

What is not “supply” under GST?

Article 265 prohibits collection of tax except under authority of law. Only supply as covered defined would be liable for GST. The applicability need not be reasonable or logical. The entry for GST payable even without consideration or import of services even if it is for personal consumption and not for business indicate this. The definition of business appears to be all pervasive and therefore many tax payers/ professionals wonder what is that which may not be covered under GST.

Some examples of what are not supplies u/s 7(1) could shed some light on this less discussed subject be as under:

1. Any fees charged for regulation and control such as the Regional Transport Authority registration of Motor Vehicles or Registrar of Companies- Company registration/ filing fees.
2. The ‘non-taxable supply’ is defined u/s 2(78) of the CGST Act to mean a supply of goods or services or both which is not leviable to tax under the CGST or IGST Act. Examples could be: transactions in money, supply of liquor or narcotic substances, specified 5 petroleum products: crude petroleum, petrol, diesel, aviation turbine fuel, and natural gas.
3. **Supply of goods/ services without consideration to her than those specified in Sch.I as under:**
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4. Activities/transactions mentioned in Schedule III (neither a supply of goods nor a supply of services):
 - Services by an employee to employer in relation to his employment including a whole time director,
 - Services by Court or Tribunal,
 - Functions by member of parliament/ State legislature/ Panchayat/ municipalities/ other local bodies; post as per Constitution of India; functions by body established by Central/ State Govt.
 - Burial, funeral, crematorium or mortuary including transportation of deceased,
 - Sale of land,
 - Sale of completed building
 - Actionable claims, other than lottery, betting and gambling,
 - Supply of goods from a non taxable territory to another non taxable territory without entering India,
 - Supply of warehoused goods before clearance for home consumption &
 - Supply of goods to consignee during the course of movement of goods from outside India by way of endorsement of title to goods.
5. Relief and rehabilitation work.
6. Grants, Donations and pure Charity.
7. The enumeration in sch. II of an item as deemed goods or service would not be liable until and unless it is a supply. Examples could be:
 - Penalty for cancellation of airline ticket before travel,
 - Delayed delivery of goods/ services whether as compensation/ penalty,
 - Deduction for poor workmanship/ defects in goods supply bill or liquidated damages in case of services for quality/ service levels etc may not be “supply”. These would

also not be liable under s.no3(e)- agreeing to the obligation to refrain from an act, or tolerate an act or situation.