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A Ryan LLC Affiliate

GST ALERT

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Omission of Section 13(8)(b) | Change in
Place of Supply of Intermediary Services

Amendment in Place of Supply for Intermediary Services – Impact on Past, Present and Future Transactions

Section 13(8)(b) of the Integrated Goods and Services Tax Act, 2017 ('IGST Act') provided that the place of supply of 'intermediary services' shall be the location of the supplier. The said provision has been omitted by the Finance Act, 2026, with effect from March 30, 2026. Resultantly, the place of supply of intermediary services shall now be the location of the service recipient as per Section 13(2) of the IGST Act.

Key implications are discussed below:

- For suppliers of intermediary services located in India:

Supply of intermediary services to any person outside India on or after March 30, 2026, shall qualify as zero-rated supplies/export of services (subject to fulfilment of other conditions). The suppliers shall be eligible to benefits, including supplying the services without payment of tax under LUT or paying IGST and claiming a refund of IGST so paid.

Taxability of transactions undertaken during the transitional period is discussed below:

Date of provision of services	Date of invoice	Place of supply	Remarks
Before March 30, 2026	Before March 30, 2026	Location of supplier [as per Section 13(8)]	GST liability exists, as services provided and invoices towards the same were issued before the omission of Section 13(8)

Date of provision of services	Date of invoice	Place of supply	Remarks
Before March 30, 2026	On or after March 30, 2026	Location of supplier [as per Section 13(8)]	Since the place of supply of service was in India at the time of rendition of service, raising the invoice post March 30 shall not alter the tax liability, and GST stands payable on such services.
On or after March 30, 2026	Before March 30, 2026	Location of the recipient [as per Section 13(2)]	In this case, as the service is supplied after March 30, it could be construed that the service qualifies as an export of services. This is in line with the principle upheld by the Supreme Court in <i>Vazir Sultan Tobacco Co. Ltd., [1996 (83) ELT 3 (SC)]</i> However, the Explanation to Section 13(2) of the CGST Act provides that a supply is deemed to be made if the invoice is issued. Thus, the authorities may contend that GST is payable as the invoice is issued before the omission.

Date of provision of services	Date of invoice	Place of supply	Remarks
On or after March 30, 2026	On or after March 30, 2026	Location of the recipient [as per Section 13(2)]	The service will be treated as Zero-rated supplies, subject to other conditions being fulfilled.

- For recipients of intermediary services located in India:

In respect of intermediary services received from an overseas service provider post March 30, 2026, IGST under RCM shall be payable as such transactions would qualify as import of services.

In this case, as the supplier of services would be located outside India, there would be two invoices, viz., a commercial invoice issued by the supplier and a self-invoice issued by the registered recipient as per the provisions of Section 31(3)(f) of the Central Goods and Services Tax Act, 2017 (“**CGST Act**”). For the purpose of ascertaining taxability during the transitional period, the self-invoice shall be relevant.

Considering the above, the taxability of transactions undertaken during the transitional period is discussed below:

Date of receipt of services	Date of self-invoice	Date of payment to the supplier	Place of supply	Remarks
Before March 30, 2026	Before March 30, 2026	After March 30, 2026	Location of supplier [as per Section 13(8)]	No GST liability, as the place of supply of the service is outside India on the date of its supply
Before March 30, 2026	On or after March 30, 2026	On or after March 30, 2026	Location of supplier [as per Section 13(8)]	No GST liability, as the place of supply of the service is outside India on the date of its supply
On or after March 30, 2026	Before March 30, 2026	Before March 30, 2026	Location of the recipient	Since the place of supply of the service is in

Date of receipt of services	Date of self-invoice	Date of payment to the supplier	Place of supply	Remarks
			[as per Section 13(2)]	India on the date of its supply, IGST shall be payable under RCM.
On or after March 30, 2026	On or after March 30, 2026	Before March 30, 2026	Location of the recipient [as per Section 13(2)]	Since the place of supply of service is in India on the date of its supply, IGST shall be payable under RCM.

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The change in the place of supply of intermediary services is significant for the service industry. This change would not only affect the litigation ongoing for the past period, but also the GST liability payable during the transitional period, and the transaction structuring for the future period.

It is relevant to note that Section 13(8) of the IGST Act has been omitted without a saving clause. Thus, a view may be taken that all the existing litigations for the past period, involving refunds and demands, should be dropped. However, this view may be litigated by the authorities.

Further, the amendment in the place of supply provisions does not amount to 'change in rate of tax' for the purpose of Section 14 of the CGST Act.

Accordingly, the taxability of activities undertaken during the transitional period would be determined based on the provisions applicable at the time of supply of service, in line with the principles laid down in *Vazir Sultan Tobacco Co. Ltd.*, 1996 (83) ELT 3 (SC).

In light of the above, the taxpayers should ensure that the tax liabilities are appropriately discharged. In cases wherein ITC of GST paid under RCM is eligible, conservative stands may be taken, and GST liability under RCM may be discharged.

Going forward, taxpayers should re-evaluate agreements executed pertaining to the receipt and supply of intermediary services, involving foreign counterparts and ensure that transactions are optimally structured.

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