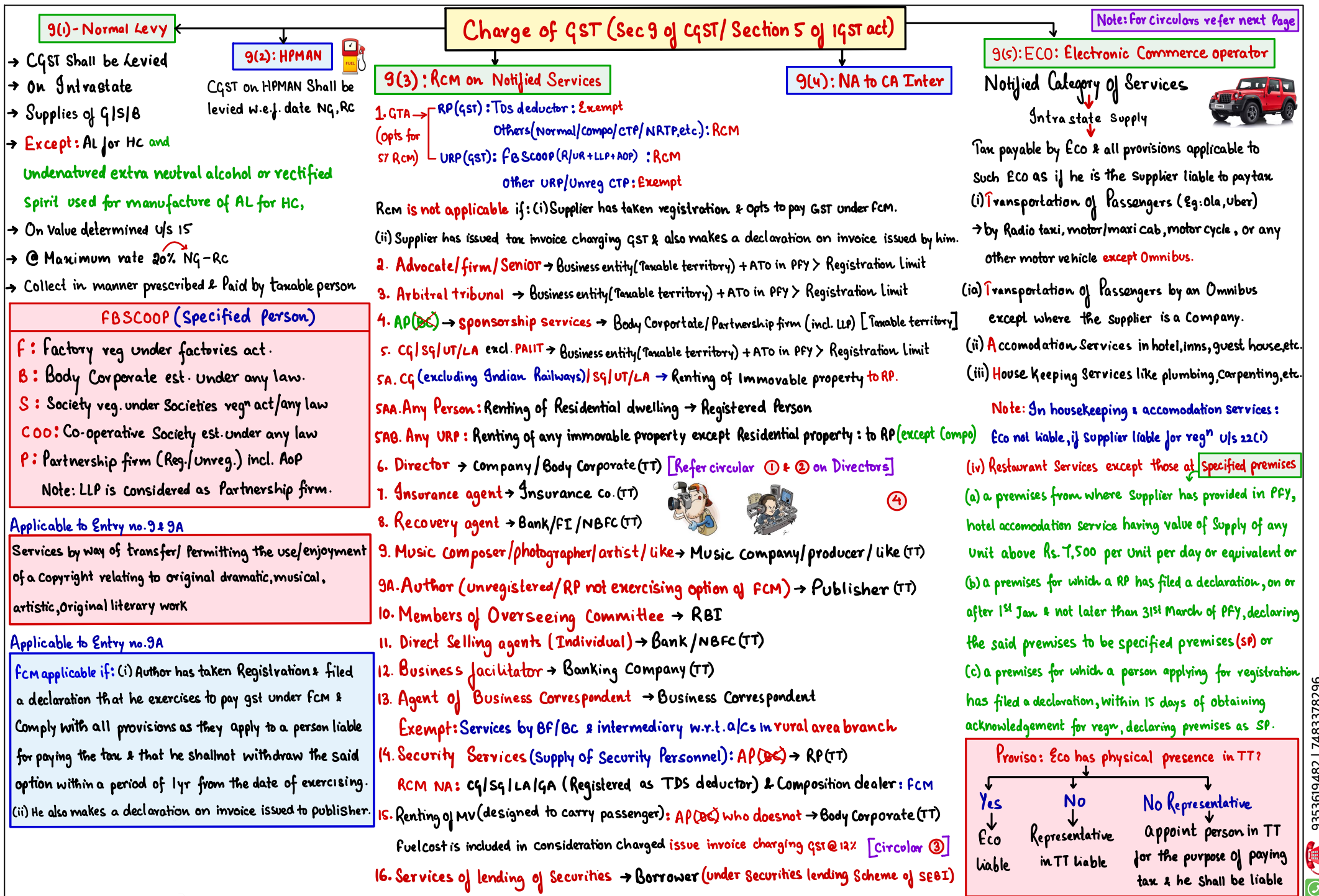
7(2)(b)

- Notified activities/transactions undertaken by CG/SG/LA as Public Authorities: Neither SoG nor SOS.
• Activity in relation to junction entrusted to panchayat under 243G/municipality under 243W
• Grant of Alcoholic liquor licence against license/application fees. ⑨ [Refer Circular on Licenses]

7(2) → Excludes → Neither SoG Nor SOS

- (a) Activities/transactions specified in Schedule III
1. Services by Employee to the Employer (in the Course/ relation to employment)
⑥ [Refer circular on Perquisites]
2. Services by Court/tribunal established under Law
⑦ [Refer circular on Consumer dispute redressal Commission]
3. Functions performed by: MPs, MLA, MLC, etc.
Duties performed by: Constitution post holder
Duties performed by: Chairperson/member/Director (CMD) of body established by govt (Employees).
4. Services of Mortuary/Burial/Funeral (incl. transportation)
5. Sale of Land & Completed Building
⑧ [Refer circular on sale of Land after levelling]
6. Actionable claims except specified actionable claims
Specified actionable claims: Betting, Casinos, lottery, gambling, horse racing, Online money gaming.
9. Activity of apportionment of Co-insurance premium by lead insurer to co-insurer for insurance services jointly supplied, Condition being lead insurer pays GST on entire premium paid by the insured.
10. Services by the insurer to re-insurer for which Ceding/re-insurance commission is deducted from re-insurance premium paid by the insurer to reinsurer, Condition being the GST is paid by reinsurer on the gross reinsurance premium payable by insurer to reinsurer.

<p>① Interstate movement of Conveyance/Cranes between distinct person</p> <ul style="list-style-type: none">On Conveyance/Rigs/Cranes: No GST (NSQ, NSOS)On passenger & goods transportation: GST leviableOn Repairs & Maintenance work: GST leviableMovement for further Supply: GST leviable. 	<div>CIRCULARS</div>		<p>Sec 8: Taxability of Composite Supply (CS) & Mixed Supply (MS)</p> <p>(a) CS: Treated as supply of Principal Supply</p> <p>(b) MS: Treated as Supply of that Supply attracting highest rate</p> <p>CS: 2/more TS + Naturally bundled + supplied together in Ordinary Course + One is principal Supply</p> <p>MS: 2/more Individual Supplies + supplied together for a single price + not a Composite Supply</p> <p>[Refer Circular 10 11 & 12]</p>
<p>② Scope of Principal Agent relationship</p> <ul style="list-style-type: none">Agent is further supplying in his name i.e. invoice is issued by agent in his nameAgent is procuring in his name i.e. goods procured are invoiced in his name <p>Then the agent is an agent as Schedule I Para 3.</p>	<ul style="list-style-type: none">An resident welfare association (RWA) tolerating the use of loudspeakers for prayers by school against an agreed sum. <p>Examples of agreeing to the obligation to do an act</p> <ul style="list-style-type: none">An industrial unit agrees to install equipment for zero emission even though the emission was within permissible limit, at the request of a RWA against a Consideration paid.	<p>⑥ Perquisites provided by employer to employee:</p> <p>Perquisites provided in terms of Contractual agreement between employer & employee: No GST.</p>	
<p>③ Pagadi: Transfer of tenancy rights against tenancy premium: SoS</p> <ul style="list-style-type: none">Exempt if granted for residential house to unregistered person.Further Sale/Surrendering by outgoing tenant for Consideration: GST.	<p>⑦ GST on amounts/charged by Consumer dispute redressal Commission</p> <p>They are not literally tribunal but have characteristics of a Tribunal & hence fees paid/penalty charged/any amount paid to CDRC: No GST.</p>		<p>⑩ Servicing of Car involving SoG(parts) & SoS (labour) & value of Goods & services shown separately: GST at the rates applicable to such goods/Service separately.</p>
<p>④ Rethreading of tyres</p> <ul style="list-style-type: none">Supplier does rethreading for Customer: SoSSupplier sells rethreaded tyres: SoG <p>Bus bodybuilding i.e. fabrication on:</p> <ul style="list-style-type: none">chassis provided by Customer: SoSOwn chassis & Supplying bus: SoG. 	<p>⑧ GST on sale of Land after levelling, lying down of drainage lines</p> <p>Sale of developed land is sale of land & Covered in Sch III: No GST</p> <p>⑨ Grant of other licenses & Privileges by govt (Except AL License)</p> <p>Grant of other privileges, licenses, mining rights against Consideration in form of fees/royalty: Taxable (GST).</p>		<p>⑪ Taxability of Printing contracts</p> <ul style="list-style-type: none">In case of printing where: Content is supplied by person who owns the IPR while physical input including paper belongs to printer: Printing Service: SoS.Supply of printed envelopes, letter cards, tissues, with logo/design of recipient: SoG.
<p>⑤ Clarification on agreeing to the obligation to RTA</p> <ul style="list-style-type: none">Agreement to Refrain, tolerate, or do an act ⊕ Consideration: SoS <p>Examples of Agreeing to the obligation to refrain from an act</p> <ul style="list-style-type: none">Non-Compete agreements.A builder refraining from Constructing more floors against a Compensation paid by neighbouring housing project.A manufacturing unit refraining from manufacturing activity during Certain hours against an agreed sum by neighbouring School. <p>Examples of agreeing to the obligation to tolerate an act/a situation</p> <ul style="list-style-type: none">A Shopkeeper allowing a hawker to operate from the pavement in front of his shop against a monthly payment.	<p>Activity of holding shares of Subsidiary by the holding co.: Cannot be treated as Supply of Service by holding to Subsidiary.</p> <p>Treatment of Sales promotion Schemes under GST</p> <ul style="list-style-type: none">Goods/Services/both supplied free of cost/as gift: If activity falls in T(1)(c), it's a Supply & ITC available/else ITC blocked.Buy 1 get 1 free: It is not an individual Supply of free goods, but 2/more individual Supplies for price of one, it Can either be Composite or mixed Supply. <p>GST on display of name/name plate of donor by charitable Organisation</p> <p>3 tests to be satisfied: Donation is made to charitable Organisation, payment has the character of gift/donation, the purpose is philanthropic & not advertisement: GST not leviable.</p>		<p>⑫ Supply of food & beverages in cinema hall</p> <ul style="list-style-type: none">If bundled together & satisfies test of Composite Supply, then taxable @ Principal Supply i.e. Supply of Service of exhibition of Cinema.If it is supplied independently: it is restaurant service <p>Students notes...</p>



① GST on Director's remuneration

- Independent Director: not employee, GST Payable by Company under RCM.
- Whole time Director: employee + paid salary + TDS u/s 192 of Income tax act: Not Supply, No GST
- Whole time Director: not employee + paid professional fees + TDS u/s 194J of IT act: Supply, RCM

② Services supplied by director of a Company / body Corporate in his personal Capacity to the Co./body Corporate.

- Services supplied by a director of a Company to the Company in his personal/private Capacity: **No RCM**
- Only Services supplied in the capacity of director of that company/body Corporate: **Taxable under RCM.**

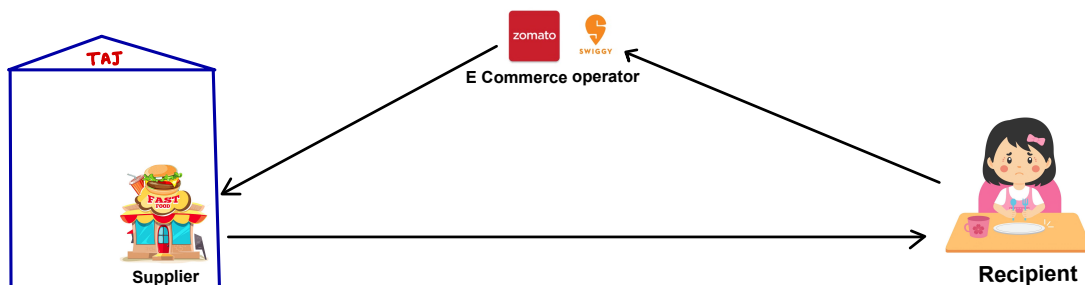
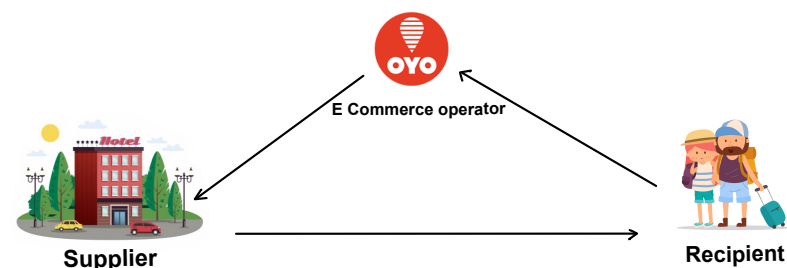
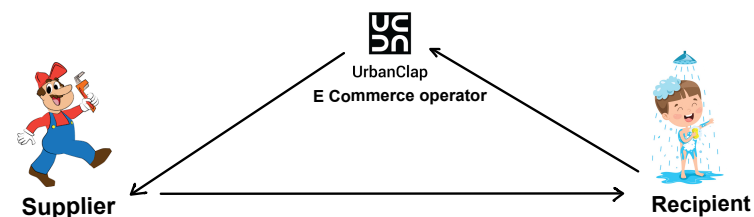
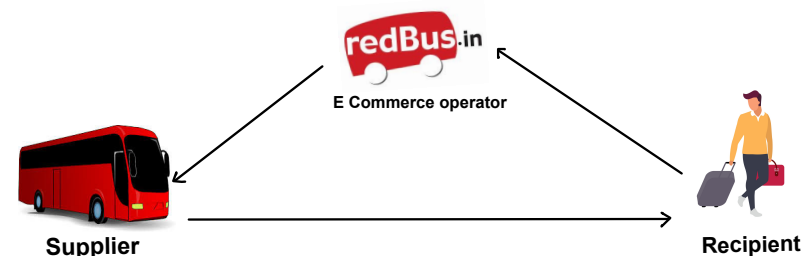
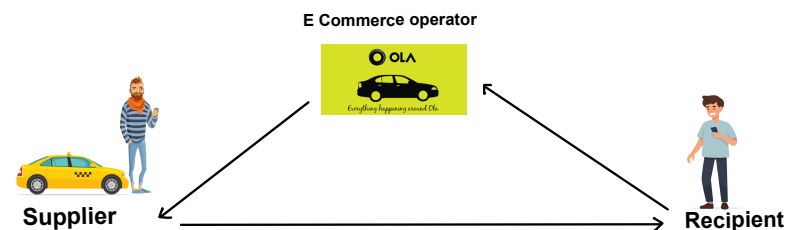
③ GST on renting of Motor vehicle (MV) designed to carry passengers to body Corporate (BC).

- Where BC hires MV for a period of time during which MV is at its disposal: **RCM**
- Where BC avails passenger transportation Service for specific journeys & does not take it on rent: **No RCM.**

④ Services supplied by restaurant through E-Commerce Operator (ECO)

- Since eco is liable to pay GST, it is not required to collect TCS. But on other g/s not notified u/s 9(5): Eco will collect TCS
- Eco is not required to take separate registration to pay tax on restaurant Service u/s 9(5).
- Eco will be liable to pay GST on supplies made by unregistered restaurants through it (Eco).
- ATO of restaurant shall include value of supplies made through Eco.
- Eco shall pay GST in Cash on restaurant Services. **ITC can be utilised for discharging liability w.r.t. Services on own a/c.**
- If restaurant Service & other g/s are sold by a restaurant to customer under same order: Advisable eco raise Separate bill for restaurant Service. On other g/s Supplier to raise invoice & Eco to collect TCS.

CIRCULARS



IGST - Sec 5: Difference

- S(1): Intra → Inter, 20% → 40%.
- S(2): IGST On Interstate Supply of HPMA
- S(3): Additional Services notified:
- Any Services (Any Person in NTT) → Any person in TT
- S(4) & S(5): Same as 9(4) & 9(5): Just Intra → Inter

PAIT (applicable to Entry no. 5)

- P: Services by department of post.
- A: Services in relation to aircraft/vessel.
- I: Services by way of renting of immovable property
- I: Indian Railways [Ministry of Railways]
- T: Transportation of goods/passengers.

