

Question 18

CS Execu.

GST Council would consist of which of the following members:

- Union Minister of State
- minister who is in charge of finance or taxation or any other minister as nominated by the respective State Governments.
- minister nominated by Each State Government
- All of above

Answers

1	2	3	4	5	6	7	8	9	10
c	c	d	c	a	c	c	d	a	b
11	12	13	14	15	16	17	18		
b	c	c	a	b	a	d	d		

CA VIVEK GABA



Chapter 2: Supply under GST

Descriptive Questions

Easy

Question 1

MTP Oct'20 & Oct'18, PYQ May '18

Explain the meaning of the term "recipient of supply of goods and/or services" under the CGST Act, 2017.

5 Marks

Answer:

Recipient of supply of goods or services or both, means —

- (i) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration;
 - (ii) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available; and
 - (iii) where no consideration is payable for the supply of a service, the person to whom the service is rendered, and
- (i) any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply, and
- (ii) shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

Question 2

MTP April'19, CS Exec. Nov'18

State whether the following supplies would be treated as supply of goods or supply of services as per Schedule II of CGST Act:

- (i) Renting of immovable property
- (ii) Transfer of right in goods without transfer of title in goods.
- (iii) Works contract services
- (iv) Temporary transfer of permitting use or enjoyment of any intellectual property right
- (v) Transfer of title in goods under an agreement which stipulates that property shall pass at a future date.

5 Marks

Answer

Renting of immovable property would be treated as supply of services in terms of Schedule- II of CGST Act, 2017.

- (i) As per Schedule-II of CGST Act, 2017, transfer of right in goods without transfer of title in goods would be treated as supply of services.
- (ii) As per Schedule-II of CGST Act, 2017, works contract services would be treated as supply of services.



(iii) As per Schedule-II of CGST Act, 2017, temporary transfer of permitting use or enjoyment of any intellectual property right would be treated as supply of services.

(iv) As per Schedule-II of CGST Act, 2017, transfer of title in goods under an agreement which stipulates that property shall pass at a future date would be treated as supply of goods.

Question 3

MTP March'19

Whether transfer of title and/or possession is necessary for a transaction to constitute supply of goods?

5 Marks

Answer

Title as well as possession both have to be transferred for a transaction to be considered as a supply of goods. In case title is not transferred, the transaction would be treated as supply of service in terms of Schedule II(1)(b) of the CGST Act. In some cases, possession may be transferred immediately but title may be transferred at a future date like in case of sale on approval basis or hire purchase arrangement. Such transactions will also be termed as supply of goods.

Question 4

MTP March'18

Discuss the term 'composite supply' and its taxability under GST law.

4 Marks

Answer

Composite supply means a supply made by a taxable person to a recipient and:

- ✓ comprises two or more taxable supplies of goods or services or both, or any combination thereof.
- ✓ are naturally bundled and supplied in conjunction with each other, in the ordinary course of business
- ✓ one of which is a principal supply [Section 2(30) of the CGST Act].

A composite supply comprising of two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply [Section 8 of the CGST Act, 2017].

Question 5

MTP March'18

Explain the term 'aggregate turnover'.

4 Marks

Answer

Aggregate turnover includes the aggregate value of:

- (i) all taxable supplies,
- (ii) all exempt supplies,
- (iii) exports of goods and/or services and
- (iv) all inter-State supplies of persons having the same PAN.

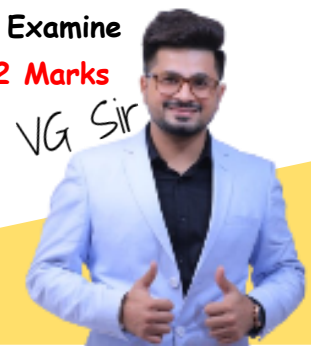
The above is computed on all India basis. Further, the aggregate turnover excludes central tax, State tax, Union territory tax, integrated tax and cess. Moreover, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover' [Section 2(6) of CGST Act].

Question 6

MTP March'23

The goods supplied on hire purchase basis will be treated as supply of services. Examine the validity of the statement.

2 Marks

Answer

The statement is not correct. Supply of goods on hire purchase shall be treated as supply of goods as there is transfer of title, albeit at a future date.

Question 7

PYQ Nov '20

With reference to provisions of the CGST Act, 2017 discuss in brief, when "Importation of services" is to be considered as supply and when it is not to be considered as supply. **5 Marks**

Answer

Importation of services for a consideration whether or not in the course or furtherance of business is to be considered as supply.

Importation of services by a person without consideration is deemed as supply provided the following two conditions are satisfied: -

- (a) such import is from related person or from his establishments located outside India, and
- (b) such import is in the course or furtherance of business.

In case any or both of the above two conditions is/are not satisfied, the import of services without consideration shall not be deemed as supply.

Moderate**Question 1**

RTP Nov'18

Examine whether the activity of import of service in the following independent cases would amount to supply under section 7:

- (i) Miss Shriniti Kaushik received interior decoration services for her residence located at Bandra, Mumbai from Mr. Racheal of Sydney (Australia). The amount paid for the said service is 5,000 Australian dollar.
- (ii) Miss Shriniti Kaushik received interior decoration services for her residence located at Bandra, Mumbai from her brother, Mr. Varun residing in Sydney (Australia) [wholly dependent on Miss Shriniti]. Further, Miss Shriniti did not pay any consideration for the said service.
- (iii) Will your answer change if in the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises and not her residence? **5 Marks**

Answer:

i. Supply, under section 7, inter alia,

- ✓ includes import of services for a consideration
- ✓ even if it is not in the course or furtherance of business.

Thus, although the import of service for consideration by Miss. Shriniti Kaushik is not in course or furtherance of business [as the interior decoration services have been availed in respect of residence], it would amount to supply.

ii. Schedule I, inter alia, stipulates that import of services by a taxable person from a **related person** located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are **members of the same family**.



Further, as per section 2(49), family means, —

- (i) the spouse and children of the person, and
- (ii) the parents, grand-parents, brothers and sisters of the person **if they are wholly or mainly dependent on the said person.**

In the given case, Miss Shriniti Kaushik has received interior decoration services from her brother. In view of section 2(49)(ii) above, Miss Shriniti and her brother shall be considered to be related as Miss Shriniti's brother is wholly dependent on her. However, Miss Shriniti has taken interior decoration services for her residence and not in course or furtherance of business. Consequently, services provided by Miss Shriniti's brother to her would not be treated as supply under section 7 read with Schedule I.

iii. In the above case, if Miss Shriniti has taken interior decoration services with regard to her business premises, services provided by Miss Shriniti's brother to her would be treated as supply under section 7 read with Schedule I.

Question 2

MTP Oct'19

Raman is an architect in Chennai. His brother who is settled in London is a well-known lawyer. Raman has taken legal advice from him free of cost with regard to his family dispute. Examine whether the said activity would amount to supply under section 7 read with Schedule I of the CGST Act. Would your answer be different if in the above case, Raman has taken advice in respect of his business unit in Chennai?

6 Marks

Answer

Schedule I of CGST Act, inter alia, stipulates that import of services by a taxable person from a related person located outside India, without consideration is treated as supply if it is provided in the course or furtherance of business. Explanation to section 15, inter alia, provides that persons shall be deemed to be "related persons" if they are members of the same family. Further, as per section 2(49) of the CGST Act, 2017, family means, —

- (i) the spouse and children of the person, and
- (ii) the parents, grand-parents, brothers and sisters of the person if they are wholly or mainly dependent on the said person.

In the given case, Raman has received free of cost legal services from his brother. However, in view of section 2(49) (ii) above, Raman and his brother cannot be considered to be related as Raman's brother is a well-known lawyer and is not wholly/mainly dependent on Raman. Further, Raman has taken legal advice from him in personal matter and not in course or furtherance of business. Consequently, services provided by Raman's brother to him would not be treated as supply under section 7 read with Schedule I of the CGST Act.

In the above case, if Raman has taken advice with regard to his business unit, services provided by Raman's brother to him would still not be treated as supply under section 7 of the CGST Act read with Schedule I, as although the same are provided in course or furtherance of business, such services have not been received from a related person.



Question 3

RTP May '18

Sahab Sales, an air-conditioner dealer in Janakpuri, Delhi, needs 4 air-conditioners for his newly constructed house in Safdarjung Enclave. Therefore, he transfers 4 air-conditioners [on which ITC has already been availed by it] from its stock, for the said purpose. Examine whether the said activity amounts to supply under section 7 of the CGST Act, 2017.

Further, a Janakpuri resident, Aakash, approached Sahab Sales. He sold an air-conditioner to Sahab Sales for ₹ 5,000. Aakash had bought the said air-conditioner six months before, for his residence. Does sale of the air conditioner by Aakash to Sahab Sales amount to supply under section 7 of the CGST Act, 2017?

Answer

Section 7 of the CGST Act, 2017 stipulates that in order to qualify as supply:

- (a) Supply should be of goods and/or services.
- (b) Supply should be made for a consideration.
- (c) Supply should be made in the course or furtherance of business.

Further, Schedule I of the CGST Act, 2017 illustrates the activities to be treated as supply even if made without consideration. One such activity is permanent transfer or disposal of business assets where input tax credit has been availed on such asset's, i.e. said activity is to be treated as supply even if made without consideration.

In view of said provisions, permanent transfer of air conditioners by Sahab Sales from its stock for personal use at its residence, though without consideration, would amount to supply.

However, sale of air-conditioner by Aakash to Sahab Sales will not qualify as supply under section 7 of the CGST Act, 2017 as although it is made for a consideration, but it's not in the course or furtherance of business.

Question 4

PYQ July '21

Explain the composite supply and mixed supply. If a trader launches a package sale for marriage containing double bed, refrigerator, washing machine, wooden wardrobe at a single rate. He is issuing invoice showing value of each good separately. Whether this is case of mixed supply or composite supply. Explain.

4 Marks**Answer**

Composite supply comprises of two or more taxable supplies of goods or services or both, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply.

Mixed supply means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled and also the invoice for the supply shows separate values for each item i.e., the package is not supplied for a single price.



Therefore, supply of such items as a package will neither constitute a composite supply nor a mixed supply.

Thus, the various items of the package will be treated as being supplied individually.

Note: The question specifies that the various items are supplied at a 'single rate'. The "single rate" expression is construed as single rate of tax in the above answer. Further, the "single rate" may also be construed as single price as given in the below mentioned answer. Items such as double bed, refrigerator, washing machine and wooden wardrobe are not naturally bundled.

Therefore, supply of such items as a package will not constitute composite supply. Further, a single price has been charged for the package.

Consequently, supply of such items as a package will be treated as mixed supply.

Question 5

PYQ Nov '18, CS Exec.

Explain the meaning of supply as per provisions of Section 7(1) of Central Goods and Service Tax Act, 2017. 5 Marks

As per section 7(1) of CGST Act, 2017, the term supply includes -

- (a) all forms of supply of goods or services or both such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for a consideration by a person, in the course or furtherance of business;
- (b) **As Per amendment:** the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration.
- (c) import of services for a consideration whether or not in the course or furtherance of business;
- (d) the activities specified in Schedule I, made or agreed to be made without a consideration; and
- (e) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

Question 6

PYQ May '22

Examine whether the following activities would amount to "supply" under GST law?

- (i) Glory Ltd. is engaged in manufacturing and selling of cosmetic products. Seva Trust, a charitable organisation, approached Glory Ltd. to provide financial assistance for its charitable activities. Glory Ltd. donated a sum of ₹ 2 lakh to Seva Trust with a condition that Seva Trust will place a hoarding at the entrance of the trust premises displaying picture of products sold by Glory Ltd.
- (ii) Mr. Swamy of Chennai is working as a manager with ABC Bank. He consulted M/s. Jacobs and Company of London and took its advice for buying a residential house in Mumbai and paid them consultancy fee of 200 UK Pound for this import of service. 4 Marks

Answer

(i) An activity qualifies as supply under GST only if it is for a consideration and is in course/furtherance of business. Donations received by the charitable organizations are treated as consideration only when there's an obligation on part of the recipient of the donation to do anything.

Since in the given case, the display of products sold by the donor - Glory Ltd. - in charitable



organization's premises aims at advertising/promotion of its business, it is supply for consideration in course/furtherance of business and thus, qualifies as supply under GST law.

(ii) Supply includes importation of services, for a consideration whether or not in the course/furtherance of business. Thus, in the given case, the import of services by Mr. Swamy amounts to supply although it is not in course/furtherance of business.

Question 7

PYQ May '23, RTP Nov '18

List any 5 (Five) activities/transactions specified under Schedule III of the CGST Act, 2017 which shall be neither treated as supply of goods nor as supply of services. Detailed explanations are not required.

5 Marks**Answer**

Activities or transactions which shall be treated neither as a supply of goods nor a supply of services are as under: -

- (1) Services by an employee to the employer in the course of or in relation to his employment.
- (2) Services by any court or Tribunal established under any law for the time being in force.
- (3) Functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities.
- (4) Duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity.
- (5) 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 and who is not deemed as an employee before the commencement of this clause.

Question 8

PYQ Nov'23

Examine whether the following activities would be treated as supply under GST law?

(i) Mr. Sonu from Chandigarh purchased a water cooler from Malhotra Bros. of Hoshiarpur for ₹25,000 to donate it to a temple situated in Hoshiarpur. Mr. Sonu directed Malhotra Bros. to engrave the words on the water cooler- "Donated by Mr. Sonu from Chandigarh" and dispatch the water cooler directly to the temple.

(ii) Wesco Ltd, a registered person in Ahmedabad (Gujarat) having head office located in Singapore, received management consultancy services free of cost from its head office. **4 Marks**

Answer:

(i) Donations received by the charitable organizations are treated as consideration only if there exists, *quid pro quo*, i.e., there is an obligation on part of recipient of the donation or gift to do anything (supply a service).

Since the name of the donor, Mr. Sonu is displayed in temple as an expression of gratitude and public recognition of his act of philanthropy and is not aimed at advertising or promotion of his business, hence, donation of water cooler by Mr. Sonu to temple is without *quid pro quo* and is, thus, not a supply under GST law.



However, supply of water cooler by Malhotra Bros. to Mr. Sonu is supply as it is made for consideration in course or furtherance of business.

(ii) As per schedule I, in case of import of services by a person from a related person or from his establishments located outside India, without consideration, in the course or furtherance of business shall be treated as "supply".

Hence, services received by Wesco Ltd. qualify as supply even though such services have been provided free of cost by the head office.

Question 9

CS Execu.

Define 'intra-State supply' and 'inter-State supply' under GST law. Is it correct to say that inter-State supply attracts both CGST and SGST?

Ans. **INTER-STATE SUPPLY [Section 7 of IGST Act, 2017]:**

The supply shall be treated as a supply of goods/services in the course of inter-State in the following cases:

1. When location of the supplier and the place of supply are in:
 - Two different States
 - Two different Union Territory's

A state and a Union Territory

2. Supply of goods/services imported into the territory of India;
3. Supply to/by an SEZ developer or SEZ unit; or

INTRA-STATE SUPPLY [Section 8 of IGST Act, 2017]:

The supply of goods/services shall be treated as intra-State supply, where the location of the supplier and the place of supply are in -

- Same State
- Same Union Territory

GST on inter-State supply

It is not correct to say that inter-State Supply attracts both CGST and SGST as inter-State Supply attracts IGST. However, IGST is the sum total of CGST SGST/UTGST.

Question 10

CS Execu. Dec 2018

Determine which of the following is inter-State supply or intra-State supply, and state whether CGST/SGST/IGST will apply: (with reasons)

- (i) Supply of goods to A & Co., Surat from a unit located in SEZ in the same State, viz. Gujarat.
- (ii) Export of garments from Bengaluru to Sweden. 4 Marks

Answer:

(i) As per section 7(5) of IGST Act, 2017, supply of goods or services from or to units in SEZ is to be treated as inter-State supply. Hence IGST will apply in this scenario.

(ii) As per section 7(5) of IGST Act, 2017, supply of goods or services to a place outside India



shall be treated as inter-State supply. Therefore, export of garments from Bengaluru to Sweden is an inter-State supply of goods.

Hence IGST will apply.

Question 11

CS Execu. PYQ Dec 2019

State whether the following are supply of goods/services, as per GST law, with brief reasons:

- (i) Mr. X availed the architectural services of his son living in France (free of cost) for designing his residential building and factory layout.
- (ii) Scrap of machinery destroyed by fire handed over to insurance company for settlement of claim.
- (iii) Lease of land for two-wheeler parking stand.
- (iv) Permitting use of registered patent for annual fee.
- (v) Transfer of tenancy right by executing and registering a document.

5 Marks

Answer:

	Statutory Provision	Whether supply of goods or services
i.	In terms of section 7 of the CGST Act, 2017, import of service for a consideration whether or not in the course of or furtherance of business is a supply.	Here, the services received by Mr. X is without consideration, thus not a supply. It is not subject to GST
ii.	As per Para 1 of Schedule I of the CGST Act, Permanent transfer or disposal of business assets where input tax credit has been availed on such assets is considered as supply.	When the machinery destroyed by fire is handed over to insurance company in return for insurance compensation, it is a supply of goods.
iii.	As per Clause 2(a) of Schedule II of the CGST Act, any lease, tenancy, easement, licence to occupy land is a supply of services.	Thus, lease of land for two-wheeler parking is a supply of service.
iv.	As per Clause 5(c) of Schedule II of the CGST Act provides that temporary transfer or permitting the use or enjoyment of any intellectual property right is supply of service.	Hence, permitting use of registered patent/trademark shall amount to supply of service.
v.	The activity of transfer of tenancy rights is squarely covered under the scope of supply of service in terms of section 7.	However, renting of residential dwelling unit for use as a residence is exempt, when recipient is unregistered.

Difficulty**Question 1**

RTP May '21

Mr. Priyam, director of Sun Moon Company Private Limited, provided service to the company for remuneration of ₹ 1,25,000. Briefly answer whether GST is applicable in the below mentioned independent cases? If yes, who is liable to pay GST?

- (i) Mr. Priyam is an independent director of Sun Moon Company Private Limited and not an employee of the company.



(ii) Mr. Priyam is an executive director, i.e. an employee of Sun Moon Company Private Limited. Out of total remuneration amounting to ₹ 1,25,000, ₹ 60,000 has been declared as salaries in the books of Sun Moon Company Private Limited and subjected to TDS under section 192 of the Income-Tax Act (IT Act).

However, ₹ 65,000 has been declared separately other than salaries in the Sun Moon Company Private Limited's accounts and subjected to TDS under section 194J of the IT Act as professional services.

Answer

(I) As per Para I of Schedule III of the CGST Act, services by an employee to the employer in the course of or in relation to his employment are non-supplies, i.e. they are neither supply of goods nor supply of services. Services provided by the independent directors who are not employees of the said company to such company, in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act and are therefore taxable. Further, such remuneration paid to the directors is taxable in hands of the company, on reverse charge basis. Thus, GST is applicable in this case and Sun Moon Company Private Limited is liable to pay GST.

(II) The part of director's remuneration which is declared as salaries in the books of a company and subjected to TDS under section 192 of the Income-tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III.

Further, the part of employee director's remuneration which is declared separately other than salaries in the company's accounts and subjected to TDS under section 194J of the IT Act as fees for professional or technical services are treated as consideration for providing services which are outside the scope of Schedule III and is therefore, taxable. The recipient of the said services i.e. the company, is liable to discharge the applicable GST on it on reverse charge basis.

In lieu of the above provisions, ₹ 60,000 declared as salaries in the books of Sun Moon Company Private Limited and subjected to TDS under section 192 of the Income-Tax Act (IT Act), is not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III.

Further, ₹ 65,000 declared separately other than salaries in the Sun Moon Company Private Limited's accounts and subjected to TDS under section 194J of the IT Act as professional services is treated as consideration for providing services which is outside the scope of Schedule III and is therefore, taxable. The recipient of the said services i.e. the Sun Moon Company Private Limited, is liable to discharge the applicable GST on it on reverse charge basis.

Question 2

CS Execu. June'19

Sugandha Enterprises, dealers of Watches, Leather goods and other items is supplying a Kit containing a piece of Watch, a Wallet and a Pen bundled as a Combo Pack for ₹ 12,500. The rates of GST on pen are 12%, on wallet is 18% and on watch is 28%. The selling price of

