

# Note on Import of Service

## What is Import of Service?

Import of services has specifically been defined under IGST Act, 2017 and refers to supply of any service where the

- 1) supplier is located outside India,
- 2) the recipient is located in India, and the
- 3) place of supply of service is in India.

## Chargeability of Import of Service

As per the provisions contained in Section 7(1)(b) of the CGST Act, 2017, import of services under consideration of whether in the course or furtherance of business, shall be considered as a supply. Thus, in general, imports of services without consideration shall not be considered as supply.

However, business test is not required to be fulfilled for import of service to be considered as supply.

Furthermore, in view of the provisions contained in Schedule I of the CGST Act, 2017, the import of services by a taxable person from a related person or from a distinct person as defined in Section 25 of the CGST Act, 2017, in the course or furtherance of business shall be treated as supply even if it is made without any consideration.

Thus, import of services can be considered as supply based on whether there is consideration or not and whether the service is supplied in the course or furtherance of business. The same has been explained in the table below:

| Nature of Service  | Consideration        | Business Test        |
|--|----------------------|----------------------|
| Import of Service  | Necessarily Required | Not Required         |
| Import of services by a taxable person from a related person or from a distinct person | Not Required         | Necessarily Required |

## What is Place of Supply for Imports

Place of supply is defined in Section 13 of the IGST Act, 2017, where the location of supplier or provider or recipient is outside India.

Following table will explain each place of supply

| Sr No | Situation   | Place of Supply  |
|-------|---|--|
| 1     | Default Rule other than specific situations mentioned below | Location of the recipient of services; If not available, location of the supplier of services. |

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| Sr No   | Situation  | Place of Supply  |
|---|--|--|
| 2   | Services supplied in respect of goods which are required to be made physically available   | Location where the services are performed                                    |
|   | Services which require the physical presence of the recipient or the person acting on his behalf with the supplier of services         |  |
| 2.1   | Services are provided on goods but from a remote location by way of electronic means   | Location where goods are situated at the time of supply of services          |
| Above provisions is not applicable in respect of goods which are temporarily imported into India for repairs and are exported after repairs |  |  |
| 3   | Services supplied directly in relation to an immovable property  | Place where the immovable property is located or intended to be located      |
| 4   | Admission to, or organisation of an Event  | Place where the event is held  |
| 5   | Services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders             | Location of the supplier of services   |
| 5.1   | Intermediary services  |  |
| 5.2   | Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month |  |
| 6   | Transportation of goods, other than by way of mail or courier  | Place of destination of such goods   |
| 7   | Passenger transportation services  | Place where the passenger embarks on the conveyance for a continuous journey |
| 8   | Services provided on board a Conveyance  | First scheduled point of departure of that conveyance for the journey        |
| 9   | Online information and database access or retrieval services (OIDAR)   | Location of the recipient of services  |

Based on above rules & definition Import of service will be leviable to IGST.

Updated on 5<sup>th</sup> Aug 2017

**Disclaimer:-**

# Note on Import of Service

We have made best effort to analyze the various provisions of the act but it should not be treated as professional opinion. You are advised to refer to the provisions of the act and relevant rules before structuring any transactions based on this note.

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