

# **TIME OF SUPPLY UNDER MODEL GST LAWS**

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# WHY GST ?

## GST - Objective

- Integration of prevailing multiple indirect taxes
- Preventing cascading of taxes
- Simplified compliances
- Credit available across goods & services
- Availability of credit even for inter-state procurements

## GST – Likely Framework

- ‘Consumption based tax’ on goods and services
- Single unified tax on both ‘Goods & Services’
- Levied on value addition at ‘each stage’
- Eliminates cascading tax effect
- Liberal credit regime

## GST – What exactly is changing

- Integration of taxes levied on Goods and Services- Multiple indirect taxes (like VAT, CST, Service Tax, Excise, Entry tax, etc.) to be subsumed under GST
- Tax on any form of ‘supply’ (rather than sale, manufacture, provision of services)
- Import GST (BCD to continue)



# GST MODEL LAW – KEY FEATURES

- Dual-GST: Centre (CGST) and States (SGST) to levy GST on common base
- To be levied on all transactions of supply of goods and services (taxable event)
- Integrated-GST (IGST) for inter-state transactions (CGST + SGST) eliminating non-creditable CST
- GST credit mechanism:
  - CGST credits to offset CGST, IGST liability
  - SGST credits to offset respective SGST, IGST liability
  - IGST to offset IGST, CGST or any SGST liability
- Minimum exemptions
- Exports to be zero-rated, ambiguity on treatment of supplies to/ from SEZs
- Imports to be subject to Basic Customs Duty and IGST (CGST and SGST)
- Works contract, Lease, Restaurant, etc. to be treated as services



# POINT OF TAXATION ('POT') UNDER CURRENT INDIRECT TAX REGIME

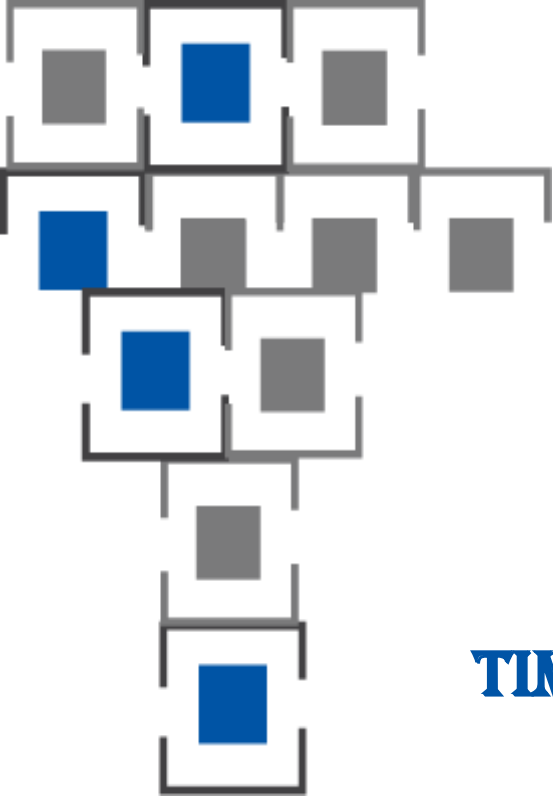
**POT is the point of time when a transaction is to be taxed**

Transactions	Taxable Event	Point of Taxation
Customs Duty	Import of goods from outside India	Clearance of goods for home consumption
Excise Duty	Manufacturing of goods in India	Clearance of goods from factory
Service Tax	Provision of Service	Earliest of receipt of payment, issue of invoice, completion of service (if invoice not raised on time) – date of payment in case of reverse charge
VAT/ CST	Sale of goods in India	Raising of invoice
Entry Tax	Import of goods into State/ municipal area	Import of goods into the State/ municipal area
R&D Cess	Import of Technology	Payment for import of technology



# TIME OF SUPPLY UNDER GST

- Liability to pay CGST/SGST on any supply of goods and services shall arise at the **'time of supply'** as determined in terms of:
  - **Section 12 (Time of supply of Goods)**
  - **Section 13 (Time of supply of Services)**of the CGST/SGST Act
  
- As per Section 27 of the IGST Act, time of supply of goods and services made in the course of inter-state trade or commerce, is also to be determined in terms of Section 12 or Section 13 of the CGST/SGST Act



## **TIME OF SUPPLY OF GOODS UNDER GST**



## GENERAL RULE

Time of supply of goods, shall be the **earliest of the following**:

1. **Date of removal of goods** by the supplier for supply to the recipient - for goods required to be removed);
2. Date on which the goods are **made available/ placed at the disposal of recipient** - for goods not required to be removed (physically not capable of being moved, supplied in assembles/ installed form, supplied by supplier to his agent/ principal)
3. Date on which **invoice is issued** by supplier;
4. Date on which the **payment is received** by supplier (i.e., when the payment is entered into the books of account or credited to bank account, whichever is earlier);
5. Date on which **recipient shows receipt of goods in his books of account**

How would supplier determine the date of receipt of goods in books of recipient?

Goods in-transit?



# CONTINUOUS SUPPLY OF GOODS

- Section 2(30) of the CGST/ SGST Act, 2016, “*continuous supply of goods*” means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which the supplier invoices the recipient on a regular or periodic basis”
- The Central or a State Government may on recommendation of the Council specify by notification, the supply of goods that shall be treated as continuous supply of goods
- Time of supply shall be:

Situation	Time of supply	
Successive statements of accounts or successive payments are involved	Date of expiry of the period to which such successive statements of accounts or successive payments relate	
No successive statements of account	Date of issue of invoice (or any other document) <b>or</b> Date of receipt of payment	Whichever is earlier

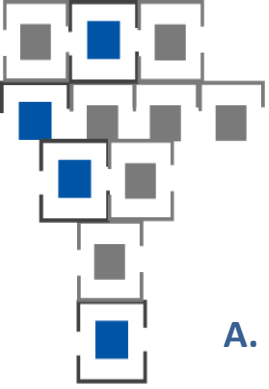




# REVERSE CHARGE

- Section 2(85) of the CGST/ SGST Act, 2016, “reverse charge”, means the liability to pay tax by the person receiving goods and / or services instead of the person supplying the goods and/ or services in respect of such categories of supplies as the Central or a State Government may, on the recommendation of the Council, by notification, specify”
- The time of supply of goods shall be the **earliest of the following**:
  - Date of **receipt of goods**;
  - Date on which the **payment is made** (i.e., when the payment is entered into the books of account or credited to bank account, whichever is earlier);
  - Date of **receipt of invoice**;
  - Date of **debit in books of accounts**

**Circumstances in which reverse charge applicable in case of supply of goods not specified**



## GOODS SENT ON APPROVAL & OTHER CASES

- A. Where goods (being sent or taken on approval or sale or return or similar terms) are removed before it is known whether a supply will take place

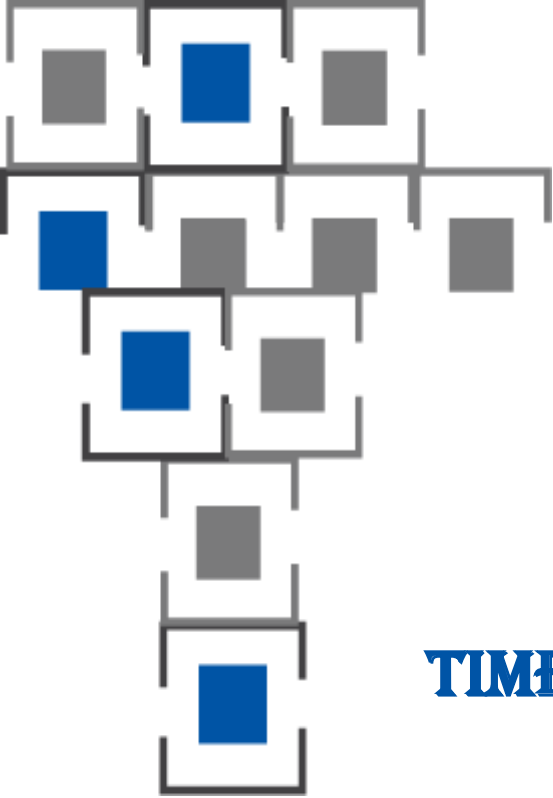
Time of supply shall be earliest of the following:

- Time when it becomes known that the supply has taken place, or
- Six months from date of removal

B. Other cases (not possible to determine as per aforesaid rules)

The time of supply shall be:

- Where a periodical return has to be filed, the **date on which such return is to be filed**, or
- In any other case, **date on which CGST/ SGST and IGST is paid**



## **TIME OF SUPPLY OF SERVICES UNDER GST**



## GENERAL RULE

- Similar to the current Point of taxation Rules, 2011 under Service Tax legislation
- Time of supply shall be **earliest of the following:**

Sr. No.	Situation	Time of supply	
1	Invoice issued within prescribed period	Date of issue of invoice <b>or</b> Receipt of payment*	Whichever is earlier
2	Invoice not issued within prescribed period	Date of completion of the provision of service <b>or</b> Receipt of payment*	Whichever is earlier
3	Not falling under (1) or (2) above	Date on which the recipient shows the receipt of services in his books of accounts	

\*Date of receipt of payment is when the payment is entered into books of account of supplier or credited in bank account, whichever is earlier

**How would supplier determine the date of receipt of services in books of recipient?**



# ILLUSTRATION

Sr. No.	Particulars	Date of completion of service	Date of Invoice	Date of receipt of payment	Date of entry in books of Recipient	Time of supply
1	Invoice issued within the prescribed period	June 2	<u>June 15</u>	October 10	June 27	<b>June 15</b>
2		June 1	June 28	<u>June 25</u>	June 29	<b>June 25</b>
3	Invoice not issued within the prescribed Period	<u>July 3</u>	August 7	July 26	July 28	<b>July 3</b>
4		July 4	August 8	<u>June 25</u>	July 28	<b>June 25</b>



# CONTINUOUS SUPPLY OF SERVICES

- Section 2(31) of the CGST/ SGST Act, 2016, “*continuous supply of services*” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such service as the Central or a State Government may, whether or not subject to any condition, by notification, specify” – to be notified based on recommendation of Council
- Time of supply shall be the **earliest of the following:**

Situation	Time of supply	
Where due date of payment is ascertainable from the contract	Date on which the payment is liable to be made by recipient whether or not any invoice has been issued or any payment has been received by the supplier	
Where due date of payment is not ascertainable from the contract	<u>Each such time when the supplier of service—</u> Receives the payment <b>or</b> Issues an invoice	Whichever is earlier
Where the payment is linked to the completion of an event	Time of completion of that event	



# REVERSE CHARGE

- Section 2(85) of the CGST/ SGST Act, 2016, “reverse charge”, means the liability to pay tax by the person receiving goods and / or services instead of the person supplying the goods and/ or services in respect of such categories of supplies as the Central or a State Government may, on the recommendation of the Council, by notification, specify”
- The time of supply of goods shall be the **earliest of the following:**
  - Date of **receipt of services;**
  - Date on which the **payment is made** (i.e., when the payment is entered into the books of account or credited to bank account, whichever is earlier);
  - Date of **receipt of invoice;**
  - Date of **debit in books of accounts**

**Circumstances in which reverse charge applicable in case of supply of services not specified**



## OTHER CASES

### A. Supply of services ceases under a contract before completion of supply

Such services shall be **deemed to have been provided at the time when the supply ceases**

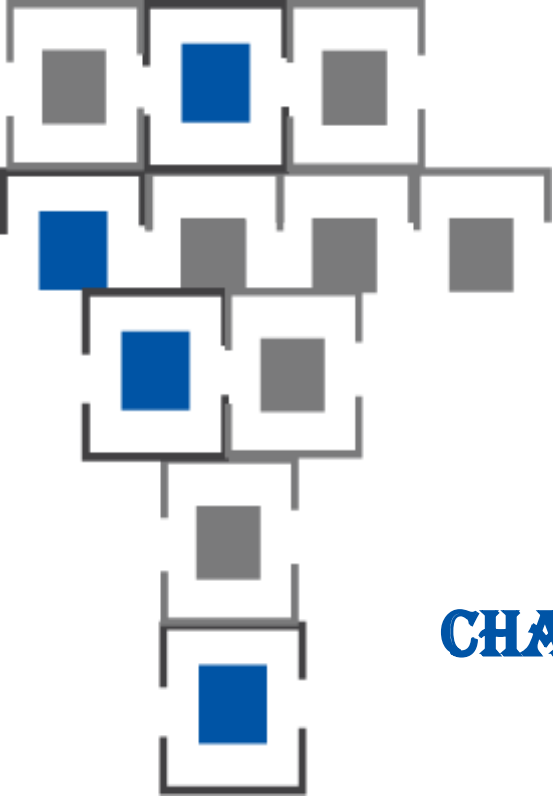
### B. Other cases (not possible to determine as per aforesaid rules)

The time of supply shall be:

- Where a periodical return has to be filed, the **date on which such return is to be filed**, or
- In any other case, **date on which CGST/ SGST and IGST is paid**

**Deeming provision in case of cessation – Tax should be to be the extent the services has been provided/ completed**





## **CHANGE IN RATE OF TAX IN RESPECT OF SUPPLY OF SERVICES**



# CHANGE IN RATE OF TAX IN RESPECT OF SUPPLY OF SERVICES

- Provisions overriding Section 13
- Similar to existing provisions under the Point of Taxation Rules, 2011 – **2/3 Rule**
- Time to supply to be determined in the following manner:

## A. *Where taxable service has been provided before the change in effective Rate of Tax*

Incidence falling prior to change in effective rate of tax		Incidence falling after change in effective rate of tax		Time of supply	
Provision of service	-	Invoice issued	Payment received	Date of receipt of payment* <b>or</b> Date of issue of Invoice	Whichever is earlier
Provision of service	Invoice issued	-	Payment received	Date of issue of Invoice	
Provision of service	Payment received	Invoice issued	-	Date of receipt of payment*	



# CHANGE IN RATE OF TAX IN RESPECT OF SUPPLY OF SERVICES (CONTD..)

*B. Where taxable service has been provided after the change in effective Rate of Tax*

Incidence falling prior to change in effective ROT		Incidence falling after change in effective ROT		Time of supply	
Invoice issued	-	Provision of service	Payment received	Date of receipt of payment*	
Invoice issued	Payment received	Provision of service	-	Date of receipt of payment* <b>or</b> Date of issue of Invoice	Whichever is earlier
-	Payment received	Provision of service	Invoice issued	Date of issue of Invoice	

\*Receipt of payment shall be the earliest of the following:

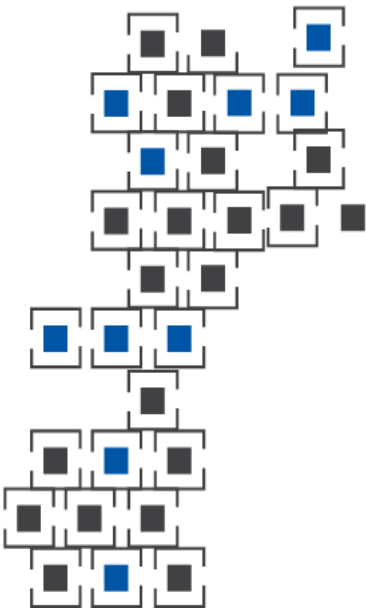
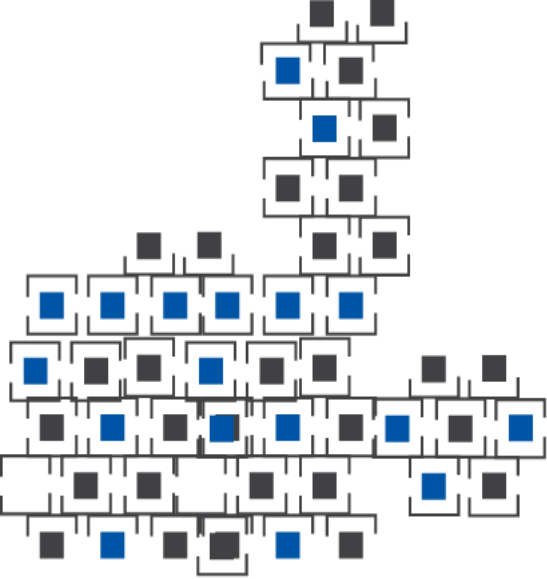
- Date when payment is entered into books of account of supplier, or date of credit in bank account
- Date of credit in bank account (if credited after 4 days of change in rate of tax)



# TRANSITIONAL PROVISIONS

- Section 159 of Draft GST Law provides that:  
Goods and services supplied under GST regime in respect to contracts entered into prior to GST shall be liable to GST
- Section 160 of Draft GST Law provides that:  
**No GST would be applicable on supply of goods and services under the GST regime if:**
  - consideration has been received prior to introduction of GST; and
  - duty/ tax has been paid under the earlier law
- Thus, on all running contracts GST shall be applicable on goods and services supplied after introduction of GST (unless payment was received and tax was already paid)

**If tax rate is higher in GST on goods/ services to be supplied and contract is “all inclusive” – payment should be received and tax should be paid prior to introduction of GST**



***Thank you***

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