

Tax Base under Proposed Goods and Services Tax (GST)

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Taxable Transaction – Constitutional Empowerment

Goods and Services Tax – Art 366(12A)

Any tax on **supply** of **goods**, or **services** or both except taxes on the supply of the alcoholic liquor for human consumption

“Supply” – Inclusive Meaning....

- All forms of supply – sale, transfer, barter, exchange, rental...
 - For consideration
 - In the course of or for furtherance of business
- Import of services
 - For consideration
 - Whether or not in course or furtherance of business
- What is supply of “goods”/”services” – Sch II

...“Supply” – Inclusive Meaning

- Specified Supplies –without consideration – Sch I
 - Permanent transfer/disposal of business assets where ITC is availed on such assets
 - Between related persons made in the course of or furtherance of business
 - Between distinct person made in the course of or furtherance of business
 - Between agent/principal
 - Importation of service from related person or any other establishment outside India

“Supply” – Exclusion from scope – Sch III

- Services of employee to employer – in the course of or furtherance of business
- Services by Courts or Tribunal
- Performance of Functions – MP, MLA, Members of local bodies, persons holding Constitutional posts, Chairperson/Member/Director in Body established by Central/State/Local bodies
- Services by foreign diplomatic missions
- Funeral, burial, crematorium, mortuary incl transportation of deceased

“Supply” – Exclusions – Sch IV...

- Services provided by Govt
 - Govt/Local Authority to another Govt/Local Authority – other than post, transportation of goods, passengers, in relation to aircraft/vessel
 - Discharge of statutory functions – passport, driving license issuance, etc
 - Healthcare – diagnostic, treatment, care for illness, injury, deformity...any recognized system of medicine in India includes transportation of patients to clinical establishment

...“Supply” – Exclusion – Sch IV

- Services provided by Govt
 - Education – pre-school, higher secondary, approved vocational guidance courses, part of curriculum for obtaining qualification recognized by law – even by governmental authority (90 % Govt participation by way of equity or power and set up under Act of Parliament...)
 - Diplomatic, consular activities
 - Maintenance of public order...public functions
 - Fines, penalties
 - Registrations required under any law...

“Goods” and “Services” - Meanings

Goods – Art 366(12) - Existing

Include all materials, commodities and articles

Draft GST - Every kind of movable property other than money and securities but includes actionable claim, growing crops, grass or things attached to land

Services – Art 366(26A)

Anything other than goods

Draft GST - Anything other than goods - Expl – includes transactions in money but does not include money and securities – currency conversion included

Meaning of “Goods”



Every kind of movable property *other than ~~actionable claim~~* and money and includes securities **but includes actionable claim**, growing crops, grass or things attached to land... ~~shall not include intangible property.....~~

~~Intangible property - other than tangible property~~

~~Tangible property – can be touched or felt~~

Meaning of “Services”

Other than goods

~~Includes intangible property and
actionable claim~~

Does not include money and
securities

What is supply of goods / services – Schedule II

- Transfer of title – **Goods**
- Rights in goods/undivided share – without transfer of title - **Service**
- Lease/renting of land/building/transfer of right to use - **Service**
- Construction of building/civil structure/works contracts – **Service**
- Food for human consumption - **Service**
- Agreeing to the obligation to refrain from an act, tolerate an act or a situation or do an act - **Service**

What is supply of goods / services – Schedule II

- Works Contract - **Service**
- Disposal of goods – part of business - **Goods**
- Goods taken for personal use – **Service**
- Temporary transfer/enjoyment of intellectual property right – **Service**
- Development, design, programming, customization... Information Technology Software – **Service**
- Goods by unincorporated association/BOI to member - **Goods**

Others...



Other special provisions

- Job work
- Online Service Provider – minimal human intervention – non-taxable online recipient - government, governmental body, local authority or non registered person – for non business purposes- located in taxable territory
- Electronic Commerce Operator



THANK YOU