

GOODS AND SERVICES TAX



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IMPORT, EXPORT & ZERO RATED SUPPLIES UNDER GOODS AND SERVICE TAX



IMPORT OF GOODS

Clause (10) of section 2 of the IGST Act, 2017

'Import of goods' means bringing goods into India from a place outside India. Means to bring Goods into India

(i) by road;

(ii) Air;

(iii) Water;

(iv) Pipe line;

(v) Rail; or any other mode.

To bring into India means crossing the custom frontiers of India.

IMPORT OF SERVICES

Clause (11) of section 2 of the IGST Act, 2017

Import of services means such supply of services which satisfies following conditions:

- (a) The supplier of service is located outside India,
- (b) The recipient of service is located in India,
- (c) The place of supply of service is in India,

First two conditions require that the supplier and recipient of service are respectively destined outside India and within India. Third condition requires that the place of supply is in India which shall be determined as per provisions of section 10 of the IGST Act, 2017.

Location of supplier of services Clause

(15) Section (2) IGST Act, 2017

(15) “location of the supplier of services” means,—

(a) where a supply is made from a place of business for which the registration has been obtained, the location of such place of business;

(b) 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;

(c) 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

(d) in absence of such places, the location of the usual place of residence of the supplier.

Location of recipient of services

(14) “Location of the recipient of services” means,—

(a) Where a supply is received at a place of business for which the registration has been obtained, the location of such place of business;

(b) 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;

(c) 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 the supply; and

(d) In absence of such places, the location of the usual place of residence of the recipient.

EXPORT OF GOODS

Section 2(5) of the IGST Act, 2017

‘Export of goods’ means taking of goods to a place outside India.

Goods may be taken to a place outside India either by road, air, water, pipe, rail or any other mode. The means to take goods outside India shall be irrelevant and taking the goods to a place outside India shall be relevant to determine the export of goods.

EXPORT OF SERVICES

As per section 2(6) of the IGST Act, 2017, export of services means such supply of services when following conditions are satisfied:

- (a) The supplier of service is located in India,
- (b) The recipient of service is located outside India,
- (c) The place of supply of service is outside India,
- (d) The payment for such service has been received by the supplier of service in convertible foreign exchange, and
- (e) The supplier of service and recipient of service are not merely establishments of a distinct person in accordance with explanation 1 of section 8.

EXPORT OF SERVICES

First two conditions require that the supplier and recipient of service are respectively located in and outside India. Location of supplier of services and location of recipient of services shall be determined as per section 2(15) and 2(14) of the IGST Act, 2017.

Third condition requires that the place of supply determined as per section 10 of the IGST Act, 2017 is outside India. Fourth condition requires that the payment is received in convertible foreign exchange. Fifth condition requires that the supplier and recipient are not merely establishments of distinct person.

Explanation-1 to section 8 of the Act explains the establishments of distinct person as follows:

EXPORT OF SERVICES

(i) An establishment of a person in India and any of his other establishments outside India; or

(ii) An establishment of a person in a State and any of his other establishments outside that state or union territory; or

(iii) An establishment in a state or union territory and any other establishment being a business vertical registered within that state or union territory then such establishments shall be treated as establishments of distinct persons.

Explanation 2.—A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

TREATMENT OF IMPORT AND EXPORT OF GOODS OR SERVICES OR BOTH

Import and export of goods or services or both are treated as inter-state supply.

As per section 5(1) of IGST Act, 2017

Imports are liable to IGST Tax

IGST tax shall not exceed 40%

IGST tax shall be levied and collected in accordance with section 3 of the Custom Tariff Act, 1975 on value determined under the Customs Act.

Exports are zero rated supplies

ZERO RATED SUPPLY

Zero rated supply means any of the following supplies of goods or services or both:

- (a) Export of goods or services or both; or
- (b) Supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit.

ITC permissible even if supplies are exempt from Tax

Subject to the provisions of sub-section *(5) of section 17 of the Central Goods and Services Tax Act, credit of input tax may be availed for making zero-rated supplies, notwithstanding that such supply may be an exempt supply.

[section 16(2)]

Section 17(5) of the CGST Act, 2017 contains provisions relating to denial of input tax credit on motor vehicles, conveyance etc. subject to certain conditions.

PERSON ELIGIBLE TO CLAIM REFUND

A registered person making zero rated supply shall be eligible to claim refund under either of the following options, namely:

(a) He may supply goods or services or both under bond or Letter of Undertaking, subject to such conditions, safeguards and procedure as may be prescribed, without payment of integrated tax and claim refund of unutilized input tax credit; or

(b) He may supply goods or services or both, subject to such conditions, safeguards and procedure as may be prescribed, on payment of integrated tax and claim refund of such tax paid on goods or services or both supplied,

In accordance with the provisions of section 54 of the Central Goods and Services Tax Act or the rules made there under.[section 16(3)]

Thank You

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An initiative of professionals who understand GST

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