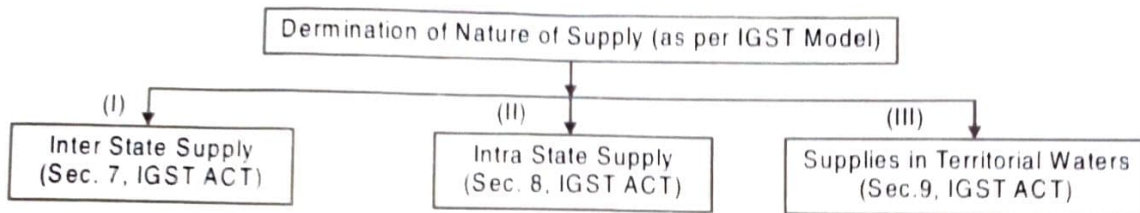
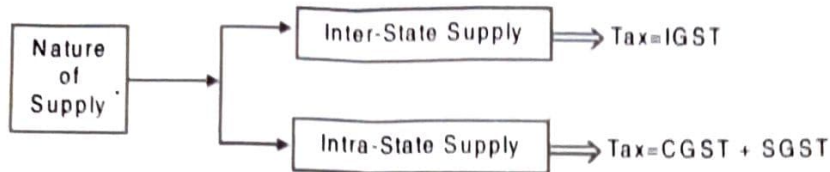


SUPPLIES IN INTRA STATE & INTER STATE TRADE OR COMMERCE

In order to levy tax under GST, we need to identify the nature of supply (of goods or services or both). Nature of supply shall tell us whether the supply is to be considered as Intra state or Inter-state. Only then the respective tax shall be levied on the transaction.

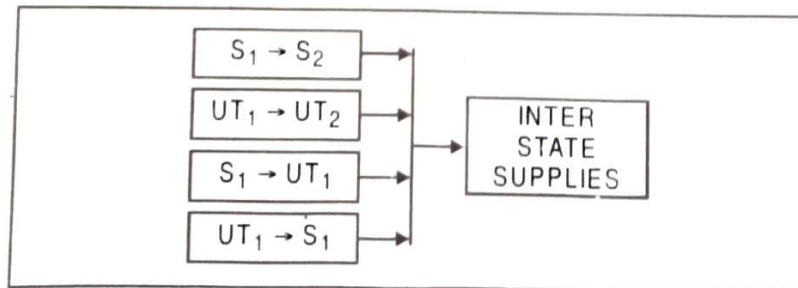


The IGST Model (IGST Act, 2017) contains provisions to determine the nature of supply. The provisions to determine whether the transaction is Inter-state or Intra-state are envisaged by the IGST Act (IGST Model). Export and Import of Goods and Services are also covered under the IGST Act, 2017.

I. Inter State Transactions under GST (Or) What is Inter State Supply ? [Sec. 7, IGST, Act, 2017]

Subject to the place of supply provisions, where the location of the supplier and the place of supply are in –

- (a) Two different States;
- (b) Two different Union territories; or
- (c) A State and a Union Territory.
- (d) A Union Territory *b* and *a* state



Any supplies of goods or services in the taxable territory, not being an intra-State supply, shall be deemed to be a supply of goods or services in the course of inter-State trade or commerce. Supplies to or by SEZs are defined as inter-State supply. Further, the supply of goods imported into the territory of India till they cross the customs frontiers of India or the supply of services imported into the territory of India shall be treated as supplies in the course of inter-State trade or Commerce. Also, the supplies to international tourists are to be treated as Inter State supplies.

Inter-State supply includes:

- Supply of goods from one State or UT to another State or UT.
- Supply of services from one State or UT to another State or UT.
- Import of goods till they cross customs frontier.
- Import of services
- Export of goods or services
- Supply of goods/services to or by SEZ
- Supplies to international tourists
- Any other supply in the taxable territory which is not intra-State.

Under Section 7 of the IGST Act, 2017, the following are considered as Inter State Supply:

1. Inter State Supply of Goods [U/s 7(1)]

As per Section 7(1) of IGST Act, supply of goods in the course of inter-State trade or commerce (i.e. from one State to another) means any supply where the location of the supplier and the place of supply are in two different States or two different Union Territories or a State and Union Territory. However, this is subject to the provisions of Section 10 of the IGST Act [i.e. provisions of Section 10 override provisions of Section 7].

Illustration A Manufacturer located in Mumbai supplies goods to a distributor in Ahmedabad, the location of supplier is Maharashtra and place of supply is Gujrat. Therefore, it is a case where location of supplier and place of supply are different States and therefore IGST will be payable.

Illustration A Manufacturer located in Silvassa (Union Territory) supplies goods to dealer located in Ahmedabad. The supply is made from Union Territory to a State. Therefore, such transaction will also be considered in the course of inter-state trade or commerce and hence IGST will be payable. Location of supplier is in UT and Place of supply is state Gujrat.

Illustration

2. Import of Goods [U/s 7(2)]

Section 7(2) of IGST Act provides that goods imported from outside India till they cross the customs frontiers of India shall be treated as supply of goods in the course of inter-State trade or commerce. The goods are unloaded from the vessel in dock area and thereafter the agent of shipping line gives delivery order to the importer or his agent who can file bill of entry for clearance of goods from dock area. As per section 7(2), till the goods are cleared from dock area, they are considered as supply of goods in the course of inter-State trade or commerce and accordingly, IGST will be charged

	Condition	Determination of Supply	Levy of Taxes
Supply of Goods imported into the territory of India till they cross custom frontiers of India	Location of supplier is outside India and place of supply is in India	Supply in the course of Inter state Trade or Commerce	IGST

For example: Say Robert from UK supplies goods to Rahim in India

Location of the Supplier	Place of supply	Inter-State or Intra-State supplies	Levy of Taxes
1. United Kingdom	India	Supply in the course of Inter-State Trade or Commerce	IGST

Supply of goods imported into the territory of India, till they cross custom frontiers of India shall always be deemed to be Supply in the course of Inter-State Trade or Commerce and IGST would be applicable on such supplies.

3. Inter state supply of services (U/s 7(3))

Supply of services in the course of inter-State trade or commerce means any supply where the location of the supplier and the place of supply are in different States or two different Union Territories or a State and Union Territory. However, this is subject to the provisions of Section 12 of IGST Act - Section 7(3) of IGST Act. [Sec 12 has been explained later under Topic "Place of Supply"].

Illustration Chartered Accountant located in Mumbai advises the client located in Silvassa (Union Territory). The location of supplier is Mumbai whereas the place of supply is Silvassa. Therefore, it is a case of transaction between State and Union Territory. Hence it will be considered as supply of service in the course of inter-State trade or commerce.

Illustration The Chartered Accountant located in Mumbai (Maharashtra) provides services to a person located in Ahmedabad (Gujrat). It will be considered as transaction in two different States. Hence, it will be considered as supply of service in the course of inter-State trade or commerce.

4. Import of Services (U/s 7(4))

Section 7(4) provides that when supply of services is imported into the territory of India, it shall be treated to be a supply of services in the course of inter-State trade or commerce. It means that the location of service provider is outside India and place of supply in India. It shall be considered as transaction in inter-State trade or commerce.

The conditions to be satisfied for supply of service to be treated as Import of Service are as follows:

- (a) Supplier of Service is Located outside India
- (b) Recipient of Service is Located in India
- (c) Place of Supply of service is in India

These conditions have to be fulfilled before any transaction can be classified as Import of Service.

Illustration Mr. Jack from UK supplies consultancy services to M/s Gyan Mehta located in Delhi, India. Determine taxability on the transaction under GST.

Sr. No.	Location of Supplier of Service	Location of Recipient of Service	Place of Supply of Service	Inter-State or Intra-State supplies
1.	United Kingdom	Delhi	Delhi	Supply in the course of Inter-State Trade or Commerce

5. Inter State Supply of Goods or Services or both (U/s 7(5))

Section 7(5) of IGST Act, includes the following :

(a) **Export of goods or services shall be treated to be inter-state supply.** Supply of goods or services or both, when the supplier is located in India and the place of supply is outside India, it shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce - Section 7(5)(a) of IGST Act.

Section 7(5)(a) will cover the transaction which are in the nature of export of goods or export of services. Thus, on clearance of export of goods, the exporter will have to execute bond or letter of undertaking to the extent of IGST payable on such supply of goods or pay tax to this extent.

EXPORT OF GOODS OUT OF THE TERRITORY OF INDIA WOULD BE ZERO RATED UNDER GST:

	Condition	Determination of Supply	Levy of Taxes
Goods Exported from India	Location of Supplier is in India and place of supply is outside India	Supply in the course of Inter-State Trade or Commerce	Zero Rated

Note: Zero rated supplies are eligible for claiming Input Tax Credit.

Illustration M/s Dilshad from Haryana, India exports goods to M/s David in USA. Determine taxability under GST on the transaction ?

Solution.

Location of the Supplier	Place of Supply	Inter-State or Intra-State Supplies	Levy of Taxes
India	United States of America	Supply in the course of Inter-State Trade or Commerce	Zero Rated

If the supplier of goods is located in India and Place of Supply of goods is outside India, then in such case, it would be a transaction of Export of Goods and the supply transaction would be zero rated subject to fulfilment of conditions as prescribed under section 16 of IGST Act.

The conditions to be satisfied for supply of service to be treated as Export of Service are as follows:

- (a) Supplier of Service is Located in India
- (b) Recipient of Service is Located outside India
- (c) Place of Supply of service is outside India
- (d) Payment of such service has been received by the supplier of service in convertible foreign exchange

(b) Supply to and by SEZ developer or SEZ unit shall be treated to be inter-state supply. Supply of goods and/or services to or by a SEZ developer or an SEZ unit, shall be deemed to be a supply of goods or services or both in the course of inter-State trade or commerce-Section 7(5)(b) of IGST Act.

Note: The finance ministry has exempted all goods and services imported by SEZ unit or developer for authorised operations from the levy of Custom Duty U/s 3(7) of Custom Tariff Act, 1975 read with IGST levied U/s 5 of IGST Act, 2017] [w.e.f. 5th July, 2017].

Section 7(5)(a) will cover the goods where the supply is made to and by a SEZ Developer or SEZ unit. This is also evident from clause (i) of proviso to Section 8(1) which specifies that supply of goods to or by a SEZ Developer are considered as Inter-State supply.

II. Intra State Transaction Under GST or What is Intra State Supply. [Sec 8, IGST Act, 2017]

Intra state supply have been defined as any supply where the location of the supplier and place of supply are in the same State or UT.

Intra state supply:

- Supply of goods within the state or UT.
- Supply of services within the state or UT.

Section 8 of the IGST Act, 2017 explains the transactions which are covered under Intra State Supply. The section makes provisions in respect of supply of goods or services or both in the course of Intra state trade or commerce i.e. trade or commerce within the state.

1. Intra State Supply of goods [U/s 8 (1)]

As per Section 8(1) of IGST Act, supply of goods where the location of the supplier and the place of supply of goods are in same State or same Union Territory shall be treated as intra-state supply. However, this is subject to the provisions of Section 10 of IGST Act)

Proviso to Section 8(1) provides that following transaction will not be considered as intra-State supply.

- (i) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;
- (ii) goods imported into territory of India till they cross the customs frontiers of India; or
- (iii) supplies made to a tourist referred to in section 15.

Section 15 of IGST Act provides for refund of IGST paid by tourist while in tour in India.

For the purposes of this section, the term tourist

2. Intra State Supply of Service [U/s 8(2) of IGST Act, 2017]

Sub Section (2) of Section 8 provides where location of supplier of service and place of service is in the same State or same Union Territory, it shall be considered as transaction of intra-State supply. It is also provided that supply to SEZ or supply by SEZ will not be considered as intra-State supply. Thus supply to SEZ or supply from SEZ will always be considered supply in the course of inter-State trade or commerce.

III. Supplies in Territorial Waters (Sec 9 of IGST Act, 2017). What are Territorial Waters?

Section 3 of the 'Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zone Act, 1976' specifies that territorial water extends upto 12 nautical miles from the base line on the coast of India and includes any bay, gulf, harbour, creek or tidal river. (1 nautical mile = 1.1515 miles = 1.853 Kms). **Sovereignty of India extends to the territorial waters and to the sea-bed and subsoil underlying and the air space over the waters.**

Under Section 2(56) of the CGST Act, 2017

The Territory of India as per Article 1 of the Constitution not just includes the landmass of India, but also includes its territorial waters (12 NM from the coastline), sea-bed and subsoil underlying such waters, continental seas, Exclusive economic zone, any other maritime zone and air space above its territory and territorial waters.

In simple words, as per the CGST Act, for the purpose of GST, India's territory also includes areas covered by territorial waters. Hence, the Territory of Different States and Union Territories extends to the baseline of India (i.e. upto 12 NM from the base line)

According to Section 9, whenever the supplies are made in the Territorial waters, we need to determine that such supplies fall within the territory of which state or UT. For this Section 9 has made a deeming provision which states .

1. When location of supplier is in Territorial Waters

When the location of the supplies is in territorial waters, then the location of supplier shall be **DEEMED to be in the coastal state or UT where the Nearest Point of the Appropriate Baseline is located.**

2. When Place of Supply is in Territorial Waters

Where the place of supply falls in the territorial waters, then the location of the place of supply shall be **DEEMED to be in the Coastal State or UT Where the Nearest Point of the Appropriate Baseline is Located.**

Hence,

