

# PLACE OF SUPPLY

## SEC 10

Scope of this chapter:

IGST ACT

SEC 10 - POS OF GOODS OTHER THAN IMPORTS AND EXPORTS

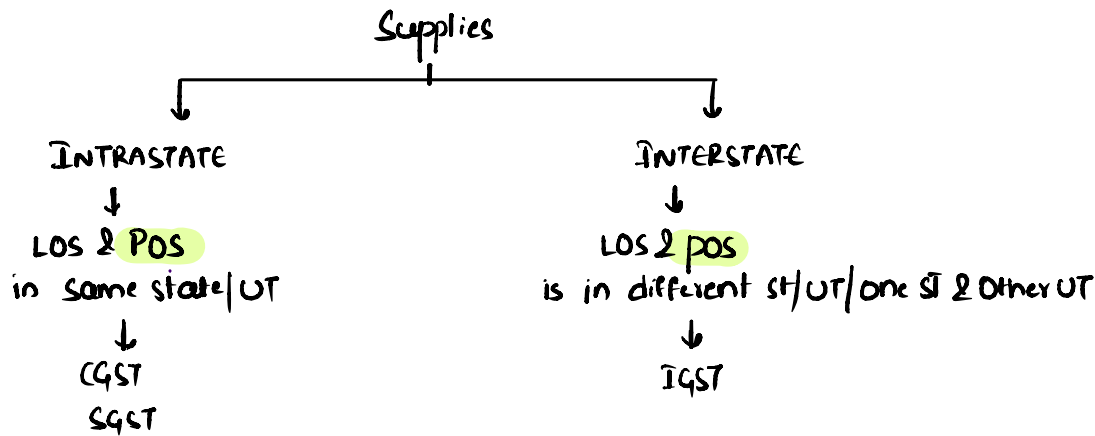
SEC 11 - Discussed at CA Final

SEC 12 - POS OF SERVICES OTHER THAN IMPORTS AND EXPORTS

SEC 13 - Discussed at CA Final

SEC 14 - Discussed at CA Final

WHY POS IS IMPORTANT:



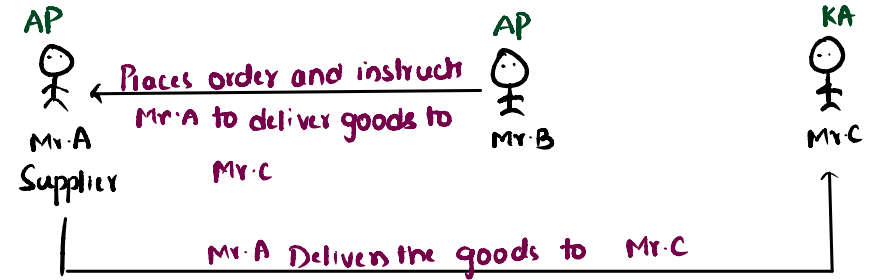
Note: Determining POS in case of services is complicated than determining POS in case of goods

10(2): when POS can't be determined as above, then it shall be determined as per prescribed rules.

10(i)(a): POS when supply involves movement of goods

location of the goods at the time at which the movement of goods terminates for delivery to the recipient;

10(i)(b): POS in case of 'BILL TO' SHIP TO' transactions:



Transaction b/w Mr. A & Mr. B: } Mr. B is deemed to be received the Goods & POS will be AP - 10(i)(b)

Transaction b/w Mr. B & Mr. C: } POS will be as per 10(i)(a) i.e. location where the movement terminates which is KA

10(i)(c): Supply not involving movement of goods:

Location of the goods at the time of delivery to the recipient.

10(i)(a): Supply of goods to an unregistered person

Location of recipient as recorded in invoice

Location of supplier, if address of recipient not recorded

10(i)(d): Supply involving installation/assembly of goods:

Place of such installation/assembly

10(i)(e): Goods supplied on board a conveyance:

Location where such goods have been taken on board.

SEC-12(3) → Service in relation to immovable property / lodging / accommodation

(a)  
to immovable property /

- 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

(b)  
Lodging (or) accommodation

- hotel,
- inn,
- guest house,
- home stay,
- club or campsite, by whatever name called, and
- including a house boat or any other vessel; or

(c)

by way of accommodation in any immovable property for organising any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property;

(d)

any services ancillary to the services referred to in clauses (a), (b) and (c)

POS shall be the location at which the immovable property / boat / vessel is located / intended to be located.

Immovable property/Boat/Vessel located in more than one State/Union territory: } the service is deemed to have been supplied in each of the respective States/Union territories, in proportion to the value for the services determined in terms of the contract or agreement entered into in this regard.

if the location of the immovable property or boat or vessel is located or intended to be located outside India, } the place of supply shall be the location of the recipient.

In the absence of a contract or agreement - Rule 4 of IGST Rules will be applicable

Service provided by way of lodging accommodation by hotel, inn, guest house etc. and its ancillary services (other than the cases where such property is a single property located in 2 or more contiguous States/ Union territories or both)	<u>Number of nights stayed</u> in such property
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<ul style="list-style-type: none"> <li>• All other services provided in relation to immovable property including services by way of accommodation in any immovable property for organising any marriage or reception etc. and in cases of supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called where such property is a single property located in 2 or more contiguous States or/and Union territories</li> <li>• Services ancillary to services mentioned above</li> </ul>	Area of the immovable property lying in each State/ Union territories
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Services by way of lodging accommodation by a house boat or vessel and its ancillary services	Time spent by the boat or vessel in each such State/ Union territories, to be determined on the basis of declaration made by the service provider
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## SECTION 12(4) - Restaurant and catering service, personal grooming, fitness, beauty and health services:

supply of restaurant and catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery → POS is location where such services are actually performed

## SECTION 12(5) - Training and performance appraisal services:

### Services provided to

### POS

Registered person → location of such person

Unregistered person → location where the services are actually performed

R

## SECTION 12(6) - Admission to events/amusement park/other places:

1. Services provided by way of ADMISSION to following types of events:

- a. Cultural
- b. Sporting
- c. Educational
- d. Scientific
- e. Entertainment
- f. Artistic

2. Services provided by way of ADMISSION to amusement park or any other place

3. Services ancillary to the above-mentioned services

POS is the place where the event is actually held  
or where the park or such other place is located.

## SECTION 12(7) - Organisation of events / Assigning sponsorship to such events:

### Services provided to

### POS

Registered person → location of such person

Unregistered person → location where the event is actually held If the event is held outside India, the place of supply is the location of recipient.

### Event held in more than one State/Union territory

place of supply of such services is deemed to be in each of the respective States/Union territories in proportion to the value for services determined in terms of the contract or agreement entered into in this regard.

### Manner of determining proportionate value of service in the absence of a contract or agreement:

In the absence of a contract or agreement between the supplier and recipient of services, the proportionate value of services made in different States/Union territories (where the event is held) is computed in accordance with rule 5 of the IGST Rules by the application of generally accepted accounting principles.

## SECTION 12(8) - Transportation of goods including mail or courier:

### Services provided to

### POS

- Registered person → location of such person  
Unregistered person → location at which such goods are handed over for their transportation.

where the transportation of goods is to a place outside India, the place of supply shall be the place of destination of such goods.

## SECTION 12(9) - Transportation of Passengers:

### Services provided to

### POS

- Registered person → location of such person  
Unregistered person → place where the passenger embarks on the conveyance for a continuous journey.

Issue of right to passage for future use and the point of boarding not known at the time of issue of right to passage

- If the address of the unregistered person is available in the records of the supplier, the location of such unregistered person.
- In other cases, the location of the supplier of services

## SECTION 12(10) - Services on board a conveyance:

The place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.

## Section 12(12) - Financial and stock broking services:

- location of recipient of services is available → location of the recipient of services in the records of the supplier of services  
location of recipient of services is not available → location of the supplier of services.

## Section 12(13) - Insurance services:

- Provided to a registered person → location of the recipient of services  
Provided to other than registered persons → location of the recipient of services in the records of the supplier of services.

## SECTION 12(11) – Telecommunication service

### Nature of supply

- Fixed telecommunication line
- Leased circuits
- Internet leased circuit
- Cable or dish antenna



Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services

### Place of supply

- Location of billing address of the recipient of services in the records of the supplier of services
- Location of the supplier of services, if the address is not available

Post-paid mobile connection and internet services



- Location of billing address of the recipient of services in the records of the supplier of services
- Location of the supplier of services, if the address is not available

### Nature of supply

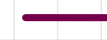
Services provided by any person final subscriber



### Place of supply

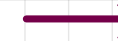
Location where such pre-payment is received or such vouchers are sold

Pre-paid services, the payment for which is made through internet banking/other electronic mode of payment



Location of the recipient of services in the records of the supplier of services

Other cases



- The address of the recipient as per the records of the supplier of services
- Location of the supplier of services, if the address is not available

Pre-paid mobile connection, internet services and DTH services (recharge coupon, vouchers, net pack etc.)

Services provided through a



Address of the selling agent/ re-seller/ distributor at the time of supply

- selling agent
- re-seller
- distributor of subscriber identity module card or recharge voucher

### Leased circuit is installed in more than one State/Union territory

The number of points in a circuit is determined in the following manner –

- In the case of a circuit between two points or places, the starting point or place of the circuit and the end point or place of the circuit will invariably constitute two points.
- Any intermediate point or place in the circuit will also constitute a point provided that the benefit of the leased circuit is also available at that intermediate point.

**SEC 35(1) :** Every registered person shall keep and maintain, at his principal place of business

- production or manufacture of goods
- inward and outward supply of goods or services or both;
- stock of goods;
- input tax credit availed;
- output tax payable and paid; and
- such other particulars as may be prescribed

**Proviso 1:** where more than one place of business is specified in the certificate of registration, the accounts relating to each place of business shall be kept at such places of business

**Proviso 2:** registered person may keep and maintain such accounts and other particulars in electronic form

**SEC 35(2) :** Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the

- consigner,
- consignee and
- other relevant details of the goods in such manner as may be prescribed.

**SEC 35(3) :** Commissioner may notify additional accounts or documents

**SEC 35(4) :** Commissioner may permit such class of taxable persons to maintain accounts in such manner as may be prescribed, for reasons to be recorded in writing.

### **RULE 56: MAINTENANCE OF ACCOUNTS BY REGISTERED PERSONS**

**(1) Additional records to be maintained by registered person:**

- goods or services imported or exported or
- of supplies attracting payment of tax on reverse charge
- along with the relevant documents, including invoices, bills of supply, delivery challans, credit notes, debit notes, receipt vouchers, payment vouchers and refund vouchers.

**(3) Advance records:** Every registered person shall keep and maintain a separate account of advances received, paid and adjustments made thereto.

**(4) Tax Details:** Every registered person, other than a Composition dealer, shall keep and maintain an account, containing the details of tax payable, tax collected and paid, input tax, input tax credit claimed, together with a register of tax invoice, credit notes, debit notes, delivery challan issued or received during any tax period.

**(2) Stock Records:** Every registered person, other than a Composition dealer, shall maintain the accounts of stock in respect of goods received and supplied by him, and such accounts shall contain

- particulars of the opening balance,
- receipt, supply, goods lost, stolen, destroyed, written off or disposed of by way of gift or free sample and
- the balance of stock including raw materials, finished goods, scrap and wastage thereof.

**(5) Address details:** Every registered person shall keep the particulars of –

- names and complete addresses of suppliers
- names and complete addresses of the customers
- the complete address of the premises where goods are stored by him, including goods stored during transit along with the particulars of the stock stored therein.

(6) If any taxable goods are found to be stored at anyplace(s) other than those declared under sub-rule (5) without the cover of any valid documents, the proper officer shall determine the amount of tax payable on such goods as if such goods have been supplied by the registered person.

(8) No entry to be erased/overwritten, and all incorrect entries, otherwise than those of clerical nature, shall be scored out under attestation.

(10) Unless proved otherwise, if any documents, registers, or any books of account belonging to a registered person are found at any premises other than those mentioned in the certificate of registration, they shall be presumed to be maintained by the said registered person.

(12) Every registered person manufacturing goods shall maintain monthly production accounts showing

- quantitative details of raw materials or services used in the manufacture and
- quantitative details of the goods so manufactured including the waste and by products thereof.

(13) Every registered person supplying services shall maintain the accounts showing

- quantitative details of goods used in the provision of services,
- details of input services utilised and the
- services supplied.

(14) Every registered person executing works contract shall keep separate accounts for works contract showing –

- The names and addresses of the persons on whose behalf the works contract is executed;
- Description, value and quantity (wherever applicable) of goods or services received for the execution of works contract;
- Description, value and quantity (wherever applicable) of goods or services utilized in the execution of works contract;
- The details of payment received in respect of each works contract; and
- The names and addresses of suppliers from whom he received goods or services.

(7) Every registered person shall keep the books of account at the principal place of business and books of account relating to additional place of business mentioned in his certificate of registration and such books of account shall include any electronic form of data stored on any electronic device.

(9) Serial numbering of books of accounts

(11) Records to be maintained by an agent:

- Particulars of authorisation received by him from each principal to receive or supply goods or services on behalf of such principal separately;
- Particulars including description, value and quantity (wherever applicable) of goods or services received on behalf of every principal;
- Particulars including description, value and quantity (wherever applicable) of goods or services supplied on behalf of every principal;
- Details of accounts furnished to every principal; and
- Tax paid on receipts or on supply of goods or services effected on behalf of every principal.

(15) The records under the provisions of this Chapter may be maintained in electronic form and the record so maintained shall be authenticated by means of a digital signature.

(16) Accounts shall be preserved for the period as provided in section 36

## RULE 58: RECORDS TO BE MAINTAINED BY OWNER OR OPERATOR OF GODOWN OR WAREHOUSE AND TRANSPORTERS

(1) Every owner or operator of warehouse or godown or any other place used for storage of goods and every transporter, irrespective of whether he is a registered person or not, shall maintain records of the

- consigner,
- consignee and
- other relevant details of the goods in such manner as may be prescribed.

(2) Enrolment, if not already registered in GST:

- If such persons are not already registered, they shall obtain a unique enrolment number by applying electronically [In Form GST ENR-01] at the GST Common Portal.
- The person enrolled as aforesaid in any other State or Union territory shall be deemed to be enrolled in the State or Union territory.
- Such person may also amend the details furnished in the prescribed form.
- Such person, once obtained unique enrolment number, shall not be eligible to use any of the GSTIN.

(3) Transporter: Any person engaged in the business of transporting goods shall maintain records of goods transported, delivered and goods stored in transit by him along with GSTIN of the registered consignor and consignee for each of his branches.

(4) Owner/operator of a warehouse/ godown:

- Every owner or operator of a warehouse or godown shall maintain books of accounts with respect to the period for which particular goods remain in the warehouse, including the particulars relating to dispatch, movement, receipt, and disposal of such goods.
- The owner or the operator of the godown shall store the goods in such manner that they can be identified item-wise and owner-wise and shall facilitate any physical verification or inspection by the proper officer on demand.

### SECTION 36 – PERIOD OF RETENTION OF ACCOUNTS

Until the expiry of 72 months from the due date of furnishing of annual return for the year pertaining to such accounts and records.

a registered person, who is a party to an appeal or revision or any other proceedings before any Appellate Authority or Revisional Authority or Appellate Tribunal or court, whether filed by him or by the Commissioner, or is under investigation for an offence under Chapter XIX,

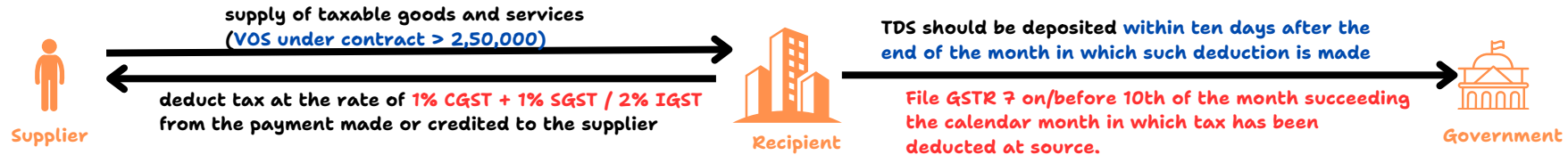


retain accounts for:

- for a period of one year after final disposal of such appeal or revision or proceedings or investigation, or
- for the period specified above, 72 whichever is later.



SECTION 51: TAX DEDUCTION AT SOURCE



A certificate of tax deduction at source will be issued to the supplier in **GSTR 7A** containing the following details:

- TDS Certificate No.
- GSTIN and name of deductor
- GSTIN and legal name of deductee
- Trade name, if any
- Tax period
- Details of supplies
- Amount of tax deducted

Supplier shall claim credit, **in his electronic cash ledger.**

- a department or establishment of the Central Government or State Government or
- local authority; or
- Governmental agencies; or
- such persons or category of persons as may be notified by the Government on the recommendations of the Council,
  - An authority or a board or any other body, -
    - set up by an Act of Parliament or a State Legislature; or
    - established by any Government, with 51% or more participation by way of equity or control, to carry out any function;
  - Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860;
  - Public sector undertakings

**Note:** If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.

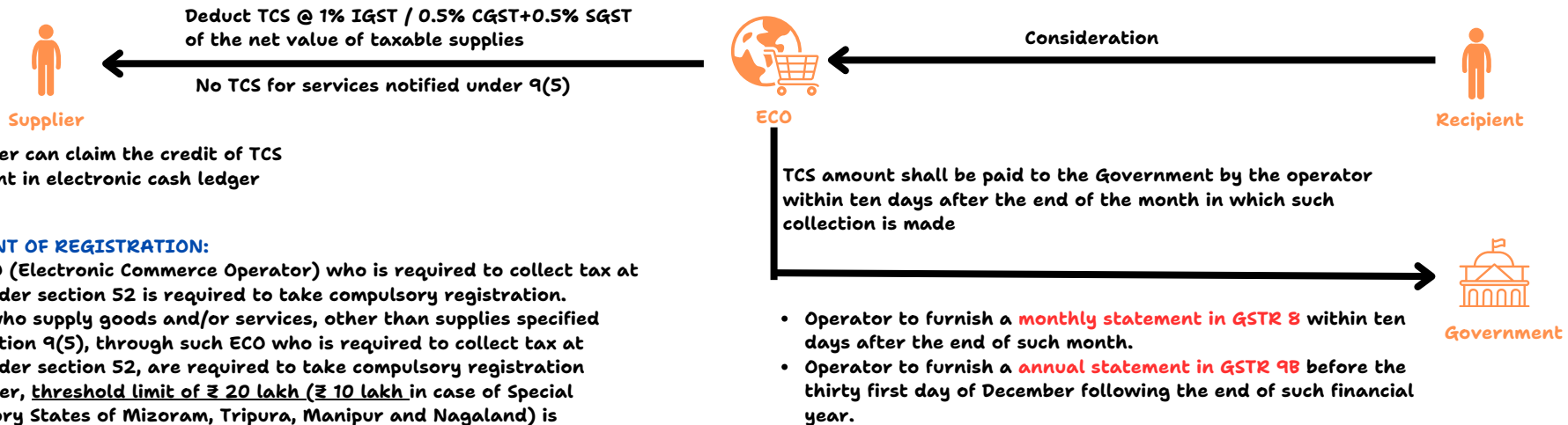
**Note:**

- No deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.
- No deduction shall be made when supply of goods and/or services takes place between one person to another person specified in clauses (a), (b), (c) and (d) of section 51(1) of the CGST Act.

**COMPULSORY REGISTRATION:**

- Persons required to deduct TDS undergo compulsory registration
- proper officer shall, after due verification, grant registration within 3 working days
- a person is no longer liable to deduct tax at source under section 51, then the said officer may cancel the said registration

## SECTION 52: COLLECTION OF TAX AT SOURCE



### REQUIREMENT OF REGISTRATION:

- Every ECO (Electronic Commerce Operator) who is required to collect tax at source under section 52 is required to take compulsory registration.
- Persons who supply goods and/or services, other than supplies specified under section 9(5), through such ECO who is required to collect tax at source under section 52, are required to take compulsory registration
  - However, **threshold limit of ₹ 20 lakh (₹ 10 lakh in case of Special Category States of Mizoram, Tripura, Manipur and Nagaland)** is available in case of suppliers supplying services through ECO.
  - The persons making supplies of goods through an ECO who is required to collect TCS under section 52 and having an aggregate turnover in the preceding financial year and in the current financial year not exceeding the threshold limit of 40L/20L/10L ), are exempted from obtaining registration.

### SEC 9(5) :

The Government may, on the recommendations of the GST Council, notify specific categories of services the tax [CGST/SGST/IGST] on supplies of which shall be paid by the electronic commerce operator (ECO) if such services are supplied through it. Such services shall be notified on the recommendations of the GST Council. The following services were notified for this purpose:

- Services by way of **transportation of passengers** by a radio-taxi, motorcab, maxicab, motor cycle, or any other motor vehicle except omnibus.
- Services by way of **transportation of passengers by an omnibus** except where the person supplying such service through ECO is a company.
- Services by way of **providing accommodation** in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.
- Services by way of **house-keeping**, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1) of the CGST Act.
- Supply of **restaurant service** other than the services supplied by restaurant, eating joints etc. located at specified premises (premises providing hotel accommodation service having declared tariff of any unit of accommodation above ₹ 7,500 per unit per day or equivalent).