

# Supply under GST

---

Under GST, Supply is considered a taxable event for charging tax. The liability to pay tax arises at the 'time of supply of goods or services'. Thus, determining whether or not a transaction falls under the meaning of supply, is important to decide GST's applicability.

## Concept Before GST

Under the erstwhile indirect tax regime, there was no concept of Supply. The stage at which indirect taxes were levied varied under different tax laws. The 'excise duty' was charged on goods manufactured when they were taken out of the factory. 'Service Tax' was levied based on certain rules known as the 'point of taxation' rules, for services rendered. A VAT would arise on the value of the sale of goods or provision of services. The present system has merged all taxes to maintain a single taxable event .

## What is supply under GST?

Supply includes sale, transfer, exchange, barter, license, rental, lease and disposal. If a person undertakes either of these transactions during the course or furtherance of business for consideration, it will be covered under the meaning of Supply under GST.

## Elements of Supply

**Supply has two important elements:**

- Supply is done for a consideration
- Supply is done in course of furtherance of business

If the aforementioned elements are not met with, it is not considered as a sale.

**Examples:**

1. Mr. A buys a table for Rs.10,000 for his personal use and sells it off after 10 months of use to a dealer. This is not considered as supply under CGST as this is not done by Mr. A for the furtherance of business.

2. Mrs. B provides free coaching to neighbouring students as a hobby. This is not considered as supply as this act is not performed for a consideration.

However, as specified in Schedule I of GST Act, certain activities are considered as supply even if it is made without consideration.

## Classification of supply and types

**Composite supply and Mixed Supply:**

There are a few supplies which are made together with two or more items. Such supplies are further classified into **Composite Supply and Mixed Supply**.

### **Composite Supply:**

A supply comprising of two or more goods/services, which are necessarily supplied in conjunction with each other as per frequent business practices followed in that area. In other words, these items cannot be supplied individually. There is a principal supply and a secondary supply in the whole transaction. In such cases, the tax rate on principal supply will apply on the entire supply.

**E.g.** Buying a Dry Fruit Gift Box for Diwali. It includes dry fruits, a box and a wrapper. Box and wrapper cannot be sold individually without the main content which is dry fruit. This is composite supply.

### **Mixed Supply:**

A supply comprising of two or more goods/services, wherein the supplies are independent of each other and are not necessarily required to be sold together is called a **mixed supply**. The first condition to be met for mixed supply is that 'it should not be a composite supply'. In such cases, the tax rate that is higher of the two supplies will be applicable to the entire supply.

**E.g.** Buying a Christmas package consisting of cakes, aerated drinks, chocolates, Santa caps and other gift items. Each of these items can be sold separately and are not dependent on each other. This is mixed supply.

## **Import of services:**

Import of goods/services with consideration is considered as supply whether for personal or business use.

## **Scope : List of supplies and taxability**

### **Activities considered as a supply of goods as per Schedule II of the GST Act**

**Transfer** – Transfer of title of goods

#### **Transfer of business assets:**

1. Business assets transferred/disposed of with or without consideration
2. If the owner ceases to be a taxable person then his business assets will be assumed to be supplied to him in course of his business-

This is not applicable in the following cases:

- Business is transferred to another person
- Business is carried by a taxable representative

Supply of goods by an unincorporated AOP/BOP for a consideration

## **Activities considered as a supply of services as per Schedule II of GST Act**

**Transfer** -Transfer of right in goods without transfer of title

### **Land and building –**

1. Lease, rent, tenancy, easement, license to occupy land
2. Lease or letting out of the building (Building includes commercial/ industrial/residential complex for business use either wholly or partly)

**Transfer of business assets:** The owner uses or allows to use business assets for personal use.

Construction of a building/complex intended for sale to a buyer wholly or partly

Temporary transfer or permitting the use of intellectual property right

Renting of immovable property (**Rented residence is exempted from GST**)

Development of information technology software

Agreeing to refrain from an act – Non-competition agreements

Transfer of right to use any goods for a consideration

Any treatment or process which is applied to another person's goods is a supply of services.

## **Activities or transactions treated neither as the sale of goods nor sale of services as per Schedule III of GST Act**

Following are the transactions covered under negative list:

1. Services provided by an employee to the employer.
2. Gifts up to Rs.50,000/- in value in a Financial Year, by an employer to an employee
3. Services of the funeral, burial, crematorium or mortuary including transportation of the deceased
4. Services by any court or Tribunal.
5. Duties performed by the MP/MLA/MLC/ Members of Local Bodies.
6. Duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority.
7. Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.
8. Sale of Land
9. Sale of Building (However, If construction of a complex /building intended for sale to a buyer and part of the consideration is received before completion, then it will be treated as Supply of Services)
10. Actionable claims, other than lottery, betting and gambling.

Thus, GST law has simplified tax treatment by clearly classifying activities considered as goods/services or transactions considered as neither sale of goods or services.