CHAPTER - 5

Exemptions under GST

Difference between General Exemption & Special Exemption

General Exemption.	Special Exemption.
1. It is issued by Govt by notification in official gazette	1. It is issued by Govt. by specific order.
2. It is applicable generally. i.e. to all members of particular Industry.	2. It is applicable to specific person to whom order is given.
3. It is generally in public Interest.	3. It is in exceptional circumstances like for Charitable purpose or defence or etc.

Common points

1. Exemption may be absolute or conditional.
2. Exemption may be partly or wholly.

Health Care

(a)

Health Care BY
- Clinicle establishment
- Authorised medical practioner
- Paramedics

(b). Ambulance Service provided by others also exempted

- Means
  - Diagnosis or treatment or care for
    - illness
    - injury
    - Pregnancy
    - abnormility
    - deformity
  - in recognised System of medicine
- Includes
  - Transportation of the patient [i.e. ambulance Service]
- does not includes
  - plastic surgery
  - hair transplant
  - } Just beauty treatment
  - Except
    - to restore or to reconstruct
      - ⇒ anatomy
      - ⇒ function of body affected due to
        - ⇒ Congenital defects
        - ⇒ development abnormalities
        - ⇒ Injury or trauma
    - Exemption is available to hair transplant or plastic surgery

Renting of room by clinicle establishments.

- If room rent is ₹5000 or less per day
  - ⇓ Exemption
- If room rent exceeds ₹5000 per day
  - ICU/ICCU NICU ⇓ Exemption
  - Normal room ⇓ Taxable

Services by A.T.

- Services supplied to business Entity.
  - The Agg T/O of B.E. in P.F.Y. upto such Amount which make them eligible for exemption from Reg. (i.e. Agg. T/o below threshold.)
    ⇓
    Service is Exempt in C.F.Y. (No RCM Applicable)
  - The Agg T/O of B.E. in P.F.Y. more than such Amt which required for Reg. (i.e. more than threshold)
    ⇓
    Service is Taxable under RCM. & B.E. is liable to pay tax
- Service supplied to any Person other than B.E.
  ⇓
  Exempt
- Service supplied to
  - → CG/SG/U.T.
  - → Local authority
  - → Govermental authority
  - → Goverment entity

  ⇓
  Exempt.

Legal Service by I. Adv or Firm of Adv. Other than Sr. Adv.

- Services supplied to business Entity.
  - The Agg T/O of B.E. in P.F.Y. upto such Amount which make them eligible for exemption from Reg. (i.e. less than or equal to threshold)
    ⇓
    Service is Exempt in C.F.Y. (No RCM Applicable) (irrespective of T/O of C.F.Y.)
  - The Agg T/O of B.E. in P.F.Y. more than such Amt which required Reg. (i.e. more than threshold)
    ⇓
    Service is Taxable under RCM.
- Service supplied to any Person Other than B.E.
  ⇓
  Exempt
- Service supplied to
  - → CG/SG/U.T.
  - → Local authority
  - → Govermental authority
  - → Govermment Entity

  ⇓
  Exempt.
- Service supplied to another Adv or firm of Adv.
  ⇓
  Exempt

Legal Service by Sr. Adv

Services supplied to business Entity.

- The Agg T/O of B.E. in P.F.Y. upto such Amount which make them eligible for exemption from Reg. (i.e. less than or equal to threshold)
  ⇓
  Service is Exempt in C.F.Y. (No RCM Applicable) (irrespective of T/O of C.F.Y.)

- The Agg T/O of B.E. in P.F.Y. more than such Amt which required Reg. (i.e. more than threshold)
  ⇓
  Service is Taxable under RCM.

Service supplied to any Person other than B.E.

⇓

Exempt

Service supplied to

- → CG/SG/U.T.
- → Local authority
- → Govermental authority
- → Goverment Entity

⇓

Exempt.

Service supplied to another Adv or firm of Adv.

⇓

Taxable.

Note: 1) Another Adv is also B.E. hence they are eligible for exemption on the basis of threshold of P.F.Y. (First part of this chart)

2) In other case I. Adv / Firm of Adv is liable to pay tax under RCM (as a B.E.).

Agriculture Service.

(a) H.W

(g)

Agriculture activities

Services relating to

⇒ The cultivation of plant
&
⇒ rearing of all life-forms of animals
↳ Except rearing of horses (stud farm)

for
→ Food
→ fibre
→ fuel
→ R.M
→ other similar product.

Agriculture produce [AP]

Any produce of agriculture on which

→ either no processing is done
OR
→ Such processing is done as is usually done by cultivator or producer does
↳ which not alter essential characteristics
› But make it marketable for primary market.

Exemption

Agriculture Sector

a) Ag. operations directly related to prodⁿ
- cultivation - harvesting - threshing
- Seed testing

b) Supply of farm labour.

c) Process carried out at an agri farm

d) Renting of - Agro machinery &
- Vacant land

e) Loading, unloading, packing storage or warehousing of A.P.

f) Agri extention service

g) Apmc & Comm Agent for Sale or Purchase of A.P.

Agriculture activities

Services relating to
⇒ The cultivation of plant
&
⇒ rearing of all life-forms of animals
↳ Except rearing of horses

for
→ Food
→ fibre
→ fuel
→ R.M
→ other Similar product.

Agriculture produce (A.P.)

Any produce of agriculture on which
→ either no processing is done
OR
→ such processing is done as is usually done by cultivator or producer
↳ which not alter essential characteristics
↳ But make it marketable for primary market.

Other exemptions

→ Loading, unloading, packing, storage or warehousing of Rice
→ warehousing of minor forest produce
→ warehousing of cereals, pulses, fruits & vegetables.
→ Intermediary production process in relation to Agriculture
→ Artificial insemination of live stock. (other than horses)

Fruits & vegetables.

Farm → AP → Fruits/vegetable → Primary market → not an AP → Fruits & vegetable

Entry 54
→ Loading → E → T.S.
→ unloading → E → T.S.
→ Storage → E → E (Sr. no 24B.)
→ packing → E → E (Sr. no 57).
→ warehousing → E → E (Sr. no 24B).
→ Commission Agent → E. → Taxable.

other exemption
→ pre-conditioning
→ pre cooling
→ ripening
→ waxing.
→ labelling

Passenger Transport Service

- Road
  - buses
    - Stage Carriage
      - AC → Taxable
      - Non AC → Exempt
    - Contract carriage
      - public transport (Point to Point)
        - AC → Taxable
        - Non AC → Exempt
      - Tourism / Charter / Hire etc. ⇓ Taxable
    - Note: If supplied through Eco thus Taxable
  - Cab & taxi & autorikshaw
    - → Meter cab
    - → Autorikshaw (E-rikshaw)
      - ⇓ Exempt
      - Note: If supplied through Eco thus Taxable
    - All others ⇓ Taxable
- Rail
  - Indian Railway
    - → AC Coach
    - → 1st class
      - ⇓ Taxable
    - Others ⇓ Exempt
  - Metro, monorail or tramway ⇓ Exempt
- Water
  - Inland Waterway ⇓ Exempt
  - Vessel
    - public ⇓ Exempt
    - tourism ⇓ Taxable
- Air
  - All taxable
  - Except: transportation at Airport of notified place
    - Economy class ⇓ Exempt
    - Others ⇓ Taxable
- Rope-way ⇓ All taxable

Goods Transport Service.

Road.
All Road transport → Exempt
Except
→ GTA
→ Courier Agency
} Taxable

Rail.
⇓
All Rail transport of goods
⇓
Taxable

Water
- Inland water way ⇓ Exempt
- Others ⇓ Taxable

Air, **Pipelines**
Goods transport
⇓
Taxable

↓

Sr. NO 20 : Transporation of following goods by Rail / vessels & GTA.

D ⇓ Defence & military equipment

R ⇓ Relif Material

M ⇓
- Milk
- Salt
- food grains
- pulses
- Rice.

O ⇓ Organic Manure

N ⇓ News paper & Magzine

A. ⇓ Agriculture Produce

GTA & Cargo handling = Composite Supply.

Loading
unloading
Handling
temporary warehousing

Cargo handling → Separately provided → Taxable under F.C.

Ancilliary

Goods transport by Road → Composite supply = Principle supply

Main.

⇓

GTA → Apply the provn of RCM

[Taxable]

Entry 22 (c) Hiring of M.V. to Contractor of E.I.

Exemption

Renting of Residential dwelling [R.D.]

Service

Renting → of Residential dwelling → for use of Residence

- Registered person ⇒ Taxable under RCM
- Other R.P. ⇒ Exempt.

Residential dwelling ⇓ Accomodation use for residence for long term use. where rent is charged on monthly basis
e.g. Flat/house/bunglow/ PG/ Hostel.

for use of Residence ⇓ If flat/house/ bunglow is given for office or other commercial purpose then taxable

Note: It does not includes
Taxable {
- hotel, inn, guesthouse.
→ lodge, campsite or like
where amount charge on daily basis
}

Hostel Accomodation will be treated as residential dwelling & Exempt

Renting Service (masterchart)

- Renting of residential dwelling
  - Renting of R.D to Registerd person.
    - If R.P. is using residential dwelling in the course of business for residence e.g. guest house for director, employee etc.
      - Rcm is applicable & R.P. (tenant) is liable to pay tax
    - * Expl^n: If R.P. is proprietory Concern & using dwelling
      - → in his personal capacity for Personal use
      - → renting on his own A/c & not Proprietory Concern.
      - Exempt. [as per explanation]
  - Renting of R.D to un-registerd Person.
    - for residence purpose
      - Exempt
      - Sr. 12
    - for Commercial purpose (e.g. office/Hotel)
      - Taxable under F.C. Supplier (i.e. landlord is Liable to pay tax)
- Renting of Commercial property (like shop/warehouse etc)
  - Forward charge is applicable. & Supplier (Landlord) is Liable to pay tax.
- Renting of rooms pricints of religious place.
  - Sr. no 13: Rent less than ₹ 1000 = Exempt
- Renting of room in Hospital.
  - Sr. 74: Health Care
    - Rent upto ₹ 5000
      - Exempt.
    - Rent more than ₹ 5000
      - ICU/ICCU etc
        - Exempt
      - other rooms
        - Taxable
- ** Renting of rooms in Hotels, inn, guest house, lodge or like where rent is charge on daily basis.
  - It is not treated as R.D. & hence fully taxable under F.C.

Exemption – Entertainment Sector.

- Service → Performance by
  - ↳ Artist – folk or classical form
    - (a) music
    - (b) dance
    - (c) theatre
  - $\boxed{\text{Consideration} \leq 1,50,000}$
  - Exception → Service as brand ambassador.

- Services = Admission to
  - **Entertainment event**
    - (a)
      - → Circus
      - → dance
      - → theatrical Performance
    - (b)
      - → Award function
      - → Concert
      - → Pageant
      - → Musical Performance
      - → non recognised Sporting event.
    - (c)
      - → Recognised Sporting event.
    - (d)
      - → planetarium.
    - $\boxed{\text{Consideration} \leq 500}$
  - **Monument**
    - ⇓ Protected monuments
  - **Zoo etc**
    - → Museum
    - → national park
    - → Wildlife Sanctuary
    - → tiger reserve
    - → zoo
  - Monument and Zoo etc: Consideration = No limit.

- Service = Training or Coaching in
  - ⇓ recreational activities relating to
    - (a) art or culture
    - (b) Sport by Charitable Entity registered u/s 12AA of I.T. Act.

Exemptions ⇒ Banking & Financial Services

(a)

Consideration = Interest or discounting

⇓

on extending

deposits

loan

Advances.

Except ⇒ Interest involved in credit card Services.

(b)

interse Sale or purchase of foreign currancy

amongst Bank

amongst dealer

amongst bank & dealer.

All other Services of Bank / FI / NBFC are taxable.

Education Service

Service by any person
To EI → Exemption

1) Transportation of Student/Faculty or Staff.
2) Catering (including mid-day meal)
3) Security/cleaning/Housekeeping

Exempt only if given School. (1).

4) Online educational Journals/Periodicals

Exempt only if given to colleges etc (2).

5) Services in relation to
- Admission or
- Conduct of Examination

Exempt if supplied to all EI. (1)/(2)/(3)/(4)

Educational Institution (EI)

1) Pre-school / Higher Secondary School [public or private]
2) Colleges/universities or Institutes - Providing education as a part of curriculum for obtaining qualification recognised by Law. [Indian Law]
3) Institute providing education in Approved vocational Courses.
4) Central/State edu Board - to the exent of Conduct of Examination

Note: All other Services provided to EI are Taxable.

**

Imp Note: Private Coaching Classes are not EI & Taxable.

Services By EI (output)

Exempt Service

a) Any Service to
- Student or
- Faculty or
- Staff.

e.g. → tution fees
→ Liabrary fees
→ transport service
→ catering service
→ All others.

b). Entrance fees for entrance examination

Taxable Services → All other Services supplied by such E.I. are taxable e.g.

a). Placement Service to corporate.
b). Auditorium given on Rent to Pvt Coaching classes.
c). Franchisees fees. etc.

$\boxed{\text{Exemption}}$ → Sport Sector

(a)

Individual as a → Recognised Sport body

- → player
- → umpire
- → coach
- → referee
- → team manager.

⇓

for participation in sport event organised by recognised Sport body

(b)

Recognised Sport body → Another Recognised Sport body

Exemptions in Govt Sector → Service provided by CG/SG/UT/LA.

General activities

- Services Supplied to General public
  - S.No 6: All Services supplied by Govt / L.A. are Exempted
  - Note: i) Eventhough Services Supplied by Govt/LA as a public authority is covered in definition of Business, but exempted here.
- Services Supplied to Business Entities
  - Exception to S.No.6 — All Services Supplied to business entity are taxable
  - Who will pay Tax
    - All Services to B.E. → Rcm is applicable
    - Renting of I.P
      - Reg → RCM
      - U.Reg → F.C.

Special activities (Specific Services)

a) Services supplied by Department of Post

- Exempt (S.no. 26)
  - → Post card
  - → Inland letter
  - → book post
  - → ordinary post (wt less than 10 gm)
- Taxable → All other Service like
  - i) Speed post
  - ii) Express parcel post
  - iii) life insurance
  - iv) Agency Services etc.

b) Services in relation to an Aircraft or a vessels inside or outside the precincts of a port or Airport

c) Transport of goods or passengers [Subject to Exemption in transport sector]

All above services supplied by Govt/LA to any person (General public or business entity) are taxable

Who will pay Tax: Tax is payable under forward charge (i.e. by Govt or local authority)

Other Exemptions [Service provided by Govt/LA]

T/o based or value based exemption

1) S.No.7 — Agg T/o of BE in P.F.Y. below threshold (Exempt - No RCM)
   - Exception: i) Special cases
   - 2) Renting of I.P.

2) S.No.9 — If Invoice value upto ₹5000 – Exempt
   - Exception: Special cases

Registration / Testing or certification based exemption

S.No.47 — a) Reg. under any Act
b) testing, calibration safety check or certification for
- Protection or Safety of worker
- Consumers
- public at large

S.No.61 — Services by way of issuance of
- → passport
- → visa
- → driving license
- → birth or death certificate.

Other Exemptions

S.No.63 — rights of natural resources to farmer for agriculture activity. (for Self Study)

S.No.8 — Service provided by one dept of Govt/LA to another dept. of Govt or LA
- Exception → Special cases.

S.No.65 — Merchant overtime charges charged by customs dept for inspection of cargo (Self study)

S.No.62 — Liquidated damages charge for non-performance of contract.

Tour operator service

- Service provided to Foreign tourist
  - Service provided to Foreign tourist totally <u>outside</u> <u>India</u>.
    ⇓
    Exempt.
    [Sr. no. 54]
  - Service provided to foreign tourist
    - partly <u>in</u> <u>India</u>
      ⇓
      Taxable.
    - partly <u>outside</u> <u>India</u>
      ⇓
      $\boxed{\text{Exempt}}$ Sr. no. 52A.
      ⇓
      → in proportion of no. of days outside India
      or
      → 50% of total consideration
      <u>Whichever is less.</u>
  - Service provided to foreign tourist totally <u>in India</u>.
    ⇓
    Taxable.
- Service provided to Indian tourist.
  ⇓
  fully Taxable

Exemption ⇒ Services by RWA To members

Services by → (to) its members

- Un-incorporated body
- Registered not profit Entity

⇓

by way of

re-imbursement of charges

or

Share of Contribution

RWA

Upto Amount = ₹ 7500 per month/ per member

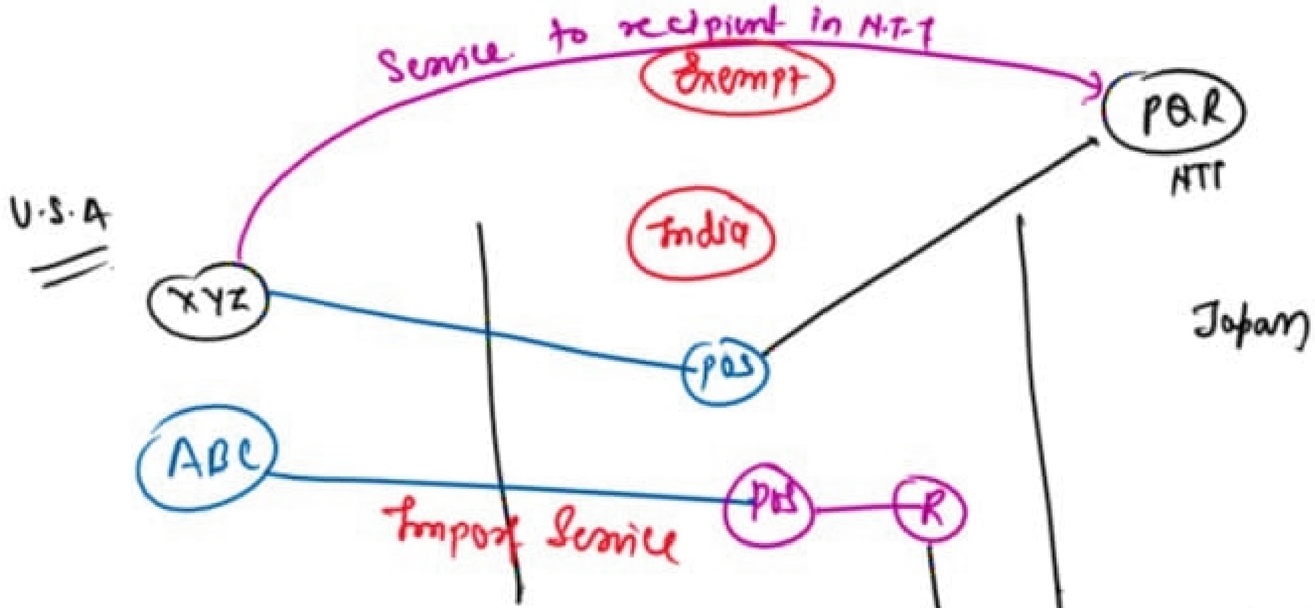
⇓

for Sourcing of goods or services

⇒ from third person

⇒ for common use of its member.

S.r. 10 of IGST Act.



- Govt / LA / Govt Authority
- Individual for personal purpose
- Charitable trust 12AA / 12AB for charitable activity

→ online periodical Journals by colleges or universities etc.

Exempt.

Exemption not applicable to

⇒ OIDAR

⇒ transportation of goods in a vessels.