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GOODS AND SERVICE TAX LAWS

REVERSE CHARGE

BY RECIPIENT

Under section 9(3) of CGST/SGST, section 7(3) of UTGST Act, 2017 & Section 5(3) of IGST Act, 2017 on Notified categories of Goods or Services or Both

Notification No 10/2017 (Integrated Tax-Rate) Dated 28.06.2017 TO LEVY IGST on Inward supply of Services

Notification No 13/2017 (Central Tax/State Tax/UT Tax-Rate) Dated 28.06.2017 TO LEVY CGST, SGST/ UTGST on Inward supply of Services

SCROLL DOWN FOR LIST OF SERVICES

BY REGISTERED PERSON

Under section 9(4) of CGST/SGST, section 7(4) of UTGST Act, 2017 & Section 5(4) of IGST Act, 2017 on inward supply of taxable goods or services or both from UNREGISTERED

Exemption to pay CGST/SGST/UTGST on aggregate value of Intra-state supply of Goods or Services or Both up-to Rs.5000 per day from ANY or ALL Un-registered suppliers- Notification No.8/2017-Central Tax/State Tax/UT Tax (Rate) dated 28.06.2017

Notification No 4/2017 (Central Tax/State Tax/IGST/UT Tax-Rate) Dated 28.06.2017 TO LEVY CGST, SGST/IGST/ UTGST on Inward supply of Goods

SCROLL DOWN FOR LIST OF GOODS

NOTIFIED SERVICES UNDER RCM

Extra in Notification 10- IGST

Table

Sl. No.	**Category of Supply of Services**	**Supplier of service**	**Recipient of Service**
(1)	**(2)**	**(3)**	**(4)**
1	Any service supplied by any person who is located in a non-taxable territory to any person other than non-taxable online recipient.	Any person located in a non-taxable territory	Any person located in the taxable territory other than non-taxable online recipient.
2	Supply of Services by a goods transport agency (GTA) in respect of transportation of goods by road to- (a) any factory registered under or governed by the Factories Act, 1948(63 of 1948);or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person.	Goods Transport Agency (GTA)	(a) Any factory registered under or governed by the Factories Act, 1948(63 of 1948); or (b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the Central Goods and Services Tax Act or the Integrated Goods and Services Tax Act or the State Goods and Services Tax Act or the Union Territory Goods and Services Tax Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person; located in the taxable territory.

3	Services supplied by an individual advocate including a senior advocate by way of representational services before any court, tribunal or authority, directly or indirectly, to any business entity located in the taxable territory, including where contract for provision of such service has been entered through another advocate or a firm of advocates, or by a firm of advocates, by way of legal services, to a business entity.	An individual advocate including a senior advocate or firm of advocates.	Any business entity located in the taxable territory.
4	Services supplied by an arbitral tribunal to a business entity.	An arbitral tribunal.	Any business entity located in the taxable territory.
5	Services provided by way of sponsorship to any body corporate or partnership firm.	Any person	Any body corporate or partnership firm located in the taxable territory.
6	Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, - (1) renting of immovable property, and (2) services specified below- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.

7	Services supplied by a director of a company or a body corporate to the said company or the body corporate.	A director of a company or a body corporate	The company or a body corporate located in the taxable territory.
8	Services supplied by an insurance agent to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
9	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable territory.
10	Services supplied by a person located in non- taxable territory by way of transportation of goods by a vessel from a place outside India up to the customs station of clearance in India.	A person located in non-taxable territory	Importer, as defined in clause (26) of section 2 of the Customs Act, 1962(52 of 1962), located in the taxable territory.
11	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under clause (a) of sub-section (1) of section 13 of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory.

Extra in Notification No 10-IGST

Explanation:-

For purpose of this notification,

(a)The person who pays or is liable to pay freight for the transportation of goods by road in <u>goods carriage</u>, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.

(b) "Body Corporate" has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.

(c) The business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.

NOTIFIED GOODS UNDER RCM

S. No.	Tariff item, sub-heading, heading or Chapter	Description of supply of Goods	Supplier of goods	Recipient of supply
(1)	(2)	(3)	(4)	(5)
1.	0801	Cashew nuts, not shelled or peeled	Agriculturist	Any registered person
2.	1404 90 10	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3.	2401	Tobacco leaves	Agriculturist	Any registered person
4.	5004 to 5006	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
5.	-	Supply of lottery.	State Government, Union Territory or any local authority	Lottery distributor or selling agent. *Explanation*.- For the purposes of this entry, lottery distributor or selling agent has the same meaning as assigned to it in clause (c) of Rule 2 of the Lotteries (Regulation) Rules, 2010, made under the provisions of sub section 1 of section 11 of the Lotteries (Regulations) Act, 1998 (17 of 1998).

Explanation. –

(1) In this Table, "tariff item", "sub-heading", "heading" and "Chapter" shall mean respectively a tariff item, sub-heading, heading or chapter, as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(2) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975, including the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of this notification.

SERVICES		
Supplier	**Recipient**	**Nature of Service**
Any Person located in Non-Taxable Territory	Any Person located in taxable Territory other than **Online Non-taxable Recipient**	Any Service
Goods Transport Agency (Who issue consignment note)	Specified Recipients **(See Note- 1)**	Transport of goods by road
An Individual Advocate, senior advocate or Firm of advocates	Any Business Entity located in Taxable territory **SEE NOTE-3**	Represential & Legal services before any Court, Tribunal or authority, directly or indirectly
Arbitral Tribunal	Any Business Entity located in Taxable territory	Any Service
Any Person	Body Corporate and Partnershp firm in taxable territory	Sponsorship
Centre Govt/State Govt/UT/ Local Authority	Any Business Entity located in taxable territory	All services with some exceptions **(See Note-2)**
Director of Company or Body Corporate	Such company or Body Corporate	Any Service

Section 2(*16*) of IGST Act: Non-taxable online recipient
Means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.
Explanation.—For the purposes of this clause, the expression "governmental authority" means an authority or a board or any other body:-
(i) Set up by an Act of Parliament or a State Legislature; or
(ii) Established by any Government,
With ninety per cent or more participation by way of equity or control, to carry out any function entrusted to a municipality under article 243W of the Constitution.

Explanation (b) with notification: Body Corporate has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.

Supplier	Reciepient	Nature of Service
Insurance agent	Any person carrying insurance business	Any services
Recovery agent	Banking Co, Financial Institution, NBFC	Any services
Person located in non-taxable territory	Any person in taxable territory	Services by way of transportation of goods by a vessel from a place outside india UPTO the custom station of clearance in India
Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory.	Services by way of transfer or permitting the use or enjoyment of a copyright relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.

Explanation (d) to notification: The words and expressions used and not defined in this notification but defined in CGST/IGST/UTGST Act, shall have the same meanings as assigned to them in those Acts.

NOTE-1
SPECIFIED RECIPIENTS FOR GTA SERVICES

(a) Any registered factory.
(b) Any registered society
(c) Any co-operative society
(d) any person registered under GST
(e) Any body-corporate
(f) any partnership firm whether registered or not and association of persons; or
(g) any casual taxable person;

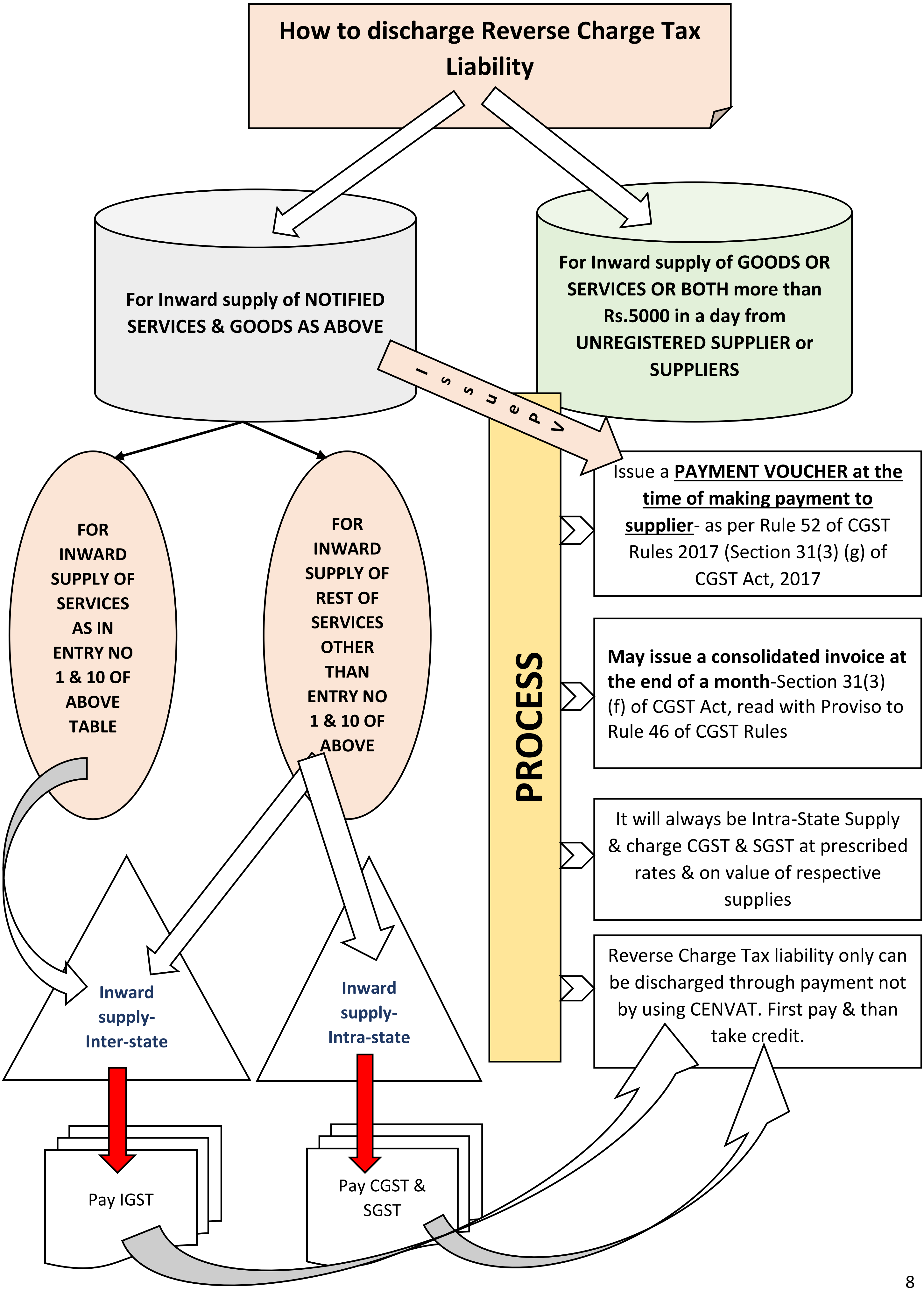
Located in the taxable territory.

Explanation (a) to Notification
Recipient is the person who PAYS or LIABLE TO PAY freight.

NOTE-2
SERVICES PROVIDED BY GOVERNMENT NOT UNDER RCM (EXCEPTIONS)

(1) Renting of immovable property, and
(2) Services specified below-
(i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services **provided to a person other than Central Government, State Government or Union territory or local authority;**
(ii) Services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;
(iii) Transport of goods or passengers.

Note-3 Recipient of legal services
Explanation (c) to notification
The business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.


How to discharge Reverse Charge Tax Liability
For Inward supply of NOTIFIED SERVICES & GOODS AS ABOVE
For Inward supply of GOODS OR SERVICES OR BOTH more than Rs.5000 in a day from UNREGISTERED SUPPLIER or SUPPLIERS
Issue PV
FOR INWARD SUPPLY OF SERVICES AS IN ENTRY NO 1 & 10 OF ABOVE TABLE
FOR INWARD SUPPLY OF REST OF SERVICES OTHER THAN ENTRY NO 1 & 10 ABOVE
PROCESS
Issue a PAYMENT VOUCHER at the time of making payment to supplier- as per Rule 52 of CGST Rules 2017 (Section 31(3) (g) of CGST Act, 2017
May issue a consolidated invoice at the end of a month-Section 31(3) (f) of CGST Act, read with Proviso to Rule 46 of CGST Rules
It will always be Intra-State Supply & charge CGST & SGST at prescribed rates & on value of respective supplies
Reverse Charge Tax liability only can be discharged through payment not by using CENVAT. First pay & than take credit.
Inward supply-Inter-state
Inward supply-Intra-state
Pay IGST
Pay CGST & SGST

Law related to Reverse Charge

❖ **Section 9(3) of CGST/SGST Act, 7(3) OF UTGST Act & 5(3) of IGST Act.**

The Government may, on the recommendations of the Council, **by notification**, specify **categories of supply of goods or services or both**, the **tax on which shall be paid on reverse charge** basis **by the recipient** of such goods or services or both and all the provisions of this Act shall apply to such recipient **as if he is the person liable for paying the tax** in relation to the supply of such goods or services or both.

❖ **Section 9(4) of CGST/SGST Act, 7(4) OF UTGST Act & 5(4) of IGST Act**

FOR SERVICES
Notification No. 10-IGST /13-Central Tax, State Tax & UT tax
FOR GOODS
Notification no. 4-IGST/CGST/SGST/UPGST

State Tax in SGST Act, UT Tax in UTGST Act & Integrated tax in IGST Act

The central tax in respect of the supply of **taxable goods or services or both** by a **supplier, who is not registered**, to **a registered person** shall be **paid by such person on reverse charge basis** **as the recipient** and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

RELEVANT DEFINITIONS

➢ Reverse Charge: Section 2(*98*) of CGST Act, 2017

Reverse charge means
The **liability to pay tax**
By the recipient of supply of goods or services or both
Instead of the supplier of such goods or services or both
Under sub-section (*3*) or sub-section (*4*) of section 9, or
Under sub-section (*3*) or sub-section (*4*) of section 5 of the Integrated Goods and Services Tax Act.

➢ Recipient of supply of goods or services or both: Section 2(93)

Recipient of supply of goods or services or both, means:-

(a) Where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
(b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and

(c) Where no consideration is payable for the supply of a service, the person to whom the service is rendered,

And any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

Goods Transport Agency (Not defined in GST Laws so taken as per service tax act)

"Goods transport agency" means any person who provides service in relation to transport of goods by road and **issues consignment note**, by whatever name called. (Section 65(50b) of Finance Act, 1994 as amended)

"Goods carriage" has the meaning assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988). (Section 65(50a) of Finance Act, 1994 as amended)

Section 2(14) of Motor Vehicles Act, 1988

Goods carriage means any motor vehicle constructed or adapted for use solely for the carriage of goods, or any motor vehicle not so constructed or adapted when used for the carriage of goods;

Consignment Note (Not defined in GST Laws so taken as per service tax act)

Vide M.F.(D.R) 37B order No. 5/1//2007-S.T., dated 12.3.2007- 2007 (6) S.T.R. (C13)

Clarifications on details in consignment note-in Service Tax

Rule 4B of Service Tax Rules prescribes that any 'goods transport agency' providing service in relation to transport of goods by road in a goods carriage shall issue a consignment note to the customer.

In terms of explanation to this rule, the "consignment note" means "a document, issued by a goods transport agency against the receipt of goods for the purpose of transport of goods by road in a goods carriage, which is **serially numbered**, and contains the **name of the consignor and consignee, registration number of the goods carriage** in which the goods are transported, **details of the goods transported**, **details of the place of origin and destination**, **person liable for paying service tax** whether consignor, consignee or the goods transport agency".

2. The Road Transport Agency Association has informed that it may not always be possible for goods transport agency to mention Truck No. on consignment note in respect of small consignments, i.e. consignments that are less than a truck load. In such cases, the transporters have to wait till they accumulate a truck load of small consignments for a particular destination.

Further, at times some consignments are shifted to other trucks in accordance with the business exigency. These factors make it practically impossible to know the registration number of the truck transporting a particular shipment at the time of booking of cargo.

3. The matter has been examined by the Board. As stated, in case of small consignments, it would not be feasible to mention Truck No. on consignment note as the Truck no. may not be known at the time of booking of cargo. Therefore, in respect of small consignments, where truck number is not known, an endorsement, i.e., “truck number not known” may be made on customers copy of consignment note, against the entry for Truck no. As and when the Truck No. is known, the goods transport agency shall make an entry of trucks no. in their copy of consignment note to satisfy the requirements of said Rule 4B and also for any future reference. Similarly, in case of transhipment of goods, the goods transport agency would make entry of such transhipment, in their copy of consignment note. For example, if goods moves from Delhi to Agra, and is transhipped there for further movement to Mumbai, the goods transport agency would mention in his copy of consignment note, against Vehicle No. as “(i) Delhi to Agra: Vehicle No.-XXX (ii) Agra to Mumbai: Vehicle No.XXXX”. This would satisfy the requirement of the said Rule 4B.

WHEN TO PAY TAX UNDER RCM

TIME OF SUPPLY IN CASE OF REVERSE CHARGE- POINT OF TAXATION (POT)

STATUTORY PROVISIONS

TIME OF SUPPLY OF GOODS- SECTION 12 OF CGST & SGST/SECTION 21 OF UTGST ACT

(*1*) The **liability to pay tax on goods** shall arise at the time of supply, as determined in accordance with the provisions of this section.

(*3*) In case of supplies in respect of which tax is **paid** or **liable to be paid** on reverse charge basis, the time of supply shall be the **earliest of the following dates**, namely:—

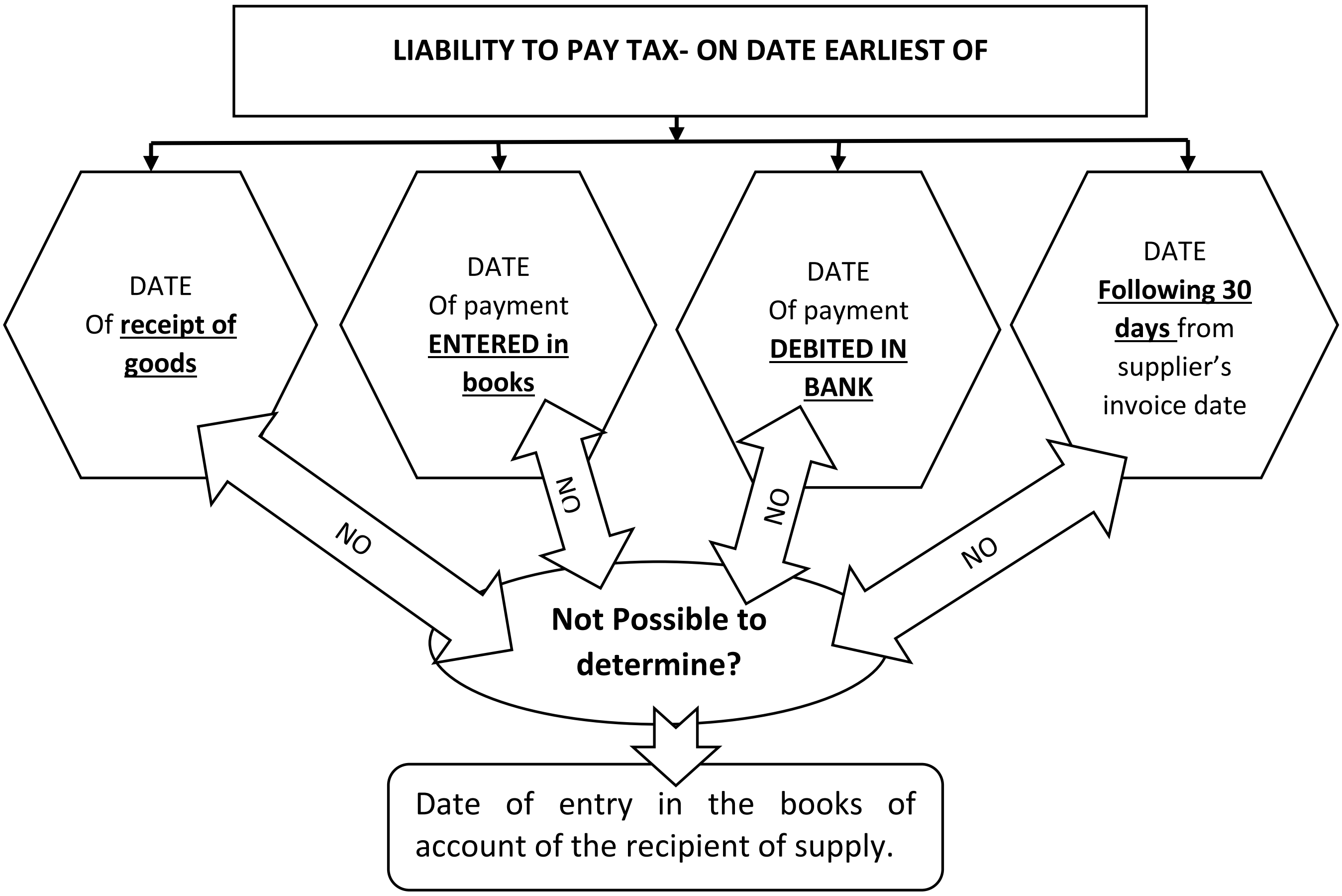
(a) The date of the receipt of goods; or

(b) The date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

(c) The date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:

PROVISO

Provided that where it is not possible to determine the time of supply under clause (*a*) or clause (*b*) or clause (*c*), the time of supply shall be the date of entry in the books of account of the recipient of supply.



TIME OF SUPPLY OF SERVICES- SECTION 13 OF CGST & SGST/SECTION 21 OF UTGST ACT

(*1*) The liability to pay tax on services shall arise at the time of supply, as determined in accordance with the provisions of this section.

(*3*) In case of supplies in respect of which tax is paid or liable to be paid on reverse charge basis, the time of supply shall be the earlier of the following dates, namely:-

- *(a)* The date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or

- *(b)* The date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier.

PROVISO-1

Provided that where it is not possible to determine the time of supply under clause (*a*) or clause (*b*), the time of supply shall be the date of entry in the books of account of the recipient of supply:

PROVISO-2

Provided further that in case of supply by 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.