Relevant Definitions: (Common Sense definitions not included)

<table>
<tr><td>Goods</td><td>Every kind of movable property other than money and securities</td></tr>
<tr><td>Principal</td><td>Means a person on whose behalf an agent carries on the business</td></tr>
<tr><td>Competent authority</td><td>As notified by the Government</td></tr>
<tr><td>Family (for a person) 2(49)</td><td>Spouse, Children and Wholly Dependent: Parents, Grand-Parents, Brother, Sister</td></tr>
<tr><td>Business 2(17)</td><td>a) Any trade, commerce etc. whether or not for monetary benefit
b) Incidental activities to (a)
c) Activities of (a), whether or not there is volume, frequency, continuity
d) Supply or acquisition of goods including capital assets and services in connection with commencement or closure of business
e) Contribution by members to their association (Not Taxable in IT but in GST)
f) Admission, for a consideration, of persons to any premises
g) Services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation
– if a CA in practice provides services as Independent Director, the service provided by him may be treated as ‘business’ and not ‘employment
h) Activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club
i) <u>Any</u>* activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities
– *there is no room to differentiate payments made to any Government department on the ground that it is not ‘business’ activity</td></tr>
<tr><td>Government</td><td>Central Government</td></tr>
<tr><td>Local Authority</td><td>Panchayat, Municipality, Cantonment Board, Council, Development Board</td></tr>
<tr><td>Consideration 2(31)</td><td>• Any payment in money or otherwise
• Whether by the recipient or by <u>any other person</u>*
• But does not include any subsidy by CG or SG
Note: Deposit given in respect of supply shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply
* It is permissible under Indian Contract Act, for a ‘stranger’ (to the contract) to contribute towards consideration.</td></tr>
<tr><td>Actionable claim</td><td>Any debt, excluding:
• Secured mortgaged debt against immovable property
• Pledge/Hypothecation of moveable property
Taxable: Lottery, Betting, Gambling</td></tr>
<tr><td>Manufacture</td><td>Processing of raw material in any manner that results in emergence of a new product</td></tr>
<tr><td>Money</td><td>All instruments recognized by RBI excl. numismatic currency (valuable/historic coins)</td></tr>
<tr><td>Supplier</td><td>Includes Agent acting on behalf of supplier</td></tr>
<tr><td>Recipient
(includes Agent acting on behalf of recipient)</td><td><table>
<tr><td>Consideration Payable</td><td>Person liable to pay</td></tr>
<tr><td>No consideration (goods)</td><td>Person to whom goods delivered</td></tr>
<tr><td>No consideration (services)</td><td>Person to whom service rendered</td></tr>
</table></td></tr>
</table>

Supply Includes

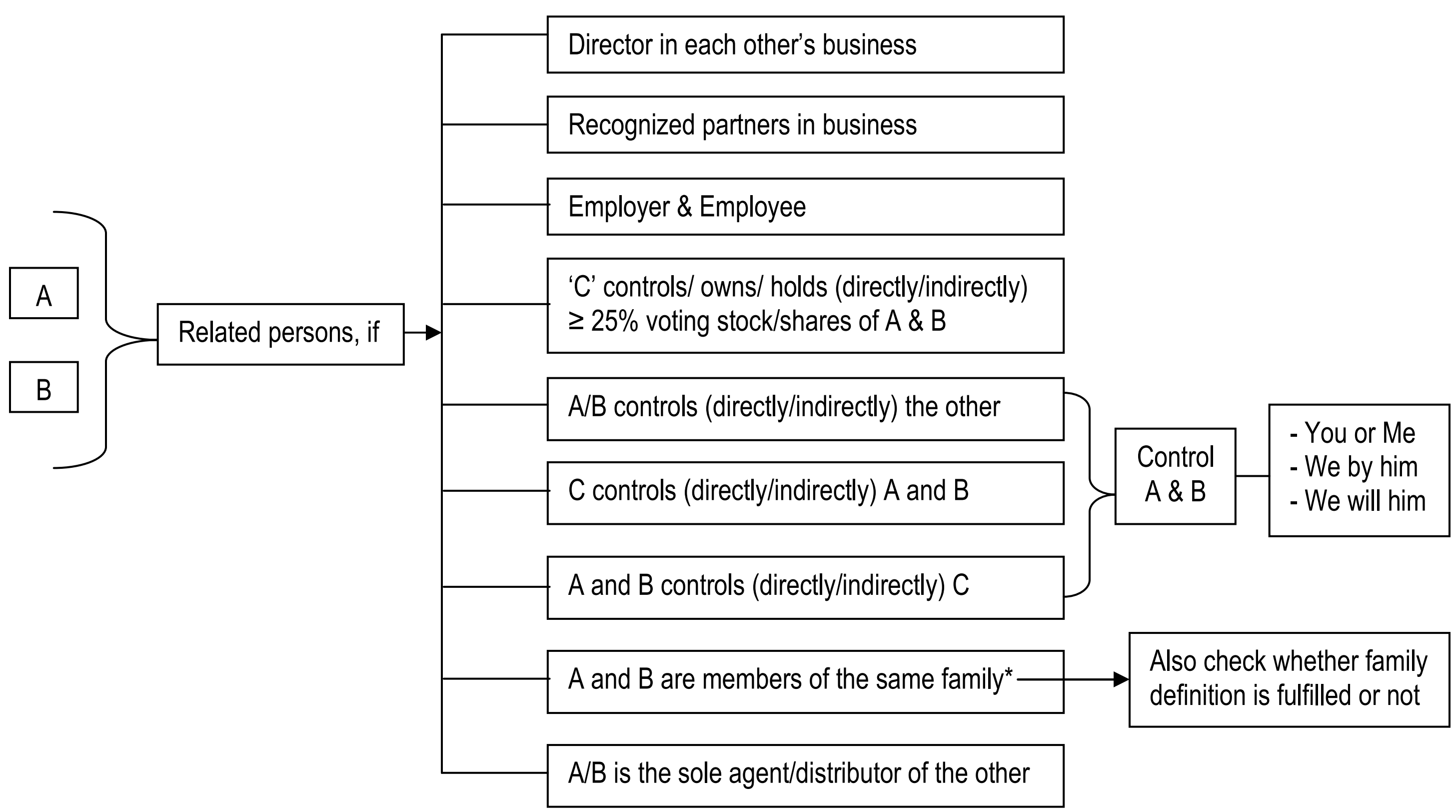
- Sec. 7(1)(a)
  - All forms of goods/ service/ both, such as
    - Sale → Trf. of ownership & title for a price
    - Transfer → Handover possession/ control from one to another
    - Barter → Exchange goods/service for another goods/service without money
    - Exchange → Partly in goods and partly in money
    - Licence → Permission for business, otherwise unlawful
    - Rental
    - Lease → Agreement by which money paid for use of an asset for an agreed period
    - Disposal → Sale, give away etc a thing
  - For a consideration → C.N. 22/22/2017: Art work sent by artist to gallery
    - No consideration from artist to gallery: No Supply
    - Buyer selects art at gallery and pays: Supply
  - In the course or furtherance of business
- Sec. 7(1)(b)
  - Import of services
    - For a consideration
    - Whether or not in the course or furtherance of business
  - For without consideration, check Schd.-I applicability
    - From a related person } Outside India
    - From other establishment } Outside India
    - In the course or furtherance of business
- Sec. 7(1)(c)
  - Schd.-I Activities
  - Without a consideration (Deemed Supply)
- Sec. 7(1A)
  - If transaction is supply u/s 7(1)
  - It will be either supply of goods or service
  - Such transactions are given under Schd.-II
- Sec. 7(2)(a)
  - Schd.-III Activities
  - Negative List (Neither Supply of G's or S)
- Sec. 7(2)(b)
  - Notified Activities of CG, SG, LA, as public authority
  - Neither a Supply of Goods/Service

Section	Specified 'forms' of supply	Furtherance of Business	Existence of Consideration	*Supply*	
				'made'	*'agreed to be made'*
7(1)(a)	✓	✓	✓	✓	✓
7(1)(b)	✓	✓/x	✓	✓	x
7(1)(c)	✓	✓	✓/x	✓	x

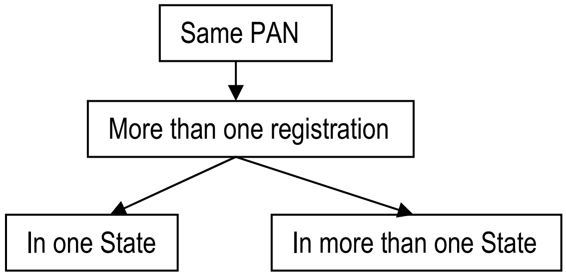
Schedule-I Activities: Without Consideration

Permanent transfer or disposal of <u>business assets</u>* where input tax credit has been availed on such assets * *Not defined in GST Law*	• Transfer on permanent basis • ITC availed on such assets *(ITC eligible but not availed is not covered)*
Supply between related/distinct persons when made in the course or furtherance of business Proviso to Para-2 above: Gifts by employer to employee	• Transfer between 2 units under single registration will not be supply. • Gift > Rs. 50,000 in a FY will be supply • When made in the course/furtherance of business • Perquisites not covered under Gifts (Part of C2C)
Principal (P) – Agent* (A): Supply of Goods **Includes Del-credere Agent. DCA guarantees payment to P. He may give loan to recipient (R) or pay on behalf of him to P and charges interest from recipient.*	• By P to A, where A supplies on behalf of P • By A to P, where A receives on behalf of P • Supply of services is not covered • Decider for P-A relationship: [C.N. 57/31/2018] - Invoice issued by A in his name: YES - Invoice issued by A in P's name: NO • Only disclosure of P's name in invoice is immaterial • Interest charged by DCA to recipient for credit: - If DCA is not an A: Int. not part of supply (P to R) - If DCA is an A: Int. will be part of supply (DCA to R)
Import of services by a person from a related person or from any of his other establishments outside India, in the course or furtherance of business	• Sec. 7(1)(b) will apply if import of services is with consideration and whether or not in the course or furtherance of business

Related persons (explanation to sec. 15):



Distinct Persons: Sec. 25(4) & (5)



- All such establishments are considered as distinct persons
- One registered and other not necessarily registered are considered as establishments of distinct persons

Clarification on sales promotion schemes: C.N. 92/11/2019

Free samples and gifts	• Not supply u/s 7(1)(a) since without consideration • Will be supply, if it falls within Schedule-I
Buy one get one free offer	• Two or more individual supplies for a single price • Taxability will depend on whether it is composite/mixed supply

Schedule-II Activities: Transactions to be treated as supply of goods/service

Activity	Type	Nature of Supply
Transfer	Of title in goods	Goods
	Of right in goods without title	Service
	Of title in goods under an agreement which stipulates that property shall pass at a future date upon payment of full consideration	Goods
Land and Building	Any lease, tenancy, easement, licence to occupy land (Trf. of tenancy right to a new tenant against consideration [i.e. tenancy premium] is also covered here) Note: Service by outgoing tenant by surrendering the tenancy right against consideration is taxable. [CN 44/18/2018]	Service
	Any lease/letting out of building (commercial/residential) for business or commerce, wholly or partly	Service
Treatment/Process	Applied to another person's goods	Service
Transfer of Business Assets	• By person carrying on the business • Such assets no longer part of business assets • Whether or not for consideration	Goods
	• Goods for business are put to private/other use • By person carrying on the business • Whether or not for consideration	Service
	• Assets of business of a person who ceases to be taxable • Deemed Supply in the course/furtherance of business • Immediately before he ceases to be a taxable person Nutshell: Deregistration will occasion a supply Exception: Business trf. as a going concern or carried on by a personal representative who is deemed as taxable person.	Goods
Renting of immovable property	• Commercial Complex • Precincts (boundaries) of a religious place • To an educational institution • Permitting use for placing vending/dispensing machines	Service

	• Construction of complex, building, civil structure etc. -Intended for sale (wholly/partly) -Construction includes addition, alteration, replacement Not Applicable: Where entire consideration received after issuance of completion certificate or first occupation, whichever is earlier. Nutshell: GST is not applicable on ready to move in or completed property.	Service
Any intellectual property right	Temporary transfer or permitting use	Service
IT Software	Development, customization, upgradation, implementation	Service
Act/Situation	Agreeing to refrain, tolerate or to do an act	Service
Works Contract (Composite Supply)	• for any immovable property • which involves trf. of property in goods for execution	Service
Restaurant/Outdoor Catering (Composite Supply)	• supply of goods as part of any service Goods = Food/Drink/Other Article for human consumption *Note: Where the goods supplied are 'for the purpose of immediate consumption', whether or not it is actually consumed, it would be treated as supply of services. Eg.: Takeaway, Home-Delivery etc.*	Service
Supply of Goods (Association to Members)	• by an unincorporated association/BoP • to a member • for cash, deferred payment/other valuable consideration	Goods

Schedule-III Activities: Transactions to be treated neither as supply of goods or service (NEGATIVE LIST)

Nature of Supply	**Supply Type**	**Other Details**
Service	• by an employee to the employer • in the course/relation of his employment	
	• by any Court or Tribunal • established under any law	Court includes DC, HC and SC
	Functions performed by Members of Parliament, State Legislature, Panchayat, Municipality/LA	
	Duties performed by any person who holds a post under the Constitution	PM, President, CJI, LS Speaker, EC, C&AG, Chairman-UPSC, AG
	Duties performed by any person - as a chairperson/member/director - in a body estd. by CG, SG or LA - and not deemed as employee before this clause	
	Funeral, burial, crematorium or mortuary	Includes transportation of the deceased
Sale	• Sale of Land (subject to Schd.-II), and • Sale of Building	i.e., excluding sale of under-construction premises (Schd.-II)
Actionable claims	• other than lottery, betting and gambling	Eg.: Claim for arrear rent, unsecured loan

Sec. 7(2)(b): Notified Activities

Activity	**Other Details**
Services by Panchayat/Municipality	Under article of the Constitution
• Inter-State movement of various modes of conveyance • Inter-State movement of rigs, tools and spares, and all goods on wheels [like crane]	• Between distinct persons • Incl. Train, Bus, Truck, Tanker, Trailer, Vessel, Aircraft • Carrying goods/passenger/both, or • For repair and maintenance Not covered: Where such movement is for further supply of the same conveyance
Grant of alcoholic liquor licence by SG against consideration (i.e. licence fee)	Not applicable in case of other licenses where GST is payable

- **Composite and Mixed Supplies [Sec. 8]**
  - **Composite Supply**
    1. Two or more taxable supplies of goods/services/both/any combination
    2. Naturally bundled
    3. Supplied in conjunction with each other (i.e. together)
    4. In the ordinary course of business
       - How to determine this?
         - ✓ If consumer/recipient expects such services as a package
         - ✓ Competitors in same business provide similar bundle of services
         - ✓ Nature of services: 1 main and others ancillary (Hotel Accommodation + Free Breakfast)
         - ✓ Others: Advertised as package, Not available separately, If one removed, others affected
    5. One of which is a 'principal supply'* (*predominant element and others ancillary)
    6. Taxability: Taxed as supply of principal supply
    7. Car Service: Sale of Parts and Servicing
       - Value of goods and service shown separately
       - Taxable separately [CN 47/21/2018]
    8. Others Examples:

Supply of printed books, brochures, envelop, box etc. with name, logo etc.	• Content/intangible input by recipient • Paper and printing by printer • Principal Supply = Supply of Printing • Taxable as Supply of Service • In case of envelop, cards etc. - Input/Paper by printer - Logo etc. supplied by recipient - Principal Supply: Supply of Goods - Ancillary Supply: Supply of Printing - Taxable as Supply of Goods	CN 11/11/2017 20.10.2017
Retreading of tyres	• Principal Supply: Retreading Service • Ancillary Service: Rubber Used • Taxable as Supply of Service Whereas supply of retreated tyres will be SoG, if tyre belongs to the supplier	CN 34/8/2018 01.03.2018

  - **Mixed Supply**
    1. Two or more individual supplies of goods/service/combination
    2. Made in conjunction with each other (i.e. together)
    3. For a single price
    4. Not a composite supply
    5. Not naturally bundled and independent of each other
    6. Taxability: Supply with highest rate of tax

- **Clarification: CN 116/35/2019, 11.10.2019**

  Levy of GST on the service of display of name/placing of name plates of the donor in the premises of charitable organisations receiving donation/gifts from individual donors:

  GST not applicable, if following conditions are satisfied:

  1. Gift/donation is made to a charitable organization
  2. Payment has the character of gift/donation
  3. Purpose is philanthropic (i.e., it leads to no commercial gain)
  4. Not advertisement