



RCM Provisions

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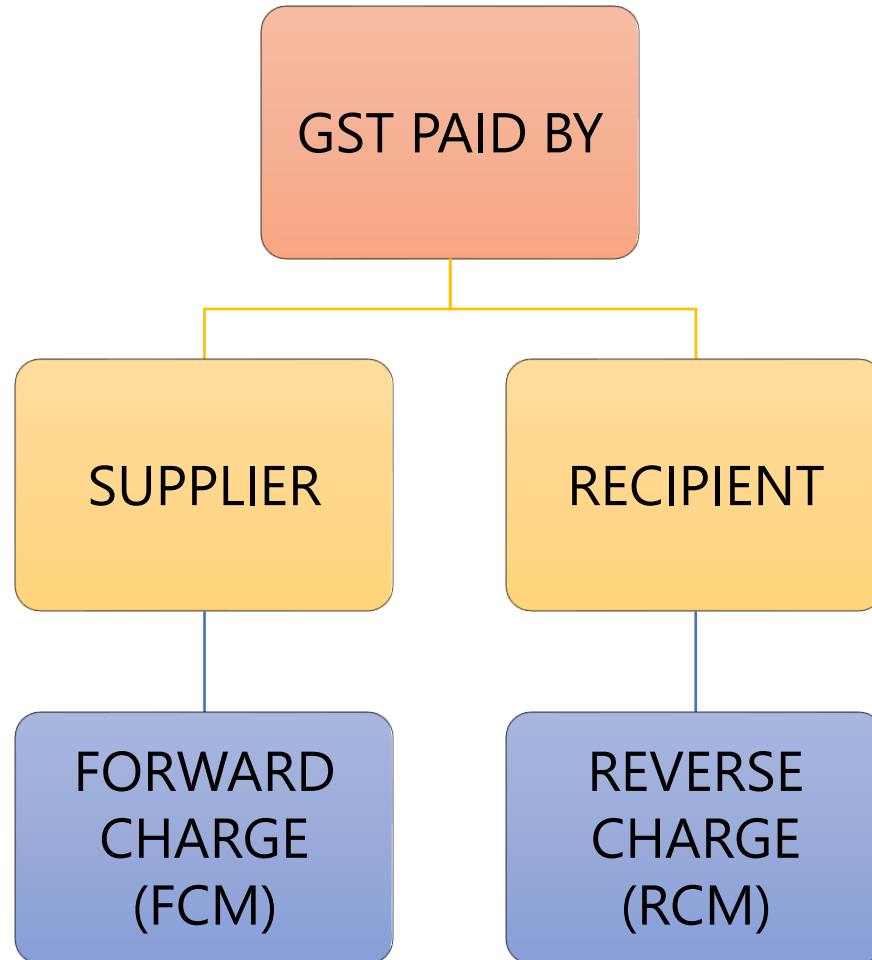
Chartered Accountant

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Introduction



Important Circulars and Notifications

Circular No	Date	Issue
140/10/2020	10-06-2020	Directors Remuneration
130/49/2019	31-12-2019	Renting of Motor Vehicle
121/40/2019	11-10-2019	Exemption to service provided or agreed to be provided by way of grant of liquor licences by the State Government
119/38/2019	11-10-2019	Taxability of supply of securities under Securities Lending Scheme, 1997 — Clarification
93/12/2019	08-03-2019	Priority Sector Lending Certificates (PSLC) — Clarification on Nature of Supply
78/52/2018	31-12-2018	Export of services under GST — Clarification
76/50/2018	31-12-2018	Sale by Government Department to unregistered person
27-01-2018	04-01-2018	Clarification on Legal Services
332/2/2017-TRU	01-12-2017	Goods related clarification

Important Circulars and Notifications

Notification No	Date	Issue
22/2017	22-08-2017	Definition of “Limited Liability partnership”
336/20/2017 - TRU	25-09-2017	
33/2017	13-10-2017	Entry 10
3/2018	25-01-2018	Entry 5A / Definition of “Insurance Agent”
15/2018	26-07-2018	Entry 11 / Renting of immovable property
29/2018	31-12-2018	Entry 1(g) and entry 12 to 14 were inserted
5/2019	29-03-2019	Entry 5B and 5C
22/2019	30-09-2019	Entry 9, 9A, 15 and 16 were inserted
29/2019	31-12-2019	Renting of Motor Vehicle



Levy and collection

Levy and collection : Sec 9(3)

Sec 9(3) CGST Act– Reverse charge on notified goods or services

Government may, on recommendations of the council,

By
notification

Specify
categories of
supply of
goods/services

Tax on which
shall be paid
on reverse
charge basis

By the
recipient of
such goods /
services

All the
provisions of
this act shall
apply to such
recipient

Levy and collection : Sec 9(3)

Supplier

- May be RP / URP
 - URP shall issue commercial invoice
 - RP shall issue Tax/GST invoice but without charging GST (he shall simply mention in invoice that his supply is subject to RCM) (Sec 31 + Rule 46)

Recipient

- Maybe RP / URP
 - URP shall be required to take compulsory registration to discharge his RCM liability (Sec 24)
 - RP shall report his RCM liability in addition/separately to his FCM liability.



Sec 9(4) - GST Amendment Act

Sec 9(4) – CGST Amendment Act ,2018

Reverse Charge on unregistered supplier

Government may, on recommendations of council,

By notification

Specify a class of registered person who shall,

In respect of supply of specified categories of goods / services

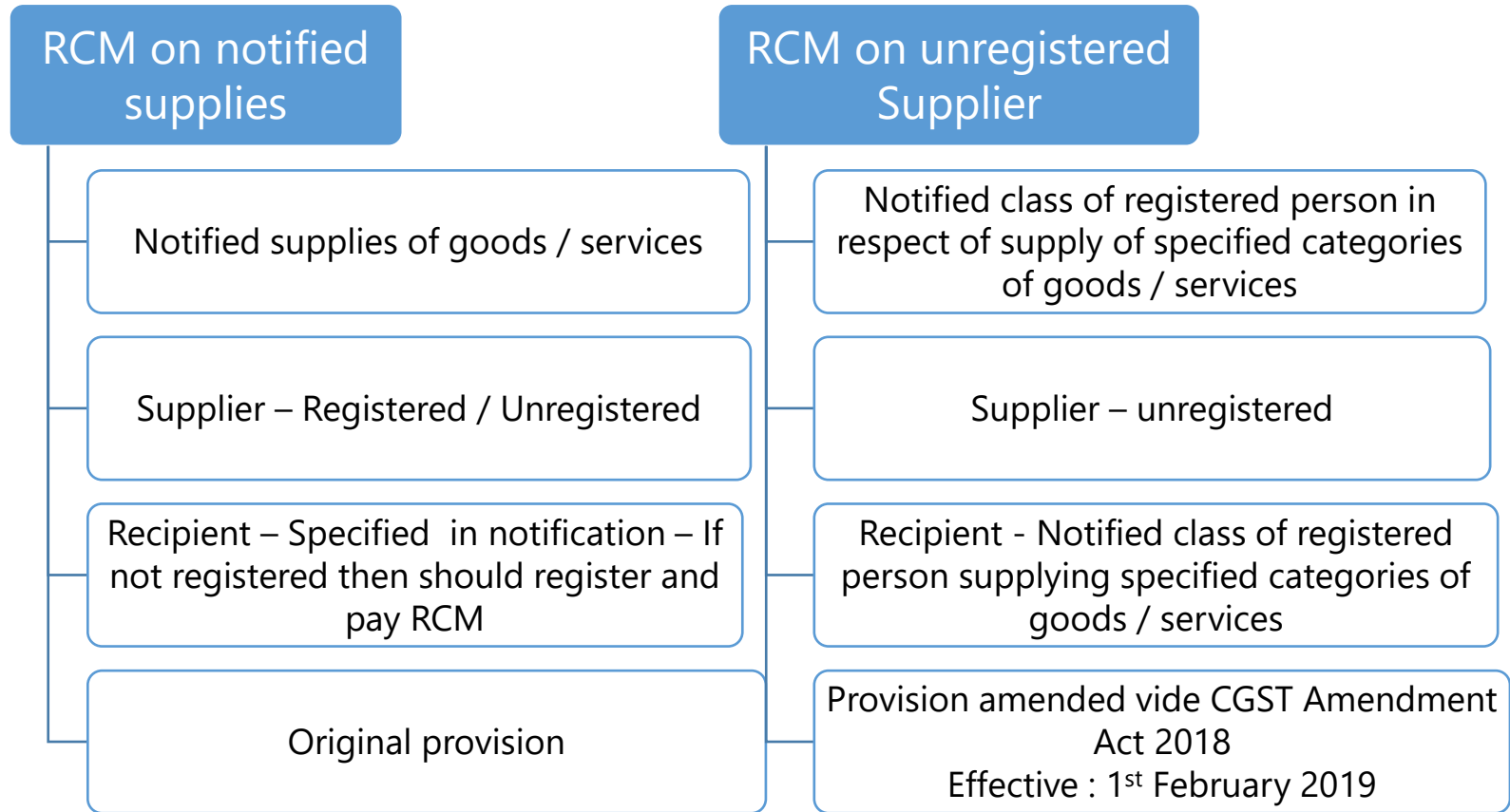
Received from unregistered suppliers pay tax on reverse charge basis as recipient of such supply

All provisions of this act shall apply to such recipient

Sec 9(4) – Before 1/1/2019 – RCM on unregistered purchase by registered person.

Notf. 38/2017 CT(R) dt. 13/10/2017 – Exemption for RCM on purchase from URD

Comparison of Sec 9(3) and Sec 9(4)





Notified Goods under RCM

Goods under RCM 9(3)

SR No	Description of goods	Supplier of Goods	Recipient of goods
1	Cashew nuts (Not shelled or peeled)	Agriculturist	Any registered person
2	Bidi wrapper leaves (tendu)	Agriculturist	Any registered person
3	Tobacco leaves	Agriculturist	Any registered person
4	Silk yarn	Any person who manufactures silk yarn from raw silk or silk worm cocoons for supply of silk yarn	Any registered person
5	Raw cotton	Agriculturist	Any registered person
6	Supply of lottery	State Government, Union territory or any local authority	Lottery distributor or selling agent
7	Used vehicles, seized and confiscated goods, old and used goods, waste & scrap	Central Government, State Government, Union Territory or any local Authority	Any registered person
8	Priority Sector Lending Certificate	Any registered person	Any registered person

Goods under RCM – Important Terms

Agriculturist

- Defined u/s 2(7)
- An individual or a Hindu Undivided Family who undertakes cultivation of land
 - a)By own labour,
 - b)By the labour of the family
 - c)By servants on wages payable in cash or in kind or by hired labour under personal supervision of any member of the family

PSLC

- PSLC is priority sector lending certificate
- In Reserve Bank of India FAQ on PSLC may be construed to be in nature of goods, dealing in which has been notified as a permissible activity under Section 6 (1) of the Banking Regulation Act, 1949 vide Government of India notification dated 04/02/2016
- PSLC are not securities **Notf. No 11/2018 CT(Rate) dated 28/05/2018**

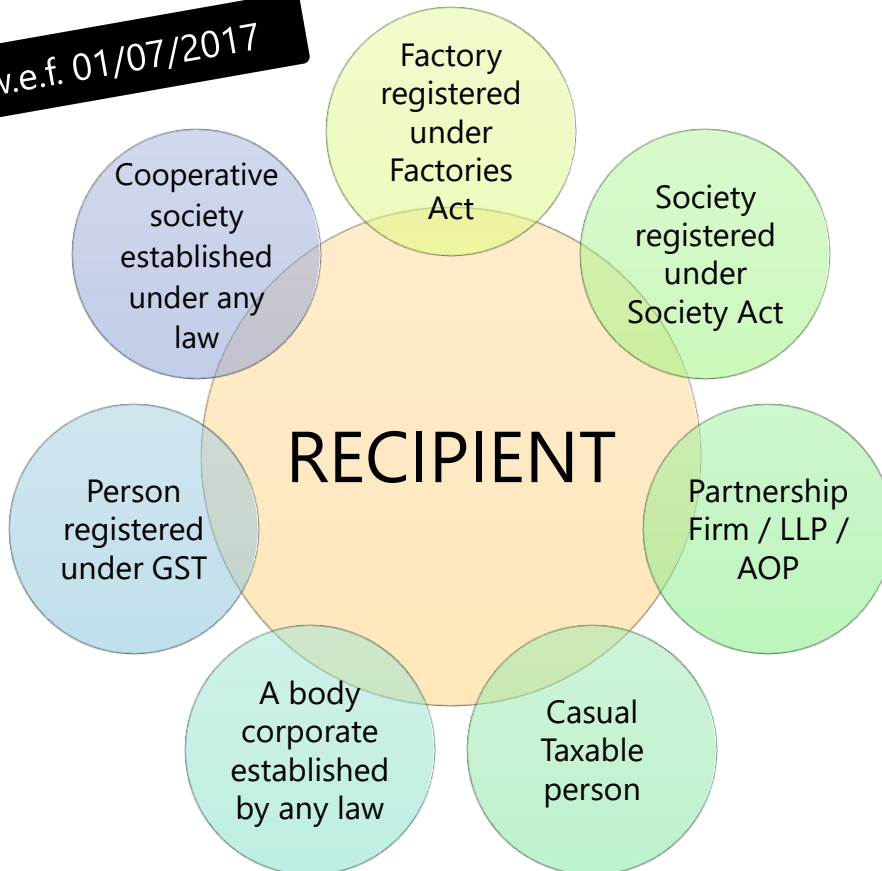


Notified Services under RCM

Entry No. 1 : Services by GTA

Services of Goods transport agency (GTA)
(Not paid GST @ 12%){Notf.No 22/2017Ct(R) Dt. 22/8/17}

w.e.f. 01/07/2017




GTA means any person who provides service in relation to transport of goods and issues consignment note , by whatever name called.

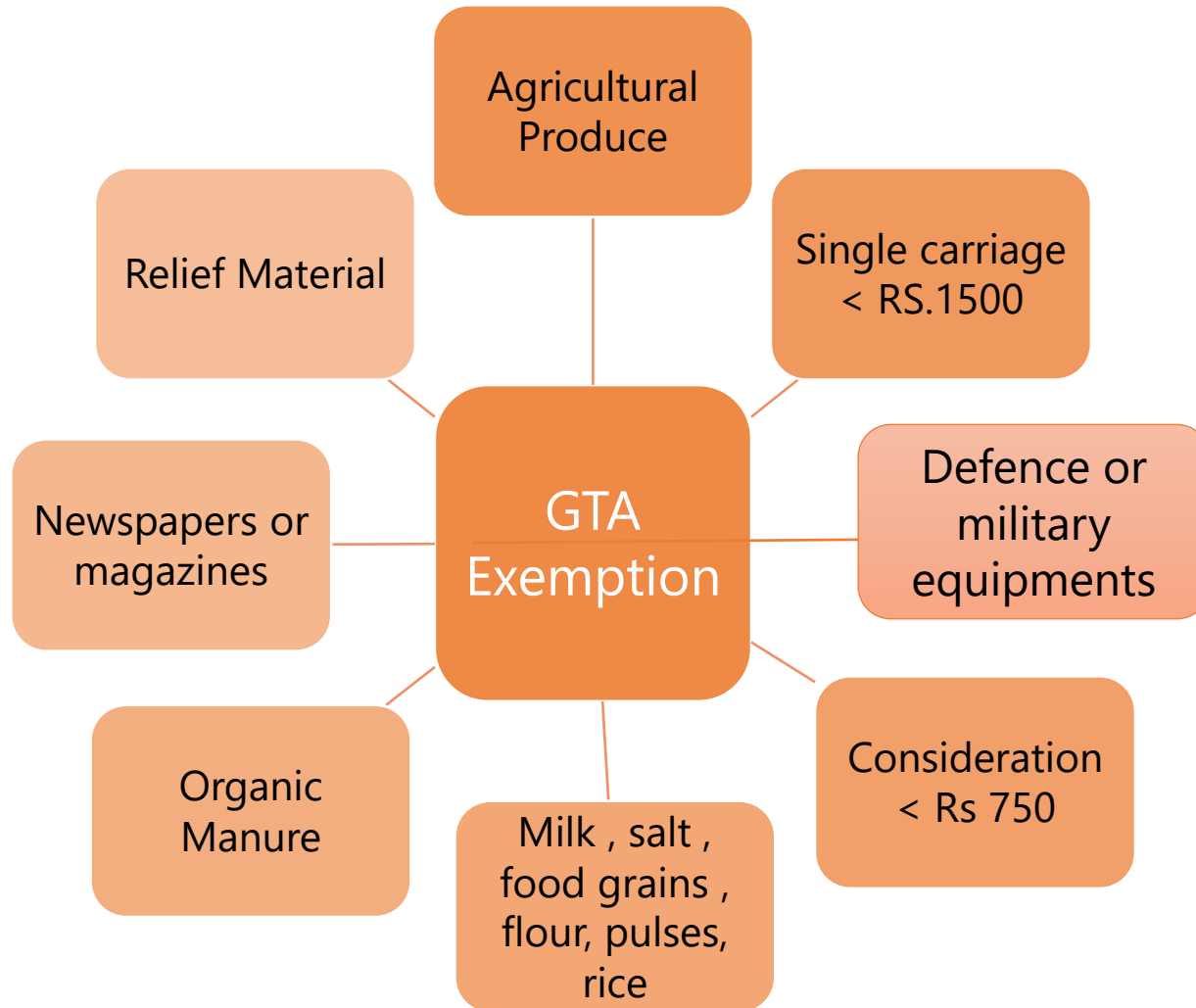
Entry No. 1 : Services by GTA

Non-applicability of this entry :

Services provided by GTA, by way of transport of goods in a goods carriage by road to

- 
- Department or establishment of the CG / SG / UT
 - Local Authority
 - Governmental agencies registered under CGST Act, 2017

GTA Exemptions (21 of N/N/12/2017-CT Rate)



GTA Exemptions (21 of N/N/12/2017-CT Rate)

“*agricultural produce*” means

1. any produce out of cultivation of plants and
2. rearing of all life forms of animals,

except the

- a. rearing of horses,
- b. for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market;

GTA Exemptions (18 of N/N/12/2017-CT Rate)

Exemption in case of Transportation of Goods

Services by way of Transportation of Goods



- By Road except services of GTA and Courier agency



- By inland waterways

Entry No. 2 & 3

w.e.f. 01/07/2017

Legal Services

Legal Services means any service provided in relation to advice, consultancy, or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.

Supplier

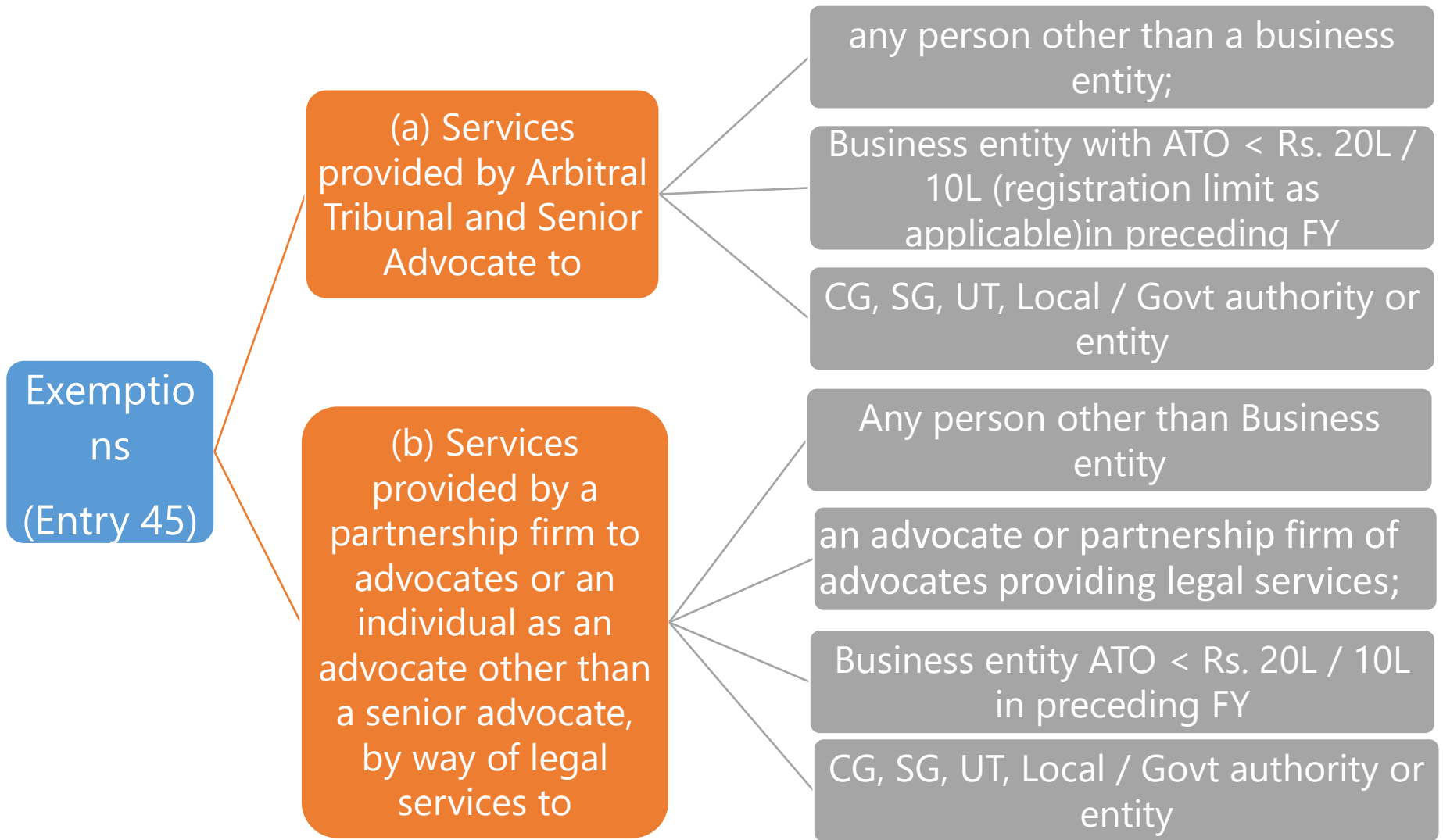
By an **individual advocate** including a **senior advocate** or **firm of advocates**

Services supplied by Arbitral Tribunal

- Any business entity located in taxable territory

Recipient

Exemption Entry No. 45



Entry No 4 : Sponsorship Service

w.e.f. 01/07/2017

Any person

Supplier

Any body corporate
or partnership firm
located in taxable
territory

Recipient

- A LLP formed and registered under provisions of LLP Act, 2008 shall also be considered as partnership firm

Note

RCM is on sponsorship, not on advertisement

Exemption Entry No. 53



Entry No. 5 : Government Services

w.e.f. 01/07/2017

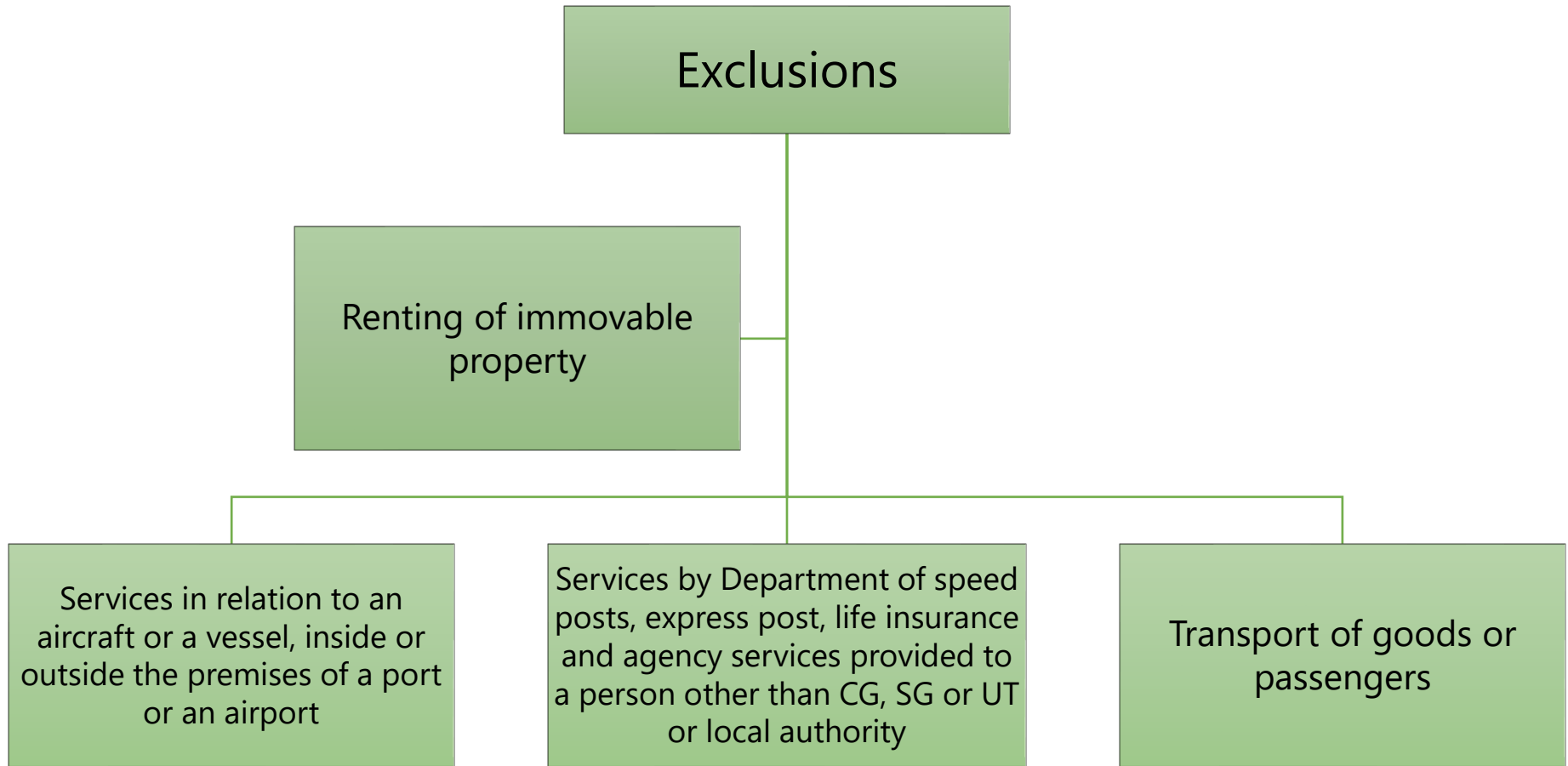
Supplier

- CG, SG, Union territory or local Authority

Recipient

- Any Business Entity located in the taxable territory.

Services under RCM 9(3)



Entry No. 5A : Government Services

w.e.f. 25/01/2018

Services by way of Renting of Immovable Property

Supplier

- CG, SG, Union territory or local Authority

Recipient

- Registered person under CGST Act, 2017

Entry No. 5B & 5C : Services to Promoter

w.e.f. 01/04/2019

Entry No. 5B

Services supplied by way of transfer of Development Rights or Floor Space Index including additional FSI for construction of a project.

w.e.f. 01/04/2019

Entry No. 5C

Long term lease of land(30 years or more) against consideration in the form of upfront amount and/or periodic rent for construction of a project

Supplier

- Any person

Recipient

- Promoter

Entry No. 6 : Services provided by Director

w.e.f. 01/07/2017

Supplier

- A director of a company or a body corporate.

Recipient

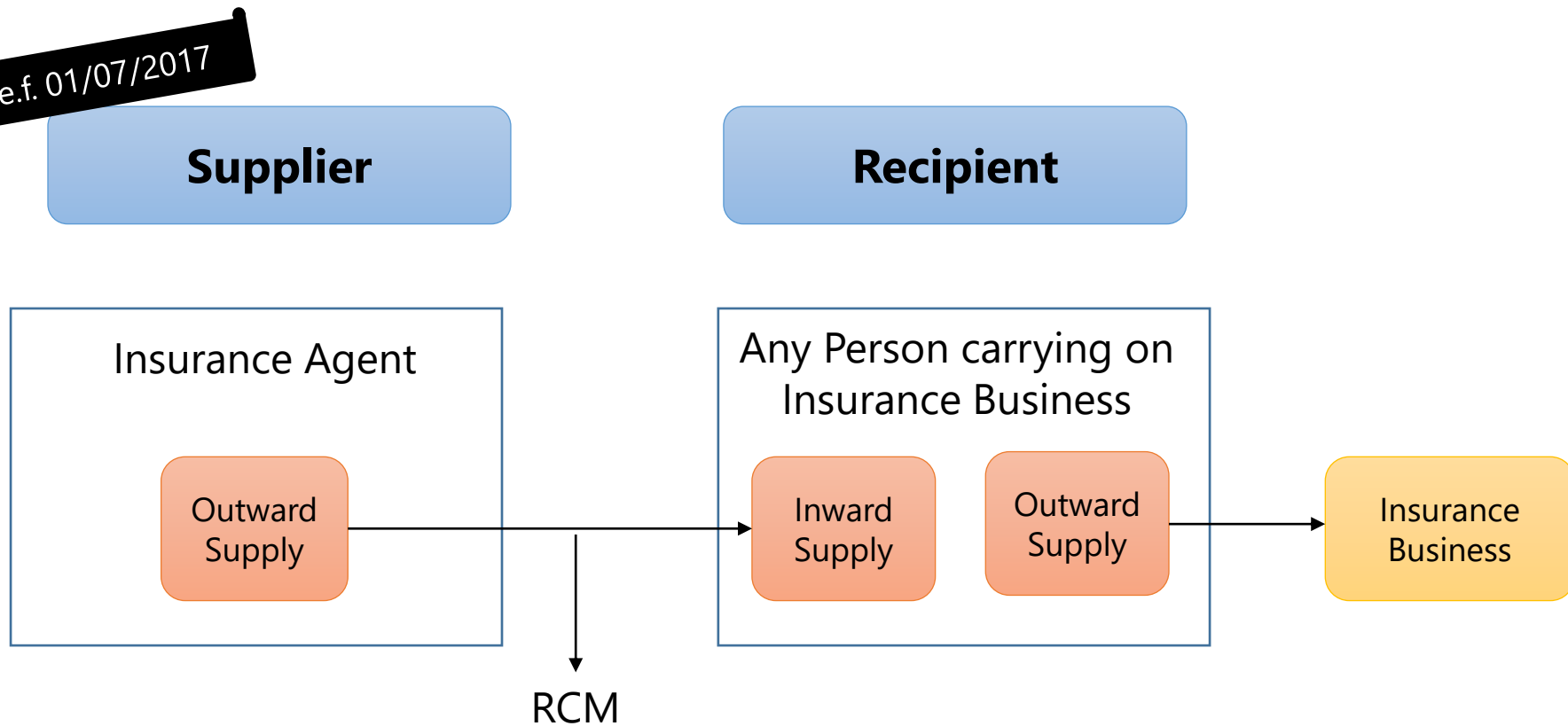
- The company or a body corporate located in the taxable territory.

Services supplied by a director of a company or a body corporate to the said company or the body corporate.

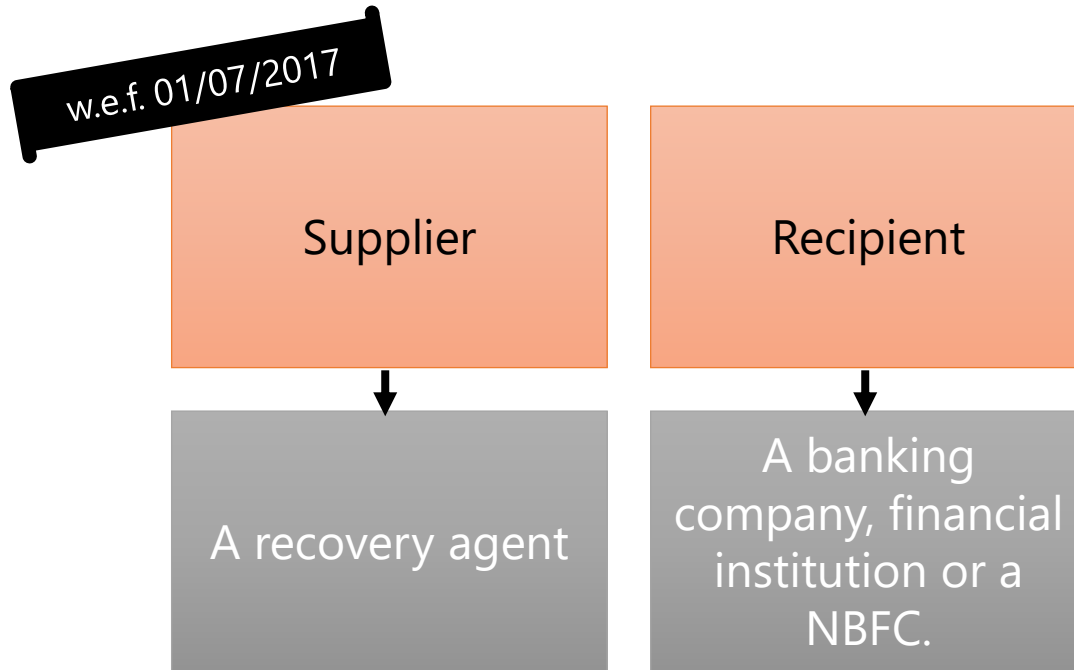
Note : Services other than Terms of Contract of Employment (Sch III)

Entry No. 7 : Services by Insurance Agent

w.e.f. 01/07/2017



Entry No. 8 : Services by Recovery Agent



Entry No. 9 : Transfer/permission to use copyrights

w.e.f. 01/10/2019

Services by way of transfer or permitting the use or enjoyment of a copyright covered u/s 13(1)(a) of Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works

Supplier – Music composer, photographer, artist or the like

Recipient – Music company, producer or the like

Entry No. 9A : Transfer/permission to use copyrights

w.e.f. 01/10/2019

Services by way of transfer or permitting the use or enjoyment of a copyright covered u/s 13(1)(a) of Copyright Act, 1957 relating to original literary work.

Supplier – An author

Recipient – A publisher

Not applicable if Author

- takes GST registration and
- gave declaration in the form at Annex I,
 - within the time limit prescribed therein
 - With the jurisdictional CGST or SGST commissioner as the case may be, and
 - That he Chooses to pay GST on FCM basis and
 - That he complies with all the provisions of CGST Act. 2017 and
 - That he shall not withdraw the option within a [period of 1 year from date of exercising such option.

Entry No 10 : Services by Members of Overseeing committee

w.e.f. 13/10/2017

Member of
overseeing
committee
constituted by the
RBI

Supplier

Reserve Bank Of
India (RBI)

Recipient

- Overseeing committee was formed by RBI to look at the stressed assets of banking sector

Remark

Entry No. 11 : Services by DSAs

w.e.f. 26/07/2018

An Individual Direct Selling Agent (DSA) other than a body corporate, partnership firm or LLP

Supplier

A banking company or a financial institution or a NBFC

Recipient

Entry No. 12 : Services by Business Facilitator

w.e.f. 31/12/2018

Business facilitator
(BF)

Supplier

A Banking
Company located
in taxable territory

Recipient

BF cannot carry out
transactions on
behalf of bank and
cannot handle cash
transactions

Remarks

On outward supply by BF, GST shall be payable by the bank under RCM.

On inward supply (services by agent), GST shall be payable by the agent under FCM.

Entry No. 13 : Services to Business Correspondent

w.e.f. 31/12/2018

An agent of
Business
Correspondent
(BC)

Supplier

A Banking
Company
located in
taxable territory

Recipient

BC can carry out
transactions on
behalf of bank
and can handle
cash transactions

Remarks

On outward supply by BC, GST shall be payable by the BC under FCM.

On inward supply (services by agent), GST shall be payable by the BC under RCM.

Services under RCM 9(3)

CBIC Circular 86/05/2019 - GST

Banking Company is the service provider in the business facilitator or the business correspondent model as per RBI guidelines

Agreement of banks with BC/BF specifically prohibits them from directly charging any fee to the customers for services rendered by them on behalf of the bank

Banking Company is liable to pay GST on entire value of service charge or fee charged to customers whether or not received via BF or BC

Thus, **Value of service by BC/BF = Commission earned**

Entry No. 14 : Security Services

w.e.f. 31/12/2018

Supplier :

Any person
other than
Body
Corporate

Recipient :

Registered
Person

Nothing contained in this entry shall apply to :

- a) Department or establishment of CG or SG or UT;
- b) Local authority;
- c) Governmental agencies, which has taken registration under the CGST Act,2017 only as tax deductor and not for making a taxable supply of goods or services.

Entry No. 15 : Renting of Motor Vehicle

w.e.f. 01/01/2020

Service

- Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient to a body corporate

Supplier

- Any person other than a body corporate,
- who supplies the service to a body corporate and
- does not issue an invoice charging GST @ 12% to the service recipient

Recipient

- Any Body Corporate located in the taxable territory

Entry No. 16 : Services of lending of securities

w.e.f. 01/10/2019

- Lending of Securities under Securities Lending Scheme, 1997 (scheme) of SEBI, as amended

Service

- Lender, i.e. a person who deposits the securities registered in his name or in the name of any other person duly authorized on his behalf with an approved intermediary for the purpose of lending under the scheme

Supplier

- Borrower, i.e. a person who borrows the securities under the scheme through an approved intermediary of SEBI

Recipient

Supply of lending of securities = GST @ 18%

Services under RCM 9(3)

Other Services under RCM

(1). Non Taxable Territory

- Supplier - Any service supplied by any person who is located in a non taxable territory.
- Recipient - any person other than non taxable online recipient


(2). Transportation of goods by vessel

- Supplier - Services supplied by a person located in a non taxable territory by way of transportation of goods by vessel from place outside India up to the customs station of clearance in India
- Recipient - importer located in taxable territory.




E Commerce Operator - Sec 9(5)


E Commerce Operator – Sec 9(5)




The government may, on the recommendation of the council, by notification



Specify categories of services the tax on intra state suppliers of which tax shall be paid by E-Commerce Operator

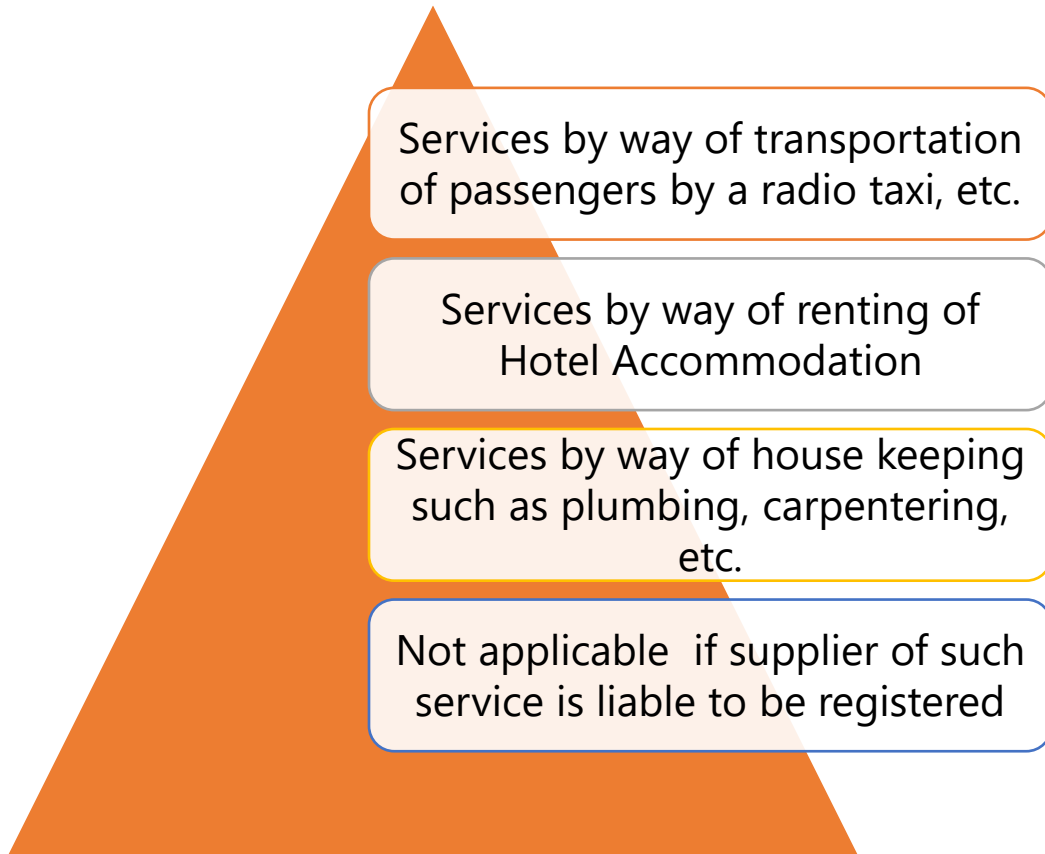


If such services are supplied through it,



And all the provisions of this Act shall apply to such E - Commerce Operator

Notified E Commerce Operator – Sec 9(5)





Points To Remember

Points To Remember

Tax to be paid by Recipient

Self Invoice, Payment Voucher u/s 31(3)

ITC available once the recipient makes payment in cash

Compulsory Registration
Sec 9(3) Recipients

No partial Reverse Charge
100% tax to be paid by recipient

Payment of taxes under reverse charge only by cash

Sec 9(4) applicable only to specified categories of registered dealers

Invoice level information in respect of all supplies attracting reverse charge

Advance paid for reverse charge supplies is also leviable to GST



Thank you!!