

# POS

## Sec 10 Place of supply of goods other than supply of goods imported into, or exported from India.

**1-** The place of supply of goods, other than supply of goods imported into, or exported from India, shall be as under,—

**a-** where the supply involves movement of goods, whether by the supplier or the recipient or by any other person, the place of supply of such goods shall be the location of the goods at the time at which the movement of goods terminates for delivery to the recipient;

**Example :** A distributor in UP procures Glasses from a wholesaler in Gujarat. The terms of the contract requires the carrier to be arranged by the supplier and the supply will be complete only if the goods reach the destination safely. Here the movement of goods is made by the supplier, so, location where movement terminates i.e. UP will be the place of supply.

**b-** where the goods are delivered by the supplier to a recipient or any other person on the direction of a third person, whether acting as an agent or otherwise, before or during movement of goods, either by way of transfer of documents of title to the goods 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 person;(also Known as Bill To Ship To Model)

**Example :** A wholesaler in UP asks a manufacturer in Gujarat to directly deliver papers to retailer in West Bengal . Here there will be 2 supplies that will be deemed to have taken place :

- 1- Gujarat to UP i.e. place of supply is UP
- 2- UP to west Bengal i.e. place of supply is West Bengal

**Example :** An agent in Kolkata procures an order from a dealer in New Delhi for delivery to his principal at Mumbai.

- 1- Delhi to Kolkata i.e. Place of supply is Kolkata
- 2- Kolkata to Mumbai i.e. Place of supply is Mumbai

**c-** where the supply does not involve movement of goods, whether by the supplier or the recipient, the place of supply shall be the location of such goods at the time of the delivery to the recipient;

**Example :** Mr A of Delhi enters into a contract with Mr B of Karnataka for sale of goods on ex-work basis where point of delivery is factory of Mr A. Here the place of supply will be Delhi where movement of goods for delivery terminates. Here supply will be treated at Delhi even subsequently goods moved to Karnataka.

**Example :** Mr A of Delhi has taken a machine on rent basis from Mr B of Haryana. Now, Mr A is offered to buy the same machine. If Mr A buys it then place of supply will be Delhi cause it does not involve movement of goods.

**d-** where the goods are assembled or installed at site, the place of supply shall be the place of such installation or assembly;

**Example :** A modular furniture in Mumbai sends its personnel to a client based at Kolkata. The furniture is brought in dismantled form to the office at Kolkata and assembled at the client's place. Here the place of supply will be Kolkata.

- e- where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, the place of supply shall be the location at which such goods are taken on board.

**Example :** A flight from Guwahati to Mumbai goes via Kolkata. Some merchandise is served to passengers on a chargeable basis within the flight. The merchandise is taken on board at Kolkata and is served between the journey from Kolkata to Mumbai. The Place of supply will be Kolkata from where the merchandise has been taken on Board.

- 2- Where the place of supply of goods cannot be determined, the place of supply shall be determined in such manner as may be prescribed.

## Sec 11 Place of supply of goods imported into, or exported from India.

The place of supply of goods,—

- a- Imported into India shall be the location of the importer;
- b- Exported from India shall be the location outside India.

## Sec 12 Place of supply of services Where location of supplier and recipient is in India.

- 1- The provisions of this section shall apply to determine the place of supply of services where the location of supplier of services and the location of the recipient of services is in India.

- 2- The place of supply of services, except the services specified in sub-sections (3 ) to (14),—

- a- made to a registered person shall be the location of such person;
- b- made to any person other than a registered person shall be,—
  - i- the location of the recipient where the address on record exists; and
  - ii- the location of the supplier of services in other cases.

- 2- The place of supply of services,—

- a- directly in relation to an immovable property, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work; or

- b- by way of lodging accommodation by a hotel, inn, guest house, home stay, club or campsite, by whatever name called, and including a house boat or any other vessel; or

- c- by way of accommodation in any immovable property for organizing any marriage or reception or matters related thereto, official, social, cultural, religious or business function including services provided in relation to such function at such property; or

- d- any services ancillary to the services referred to in clauses (a), (b) and (c),

**shall be the location at which the immovable property or boat or vessel, as the case may be, is located or intended to be located:**

**Example :** X Ltd hires an expert to determine the standard room rent for each of its hotel located in Kanpur, Surat and Mumbai. The place of supply in such case would be UP, Gujarat and Maharashtra respectively.

**Provided that** if the location of the immovable property or boat or vessel is located or intended to be located outside India, the place of supply shall be the location of the recipient.

**Explanation.–** Where the immovable property or boat or vessel is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories, in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or ,in the absence of such contract or agreement, on such other basis as may be prescribed.

- 4-** The place of supply of restaurant and catering services, personal grooming, fitness ,beauty treatment, health service including cosmetic and plastic surgery shall be the location where the services are actually performed.

**Example :** A hair cutting salon in Goa where film artist used to come for hair cutting. The services are provided in Goa. So, place of supply will be Goa irrespective of location of person coming from saloon services.

- 5-** The place of supply of services in relation to training and performance appraisal to,—

**a-** a registered person, shall be the location of such person;  
**b-** a person other than a registered person, shall be the location where the services are actually performed

**Example :** Mr A providing training on GST to corporate houses in the country. He provides training to Y Ltd of Maharashtra. Actually training is given at Goa. But the place of supply would be Maharashtra. If Y ltd is not registered then in that case place of supply would be Goa.

- 6- The place of supply of services provided by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place and services ancillary thereto, shall be the place where the event is actually held or where the park or such other place is located.

- 7- The place of supply of services provided by way of,-

- a- organisation of a cultural, artistic, sporting, scientific, educational or entertainment event including supply of services in relation to a conference, fair, exhibition, celebration or similar events; or
- b- services ancillary to organisation of any of the events or services referred to in clause (a), or assigning of sponsorship to such events,—
  - i- to a registered person, shall be the location of such person;
  - ii- to a person other than a registered person, shall be the place where the event is actually held and if the event is held outside India, the place of supply shall be the location of the recipient.

**Example :** A Ltd of W.B. is organising events across the country. B ltd of Maharashtra hires A ltd to organise a program at Jaipur. If B ltd is registered then POS is Maharashtra otherwise Jaipur.

**Explanation.—** Where the event is held in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such event, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed

- 8- The place of supply of services by way of transportation of goods, including by mail or courier to,—
  - a- a registered person, shall be the location of such person;
  - b- a person other than a registered person, shall be the location at which such goods are handed over for their transportation.

**Example :** X ltd of UP is a transportation company and provides services to Y ltd of Mumbai for transportation of material from UP to MP. If Y ltd is registered then POS will be Maharashtra otherwise UP.

- 9- The place of supply of passenger transportation service to,—
  - a- a registered person, shall be the location of such person;
  - b- a person other than a registered person, shall be the place where the passenger embarks on the conveyance for a continuous journey:

**Provided that** where the right to passage is given for future use and the point of embarkation is not known at the time of issue of right to passage, the place of supply of such service shall be determined in accordance with the provisions of sub-section (2).

**Explanation.—** For the purposes of this sub-section, the return journey shall be treated as a separate journey, even if the right to passage for onward and return journey is issued at the same time.

**Example :** X ltd of Gujrat has a fleet of buses and provide passenger transportation services. Y ltd of MP hires X ltd for transportation of its employees through its buses from Mumbai to Goa. If Y ltd is registered then POS will be MP otherwise Mumbai.

- 10-** The place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle, shall be the location of the first scheduled point of departure of that conveyance for the journey.

Example : A Rajdhani train originated from Delhi to Chennai. The food is loaded at Agra. Here the place of provisions of services will be first point of departure i.e. Delhi.

- 11-** The place of supply of telecommunication services including data transfer, broadcasting, cable and direct to home television services to any person shall,—

- a- in case of services by way of fixed telecommunication line, leased circuits, internet leased circuit, cable or dish antenna, be the location where the telecommunication line, leased circuit or cable connection or dish antenna is installed for receipt of services;
- b- in case of mobile connection for telecommunication and internet services provided on post-paid basis, be the location of billing address of the recipient of services on the record of the supplier of services;
- c- in cases where mobile connection for telecommunication, internet service and direct to home television services are provided on pre-payment basis through a voucher or any other means,—
  - i- through a selling agent or a re-seller or a distributor of subscriber identity module card or re-charge voucher, be the address of the selling agent or re-seller or distributor as per the record of the supplier at the time of supply; or
  - ii- by any person to the final subscriber, be the location where such pre payment is received or such vouchers are sold;
- d- in other cases, be the address of the recipient as per the records of the supplier of services and where such address is not available, the place of supply shall be location of the supplier of services:

**Provided that** where the address of the recipient as per the records of the supplier of services is not available, the place of supply shall be location of the supplier of services:

**Provided further that** if such pre-paid service is availed or the recharge is made through internet banking or other electronic mode of payment, the location of the recipient of services on the record of the supplier of services shall be the place of supply of such services.

**Example :** M/s Airtel of Haryana sells the recharge voucher to its selling agents across India who in turn sells the voucher to final consumer. The pOS of voucher will be the location of selling agents as per the records of M/s Airtel.

**Explanation.—** Where the leased circuit is installed in more than one State or Union territory and a consolidated amount is charged for supply of services relating to such circuit, the place of supply of such services shall be taken as being in each of the respective States or Union territories in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

- 12-** The place of supply of banking and other financial services, including stock broking services to any person shall be the location of the recipient of services on the records of the supplier of services:

**Provided that** if the location of recipient of services is not on the records of the supplier, the place of supply shall be the location of the supplier of services.

**Example :** Mr A of Rajasthan goes to Shimla and take a DD at HDFC, Shimla. Here the POS will be Rajasthan if DD is through account otherwise Shimla.

**13-** The place of supply of insurance services shall,—

- a-** to a registered person, be the location of such person;
- b-** to a person other than a registered person, be the location of the recipient of services on the records of the supplier of services.

**14-** The place of supply of advertisement services to the Central Government, a State Government, a statutory body or a local authority meant for the States or Union territories identified in the contract or agreement shall be taken as being in each of such States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the amount attributable to services provided by way of dissemination in the respective States or Union territories as may be determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

## **Sec 13 Place of supply of services where location of supplier or location of recipient is outside India**

**1-** The provisions of this section shall apply to determine the place of supply of services where the location of the supplier of services **or** the location of the recipient of services is outside India.

**2-** The place of supply of services except the services specified in sub-sections (3) to (13) shall be the location of the recipient of services:

**Provided that** where the location of the recipient of services is not available in the ordinary course of business, the place of supply shall be the location of the supplier of services.

**Normal Rule :**

- 1- POS is Location of Recipient**
- 2- If not available then Location of Supplier.**

**3-The place of supply of the following services shall be the location where the services are actually performed, namely:-**

- 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:

**Provided that** when such services are 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 services:

**Provided further** that nothing contained in this clause shall apply in the case of services supplied in respect of goods which are temporarily imported into India for repairs and are exported after repairs without being put to any other use in India, than that which is required for such repairs;

**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 the person acting on his behalf, with the supplier for the supply of services.

- 4- The place of supply of services supplied directly in relation to an immovable property, including services supplied in this regard by experts and estate agents, supply of accommodation by a hotel, inn, guest house, club or campsite, by whatever name called, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators, shall be the place **where the immovable property is located or intended to be located.**

**Example :** An engg firm located in India deputes its engg to undertake repairs at Power Plant in Bhutan. The POS will be Bhutan i.e. the place of service actually performed.

**Example :** Maintenance of Information technology software installed at the computer located in Mumbai and services of maintenance of this software are provided by a company located in USA. The company provides the services through electronic media. Here, in this case POS will be Mumbai.

**Example :** An actor located in Mumbai requiring fitness services of Mr A of USA in Mumbai. The POS is Mumbai.

- 5- The place of supply of services supplied by way of admission to, or organization of a cultural, artistic, sporting, scientific, educational or entertainment event, or a celebration, conference, fair, exhibition or similar events, and of services ancillary to such admission or organisation, shall be the **place where the event is actually held.**

**Example :** Mr A an architect in Mumbai, contracted for his services, to design the landscaping of a particular resort in Dubai. The POS will be Dubai.

- 6- Where any services referred to in sub-section (3) or sub-section (4) or sub- section (5) is supplied at more than one location, including a location in the taxable territory, its place of supply shall be the location in the taxable territory. **Example :** Management School located in USA organises a road show in Mumbai for prospective students. Any service provided by event manager will be taxable in India (Mumbai).
- 7- Where the services referred to in sub-section (3) or sub-section (4) or sub- section (5) are supplied in more than one State or Union territory, the place of supply of such services shall be taken as being in each of the respective States or Union territories and the value of such supplies specific to each State or Union territory shall be in proportion to the value for services separately collected or determined in terms of the contract or agreement entered into in this regard or, in the absence of such contract or agreement, on such other basis as may be prescribed.

**Example :** A coaching institute organises a study tour to UK, US and India for 10 days and out of this 7 days are spent in UK and US. In respect of India it is performed 2 days in Mumbai and 1 day in Delhi. Even though 7 days of services have been performed in the non taxable territory, yet as per this service have been performed in India and entire value of service will be liable to GST. And on the basis of value charged by respective state it would be allocated or any other reasonable basis shall be taken into consideration i.e. no of days of seminar conducted.

- 8- The place of supply of the following services shall be the location of the supplier of services, namely:—
- a- services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders;
  - b- intermediary services;
  - c- services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month.

**Example :** Yes bank is having 1000 branches in all over India and registered centrally at Mumbai. Mr A located US and opens a bank account at Gorakhpur (UP) of yes Bank and gets services from it. The place of provision of services shall be Gorakhpur (UP).

**Example :** Mr X of India engaged in selling the tour conducted by M/s Y of US. Mr X used to distribute the handbills of M/s Y which assist him to sell the tour. Here Mr X is working like intermediary. So, the POS will be in India.

**Explanation.—** For the purposes of this sub-section, the expression,—

- a- account|| means an account bearing interest to the depositor, and includes a non-resident external account and a non-resident ordinary account;\\
- b- banking company|| shall have the same meaning as assigned to it under clause (a) of section 45A of the Reserve Bank of India Act, 1934;
- c-financial institution|| shall have the same meaning as assigned to it in clause (c) of section 45-I of the Reserve Bank of India Act, 1934;
- d- non-banking financial company|| means,—

i- a financial institution which is a company;

ii- a non-banking institution which is a company and which has as its principal business the receiving of deposits, under any scheme or arrangement or in any other manner, or lending in any manner; or

iii- such other non-banking institution or class of such institutions, as the Reserve Bank of India may, with the previous approval of the Central Government and by notification in the Official Gazette, specify.

- 9- The place of supply of services of transportation of goods, other than by way of mail or courier, shall be the place of destination of such goods.

**Example :** Mr X of Gujarat imported goods from Mr Y of USA by shipping company in USA. Here, POS shall be Gujarat.

- 10- The place of supply in respect of passenger transportation services shall be the place where the passenger embarks on the conveyance for a continuous journey.

**Continuous Journey :** means a journey for which :

- a- Single ticket has been issued for the entire journey.
- b- More than 1 ticket or invoice is issued at the same time, either by single supplier of service or through an agent acting on behalf of more than 1 supplier of service and which involves no stopover between any of the legs of journey (for which one or more separate tickets or invoices are issued.)

**Stopover means :** A place where a passenger disembarks either to transfer to another conveyance or break his journey for certain periods in order to resume it at later point of time. All stopovers do not cause a break in continuous journey. Only such stopover will be relevant for which 1 or more separate ticket is issued.

- 11- The place of supply of services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be the first scheduled point of departure of that conveyance for the journey .**Example :** Movie, music, video or beauty treatment etc.

**12-** The place of supply of online information and database access or retrieval services shall be the location of the recipient of services.

***Explanation.***—For the purposes of this sub-section, person receiving such

Services shall be deemed to be located in the taxable territory, if any two of the following non contradictory conditions are satisfied, namely:-

- a- the location of address presented by the recipient of services through internet is in the taxable territory;
- b- the credit card or debit card or store value card or charge card or smart card or any other card by which the recipient of services settles payment has been issued in the taxable territory;
- c- the billing address of the recipient of services is in the taxable territory;
- d- the internet protocol address of the device used by the recipient of services is in the taxable territory;
- e- the bank of the recipient of services in which the account used for payment is maintained is in the taxable territory;
- f- the country code of the subscriber identity module card used by the recipient of services is of taxable territory;
- g- the location of the fixed land line through which the service is received by the recipient is in the taxable territory.

**13-** In order to prevent double taxation or non-taxation of the supply of a service, or for the uniform application of rules, the Government shall have the power to notify any description of services or circumstances in which the place of supply shall be the place of effective use and enjoyment of a service.





