



THE INSTITUTE OF  
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भारतीय कम्पनी सचिव संस्थान

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# SUPPLEMENT EXECUTIVE PROGRAMME (NEW SYLLABUS)

*for*

*December, 2020 Examination*

**TAX LAWS**

**(PART II - INDIRECT TAX)**

**MODULE 1**

**PAPER 4**

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# **EXECUTIVE PROGRAMME**

**(NEW SYLLABUS)**

**SUPPLEMENT**

**FOR**

**TAX LAWS**

**(Part II - Indirect Tax)**

**(Relevant for Students appearing in December, 2020  
Examination)**

**MODULE 1- PAPER 4**

Students appearing in December, 2020 Examination shall note the following:

1. For Direct taxes, Finance Act, 2019 is applicable.
2. Applicable Assessment year is 2020-21 (Previous Year 2019-20).
3. For Indirect Taxes: Goods and Services Tax 'GST' & Customs Law is applicable for Executive Programme (New Syllabus)

Students are also required to update themselves on all the relevant Rules, Notifications, Circulars, Clarifications, etc. issued by the CBDT, CBIC & Central Government, on or before six months prior to the date of the examination.

**Note: The latest updated Study Material is available at ICSI website weblink:**

**<https://www.icsi.edu/studymaterialnewsyllabusexe2017/>**

Lesson No. and Name	Particulars of Change
<p><b>Lesson 12</b></p> <p><b>Basics of Goods and Services Tax ‘GST’</b></p>	<p>Destination based Tax is the tax based on destination or consumption of the goods or services. It is different from Origin based taxation because Origin based tax is levied where goods or services are produced.</p> <p><b>CALCULATION OF GST</b></p> <p>GST can be calculated simply by multiplying the Taxable amount by GST rate. If CGST &amp; SGST/UTGST is to be applied then CGST and SGST both amounts are half of the total GST amount.</p> <p><b>Goods and Services Tax = Taxable Amount x GST Rate</b></p> <p>If you have the amount which is already including the GST then you can calculate the GST excluding amount by below formula</p> <p>GST excluding amount = GST including amount/(1+ GST rate/100)</p> <p><b>For example</b>, GST including amount of a product in UP is Rs. 1180 and GST rate is 18%.</p> <p>GST excluding amount = <math>1180/(1+18/100) = 1180/1.18 = 1000</math>  GST is calculated on the transaction amount and not on the MRP.  So, GST is Rs. 180; SGST is Rs. 90 and CGST is Rs. 90.</p> <p>As per Schedule I, in the following four cases, activities made without consideration will be treated as supply under section 7 of the CGST Act:</p> <p><b>(1) Permanent transfer or disposal of business assets where input tax credit has been availed on such assets. [Para 1. of Schedule I]:</b></p> <p>In order to qualify as supply under this para, following conditions need to be satisfied:</p> <ul style="list-style-type: none"> <li>• There must be a disposal or transfer of business assets.</li> <li>• Transfer/disposal must be permanent.</li> <li>• ITC must have been availed[ on such business assets.</li> </ul> <p><b>(2) Supply of goods or services or both between related persons or between</b></p>

distinct persons as specified in section 25[**Para 2. of Schedule I**]:

**The deemed supplies covered in this paragraph are based on a relationship between the supplier and recipient. The relationship covered under this paragraph as related persons defined by way of an explanation to Section 15 and distinct persons in terms of Section 25(4) and 25(5) of the Act.**

**Meaning of Related Person:**

**Persons including legal person are deemed as related persons if**

1. Such persons are officers/directors of one another's business Such persons are legally recognised partners
2. Such persons are employer & employee
3. A third person controls/ owns/ holds (directly/ indirectly)  $\geq 25\%$  voting stock/shares of both of them
4. One of them controls (directly/indirectly) the other
5. A third person controls (directly/indirectly) both of them
6. Such persons together control (directly/indirectly) a third person
7. Such persons are members of the same family
8. One of them is the sole agent/sole distributor/sole concessionaire of the other

**Meaning of Distinct Person [Section 25]**

Section 25(4) of the CGST Act: A person who has obtained/is required to obtain more than one registration, whether in one State/Union territory or more than one State/Union territory shall, in respect of each such registration, be treated as **distinct persons**

Section 25(5) of the CGST Act: Where a person who has obtained or is required to obtain registration in a State or Union territory in respect of an establishment, has an establishment in another State or Union territory, then such establishments shall be treated as **establishments of distinct persons**

It may also be noted that a gift need not always be in terms of goods. A service can also constitute a gift, such as gift vouchers for a beauty treatment.

Question which arises that is on what value will the GST liability be calculated in case the gift amount exceeds Rs.50,000/-. Although it is not expressly mentioned in the GST Act. But a reasonable construction can be drawn that GST shall be levied on the whole amount in case the gift amount exceeds Rs. 50,000/-.

**(3) Principal – Agent [Para 3. of Schedule I]:**

Supply of goods by a principal to his agent and vice-versa, without consideration, where the agent undertakes to supply such goods on behalf of the principal and vice-versa, is considered as supply.

CBIC has clarified by way of **Circular No. 57/31/2018-GST**

**Scope of Principal-agent relationship in the context of Schedule I of the CGST Act**

Example 1:

Mr. A appoints Mr. B to procure certain goods from the market. Mr. B identifies various suppliers who can provide the goods as desired by Mr. A, and asks the supplier (Mr. C) to send the goods and issue the invoice directly to Mr. A. In this scenario, Mr. B is only acting as the PROCUREMENT AGENT, and has in no way involved himself in the supply or receipt of the goods. Hence, in accordance with the provisions of this Act, Mr. B is not an agent of Mr. A for supply of goods in terms of Schedule I.

Example 2:

M/s XYZ, a banking company, appoints Mr. B (auctioneer) to auction certain goods. The auctioneer arranges for the auction and identifies the potential bidders.

The highest bid is accepted and the goods are sold to the highest bidder by M/s XYZ. The invoice for the supply of the goods is issued by M/s XYZ to the successful bidder.

In this scenario, the auctioneer is merely providing the auctioneering services with no role played in the supply of the goods. Even in this scenario, **B is not an agent** of M/s XYZ for the supply of goods in terms of Para 3. of Schedule I

Example 3:

Mr. A, an artist, appoints Mr. B (auctioneer) to auction his painting. Mr. B arranges for the auction and identifies the potential bidders. The highest bid is accepted and the painting is sold to the highest bidder. The invoice for the supply of the painting is issued by Mr. B on the behalf of Mr. A but in his own name and the painting is delivered to the successful bidder. In this scenario, Mr. B is not merely providing auctioneering services, but is also supplying the painting on behalf of Mr. A to the bidder, and has the

	<p>authority to transfer the title of the painting on behalf of Mr. A. This scenario is covered under Schedule I.</p> <p>Import of Services [Para 4 of Schedule I]</p> <p>Import of services by a person from a related person or from his establishments located outside India, without consideration, in the course or furtherance of business shall be treated as “supply”.</p>
<p><b>Lesson 13</b></p> <p><b>Concept of Time, Value and Place of Taxable Supply</b></p>	<p><b>CONCEPT OF SUPPLY</b></p> <p>Supply means to make something available to someone who needs it. The Taxable event under GST is Supply of Goods or Services or both for Consideration. Various taxable events in pre-GST regime such as purchase, sale, manufacturing, service, entry tax etc. have been subsumed in Supply. Supply includes Sales, barter transfer, exchange, license, rental, lease and disposal. If a person undertakes any of these transactions during the course or furtherance of business for consideration It is Called Supply.</p> <p>The Scope of supply has been given under Section 7 of the CGST Act, 2017. Taxable event means an event or situation which gives rise to tax liability.</p> <p>Time of supply signifies the point of levy and value of supply determines value on which GST is payable</p>
<p><b>Lesson 14</b></p> <p><b>Input Tax Credit and Computation of GST Liability</b></p>	<p>GST Council in its 38th Meeting on 18th December 2019 has further restricted ITC for invoices which have not been uploaded by suppliers to 10% of eligible credit available in respect of invoices or debit notes reflected in FORM GSTR-2A.</p> <p><b>Illustration 3:</b></p> <p>Mrs. B has availed supply of goods from a supplier registered under the Composition Levy Scheme. Can She avail ITC?</p> <p>(a) Yes, as long as She has paid the Invoice</p> <p>(b) No, as the Supplier can't issue a tax invoice to her or collect tax from her</p> <p>(c) Yes, as long as the supplier has paid the composition levy scheme taxes @ 2%/5%/1%, as may be applicable</p> <p>(d) None of the above</p>

	<p><b>Answer:</b></p> <p>(b) No, as the Supplier can't issue a tax invoice to her or collect tax from her</p> <p><b>Illustration 4:</b></p> <p>XYZ Ltd. has its Head Office (HO) at Mumbai and branches across India. The HO collects the Input Tax Credit on all purchases made and distributes it to all the recipients (branches) under different heads, like CGST, SGST, UTGST, IGST etc. The HO exhibits a ----- type of entity in the example?</p> <p>(a) Input Service Distributor</p> <p>(b) Taxable Entity</p> <p>(c) Distinct Person</p> <p>(d) None of the above</p> <p><b>Answer:</b></p> <p>(a) Input Service Distributor</p>
<p><b>Lesson 15</b></p> <p><b>Procedural Compliance under GST</b></p>	<p>In any tax system, Registration is the most fundamental requirement for identification of tax payers ensuring tax compliance in the economy. Without registration, a person can neither collect tax from his customers nor claim any input tax credit of tax paid by him. As India is moving towards digitization, GST has provided an easy and simple way of payment of taxes with three electronic ledgers namely E-cash Ledger, E-credit Ledger &amp; E-liability Ledger. A registered person is required to maintain proper accounts and records and keep it at his registered principal place of business. To facilitate digitisation, there is a facility to maintain accounts and other records in electronic form under GST.</p> <hr/> <p>Section 25(6A) Every registered person shall undergo authentication , or furnish proof of possession of Aadhaar number , in such form and manner and within such time as may be prescribed;</p> <p>Provided that if Aadhaar number is not assigned to the registered person, such person shall be offered alternate and viable means of identification in such manner as Government may, on the recommendations of the Council.</p> <p>Prescribe:</p>

Provided further that in case of failure to undergo authentication or furnish possession of Aadhaar number or furnish alternate and viable means of identification, registration allotted to such person shall be deemed to be invalid and the other provisions of the Act shall apply as if such person does not have registration. (Inserted vide Finance (No.2) Act,2019 wef date 01.01.2020)

Analysis: Every existing registered dealer shall have to get himself verified with help of Aadhaar number or by alternate viable means within specified time or it shall be deemed as if he does not have any registration.

Section 25(6B):- on and from the date of notification, every individual shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number, in such a manner, as the Government may , on the recommendation of the Council, specify in the said notification;

Provided that if Aadhaar is not assigned to such individual, such individual shall be offered alternate viable means of identification in such a manner, as the Government may, on the recommendation of the Council, in the said notification.(Notification No.18/2020-CT dt.23.03.2020 wef 01.04.2020)

**Analysis:-** For fresh registration every individual shall have to authenticate himself with Aadhaar number. In case Aadhaar number is not assigned to him, then the registration shall be Granted only after physical verification of the principle place of business in the presence of the said person, not later than 60 days from the date of application, and the verification report along with the other documents, including photographs, shall be uploaded in Form GST REG-30 on the Common portal within a period of 15 working days following the date of such verification.

Section 25(6C):- on and from the date of notification, every person, other than individual, shall, in order to be eligible for grant of registration, undergo authentication, or furnish proof of possession of Aadhaar number of Karta, Managing Director, whole Time Director, Trustees, authorised representative, authorised signatory, and such other class of persons, in such a manner, as the Government may , on the recommendation of the Council, specify in the said notification;

Provided that where such person or class of persons have not been assigned Aadhaar Number , such person or class of persons shall be offered alternate viable means of identification in such a manner as the Government may, on



the recommendation of the Council, in the said notification.(Notification No.19/2020-CT dt.23.03.2020 wef 01.04.2020)

Analysis;- In case of person other than individual such as Partnership firm, AOP, BOI, Company, Trust etc, for getting fresh registration authentication shall be done by Aadhaar Number of Partner, Authorised representative, Managing Director, Trustee etc. . In case Aadhaar number is not assigned to such person or class of persons, then the registration shall be Granted only after physical verification of the principle place of business in the presence of the said person, not later than 60 days from the date of application, and the verification report along with the other documents, including photographs, shall be uploaded in Form GST REG-30 on the Common portal within a period of 15 working days following the date of such verification.

Section 25(6D):- The Provisions of sub-section 6A and 6B or 6C shall not apply to such person or class of persons or any State or Union territory or Part thereof, as the Government may, on the recommendations of the Council, specify by notification. .(Notification No.17/2020-CT dt.23.03.2020 wef 01.04.2020)

Analysis:- Provisions of section 25(6B/6C) shall not be applicable to :

- a) A person who is not a citizen of India.
- b) Class of persons other than following class of persons  
Individual, Authorised signatory of all types, Managing and Authorised partners, Karta of HUF

### **E Invoicing**

**Electronic invoicing** is a system in which all Business to Business invoices are electronically uploaded and authenticated by the designated portal. Previously invoices generated by different software looked similar to humans, but computer system can't understand it fully though the business users can understand them.E-invoicing has done away with this shortcoming. GST e-invoice is the introduction of the digital invoice for goods and services provided by the business firm generated at the government GST portal. The concept of GST e-invoice generation system is launched for reduction in GST evasion. Registered person whose Aggregate Turnover in a financial year exceeds Rs. 500 crores shall prepare electronic invoice and same will be mandatory from 1<sup>st</sup> October, 2020.

	<p>Provided that every registered person whose aggregate turnover during the financial year 2018-2019 exceeds five crore rupees shall get his accounts audited as specified under sub-section (5) of section 35 and he shall furnish a copy of audited annual accounts and a reconciliation statement, duly certified, in FORM GSTR-9C for the financial year 2018-2019, electronically through the common portal either directly or through a Facilitation Centre notified by the Commissioner. (inserted vide notification number 16/2020 dt 23.03.2020)</p> <p>E-way bill generation is blocked in respect of following:</p> <ul style="list-style-type: none"> <li>a) In case of a composition supplier u/s 10 of CGST Act or a person availing the benefit of Presumptive levy scheme as per notification number 02/2019, who does not file Statement in Form GST CMP08 for two consecutive quarters.</li> <li>b) A person other than a composition supplier who does not file GSTR 3B for consecutive period of two months or who does not file GSTR-1 for any 2 months or quarters as the case may be.</li> </ul>
<p><b>Lesson 16</b></p> <p><b>Basic Overview on IGST, UTGST and GST Compensation to States Act</b></p>	<p><b>INTRODUCTION</b></p> <p>In India we have adopted dual GST Model in which States and Union Government impose tax simultaneously. Federal structure of the Constitution is also retained under this model. To ensure seamless flow of credit throughout the territory of India a link Act was necessary and hence IGST Act, 2017 was passed. Compensation to states for the loss due to introduction of GST is provided through an Act, GST (Compensation to States) Act, 2017.</p> <p><b>MERGER OF DAMAN &amp; DIU AND DADRA &amp; NAGAR HAVELI</b></p> <p>On 3rd day of December, 2019 the Parliament passed the Dadra and Nagar Haveli and Daman and Diu Bill, 2019 for the merger of the two UTs and the appointed date of the said amendment was made effective from 26th January, 2020.</p> <p>Upon Merger of Union Territories of Dadra and Nagar Haveli and Daman and Diu, there arised a need to declare single State Code for Persons Registered under Goods and Service Tax Laws in the Union Territories.</p> <p>It was decided by the GST Council to give 26 as State Code 26 to the merged Union Territory of Dadra and Nagar Haveli and Daman and Diu w.e.f. 1st August, 2020.</p>

	<p>Therefore, all the Registered Persons in the erstwhile Union Territory of Daman and Diu having GSTIN (Goods and Service Tax Identification Number) starting with State Code 25 will be switched over to New State Code of 26.</p>
<p><b>Lesson 17</b> <b>Overview of Customs Law</b></p>	<p><b>Adjudicating Authority:</b> <b>Section 2(1):-</b> Adjudicating Authority means any authority competent to pass any order or decision under this Act, but does not include the Board, Commissioner (Appeals) or Appellate Tribunal.</p>
	<p>Safeguard measures imposed u/s 8B, which were earlier limited to imposition of safeguard duty, are expanded by Finance Act ,2020 to include tariff-rate quota fixations or any other measures, as deemed fit. Under tariff- rate quota, a lower tariff rate is imposed on imports of a given product within a specified quantity and a higher tariff rate on imports exceeding that quantity to provide the desired degree of import protection.</p>
	<p><b>Introduction of Health Cess (Finance Act,2020)</b></p> <ul style="list-style-type: none"> <li>• Finance Act 2020 has imposed a Health Cess on import of medical equipment of classified in 4th schedule for augmenting and financing health infrastructure and related services. Salient features are below</li> <li>• The applicable rate is 5% on the assessable value of the imported goods;</li> <li>• Medical devices which are exempt from Basic Customs Duty would not be subjected to Health Cess; and</li> <li>• Credit of Health Cess is not available to the importer</li> </ul>