

Legal Compliance Workshop

GST- Point of Taxation

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At what point tax is to be levied?

Tax Incidence / taxable event means the point at which tax is levied

- VAT is levied on sale and purchase of goods and follows the destination based principle of taxation
- Excise is levied on the manufacture of goods and follows the origin-based principle of taxation
- Service tax levied on provision of services
- Taxable event for GST is supply of goods or services.
- GST follows the destination based principle of taxation. Taxes would accrue to the taxing authority which has jurisdiction over the place of consumption of goods or services

GST - Point of Taxation

- Relevant Sections of CGST – 12, 13, 14 and 31
- Liability to pay tax arise at the time of supply of goods or services or both
- Separate provisions for ascertaining time of supply for goods and services, and for:
 - General Supply
 - Reverse Charge
 - Supply of Vouchers
 - Addition in Value of supply
 - When not possible to determine time of supply

Definitions

- **“Goods”** includes all materials, commodities, and articles **Article 366 (12)**
- **“Services”** means anything other than goods **Article 366 (26A)**
- **“Goods and Services tax”** means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption **Article 366 (12A)**

Time of Supply of Goods Sec-12 (2)

- The time of supply of goods shall be the earlier of the following dates :
 - date of issue of invoice by the supplier or
 - last date on which he is required to issue the invoice under Section 31 (1), or
 - date on which the supplier receives the payment with respect to the supply

Date of Receipt

- “Date on which the supplier receives the payment” shall be, earlier of :-
 - the date on which the payment is entered in his books of account, or
 - the date on which the payment is credited to his bank account,

Excess Payment Received

- Where the supplier receives an amount up to Rs. 1000 in excess of the tax invoice,
- the time of supply to the extent of such excess amount
- shall, at the option of the said supplier,
- be the date of issue of invoice in respect of such excess amount.

Time Limit to Issue Invoice u/s 31(1)

- A registered person supplying taxable goods shall issue a tax invoice, **before or at the time of—**
 - Removal of goods for supply to the recipient, where the supply involves movement of goods; or
 - Delivery of goods or making available thereof to the recipient, in any other case,

Example

Events	Case-1	Case-2	Case-3
Date of Invoice	10-Aug-17	10-Aug-17	19-Aug-17
Date Payment credited to bank a/c	09-Aug-17	17-Aug-17	17-Aug-17
Date Payment entered in books	16-Aug-17	18-Aug-17	18-Aug-17
Removal of goods for transport		11-Aug-17	12-Aug-17
Delivery of goods to recipient	14-Aug-17	16-Aug-17	16-Aug-17

Example-2

Events	Case-1	Case-2	Case-3
Date of Invoice	10-Aug-17	10-Aug-17	19-Aug-17
Date Payment credited to bank a/c	09-Aug-17	17-Aug-17	17-Aug-17
Date Payment entered in books	16-Aug-17	18-Aug-17	18-Aug-17
Removal of goods for transport	14-Aug-17	11-Aug-17	12-Aug-17
Delivery of goods to recipient		16-Aug-17	16-Aug-17
Time of Supply for Tax liability	09-Aug-17	10-Aug-17	12-Aug-17

ToS – Reverse Charge Sec-12(3)

- In case of supplies, which attract provisions of Reverse Charge, the time of supply shall be the earlier of the following dates :
 - (a) date of the receipt of goods; or
 - (b) date of payment as entered in the books of account of the recipient , or
date on which the payment is debited in his bank account, whichever is earlier; or
 - (c) date immediately following 30 days from the date of issue of invoice or any other document, by the supplier
- Where it is not possible to determine the time of supply under clauses (a) or (b) or (c), the ToS shall be the date of entry in the books of account of the recipient of supply.

ToS – Supply of Vouchers Sec 12(4)

- In case of supply of vouchers by a supplier, the time of supply shall be—
 - the date of issue of voucher, if the supply is identifiable at that point; or
 - the date of redemption of voucher, in all other cases.

Special Situations Sec- 12(5) & (6)

- Where it is not possible to determine the ToS , the time of supply shall—
 - in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
 - in any other case, be the date on which the tax is paid.
- The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

Time of Supply of Services

- The time of supply of goods shall be the earliest of the following dates :
 - a. If the invoice is issued within the period prescribed u/s 31(2)
 - the date of issue of invoice by the supplier, or
 - the date of receipt of payment , **whichever is earlier**
 - b. If the invoice is **not** issued within the period prescribed u/s 31(2)
 - the date of provision of service, or
 - the date of receipt of payment , **whichever is earlier**
 - c. If (a) and (b) above do not apply:
 - The date on which the recipient shows the receipt of services in his books of account, If the invoice is issued within the period prescribed u/s 31(2)

Time limit for issuing tax invoice

- Rule 47 - Invoice in the case of the taxable supply of services, shall be issued within a period of 30 days from the date of the supply of service.
- Where the supplier of services is an insurer or a banking company or a financial institution, including a non-banking financial company, the period within which the invoice or any document in lieu thereof is to be issued shall be 45 days from the date of the supply of service.

Excess Payment

- Where the supplier of taxable service receives an amount up to Rs. 1000 in excess of the tax invoice,
- the time of supply to the extent of such excess amount
- shall, at the option of the said supplier,
- be the date of issue of invoice in respect of such excess amount.

Date of Receipt of Payment

- “Date on which the supplier receives the payment” shall be, earlier of :-
 - the date on which the payment is entered in his books of account, or
 - the date on which the payment is credited to his bank account,

ToS – Reverse Charge Sec-13(3)

- In case of supplies, which attract provisions of Reverse Charge, the time of supply shall be the earlier of the following dates :
 - a. the date of payment as entered in the books of account of the recipient, or
the date on which the payment is debited in his bank account, whichever is earlier; or
 - b. the date immediately following sixty days from the date of issue of invoice or any other document, by the supplier:
 - Where it is not possible to determine the time of supply under clauses (a) or (b), the ToS shall be the date of entry in the books of account of the recipient of supply.

Supplier Outside India

In case of supply by associated enterprises, where the supplier of service is located outside India, the time of supply shall be:

- the date of entry in the books of account of the recipient of supply, or
- the date of payment,
- whichever is earlier.

ToS – Supply of Vouchers Sec 13(4)

- In case of supply of vouchers by a supplier, the time of supply shall be—
 - the date of issue of voucher, if the supply is identifiable at that point; or
 - the date of redemption of voucher, in all other cases.

Special Situations Sec- 13(5) & (6)

- Where it is not possible to determine the ToS of Service , the time of supply shall—
 - in a case where a periodical return has to be filed, be the date on which such return is to be filed; or
 - in any other case, be the date on which the tax is paid.
- The time of supply to the extent it relates to an addition in the value of supply by way of interest, late fee or penalty for delayed payment of any consideration shall be the date on which the supplier receives such addition in value.

ToS if Change in Rate of Tax

- Where there is a change in the rate of tax in respect of goods or services or both, Time of Supply shall be determined for the following situations:
 - goods or services or both supplied before the change in rate of tax
 - goods or services or both supplied after the change in rate of tax

Supply Before Change in rate of tax

- Where the **invoice** for the same has been issued and the **payment** is also received **after the change** in rate of tax, the ToS shall be the date of receipt of payment or the date of issue of invoice, whichever is earlier; or
- Where the **invoice** has been **issued prior** to the change in rate of tax but **payment** is **received after** the change in rate of tax, the ToS shall be the **date of issue of invoice**; or
- Where the **payment** has been received **before** the change in rate of tax, but the **invoice** for the same is issued **after** the change in rate of tax, the ToS shall be the **date of receipt of payment**;

Supply **After** Change in rate of tax

- Where the **payment** is received **after** the change in rate of tax but the **invoice** has been issued **prior** to the change in rate of tax, the ToS shall be the **date of receipt of payment**; or
- Where the **invoice** has been issued **and payment** is received **before** the change in rate of tax, the ToS shall be the date of receipt of payment or date of issue of invoice, whichever is earlier; or
- Where the **invoice** has been issued **after** the change in rate of tax but the **payment** is received before the change in rate of tax, the ToS shall be the date of issue of invoice:

- Date of receipt of payment shall be the date of credit in the bank account if such credit in the bank account is after 4 working days from the date of change in the rate of tax.
- “Date on receipt of payment” shall be, earlier of :-
 - the date on which the payment is entered in his books of account of supplier, or
 - the date on which the payment is credited to his bank account

ToS after Tax rate Change-Summary

Events	Invoice	Payment	ToS
Good and Services supplied before change in Tax Rate	After	After	After
	Before	After	Before
	After	Before	Before

Good and Services supplied after change in Tax Rate	Before	Before	Before
	Before	After	After
	After	Before	After

- Where goods or services or both are supplied **before** the change in rate of tax, and invoice is issued **or** payment is received before the change , ToS will be before the tax change date
- Where goods or services or both are supplied **after** the change in rate of tax, and invoice is issued **and** payment is received before the change , ToS will be before the tax change date

जय हिन्द

Jai Hind

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