

## **GST Guidance Note - 4**

### **Place of Supply**

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## 4.01 Significance of place of supply

GST is primarily a destination-based consumption tax though there are occasions where it can be origin-based or the place of origin and destination may be same. This, in simple terms, means that the tax collected on supply of goods or services should accrue to the jurisdiction or State in which those goods or services are consumed. While for goods determination of place of supply is relatively easier, it is difficult for services considering the intangible nature of services. Elaborate rules have been made for determining place of supply of goods and services based on the nature of supplies.

## 4.02 Implications of place of supply for a tax payer

The place of supply of a particular transaction, coupled with the location of the supplier, will determine the nature of the tax to be paid by a tax payer. If the location of the supplier and place of supply are in the same State the transaction will be intra-State transaction and the tax-payer will be liable to pay Central Tax and State Tax. If they are in different States the transaction will become inter-State transaction and the tax payer will be liable to pay Integrated Tax. If they are in the same UT without legislature then the tax payer will be liable to pay UT Tax.

## 4.03 Place of supply of goods

### 4.03.1 General rule for place of supply of goods (other than imports and exports)

Following chart captures the general rule relating to place of supply of Goods:

S. No	Nature of transaction	Place of supply of goods
1	Supply involves movement of goods	Location of delivery of goods to recipient
Example - A in Mumbai purchases chair from supplier B in Gujarat and the chair is to be delivered by the supplier in Mumbai. The place of supply is Mumbai as chair has moved from Gujarat to Mumbai.		
2	Supply without movement of goods	Location of goods at the time of delivery to the recipient.
<b>Example</b> – A, who lives in Noida and goes to Delhi and purchases washing machine from the outlet of supplier B in Delhi. A, himself takes the delivery in Delhi and transports the machine in his car. The place of supply is Delhi as supply does not involve movement of goods.		
3	Assembly or installation at site	Place of assembly or installation

<b>Example</b> - Company A in Delhi want to get a printing machine installed at its office in Delhi from supplier B located in Haryana. Since the printing machine will be assembled or installed at Delhi, the place of supply is Delhi.		
4	Supply on board a conveyance such as vessel, aircraft, train, motor vehicle	Location at which such goods are taken on board.
<b>Example 1</b> – A boards a Kolkata- Chennai flight for Chennai from Kolkata and purchases a bottle of water in the flight during his journey. As the water bottle was taken on board on the plane at Kolkata, the place of supply is Kolkata.		
<b>Example 2:</b> A train starts from Delhi for Mumbai. On the way water bottle cartons are taken on board at Agra that are purchased by passengers during the journey from Agra to Mumbai. The place of supply of water bottles is Agra		
5	Supplier delivering to a recipient on direction of a third person	Third person's principle place of business for the first leg of the supply and location of delivery to recipient for the second leg.
Refer examples in next para		
6	If POS cannot be determined as per Sr no 1 to 5	Same shall be determined in a manner prescribed by the Central Government.

#### 4.03.2 Place of supply where goods are delivered by supplier on the direction of third person

Where the goods are delivered by the supplier to a person, on the direction of a third person, whether acting as an agent or otherwise, it shall be deemed that the said third person has received the goods and the place of supply of such goods shall be the principal place of business of such third person. – Section 10(1)(b) of the IGST Act

**Example 1** - A trader in consumer durables has a sales outlet in Gurgaon (Haryana) and a godown in Delhi. A resident of Delhi walks in Gurgaon outlet, buys an air-conditioner and instructs that delivery be made at his residence in Delhi. Gurgaon outlet arranges delivery of air-conditioner from its Delhi godown. Transaction involves two IGST supplies (i) By Gurgaon outlet to Delhi resident; and (ii) By Delhi godown to Gurgaon outlet. Here goods were never delivered to Gurgaon store. However, as the Delhi godown has delivered goods to the customer on the direction of Gurgaon store (here third person), it will be deemed that Gurgaon store has received the goods and then supplied these to the customer.

**Example 2** - CIDCO Limited (a town planning and development authority in New Mumbai) has engaged L&T, Hyderabad for development of a railway station in New Mumbai. L&T has a factory for fabrication of lifts in Maharashtra. L&T Hyderabad places order on L&T Maharashtra for supply of lifts at the site of CIDCO railway station. Here L&T Maharashtra has delivered the goods to CIDCO, Maharashtra on the directions of L&T Hyderabad. It will be deemed that L&T Hyderabad has received the goods from L&T Maharashtra (place of supply – Hyderabad) and then supplied those goods to CIDCO at

Navi Mumbai (place of supply – Navi Mumbai) despite the fact goods did not move out of Maharashtra.

### 4.03.3 Place of supply of goods imported into or exported from India

S. No	Transaction	Place of supply
1	Import	Location of importer
2	Export	Location outside India

## 4.04 Place of supply of services

### 4.04.1 General rule for determining place of supply where both the service provider and the service recipient are located in India

- a. Where a service is provided to a **registered person**, the place of supply shall be the **location of such recipient**; - Section 12(2)(a) of the IGST Act
- b. Where service is provided to an **unregistered person**, then place of supply shall be the:
  - o Location of the **service recipient if the address is available on record**;
  - o Otherwise **location of service provider** - Section 12(2)(b) of the IGST Act

Certain exceptions have been carved out to this general rule that are captured in subsequent paras.

It may also be noted that separate place of supply rules have been provided for the following two situations-

- o Where both the supplier and recipient of services are located in India (referred to as 'domestic supplies' in this GST Guidance Note)
- o Where either the supplier or the recipient of services is located outside India (referred to as 'cross border supplies' in this GST Guidance Note)

The principles of place of supply in both the above situations have been explained in this GST Guidance Note.

#### 4.04.2 Principles of place of domestic supply of services in exceptional cases:

Place of supply of services where both the supplier and the recipient are located in India shall be as follows in the circumstances as described:

S.No	Nature of Service	Place of Supply
1	Directly relating to immovable property	
	(a) If property is located in India	Place where immovable property is located.
	(b) If property is located outside India	Location of recipient.
<p><b>Example:</b> If Mr. A of Chennai has property in Delhi and avails architect services from B of Bengaluru, then place of supply would be Delhi as the supplier, recipient and property are located in India. However, if such property is located in Japan, then place of supply will be Chennai that is to say location of service recipient.</p>		
2	Performance based services namely restaurant & catering, personal grooming, fitness, beauty treatment, health services including cosmetic & plastic surgery	Where services are actually performed
<p><b>Example –</b> Mr. P of Kerala visits a hotel located in Jaisalmer for a vacation and stays in the hotel for 5 days and avails services of gym and parlour and makes individual payment for these services to hotel, gym and parlour. The place of supply would be Jaisalmer as the actual services are supplied there.</p>		
3	Admission to an event	Where event is held
<p><b>Example –</b> Mr. M of Manipur goes to Mumbai and purchases ticket for watching a movie at a Mumbai Cinema Hall. The place of supply would be Mumbai.</p>		
4	Service on board a conveyance	First scheduled point of departure

**Example** - A caterer is providing catering services on-board in train during Mumbai-Goa-Mangalore which is not included in fare charges. The place of supply of service shall be the location of the first scheduled point of departure of that conveyance for the journey i.e. Mumbai.

5	Banking & Financial service( including Stock broking )	
	(a) if location of recipient is available on record of the supplier	Location of service recipient
	(b) if location of the recipient of service is not available on record of the supplier	Location of service provider

**Example** – N of Delhi who has a saving bank account with Axis Bank of Delhi gets a DD issued from Axis Bank at Mumbai, the place of supply will be Delhi as N's address is in the records with Axis Bank. However, if N gets a DD issued from HDFC Bank of Mumbai, without having a bank account there, the place of supply will be HDFC Mumbai.

6	Insurance service ( whether provided to registered or non-registered person )	Location of service recipient (Location of service recipient on record in case of unregistered person)
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**Example** – B, residing in Chandigarh travels by Air India flight from Mumbai to Delhi and gets his travel insurance done in New Delhi. The place of supply is Chandigarh, being the location of the recipient on the records of the insurance company.

### 4.04.3 Place of supply in case of telecommunication service (including data transfer , broadcasting, cable and direct to home television)

Place of supply in case of telecommunication service is separately provided through section 12(11) of the IGST Act.

S. No.	Description	Location		Others	
		Service recipient	Service provider		
1	For fixed line, leased circuits, internet leased circuits , cable connection or dish antenna	X	X	Where installed for receipt of service	
2	Post-paid mobile and internet service	✓	X	-	
3	Prepaid mobile, internet service and direct to home television service through voucher or any other means:				
	(a)	Through selling agent or a reseller or a distributor	X	X	Address of such agent, reseller or distributor
	(b)	By any person to the final subscriber	X	X	Where such pre-payment is received or voucher sold
	<b>(c) For other cases</b>				
		(i) Where address of the recipient is available as per records of the supplier	✓	X	X
		(ii) Where address of the recipient is not available as per records of the supplier	X	✓	X
		(iii) If prepaid service is availed or recharge is made through Internet banking or other electronic mode	✓	X	X



#### **4.04.4 Examples of services directly related to immovable property**

Services provided:

- by architects, interior decorators, surveyors, engineers and other related experts;
- by estate agents;
- by way of grant of rights to use immovable property;
- by way of lodging accommodation by a hotel, inn, guest house, homestay, club or campsite, house boat or any other vessel; and
- by way of accommodation in any immovable property for organizing any marriage or reception or matters related therewith, official, social, cultural, religious or business function

#### **4.04.5 Illustrations of immovable property related services from other tax jurisdictions**

In EU VAT, the following services are commonly considered related to land (immovable property):

- arranging the sale or lease of land or property
- drawing up of plans for a building or part of a building designated for a particular site
- services relating to the obtaining of planning consent for a specific site
- on-site security services, even if provided remotely
- agricultural work on land (including tillage, sowing, watering and fertilization)
- installation and assembly of machines which, when installed, will form a fixture of the property that can't be easily dismantled or moved
- the granting of rights to use all or part of a property (such as fishing or hunting rights and access to airport lounges)
- legal services such as conveyancing and drawing up of contracts of sale or leases, including title searches and other due diligence on a specific property
- bridge or tunnel toll fees
- the supply of space for the use of advertising bill boards - for example the leasing of a plot of land or the side of a building to allow a billboard to be erected
- the supply of plant and equipment together with an operator, where the supplier has responsibility for the execution of the work to the land or property
- the supply of specific stand space at an exhibition or fair without any related services

#### 4.04.6 Illustrations of services not considered related to immovable properties from other tax jurisdictions

In EU VAT, the following services are commonly considered not related to land (immovable property):

- The drawing up of plans for a building or parts of a building if not designated for a particular plot of land
- the storage of goods in an immovable property if no specific part of the immovable property is assigned for the exclusive use of the customer
- the provision of advertising, even if it involves the use of immovable property
- intermediation in the provision of hotel accommodation, or accommodation in similar sectors with a similar function, such as holiday camps
- the provision of a stand location at a fair or exhibition site together with other related services
- the installation or assembly, the maintenance and repair, the inspection or the supervision of machines or equipment which is not, or does not become, part of the immovable property
- portfolio management of investment in real estate

#### 4.04.7 Determination of Place of supply under various scenarios

S. No.	Scenarios	Place of supply
1	Services provided by Indian architect to an Indian resident constructing a building in London	Although place of supply in relation to immovable property is the location of immovable property, however since the property is located abroad, the place of supply will be the location of the service recipient.
2	Organizing an event, say, IPL cricket series held in multiple States	In case of an event, if the recipient of service is registered, the place of supply of services for organizing the event shall be the location of such person. However, if the recipient is not registered, the place of supply shall be the place where event is held. Since the event is being held in multiple States and a consolidated amount is charged for such services, the place of supply shall be taken as being in each State in proportion to the value of services so provided in each State.
3	Person travelling by bus from Mumbai to	If the person is not registered, the place of supply for the forward journey from Mumbai to Goa shall be Mumbai - the place where he embarks. However,

	Goa and back to Mumbai?	for the return journey, the place of supply shall be Goa as the return journey has to be treated as separate journey.
4	A ticket/ pass for travel anywhere in India issued by Air India to a person	The place of embarkation will not be available at the time of issue of invoice as the right to passage is for future use. Accordingly, place of supply cannot be the place of embarkation. In such cases, the default rule shall apply i.e. the location of recipient if he is registered or his address on record. Otherwise location of service provider.
5	A Mumbai based event manager organizes an event in Hyderabad. It allows admission to the employee of Bengaluru based company in the said event.	The place of supply of this service is Hyderabad as event is held there.
6	A Mumbai based event manager organizes an event in London for a registered tax payer in Mumbai.	Here, the event is taking place in London which is outside taxable territory, but as the service recipient is a registered person his location will be the POS i.e. Mumbai.

#### 4.05 Place of supply where either the service provider or service recipient is located outside India

Principles of place of supply of services when the location of supplier or the location of recipient is outside India, has been drawn largely on pattern similar to the Place of Provision of Services Rules, 2012 (POPS) under erstwhile service tax regime.

It is also been provided that in order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Central Government shall have the power to notify any description of service or circumstances in which the place of supply shall be the place of effective use and enjoyment of service.

##### 4.05.1 General rule for determining place of cross border supply of services

As per principal or default rule of place of supply of cross border services, the location of the recipient of service is the place of supply. However, in case the location of recipient of service is not available in the ordinary course of business, the place of supply shall be the location of the supplier of service. [Section 13(2) of the IGST Act]

## 4.05.2 Key exceptions to the principal rule of place of cross border supply of services

Followings are key exceptions to the principal rule of place of cross border supply of services

Categories	Place of supply
Services directly in relation to immovable property	Location of immovable property
Performance-based services	Location where services are actually performed
Transportation of goods, other than by way of mail or courier	Place of destination of goods
Passenger transportation services	Where the passenger embarks on the conveyance for a continuous journey
Services on board a conveyance during the course of a passenger transport operation	First scheduled point of departure of that conveyance for the journey
Services supplied by a banking company, financial institution, non-banking financial company to account holders Intermediary services Hiring of means of transport other than aircrafts and vessels except yachts, up to a period of one month	Location of the supplier of service
Online information and database access or retrieval services	Location of the recipient of service

## 4.05.3 Scope of performance based services.

The place of supply for specified performance based services is the place where the services are actually performed. The scope of performance based services include the following –

- a) Services supplied in respect of goods which are required to be made physically available by the recipient of services to the supplier of services, or to a person acting on behalf of the supplier of services in order to provide the services.  
**Example.** If a piece of equipment has to be sent from Mumbai to Hamburg in Germany for repairs then the place of supply of repair service would be Hamburg, Germany as the goods have to be made physically available to a person acting on behalf of supplier of service.
- b) Services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or a person acting on his behalf, with the supplier for the supply of services.

**Example.** If a person from Mumbai goes to UK for getting a plastic surgery done, the place of supply would be UK as the service requires presence of recipient with the supplier for the supply of such service.

#### 4.05.4 Some exceptional cases relating to performance based services

If a service is provided from a remote location by way of electronic means, the place of supply shall be the location where goods are situated at the time of supply of service – e.g. if a software located in France is serviced through electronic means by an Indian software supplier from its office in India, place of supply will be France.

If the goods are temporarily brought to India for repairs and sent back out of India after repair, without putting to any other use in India, place of supply will be India – e.g. aircraft flown from Dhaka to Mumbai for repair and sent back. However if the foreign owned goods are already in India for some other reason and require repair service in India, place of supply will be in India – e.g. cargo containers of overseas owner, while in India, if need repair, place of supply will be in India.

### 4.06 Intermediary services

#### 4.06.1 Meaning of an intermediary

An intermediary is defined under section 2(13) of the IGST Act to mean a broker, an agent or any other person, by whatever name called, who arranges or facilitates the supply of goods and/or services, between two or more persons but does not include a person who supplies main service or supplies the goods on his own account.

It is very important to distinguish whether the service being provided is the main service or an intermediary service. Some services may appear to be an intermediary service while would actually be a main service.

For example - certain support services provided in respect of the main service provided will not qualify as intermediary services. These are services like provision of marketing support services, call center services, payment processing services which are principle services in themselves (as ruled by the AAR in M/s GoDaddy India Web Services Pvt. Ltd. versus Commissioner of Service Tax, Delhi-IV, Ruling No.AAR/ST/08/2016). While, the services provided by a buying agent, a broker or a commission agent would be examples of intermediary services

#### 4.06.2 Place of supply for an intermediary

The place of supply for intermediary services changes in two situations – if the service provider and service recipient are located in India or if one of them is located outside India. These two situations can be best understood with the help of the following table-

Location of intermediary	Status of service recipient		Place of supply
Intermediary service provider and service recipient both are located in India	Recipient of service is registered		Location of recipient
	Recipient of service is not registered	Address available on record	Location of recipient
		Address not available on record	Location of the intermediary (supplier)
Intermediary service provider or recipient located out of India			Location of the intermediary

**Example on domestic supply of intermediary services:** Aryan is a broker in cotton yarn operating from Mumbai. Buyers and sellers from whole of India approach him for their requirements. Aryan charges his remuneration from both the parties. Many of these buyers and sellers do not want to disclose their identity with registration details and address. The location of Aryan will be the place of supply of intermediary service. In this example, if buyer is from Gujarat and is registered under GST in Gujarat, place of supply of service to buyer will be Gujarat whereas place of supply of service to seller will remain in Maharashtra. In the same example, even if buyer is not registered under GST, since his Gujarat address has been taken on record by Aryan, place of service to buyer will be Gujarat whereas place of supply to seller will be Maharashtra.

If location of either recipient or suppliers is out of India, the location of intermediary will be place of supply of service.

**Example of cross border supply of intermediary service:** Waterland Inc. is a USA based defense equipment supplier. Many of the defense shoe suppliers from India are its clients. Waterland Inc. keeps track of defense equipment and other supplies tenders. It provides all round help to Indian suppliers in terms of tendering, arranging receipt of supplies in US, and release of payment by US agencies. Place of supply of service to Indian shoe suppliers will be USA.

- c) Services supplied to an individual, represented either as the recipient of services or a person acting on behalf of the recipient, which require the physical presence of the recipient or a person acting on his behalf, with the supplier for the supply of services. Example if a person from Mumbai goes to UK for getting a plastic surgery done the place of supply would be UK as the service requires presence of recipient with the supplier for the supply of such service.

## **4.07 Place of supply for online information and database access or retrieval services.**

### **4.07.1 Meaning of online information and database access or retrieval services -**

Online information and database access or retrieval services is defined under section 2(17) of the IGST Act to mean services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply essentially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as. –

- i. advertising on the internet;
- ii. providing cloud services;
- iii. provision of e-books, movie, music, software and other intangibles through telecommunication networks or internet;
- iv. providing data or information, retrievable or otherwise, to any person in electronic form through a computer network;
- v. online supplies of digital content (movies, television shows, music and the like);
- vi. digital data storage; and
- vii. online gaming;

Place of supply for online information and database access or retrieval services is location of recipient of services.

### **4.07.2 Manner of determination of location of recipient in case of online information and database access or retrieval services.**

It is difficult to determine the location of the recipient in case of online information and database access or retrieval services as such recipients normally access the services online and are not required to disclose their location. On the lines of the 'non contradictory evidence rule' followed in OECD VAT, it has been prescribed in IGST Act that person receiving online information and database access or retrieval services shall be deemed to be located in taxable territory if any two of the following non contradictory conditions are satisfied, namely any of the following two are located in the taxable territory-

- a) Location of address presented by the recipient
- b) Place of issue of credit card or debit card or charge card or any such card by which the recipient settles payment
- c) Billing address of the recipient

- d) IP address of the device used by recipient
- e) Bank of the recipient from where payment is made
- f) Country code of the SIM used by the recipient
- g) Location of fixed line through services received by recipient.

#### 4.07.3 Manner of payment of tax on online information and database access or retrieval services

If the online information and database access or retrieval service provider is located outside India and the services are provided to registered tax payer in India, the tax would be payable as import of service under reverse charge mechanism. In case of services are provided to a non-taxable online recipient then the onus has been placed on the service provider to pay Integrated tax on such supply of services and such service provider is obliged under law to take registration in India through a Simplified Registration Scheme to be notified by the Government. The registration can be taken by such service provider or by person representing such service provider or a person appointed by such service provider.

#### 4.08 Services where POS is different for domestic and cross border supplies

Sr.	Nature of service	Domestic supply	Cross border supply
1	Transportation of goods other than by mail or courier	B2B – Location of recipient of service B2C – Location where goods are handed over for transportation	Place of destination of goods
2	Transportation of goods by mail or courier	-----do-----	Location of recipient of service
3	Hiring of aircrafts	B2B – Location of recipient of service B2C - Location of recipient of service (if address on record is available) B2C - Location of supplier of service (if address on record is not available)	Location of recipient of service
4	Hiring of other means of up to a period of one month	-----do-----	Location of supplier of service
5	Intermediary Service	-----do-----	Location of supplier of service



6	Services by a banking company or a FI or a NBFC to account holder	-----do-----	Location of supplier of service
7	Services relating to immovable property located outside India	Location of the recipient	Location of the immovable property.
8	Services in respect of goods where goods have to be made physically available to supplier of service eg. repairs, erection commissioning	Location of the recipient	Place of performance of service (also see para 4.05.3)

## 4.09 Location of provider and recipient of service

### 4.09.1 Importance of location of service provider and service recipient:

The location of service provider and the location of service recipient is very important for determining the nature of a supply (i.e. inter-State or intra-State) and also for ascertaining the place of supply as the place of supply is preponderantly pegged to the location of the service recipient or the location of the service provider. It may not always be easy to ascertain the location of the service provider or the service recipient. For example company A gives a contract from its headquarters for computer hardware maintenance of its network of branch offices located in 5 states to company B which provides these services from its headquarters and two regional offices. There will be issues as to whether the location of the service recipient is company A's headquarters or each of its branch offices. Similarly, whether the location of the service provider is the headquarters of company B and/or its two regional offices.

The IGST Act defines the location of the recipient of service and provider of service with a view to address such issues.

### 4.09.2 Meaning of location of service recipient/service provider

Location of the recipient of services has been defined as-

<i>Where...</i>	<i>Then...</i>
a supply is received at a place of business for which the registration has been obtained,	the location of such place of business

a supply is received at a place other than the place of business for which registration has been obtained (a fixed establishment elsewhere),	the location of such fixed establishment
a supply is received at more than one establishment, whether the place of business or fixed establishment	the location of the establishment most directly concerned with the receipt of the supply
in absence of such places	the location of the usual place of residence of the recipient

Location of the supplier of services has been defined as-

<i>Where...</i>	<i>Then...</i>
a supply is made from a place of business for which the registration has been obtained,	the location of such place of business
a supply is made from a place other than the place of business for which registration has been obtained(a fixed establishment elsewhere),	the location of such fixed establishment
a supply is made from than one establishment, whether the place of business or fixed establishment	the location of the establishment most directly concerned with the provision of the supply
in absence of such places	the location of the usual place of residence of the supplier

### 4.09.3 Meaning of fixed establishment

Fixed establishment” is defined under section 2(7) of the IGST Act to mean a place other than the registered place of business which is characterised by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs.

### 4.09.4 Illustration of fixed establishments from other tax jurisdictions

As per the UK VAT law, a business may have several fixed establishments, which may include a branch or an agency. (the illustrations would not be binding in India but would help in understanding the concept) If you have a temporary presence of human and technical resources in the UK, this doesn't create a fixed establishment in the UK. In the said law, following are the examples which are not considered as a fixed establishment;

- an overseas television company that sends staff and camera equipment to the UK for a week to shoot a documentary before returning home
- a team of builders and contractors that are temporarily in the UK in order to carry out a one-off construction project
- the presence of computer servers alone within a country.

#### **4.09.5 Meaning of usual place of residence**

Usual place of residence is defined under section 2(113) of the CGST Act to mean-

- (a) in case of an individual, the place where he ordinarily resides;
- (b) in other cases, the place where the person is incorporated or otherwise legally constituted;

#### **4.09.6 Meaning of place of business**

Place of business has been defined under section 2(85) of the CGST Act to include the following-

- (a) a place from where the business is ordinarily carried on, and includes a warehouse, a godown or any other place where a taxable person stores his goods, provides or receives goods and/or services;
- (b) a place where a taxable person maintains his books of account; or
- (c) a place where a taxable person is engaged in business through an agent.

#### **4.09.7 Establishment most directly concerned with the supply**

##### **4.09.7.1 Deciding which establishment is the most directly concerned**

In the way the definitions have been framed there are bound to be disputes regarding the location of service provider or service recipient. These need to be carefully determined. Some points that could be relevant have been explained below. However, the applicability will depend on facts of each case.

If, as either the supplier or the recipient of services, you have establishments in more than one State, it is essential to determine which of those places is treated as making or receiving the supply in question.

It is generally the case that the business establishment will be the most directly concerned with the supply. However, if the supply is made using the human and technical resource of a fixed establishment, or the supply is received for the needs of the fixed establishment rather than the business as a whole, then this will be the place most directly concerned with the supply.

Where a branch of a company contracts and pays for purchases that are to be used by the whole business, the supply will be seen as being made to the business establishment, not the branch. This will be the case even where the branch creates an internal charge to the business and other fixed establishments.

#### **4.09.7.2 Factors which may help in deciding which establishment receives supplies**

Deciding factors can be-

- obvious use of services at a particular establishment (for example, the lease of equipment for use at that establishment)
- particular establishment issuing instructions
- the service relating to business being conducted by the recipient in an establishment in a particular State (such as written reports or accounts)
- making any supplies of goods or services to a particular establishment

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