

RJA

Rajput Jain & Associates
Chartered Accountants

TIME OF SUPPLY UNDER GST LAW

About Us

- Rajput Jain & Associates is a Chartered Accountants firm, with its headquarter situated at New Delhi (the capital of India). The firm has been set up by a group of young, enthusiastic, highly skilled and motivated professionals who have taken experience from top consulting firms and are extensively experienced in their chosen fields has providing a wide array of Accounting, Auditing, Taxation, Assurance and Business advisory services to various clients and their stakeholders. focus at providing tailor made solutions to challenging problems of our clients, and perform with high quality and timely service.
- Rajput Jain & Associates, a professional firm, offers its clients a full range of services, To serve better and to bring bucket of services under one roof, the firm has merged with its various Chartered Accountancy firms pioneer in diversified fields
- Our main office is located at Delhi. Incidentally, Delhi is the Capital of India. Our other offices are in Mankapur & Moradabad (U.P.). We have associates all over India in big cities. All our offices are well equipped with latest technological support with updated reference materials. We have a large team of professionals other than our Core Team members to meet the requirements of our prospective clients including the existing ones. However, considering our commitment towards high quality services to our clients, our team keeps on growing with more and more associates having strong professional background with good exposure in the related areas of responsibility. Further to meet the growing demands of the fiercely competitive market we are constantly looking forward for team of associates comprising of highly skilled professionals to cater the needs ever increasing clientele.

Importance of time of supply

- Time of supply is nothing but a different name for “Point of Taxation” which was used under service tax law and denotes the time when the **charging event has occurred**.
- The liability to pay tax on goods or services arises at the time of supply. (Section 12(1) & 13(1) of the CGST Act,2017).
- Determines the **rate of tax** applicable on any supply.
- **Due Date of filing of GST Returns as well as due date** of payment of tax would also be determined by time of supply in view of provisions of Section 39 of CGST Act.

Importance of time of supply

- **Rate of exchange** applicable for determination of value of supply :-

For Goods : Applicable rate of exchange as notified by CBIC u/s 14 of the CA,1962 for the date of time of supply of such goods u/s 12 of the Act. (Rule 34(1) of CGST Rules).

For Services : Applicable rate of exchange determined as per GAAP for the date of time of supply of such services in terms of section 13 of the Act. (Rule 34(2) of CGST Rules).

- Earlier under service tax law point of taxation was also relevant for determining the value in respect of domestic supplies but not under GST Law as concept of abatement has been abolished.

Point of taxation – Pre GST regime

- **Manufacture of goods:** Incidence of Excise duty arised upon manufacture/ production of goods in India. However the liability to pay was at the time of removal.
- **Provision of Service:** Earliest of receipt of amount / issuance of invoice (if issued within stipulated time), otherwise completion of service.
- **Sale of goods:** VAT / CST arose on transfer of title / property in goods including deemed sale (Article 366(29A) of Constitution), paid on accrual basis.

Time of Supply (TOS)- Statutory provisions

- Provisions for determining TOS have been prescribed under Sec 12 to 14 under Chapter –IV of the CGST Act,2017. Same provisions exists under the SGST Acts.
- Section 12 and 13 lays down principles for determining TOS of goods and services respectively.
- Section 14 lays down principles for determining TOS of goods or services in cases of change in rate of tax.
- The above Sections are also applicable for levy of IGST and UTGST vide section 20 under Chapter IX of the IGST Act,2017 and Section 21 of Chapter IX of the UTGST Act,2017.

Initial warm up questions...

- What will be the time of supply in respect of services rendered upto 30th June, 2017 where the invoices are raised or payments are received after 30th June, 2017 ?
- Which tax is to be applied by the service provider on invoice issued on or after 1st July, 2017 for services rendered upto 30th June, 2017?
- How time of supply would be determined in respect of composite supplies?
- Whether time of supply is also required to be determined in respect of exempt supplies ?

Time of Supply of Goods – Sec 12(2)

As per Section 12(2) of CGST ACT, time of supply of goods shall be earlier of:-

Actual date of issue of invoice by the supplier

Due date for issue of invoice by the supplier [Section 31(1)*]:

- **Non Continuous Supply involves movement:** Time of removal of goods for supply (31(1)(a))
- **Non Continuous Supply - Other cases:** Delivery of goods/ making available to the recipient (31(1)(b))
- **Continuous Supply:** Date of issue of statement of account/ receipt of payment (31(4))
- **Sale on approval basis:** Earlier of time at which it becomes known that the supply has taken place OR 6 months from date of removal (31(7)).

Date of receipt of payment (i.e. date on which **payment is entered in the books of Accounts of supplier** or Date on which **payment is credited** to the supplier's bank a/c, whichever is earlier- Expl 2 to Sec 12(2)).

**Where payment is received in advance, the Supplier shall issue a receipt voucher, and NOT a tax invoice- No ITC also to recipient.*

Time of Supply of Goods – Sec 12(2)

- **Meaning of continuous supply of goods**
- As per Section 2(32) of the CGST Act “continuous supply of goods” means a supply of goods which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, whether or not by means of a wire, cable, pipeline or other conduit, and for which supplier invoices the recipient on a regular or periodic basis and includes supply of such goods as the Government may, subject to such conditions, as it may, by notification, specify.

As per Sec 31(4) in case of continuous supply of goods, where successive statement of accounts or successive payments are involved the **invoice is required to be issued before at the time of issue of each such statement or receipt of each such payment.**

Time of Supply of Goods – Sec 12(2)

- Where excess payment of upto Rs. 1000/- is received in respect of any invoice, the time of supply to extent of such excess amount shall at option of the supplier is date of issue of invoice in respect of such excess amount. (*Proviso to Sec 12(2)*)
- Supply shall be deemed to have been made to the extent it is covered by the invoice or, as the case may be, the payment. (*Explanation 1 to Sec 12(2)*).
- As per Notif. No 40/2017- CT dtd 13-10-2017 suppliers of goods having aggregate turnover of upto Rs 1.50 crores in the last year or current year have been exempted to pay tax upon receipt of advance (w.e.f 13-10-2017) as the time of supply in such cases would be the date of invoice or due date of issue of invoice in light of Clause (a) of Section 12(2). Subsequently this exemption has been extended w.e.f. 15-11-2017 to all tax payers vide Notification No 66/2017-CT dated 15-11-2107. **The above benefit is not available to person covered under Composition Scheme.**

Time of Supply of Goods – Sec 12(2)

- In summary, the taxability of the consideration received in advance in respect of goods for non-composition dealers would be as follows:

Period	Taxability of consideration received in advance	
	Aggregate turnover less than Rs 1.50 crores	Aggregate turnover more than Rs 1.50 crores
01.07.2017 to 12.10.2017	Taxable	Taxable
13.10.2017 to 15.11.2017	Not taxable	Taxable
15.11.2017 and onwards	Not taxable	Not taxable

Time of Supply of Goods – Sec 12(2)

Illustrations

	Non continuous supply of goods Section 12(2) r/w Section 31(1)	Invoice date	Due date of issue of invoice	Payment entry in supplier's books	Credit in bank account	Time of supply
1	Invoice raised before removal	10-Feb-18	20-Feb-18	26-Feb-18	28-Feb-18	10-Feb-18
2	Advance received	10-Feb-18	20-Feb-18	25-Jan-18	28-Jan-18	10-Feb-18
3	Advance received (Composition Dealer)	10-Feb-18	20-Feb-18	25-Jan-18	28-Jan-18	25-Jan-18

Time of Supply of Goods – Sec 12(2)

Illustrations

	Non continuous supply of goods Section 12(2) r/w Section 31(1)	Invoice/ document date	Due date of issue of invoice	Receipt of payment	Time of supply
4	Delayed issue of invoice	26-Mar-18	20-Mar-18	28-Mar-18	20-Mar-18
5	Inter-State stock transfer	20-Mar-18	20-Mar-18	-	20-Mar-18
6	Advance received, invoice for full amount issued on same day (40% advance, 60% post supply payment)- Non composition dealer	12-Mar-18	10-Mar-18	27-Feb-18 (40%)	10-Mar-18
				20-Mar-18 (60%)	10-Mar-18

Time of Supply of Goods – Sec 12(2)

Illustrations

	Continuous supply of goods Section 12(2) r/w Section 31(4)	Invoice date	SoA/ payments due date	Receipt of payment	Time of supply
7	Contract provides for successive statements of account/ successive payments (Non-composition dealer)	01-Mar-18	05-Mar-18	03-Mar-18	01-Mar-18
8		11-Apr-18	05-Apr-18	13-Apr-18	05-Apr-18
9		08-Apr-18	05-Apr-18	01-Apr-18	05-Apr-18

Time of Supply of Goods – Sec 12(2) Illustrations

	Sale on approval basis Section 12(2) r/w Section 31(7)	Removal of goods	Issue of invoice	Accepted by recipient	Receipt of payment	Time of supply
10	Acceptance communicated within 6 months of removal	01-Feb-18	25-Feb-18	15-Feb-18	25-Feb-18	15-Feb-18
11	Acceptance not communicated within 6 months of removal	01-Oct-17	15-May-18	15-May-18	18-May-18	01-Apr-18 (end of 6 months from date of removal of goods)

Time of Supply of Services – Sec 13(2)

If invoice issued within prescribed time u/s 31(2) (i.e. 30 days (45 days in case of Banking, Insurance, Financial Institution or NBFC- Rule 47)- *Clause (a)*)



Date of issue of Invoice or receipt of Payment (Earlier of entry in books or credit in bank account), whichever is earlier

If invoice not issued within prescribed time- *Clause (b)*



Date of provision (completion) of service or receipt of payment, whichever is earlier

If both the above clauses do not apply i.e. the date of issue of invoice, provision of service and receipt of payment are not available - *Clause (c)*



Date on which **recipient** shows the receipt of services in his books of accounts

**Where payment is received in advance, the Supplier shall issue a receipt voucher, and NOT a tax invoice*

**Where payment of Rs. 1000/- is received in excess, then time of supply at option of the supplier is date of issue of invoice for such excess.(Proviso to Sec 13(2)).*

Time of Supply of Services – Sec 13(2)

Illustrations

	Section 13(2)	Invoice date	Invoice due date	Payment entry in supplier's books	Credit in bank account	Time of supply
1	Invoice raised before completion of service	10-Mar-18	20-Mar-18	26-Mar-18	30-Nov-18	10-Mar-18
2	Advance received	30-Apr-18	20-Apr-18	10-Apr-18	25-Apr-18	10-Apr-18

Time of Supply of Services – Sec 13(2)

Illustrations

	Based on due date for invoicing Section 13(2) r/w Section 31(2) r/w Rule - 47	Invoice date	Completion of provision of service	Receipt of payment	Time of supply
3	Delayed issue of invoice	26-Mar-18	16-Feb-18	28-Apr-18	16-Feb-18 (As invoice issued after 30 days)
4	Advance received, invoice for full amount issued on same day (40% advance, 60% post supply payment)	30-Apr-18	3-Apr-18	30-Mar-18 (40%)	30-Mar-18
				28-May-18	30-Apr-18

Issue of invoice- Continuous supply of services

- Section 31(5) of CGST Act provides that in case of continuous supply of services,—
- (a) where the due date of payment is ascertainable from the contract, the invoice shall be issued on or before the **due date of payment**;
- b) where the due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service **receives the payment**;
- c) where the payment is linked to the completion of an event, the invoice shall be issued on or before the **date of completion of that event**.
- **Meaning of continuous supply of services**
- As per Section 2(31) of the CGST Act “continuous supply of services” means a supply of services which is provided, or agreed to be provided, continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify.

Time of Supply of Services – Sec 13(2)

Illustrations

	Particulars	Invoice date	Due Date of issue of invoice-Sec 31(5)	Receipt of payment	Time of supply
5	Continuous supply of services Section 13(2) r/w Section 31(5)	02-Nov-17	10-Nov-17	15-Nov-17	02-Nov-17
		17-Dec-17	10-Dec-17	15-Dec-17	10-Dec-17
		10-Jan-18	10-Jan-18	06-Jan-18	06-Jan-18

Time of Supply of Services – Sec 13(2)

Illustrations

Clause (c) of Section 13(2)

X Ltd supplied certain services to Y Ltd. However the date of provision of supply of such service is not known and further neither the invoice has been issued nor has the payment been received by X Ltd. No income also has been accounted for by X Ltd, but Y Ltd while preparing its accounts has made provision towards expenditure on services received from X Ltd on 31st March, 2018.

- In this case clause (c) of Section 13(2) of CGST Act would apply and the time of supply would be the date on which the recipient shows the receipt of services in its books of account. Accordingly the time of supply in this case would be 31st March, 2018 i.e. date on which provision for expense towards the services received has been accounted for.

Time of Supply of Services – Sec 13(2)

Illustrations

Proviso to Section 13(2)

M/s MTNL issues the monthly telephone bill by 7th of next month. Invoice for the month of July, 2017 was issued by it on 7-8-2017 for an amount of Rs 1500/-. The customer against the said invoice deposited Rs 2000/- on 14-8-2017. The excess deposition of Rs 500/- is adjusted by MTNL in the next month in the bill issued on 7-9-2017 wherein the billed amount was Rs 1700/- and net amount payable by customer was shown as Rs 1200/-. The customer this time made the payment of Rs 1200/- on 12-9-2017.

- In the above case the time of supply for the invoice for the month of July, 2017 would be 7-8-2017 for the amount of invoice i.e. Rs 1500/-. However the time of supply as per proviso to Sec 13(2) in respect of the excess amount of Rs 500/- paid by customer on 14-8-2017 shall, at the option of said supplier, be the date of issue of invoice relating to such excess amount i.e. 7-9-2017.
- To conclude, in the instant illustration the time of supply for invoice dated 7-8-2017 to extent of Rs 1500/- would be 7-8-2017 and time of supply for invoice dated 7-9-2017 for gross amount of Rs 1700/- would be 7-9-2017.
- It is pertinent to mention here that if the proviso to Sec 13(2) is not opted for by the supplier or in case the excess payment received was more than Rs 1000/- then in the instant example the time of supply of such excess amount received would be 14-8-2017 instead of 7-9-2017.

Time of Supply of Goods / Services - Reverse Charge – Sec 12(3) / 13(3)

1. Date of receipt of Goods (*applicable only for goods*)

2. Date on which **payment is entered in the books of recipient or debited** to the recipient's bank a/c (whichever is earlier).

Where tax liable to be paid on reverse charge basis, the time of supply of goods/services shall be **earliest** of- 1,2 & 3 (for goods) or 2 & 3 (for services)

3. 31st day (in case of goods) / 61st day (in case of services) from the date of issue of invoice by supplier

Note: This factor is NOT relevant in case of import of services from an associated enterprise outside India

Where it is not possible to determine time of supply from 1,2 & 3: **Time of supply will be the date of entry in the books of account of the recipient**

Note: This factor is relevant in case of import of services from an associated enterprise outside India

In case of import of services from an associated enterprises the time of supply is the date of entry in the books of account of recipient of supply OR date of payment, whichever is earlier. (2nd proviso to Section 13(3) of CGST Act).

Time of Supply of Goods - Reverse Charge – Sec 12(3) -Illustration

	Reverse charge Section 12(3) - Goods	Date of invoice issued by supplier	Removal of goods	Receipt of goods	Payment by recipient	Time of supply
1	General	31-Oct-17	31-Oct-17	20-Nov-17	30-Nov-17	20-Nov-17
2	Advance paid	31-Oct-17	31-Oct-17	20-Nov-17	05-Nov-17	05-Nov-17
3	No payment made for the supply	31-Oct-17	30-Dec-17	05-Jan-18	-	01-Dec-17 (31 st day from date of invoice)

Time of Supply of Services - Reverse Charge – Sec 13(3)

	Reverse charge Section 13(3)- Services	Date of invoice issued by supplier	Date of completion of service	Payment by recipient	Entry of receipt of services in recipient's books	Time of supply
4	General	31-Oct-17	31-Aug-17	20-Nov-17	31-Oct-17	20-Nov-17
5	Advance paid	31-Oct-17	31-Oct-17	05-Nov-17	31-Oct-17	05-Nov-17
6	Delay in payment (Beyond 60 days from date of invoice)	31-Oct-17	31-Oct-17	10-Feb-18	31-Oct-17	31-Dec-17 (61 st day from date of invoice)
7	Service received from associated enterprise located outside India	31-Oct-17	30-Nov-17	05-Apr-18	31-Mar-18	31-Mar-18

Time of Supply of Vouchers – Sec 12(4)/13(4)

Time of supply in case of **supply of voucher**–

Date of issue – *If supply is identifiable at the point of issue of voucher*

Date of redemption of voucher – *Other cases*

Note: *Voucher – can be for goods or services*

Time of Supply of Vouchers – Sec 12(4)/13(4)

- As per Section 2(118) of CGST Act “voucher” means an instrument where there is an obligation to accept it as consideration or part consideration for a supply of goods or services or both and where the goods or services or both to be supplied or the identities of their potential suppliers are either indicated on the instrument itself or in related documentation, including the terms and conditions of use of such instrument;
- Where the supply can be identifiable at the time of issue of voucher, the tax should be remitted for the month in which the voucher is issued, as **if it were an advance received** for a supply to be made at a future date. On the other hand, if the nature of supply of goods are not available at the time of issue of voucher, then the time of supply will be considered as the date of redemption of voucher.
- Pre-paid instruments (PPIs) apart from Indian legal tender to be used to settle obligations to pay consideration as recognised by RBI and issued under Payments and Settlement Systems Act, 2007 would be in character of money and thus would not be exigible to GST.

Time of Supply of Vouchers – Sec 12(4)/13(4)

- As per Rule 32(6) of CGST Rules, 2017, the value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both shall be equal to the money value of the goods or services or both redeemable against such token, voucher, coupon, or stamp. Thus the value would be the face value of such voucher.

Time of Supply of Vouchers – Sec 12(4)/13(4)

	Issue of vouchers Section 13(4) [or Section 12(4)]	First service/ delivery of goods	Issue of voucher	Redemption of voucher	Last date for acceptance of voucher	Time of supply
1	Voucher issued to a recipient after supply of a service [or specific goods], for the same service - valid for 1 year	01-Nov-17	01-Nov-17	14-Dec-17	30-Oct-18	01-Nov-17
2	Voucher issued to a recipient of machinery along at the time of delivery, for availing repair services [or specific goods] worth Rs. 5,000 - valid for 1 year	01-Nov-17	01-Nov-17	14-Dec-17	30-Oct-18	01-Nov-17
3	Voucher issued to a recipient after supply of a service, for any other services or goods across India, - valid for 1 year	01-Nov-17	01-Nov-17	14-Dec-17	30-Oct-18	14-Dec-17
4	Gift voucher for Rs. 1,500 for specific services [or goods]- valid for 6 months	-	01-Nov-17	25-Dec-17	31-Mar-18	01-Nov-17

Residual Provision – Sec 12(5) / 13(5)

Where it is not possible to determine the time of supply under any of the circumstances discussed, it shall be determined as:

Due date for filing of such return – *If periodical return has to be filed*

Date on which the Tax is paid – *Other cases*

Time of Supply of Goods / Services - Value Addition – Sec 12(6) / 13(6)

Time of supply
for value
addition by
way of

Interest,
Late Fees,
Penalty

For Delayed
payment of
Consideration
shall be

**Date on which
the supplier
receives such
addition in
value**

As per Section 15(2)(d) of CGST Act the value of supply shall include interest or late fee or penalty for delayed payment of any consideration for any supply.

Time of Supply of Goods / Services - Value Addition – Sec 12(6) / 13(6) - Illustration

Particulars	Date of Invoice / Debit Note	Amount	Date of receipt of payment	Time of supply	Sub-section applicable
Consideration for Service	25-7-2017	1,00,000/-	15-12-2017	25-7-2017	(2)
Interest, late fee or penalty for delayed payment of Consideration	15-11-2017	10,000/-	15-12-2017	15-12-2017	(6)

Date of receipt of payment- Sec 14

Case – I: Where the credit in Bank Account is within four working days from date of change in the rate of tax

Date of entry in the books of accounts of supplier **OR**

Date of which payment is credited in bank account of supplier

Case – II: Where the credit in Bank Account is after four working days from date of change in the rate of tax

The date of receipt of payment shall be date of credit in the bank account. Thus in such cases the date of entry in books will be disregarded.

Change in rate of tax in respect of supply of goods or services – Sec 14- Illustration

Suppose there is change in rate of tax from 01/10/2017. The TOS and rate of tax applicable is as under in various situations.

Case	Date of supply of service (i)	Date of Invoice (ii)	Date of receipt of payment (iii)	Time of supply	Rate of tax applicable
I	10.09.2017	05.10.2017	08.10.2017	05.10.2017 (Earlier of (ii) and (iii)).	New Rate
II	10.09.2017	25.09.2017	08.10.2017	25.09.2017 (date of invoice)	Old rate
III	10.09.2017	05.10.2017	27.09.2017	27.09.2017 (date of receipt of payment)	Old rate
IV	06.10.2017	25.09.2017	08.10.2017	08.10.2017 (date of receipt of payment)	New Rate
V	06.10.2017	25.09.2017	27.09.2017	25.09.2017 (Earlier of (ii) and (iii)).	Old rate
VI	06.10.2017	05.10.2017	27.09.2017	05.10.2017 (date of invoice)	New Rate

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