

Time of Supply (TOS) under Revised MGST Law

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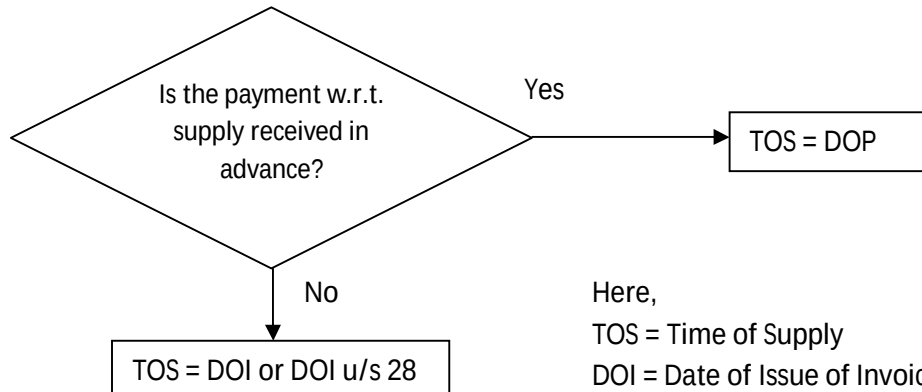
Place of Supply (POS) under Draft IGST Law

This article is based on the provisions that are specified in the revised Model GST Law and draft IGST Law issued by Indian Government on 25th of November, 2016. This article basically deals with following very important areas,

Sr. No.	Particulars	Section No.	Reference	Page No.
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D	Place of supply of Goods	7 & 8	Draft IGST Law	7
E	Place of supply of Services	9 & 10	Draft IGST Law	8-16

A] Time of Supply of Goods: Sec 12 revised MGST

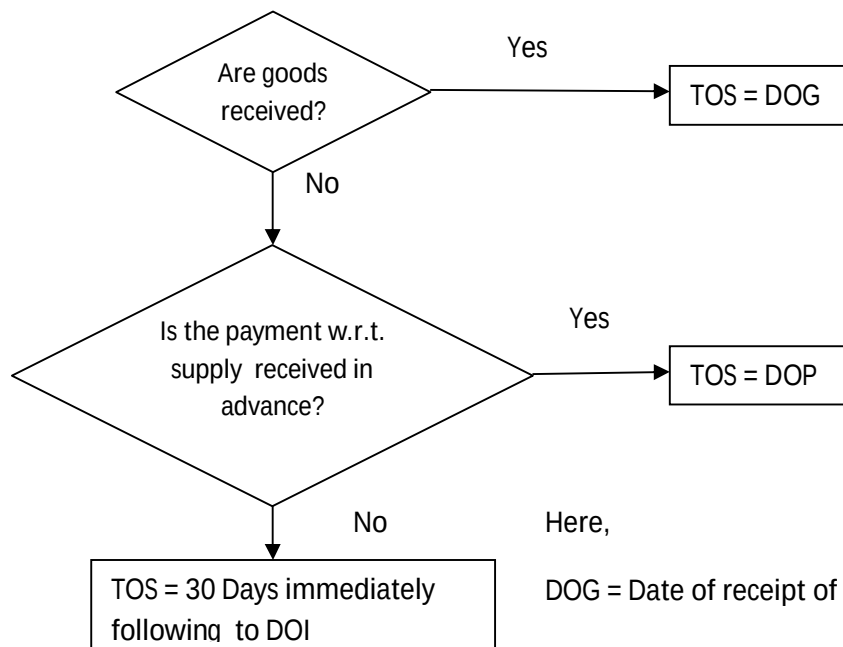
- CGST/ SGST is payable only at the time of supply of goods [12(1)]
- Regular Case : Sec 12(2)



Here,
TOS = Time of Supply
DOI = Date of Issue of Invoice
DOP = Date of receipt of payment (earlier of date of entry in books or date of credit in bank)

Provided that where supplier receives up to Rs. 1,000/- in excess of value as per invoice, he has option to take TOS for such excess amount as a DOI.

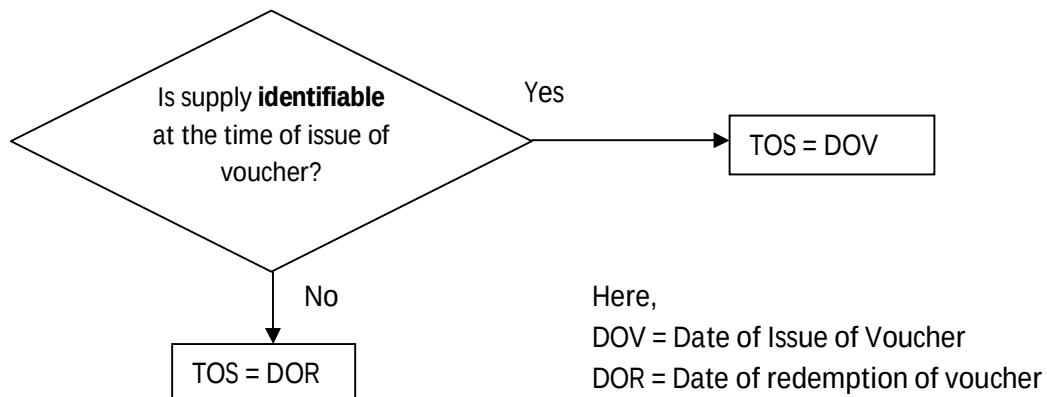
- Reverse Charge Case: Sec 12(3)



Here,
DOG = Date of receipt of Goods

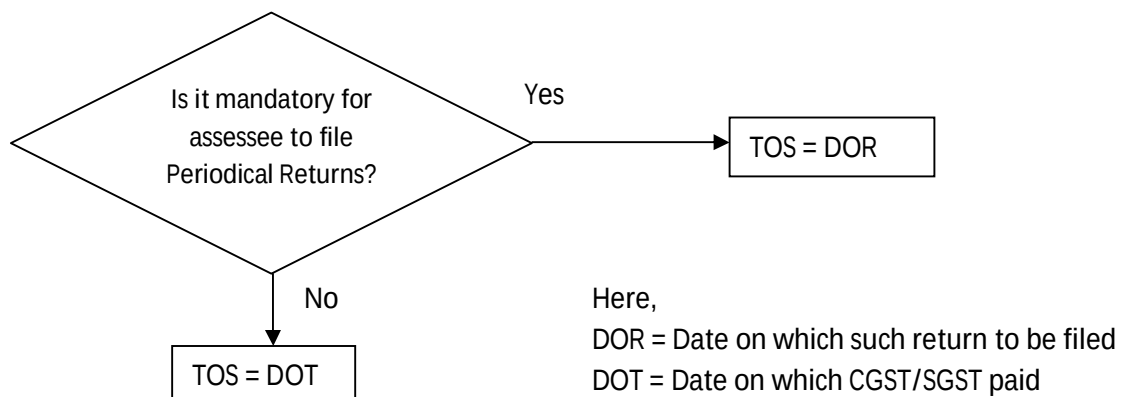
PROVIDED that where it is not possible to determine the time of supply under above manner the time of supply shall be the date of entry in the books of account of the recipient of supply.

- Supply of Vouchers : Sec 12(4)



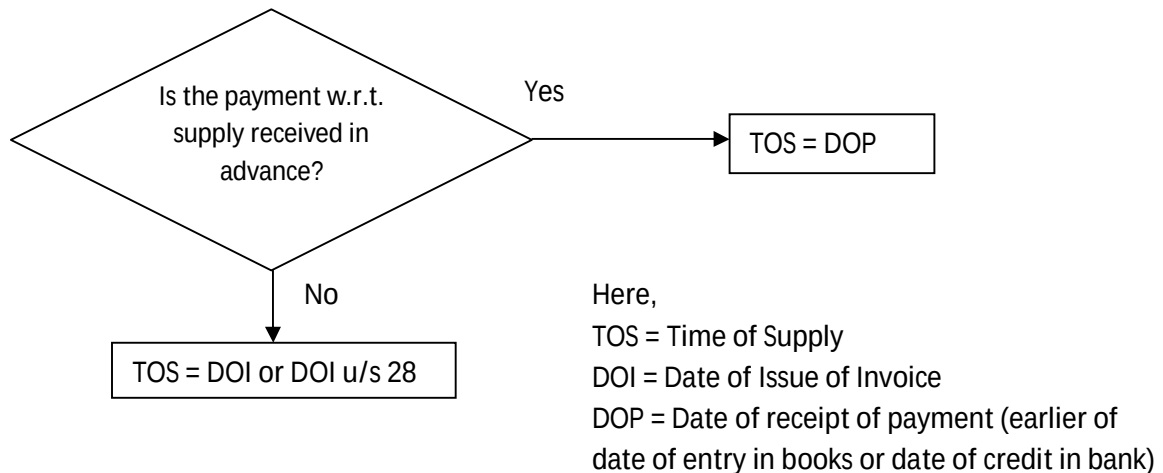
- Others: Sec 12(5)

In cases where it is not possible to determine TOS u/s 12(2), 12(3) and 12(4), TOS shall be determined in a following manner,



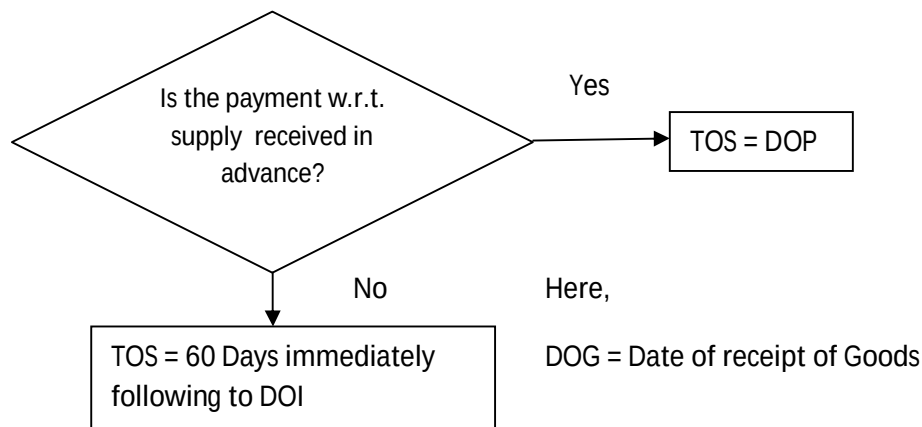
B] Time of Supply of Services: Sec 13 of revised MGST

- CGST/ SGST is payable only at the time of supply of services [13(1)]
- Regular Case : Sec 13(2)



Provided that where supplier receives up to Rs. 1,000/- in excess of value as per invoice, he has option to take TOS for such excess amount as a DOI.

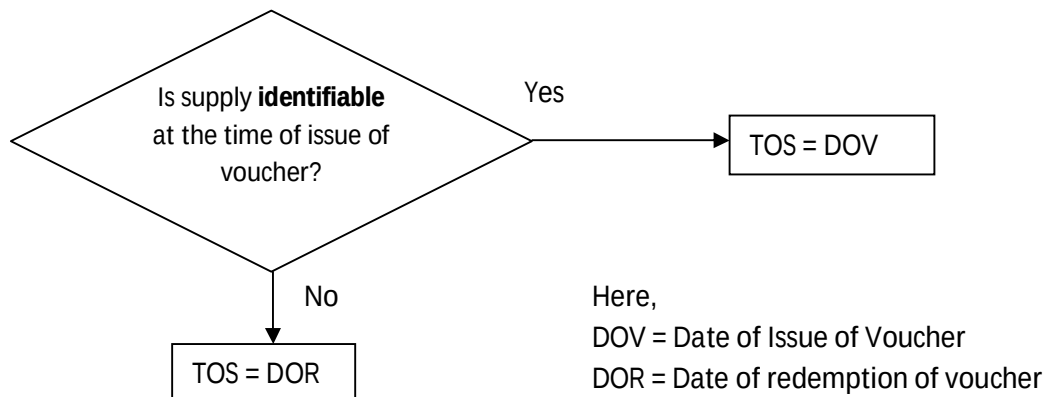
- Reverse Charge Case: Sec 13(3)



PROVIDED that where it is not possible to determine the time of supply under above manner the time of supply shall be the date of entry in the books of account of the recipient of supply.

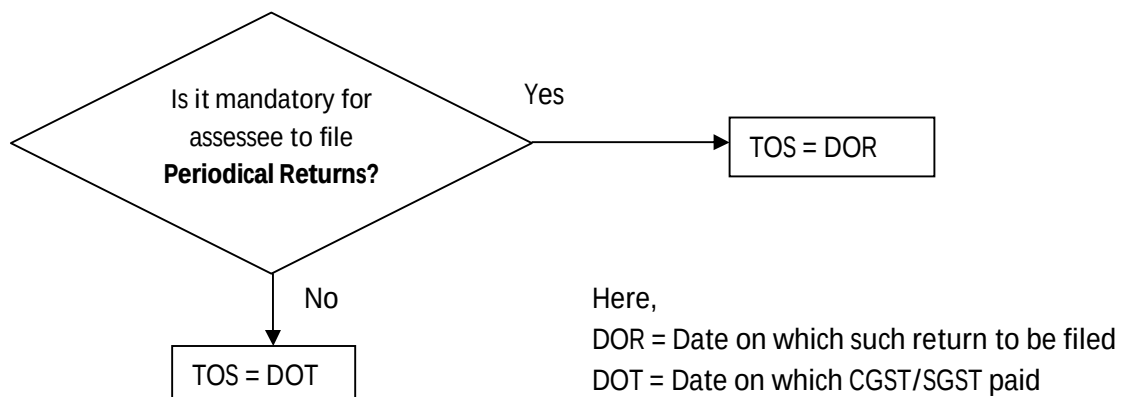
PROVIDED FURTHER that in case of '**associated enterprises**', where the supplier of service is located **outside India**, the time of supply shall be **the date of entry in the books of account of the recipient of supply or the date of payment, whichever is earlier.**

- Supply of Vouchers : Sec 13(4)

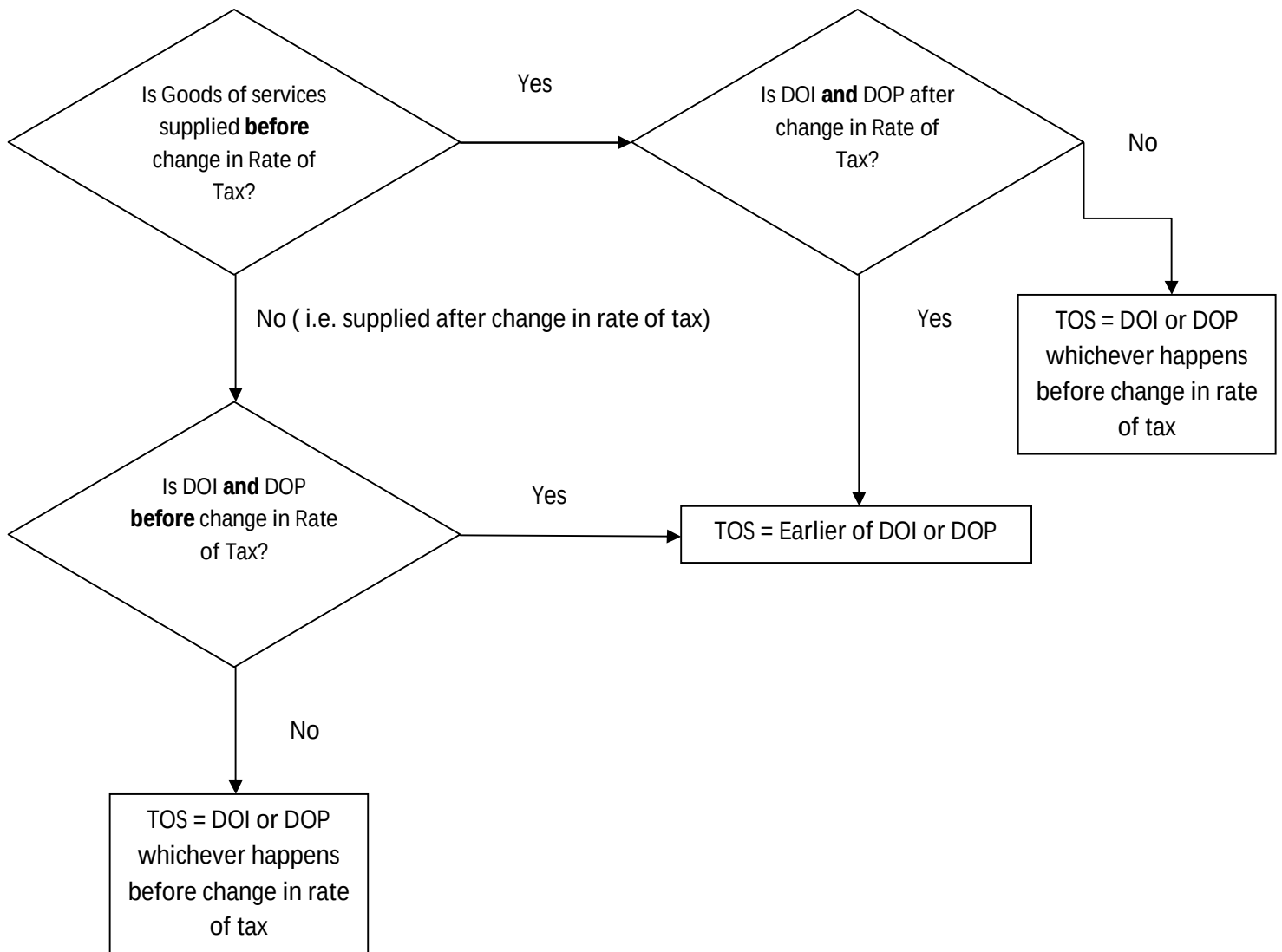


- Others: Sec 13(5)

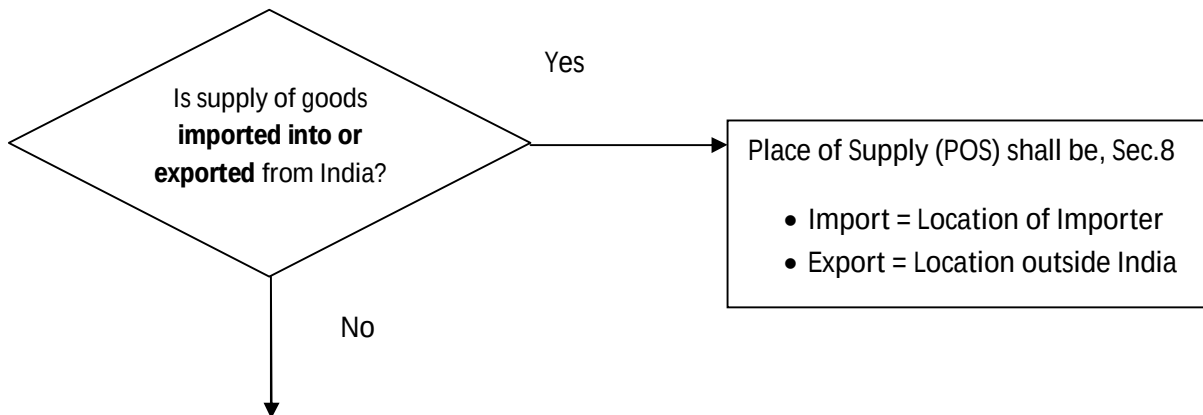
In cases where it is not possible to determine TOS u/s 13(2), 13(3) and 13(4), TOS shall be determined in a following manner,



C] Change in rate of Tax: Sec 14 of revised MGST



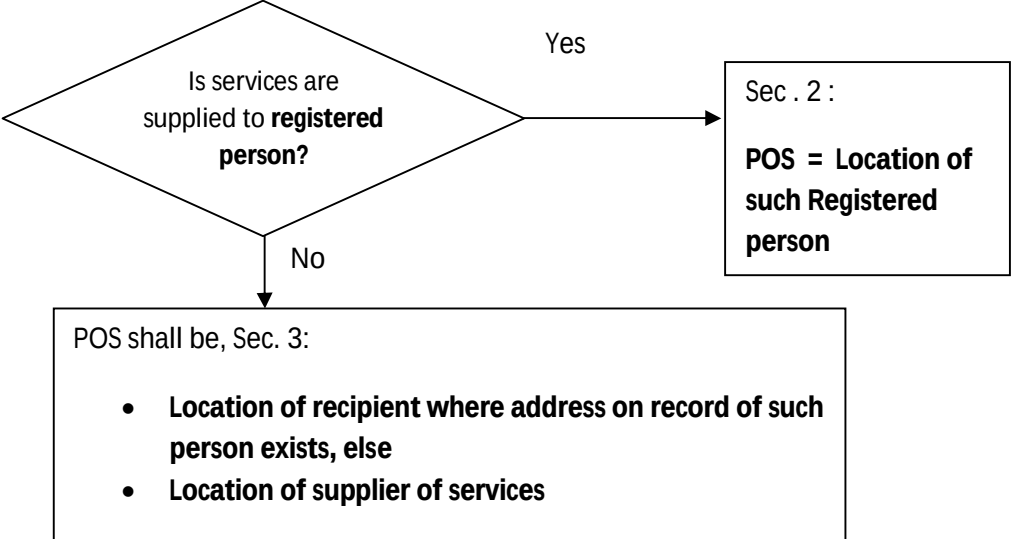
D] Place of supply of Goods: Sec. 7 and Sec. 8 of Draft IGST Law



Sec. 7:

Sr. No.	Particulars	Location
1	Supply involves Movement of goods , Sec. 7(2)	location of the goods at the time at which the movement of goods terminates for delivery to the recipient
2	Bill to Ship to Model Where the goods are delivered by the supplier to a recipient or any other person, on the direction of a third person , Sec. 7(3)	Principal place of business of that Third person who gives the Direction
3	Supply does not involves Movement of goods, Sec. 7(4)	location of such goods at the time of the delivery to the recipient
4	Goods are assembled or installed at site, Sec. 7(5)	Location of such installation or assembly
5	Goods are supplied on board a conveyance, such as a vessel, an aircraft, a train or a motor vehicle , Sec. 7(6)	Location at which such goods are taken on board.
6	Where POS cannot be determined under above five cases, Sec. 7(7)	POS shall be determined in a manner prescribed by the Central Government on the recommendation of the Council

E] Place of Supply of Services supplied, where both supplier and recipient are located in India: Section 9 of revised IGST

Sr. No.	Particulars	Location
1	If services are supplied other than all the cases specified below [sub sections 4 to 15 of Sec. 9]	 <pre> graph TD A{Is services are supplied to registered person?} -- Yes --> B[Sec . 2 : POS = Location of such Registered person] A -- No --> C[POS shall be, Sec. 3: • Location of recipient where address on record of such person exists, else • Location of supplier of services] </pre>
2	Sec . 4 : IMMOVABLE PROPERTY, Directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work, or - By way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called and including a house boat or any other vessel, or - By way of accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official, social, cultural, religious or business function including services provided in relation to such function at such property, or Any services ancillary to the services referred to in clause 1, 2 and 3	POS shall be the location at which the immovable property or boat or vessel is located or intended to be located. Provided, if such location is out of India POS shall be location of recipient Explanation : If POS if in more than one state then it shall be determined on proportion of value basis

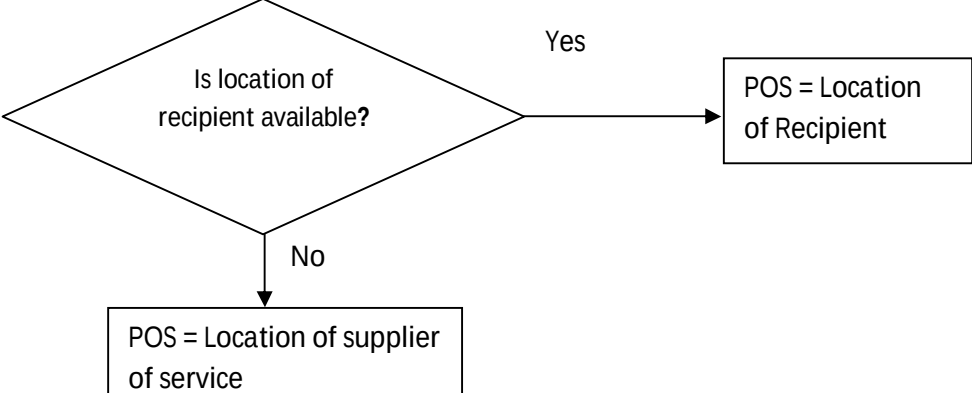
3	Sec . 5 : Restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery	Where the services are actually performed
4	Sec . 6 : Training and Performance Appraisals	<pre> graph TD A{Is services are supplied to Registered person?} -- Yes --> B[POS = Location of such person] A -- No --> C[POS = Location where services are actually performed] </pre>
5	Sec . 7 : Services provided by way of admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or amusement park or any other place and services ancillary thereto	• The place where the event is actually held or • Where the park or such other place is located.
6	Sec . 8 : Services provided by way of— 1. Organization of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of service in relation to a conference, fair, exhibition, celebration or similar events, or 2. Services ancillary to organization of any of the above events or services, or assigning of sponsorship of any of the above events	<pre> graph TD A{Is services are supplied to Registered person?} -- Yes --> B[POS = Location of such person] A -- No --> C[POS = Location where the event actually held] </pre> Provided, if such location is out of India POS shall be location of recipient Explanation : If POS if in more than one state then it shall be determined on proportion of value basis

7	Sec . 9 : Services by way of transportation of goods, including by mail or courier to	<pre> graph TD A{Is services are supplied to Registered person?} -- Yes --> B[POS = Location of such person] A -- No --> C[POS = Location at which such goods are handed over for their transportation] </pre>
8	Sec . 10 : Passenger transportation service PROVIDED that where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in the manner specified in sub-sections (2) or (3), as the case may be. Explanation: For the purposes of this sub-section, the return journey shall be treated as a separate journey even if the right to passage for onward and return journey is issued at the same time.	<pre> graph TD A{Is services are supplied to Registered person?} -- Yes --> B[POS = Location of such person] A -- No --> C[POS = place where the passenger embarks for continuous journey] </pre>
9	Sec . 11 : Supply of services on board a conveyance such as vessel, aircraft, train or motor vehicle	Location of the first scheduled point of departure of that conveyance for the journey.

10	Sec . 12 : Supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person, 1. In case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna 2. In case of mobile connection for telecommunication and internet services provided on post-paid basis 3. In cases where mobile connection for telecommunication, internet service and direct to home television services are provided on pre- payment through a voucher or any other means, • through selling agent or a re-seller or a distributor of SIM card or re-charge voucher • by any person to the final subscriber 4. In other cases not covered in 2 and 3 above <i>PROVIDED that where address of the recipient as per records of the supplier of service is not available, the place of supply shall be location of the supplier of service</i> <i>PROVIDED FURTHER that if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on record of the supplier of services shall be the place of supply of such service.</i>	1. Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services 2. Location of billing address of the recipient of services on record of the supplier of services 3. Location where such prepayment is received or such vouchers are sold address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply 4. Address of the recipient as per records of the supplier of the service Explanation: Where the leased circuit is installed in more than one State and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the States in proportion to the value of services so provided in each State as ascertained from the terms of the contract or agreement entered into in this regard or, in absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf.
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11	Sec. 13 : Supply of banking and other financial services including stock broking services to any person	Location of the recipient of services on the records of the supplier of services <i>PROVIDED that if the location of the recipient of services is not on the records of the supplier, the place of supply shall be location of the supplier of services</i>
12	Sec. 14 : Supply of Insurance Services	<pre> graph TD A{Is services are supplied to Registered person?} -- Yes --> B[POS = Location of such person] A -- No --> C[POS = location of the recipient of services on the records of the supplier of services] </pre>
13	Sec. 15 : Supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for identifiable States	Located of each of such States Value of such supplies specific to each State shall be in proportion to amount attributable to service provided by way of dissemination in the respective States as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other reasonable basis as may be prescribed in this behalf

F] Place of Supply of Services where either of the supplier or recipient is located outside India: Section 10 of revised IGST

Sr. No.	Particulars	Location
1	Sec. 2 : If services are supplied other than all the cases specified below [sub sections 3 to 13 of Sec. 10]	 <pre> graph TD A{Is location of recipient available?} -- Yes --> B[POS = Location of Recipient] A -- No --> C[POS = Location of supplier of service] </pre>
2	Sec. 3 : - Services supplied in respect of goods that are required to be made physically available by the recipient of service - to the supplier of service or - to a person acting on behalf of the supplier of service in order to provide the service <i>PROVIDED that when such services are provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of service</i> <i>PROVIDED FURTHER that this clause shall not apply in the case of a service supplied in respect of goods that are temporarily imported into India for repairs and are exported after repairs without being put to any use in India, other than that which is required for such repairs</i> - Services supplied to an individual, represented either as the recipient of service or a person acting on behalf of the recipient, who require the physical presence of the receiver or the person acting on behalf of the recipient, with the supplier for the supply of the service.	Location where services are actually performed

3	Sec. 4 : Supply of services Directly in relation to an immovable property including • Services supplied in this regard by experts and estate agents • Supply of hotel accommodation by a hotel, inn, guest house, club or campsite, by whatever name called • Grant of rights to use immovable property • Services for carrying out or coordination of construction work, including architects or interior decorators	Location where the immovable property is located or intended to be located.
4	Sec. 5 : Services supplied by way of admission to a cultural, artistic, sporting, scientific, educational, or entertainment event or a celebration, conference, fair, exhibition, or similar events, and of services ancillary to such admission	Location where event is actually held
5	Sec. 6 : Where any service referred to in sub-sections 3, 4 or 5 is supplied at more than one location, including a location in the taxable territory	Location in the taxable territory Where the greatest proportion of the service is provided
6	Sec. 7 : Where any service referred to in sub-sections 3, 4 , 5 or 6 is supplied at more than one state,	Location being in each of the States , In proportion to the value of services so provided in each State as ascertained from the terms of the contract or agreement entered into in this regard or, in absence of such contract or agreement, on such other reasonable basis as may be

7	Sec. 8 : 1. Services supplied by a banking company, or a financial institution, or a nonbanking financial company, to account holders 2. Intermediary services 3. Services consisting of hiring of means of transport other than aircrafts and vessels except yachts, up to a period of one month. Explanation.- For the purpose of this section, the expression “goods” shall include ‘securities’ as defined in sub-section (90) of section 2 of the CGST Act, 2016.	Location of supplier
8	Sec. 9 : Transportation of goods other than by way of mail or courier	Place of Destination of goods
9	Sec. 10 : Transportation of passengers	Place where the passenger embarks on the conveyance for a continuous journey.
10	Sec. 11 : Services provided on board a conveyance during the course of a passenger transport operation, Including services intended to be wholly or substantially consumed while on board	First scheduled point of departure of that conveyance for the journey

11	Sec. 12 : Supply of the online information and database access or retrieval services For the purposes of this sub-section, person receiving such services shall be deemed to be located in the taxable territory if any two of the following non contradictory conditions are satisfied, namely; • the location of address presented by the recipient of service via internet is in taxable territory • the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of service settles payment has been issued in the taxable territory • the billing address of recipient of service is in the taxable territory • the internet protocol address of the device used by the recipient of service is in the taxable territory • the bank of recipient of service in which the account used for payment is maintained is in the taxable territory • the country code of the subscriber identity module (SIM) card used by the recipient of service is of taxable territory • The location of the fixed land line through which the service is received by the recipient is in taxable territory.	Location of recipient of service.
12	Sec. 13 : In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Central Government shall have the power to notify any description of service or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.	