

GST – Basic Understanding & Place of Supply

by
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July 06, 2017

at

Vasai Branch of WIRC of ICAI



Agenda

Basic Understanding of Indirect Tax

GST Law as to be Implemented

Taxes to be subsumed

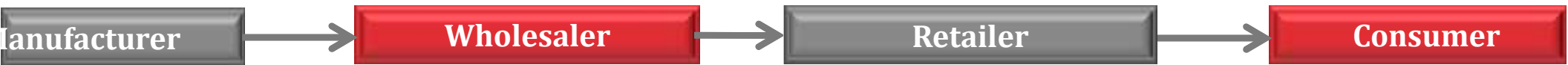
Taxable Event & subject matter of tax

Place of Supply



Basic Understanding of Indirect Taxes

Concept of Value Added Tax



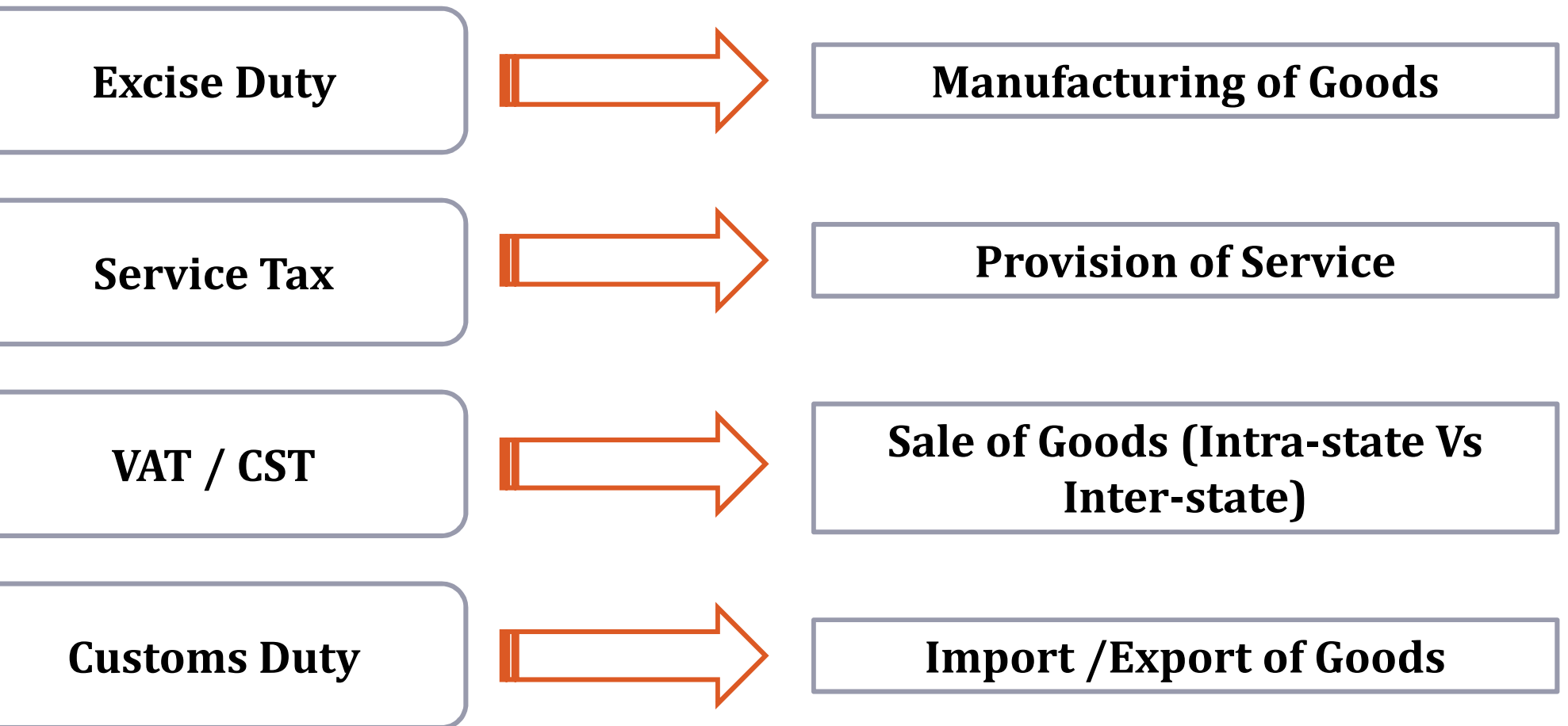
Manufacturing Cost	100
Profit	10
Selling Price	110
VAT	11
Invoice Value	121

Purchase Cost	110
Profit	20
Selling Price	130
VAT	13
Invoice Value	143

Purchase Cost	130
Profit	20
Selling Price	150
VAT	15
Invoice Value	165

Purchase Cost	165
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Current Indirect Tax Structure



Need of GST

Multiple regime of taxes such as Central Excise, Service Tax, Value Added Tax, Entertainment Tax, etc.

Multiplicity of compliances & assessments

Different Working Methodologies of each taxes

Overlapping Taxes

Non-creditable taxes & No-cross credits

ST : Indian Perspective

In India there is a Federal Structure of the Economy and there being inability of either the States or Centre to forego autonomy, revenue, etc., Dual GST is the only way forward:

- ❑ Central GST (“CGST”) – To be administered and collected by Central Government
- ❑ State GST (“SGST”) – To be administered and collected by Respective State Government
- ❑ Union Territory (“UTGST”) – To be administered and collected by State/Centre Government
- ❑ Integrated GST (“IGST”) (For inter-state transactions) – To be administered and collected by Central Government. However, the proceeds to be distributed between Centre and States

ST : “Dual” Model : Example

Transaction	A – B	B – C	C – D	Net Effect
Ex Price	100	200	300	300
CGST Collected	5	10	15	15
CGST Collected	5	10	15	15
Output CGST	5	10	15	30
Input CGST	0	(-) 5	(-) 10	(-) 15
CGST to Pay	5	5	5	15
Output SGST	5	10	15	30
Input SGST	0	(-) 5	(-) 10	(-) 15
SGST to Pay	5	5	5	15

Taxes to be subsumed

Taxes to be subsumed under CGST

Central Excise Duty

Additional Excise Duty

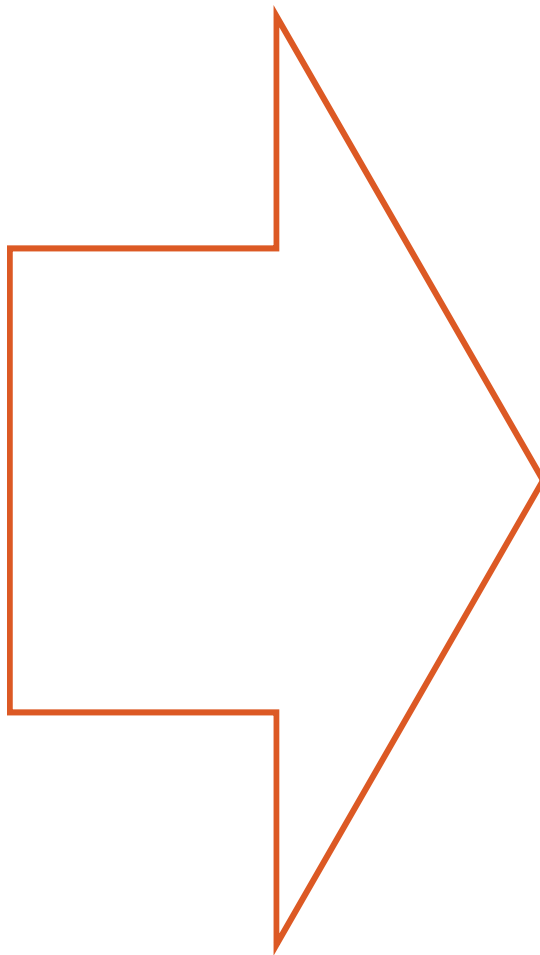
Excise Duty as per M&TP Act

Service Tax

CVD on imports in lieu of Central Excise Duty

SAD on imports in lieu of Sales Tax

Surcharges & Cesses



CGST

Taxes to be subsumed under SGST

Value Added Tax / Central Sales Tax

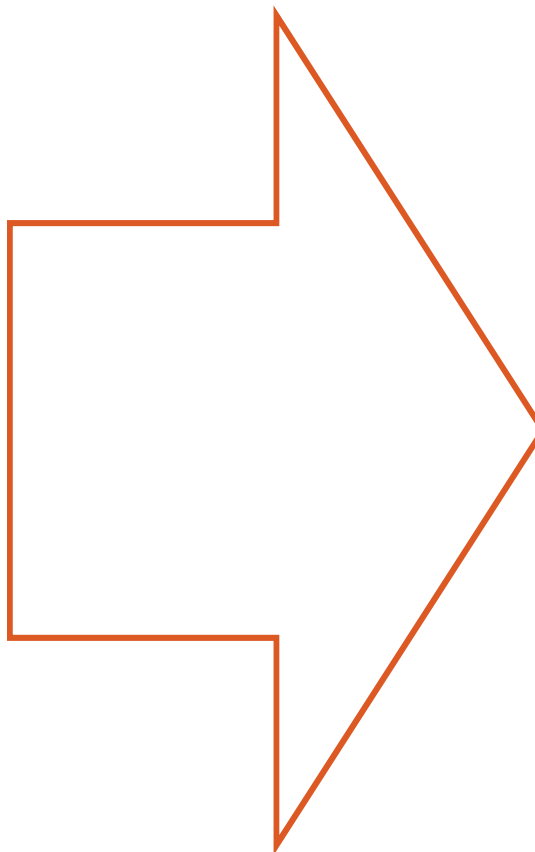
Luxury Tax

Entry Tax / LBT / Octroi

Taxes on Lottery, Betting and Gambling

Entertainment Tax

State Surcharge and Cess



SGST

Taxes which shall continue

CENTRAL LEVEL TAXES

Customs Duty

Central Excise Duty on Petroleum Products

Central Excise Duty on Tobacco & Tobacco Products

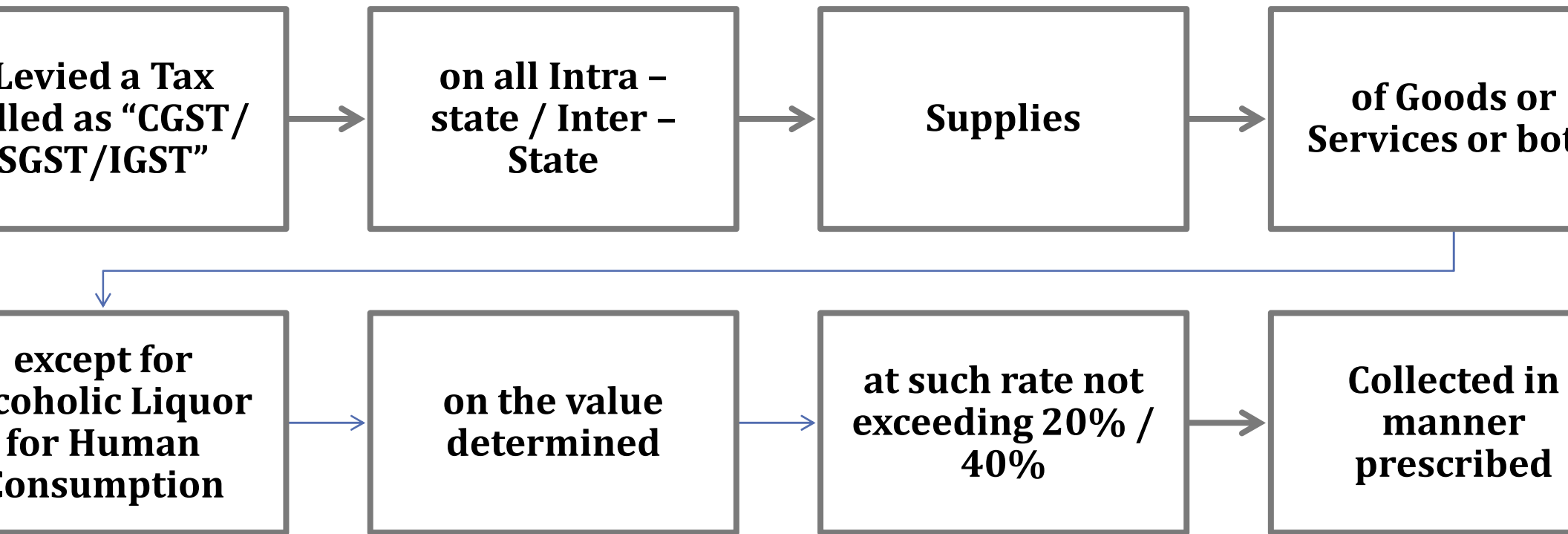
STATE LEVEL TAXES

- Value Added Tax
 - Petroleum Products
 - Alcoholic Liquor
- State Excise Duty on
 - Alcoholic Liquor
- Stamp Duty
- Electricity Duty

Taxable Event & Subject matter of tax

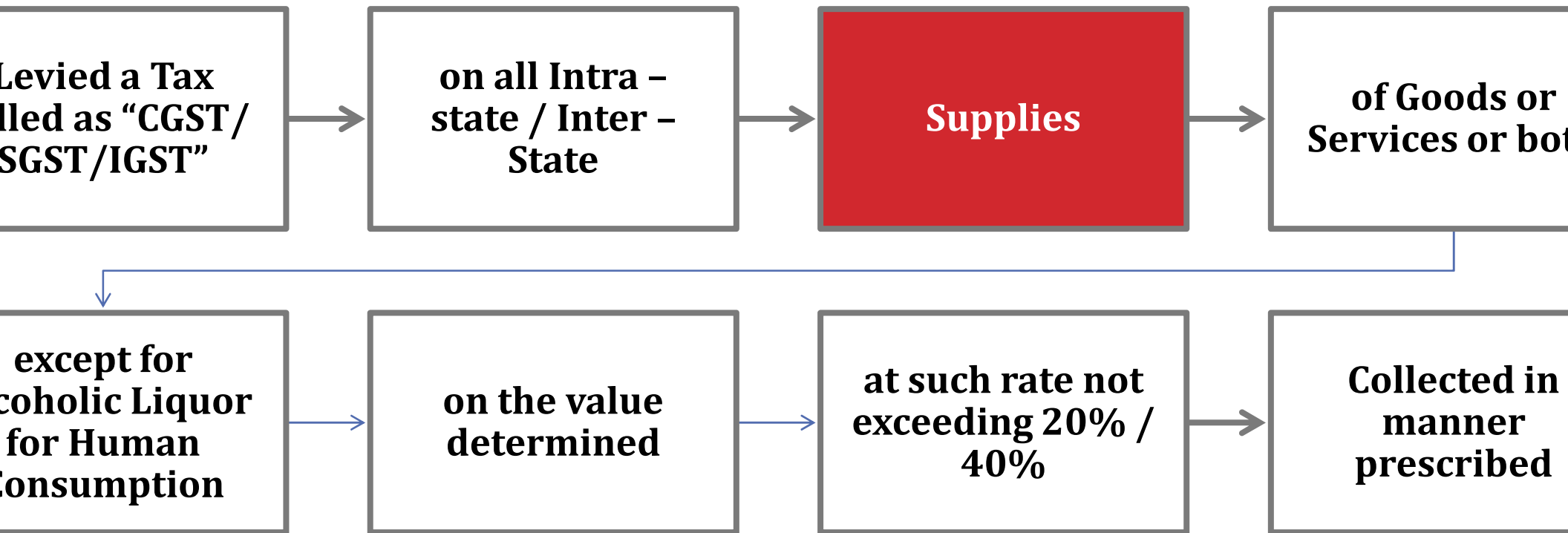
Dissection of Charge...

CGST/SGST & IGST Act

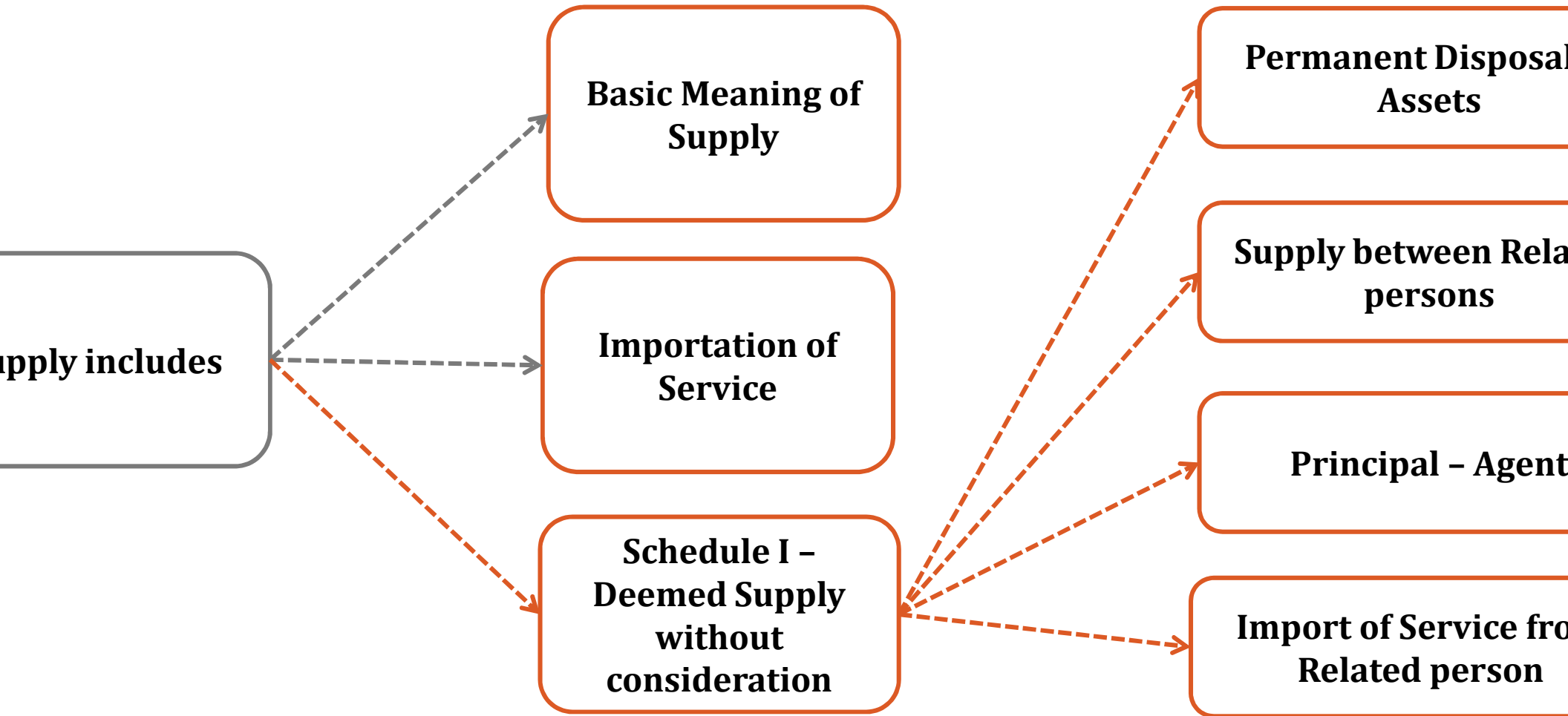


Dissection of Charge...

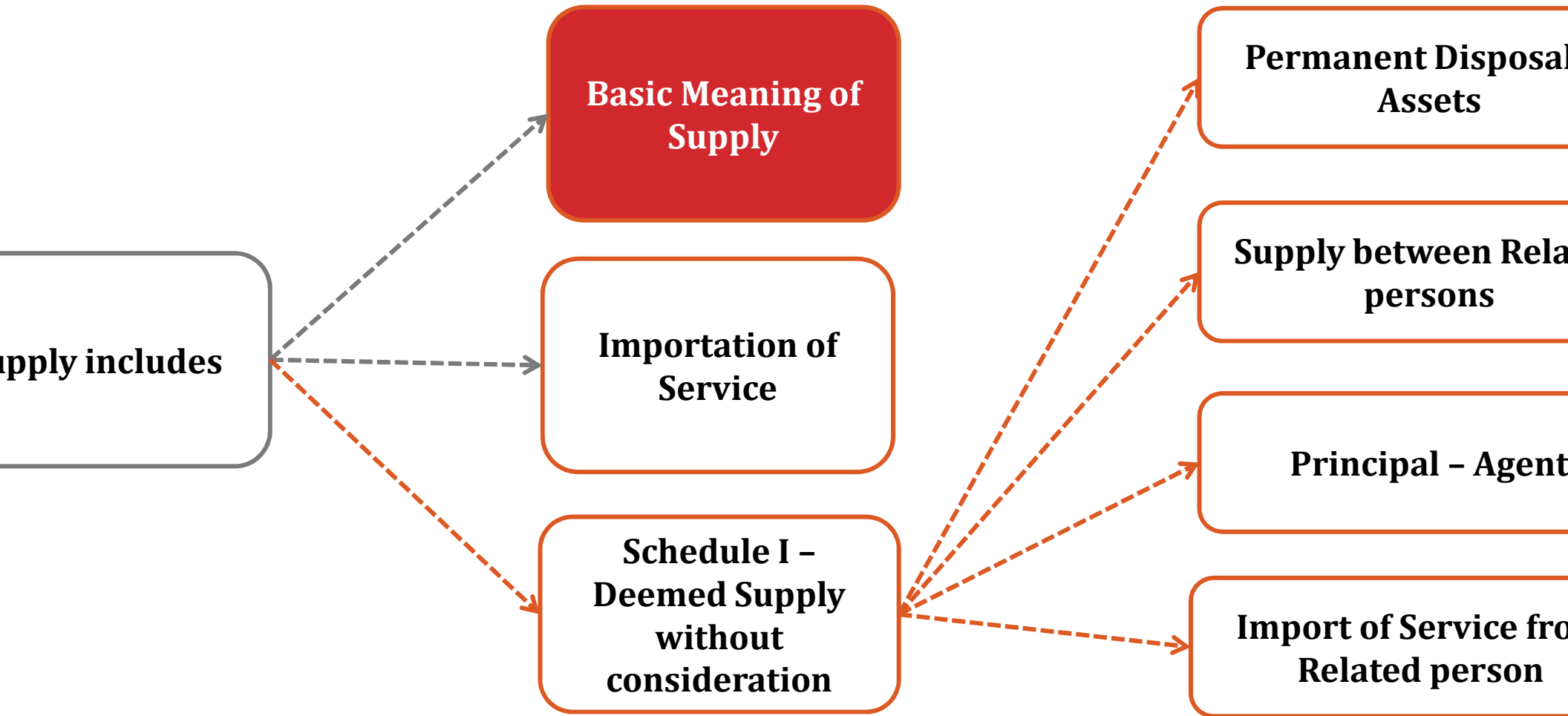
CGST/SGST & IGST Act



Definition of Supply



Definition of Supply



Meaning of Supply....Supply “includes”

All forms of Supply of Goods/Services

Such as sale,
transfer,
barter,
exchange,
license, rental,
lease or
disposal

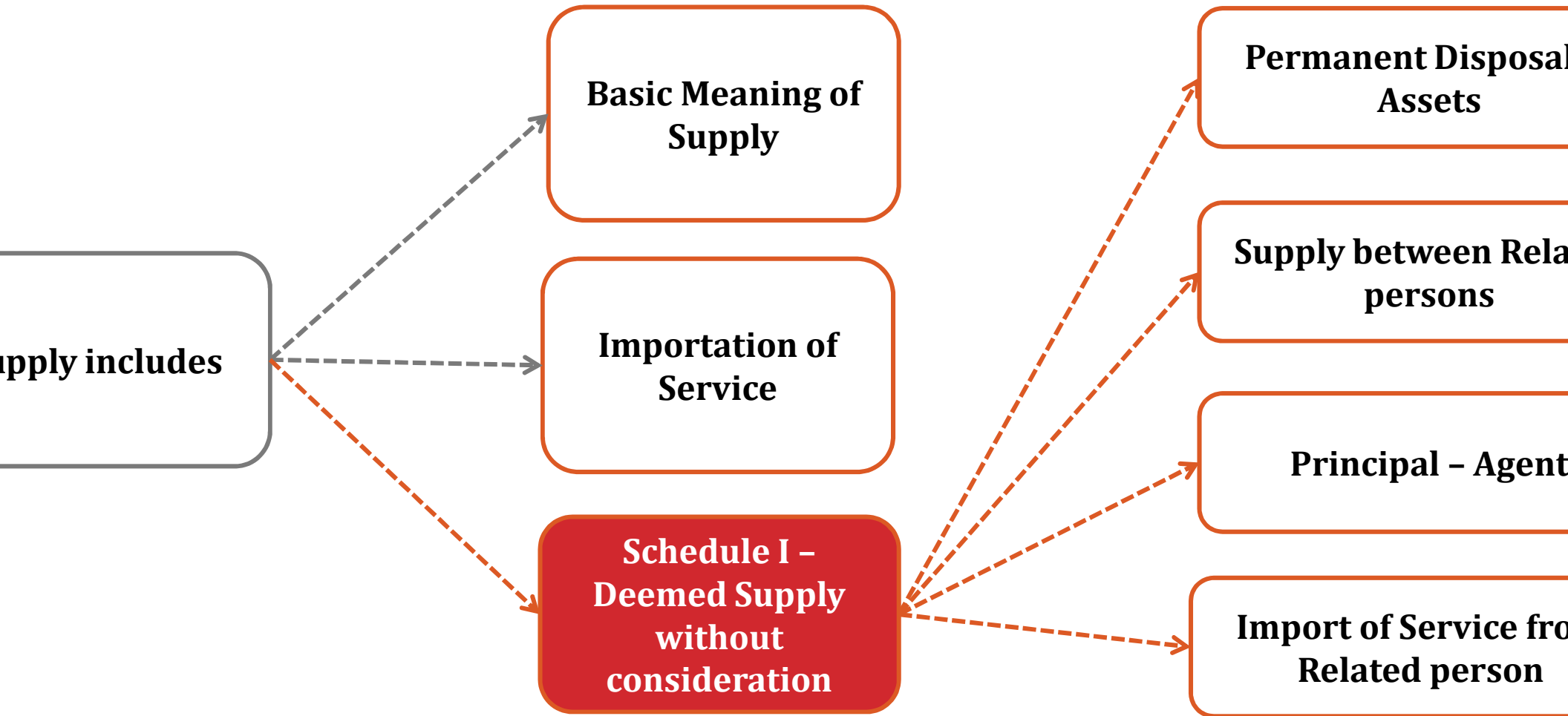
Made or
agreed to be
made

For a
consideration

By a person

In the course
or furtherance
of business

Definition of Supply



Concept of Mixed Supply Vs Composite Supply

Composite Supply

“composite supply” means a supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or, or any combination thereof, which are normally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply

Illustration.— Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a principal supply;

Mixed Supply

“mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, fruits, aerated drinks and fruit juices and supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately

Activities not to be treated as Supply

Services by an employee to an employer in the course of or in relation to employment

Services by Court or Tribunal

Service by Member of Parliament/Members of State Legislature

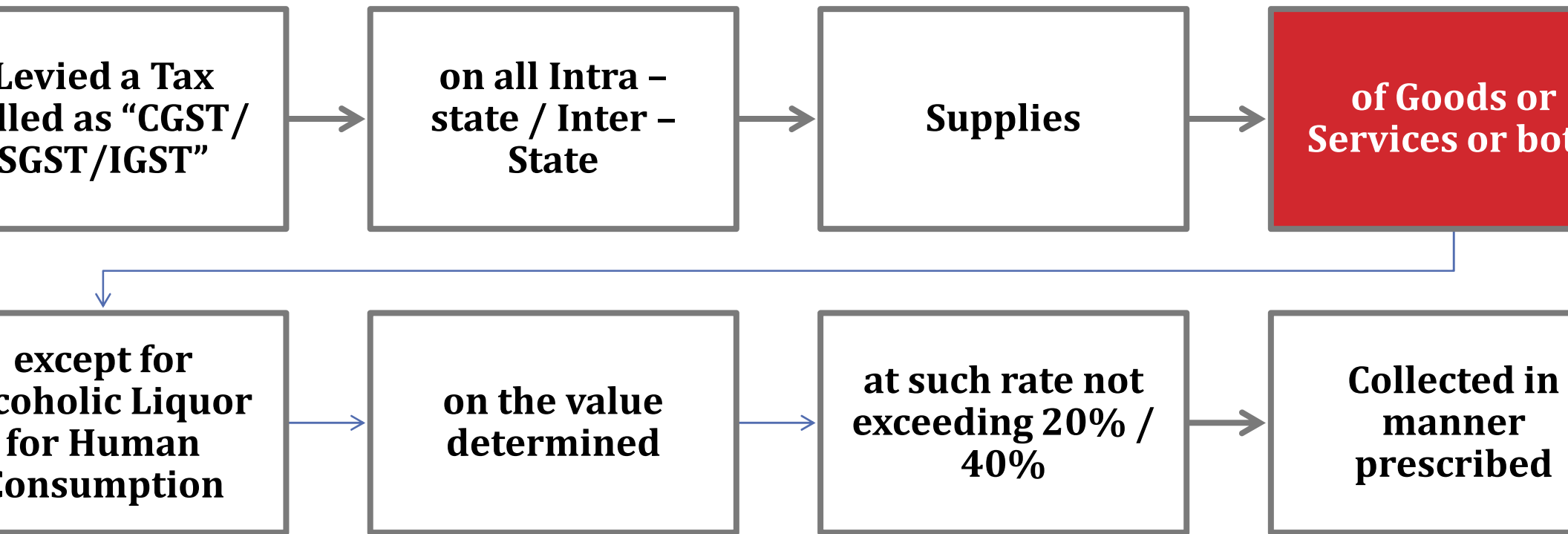
Services of funeral, burial, crematorium etc.

Sale of Land, Sale of Building

Actionable claims other than lottery, betting or gambling

Dissection of Charge...

CGST/SGST & IGST Act

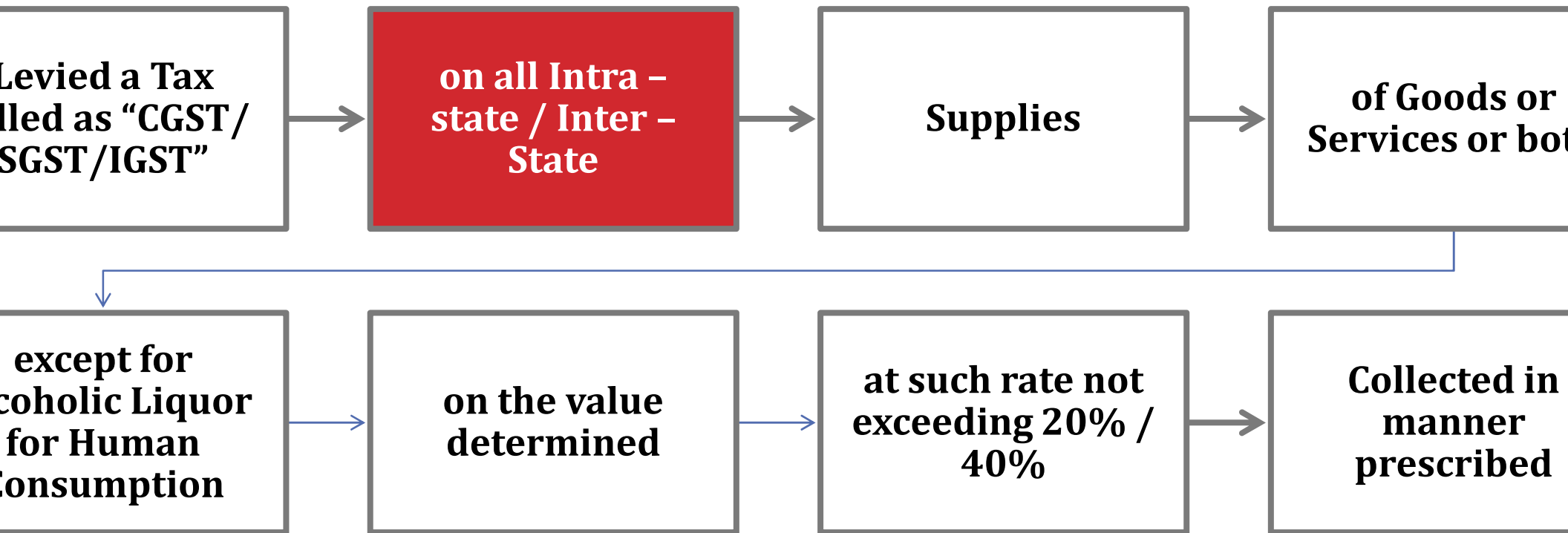


Goods Vs Services

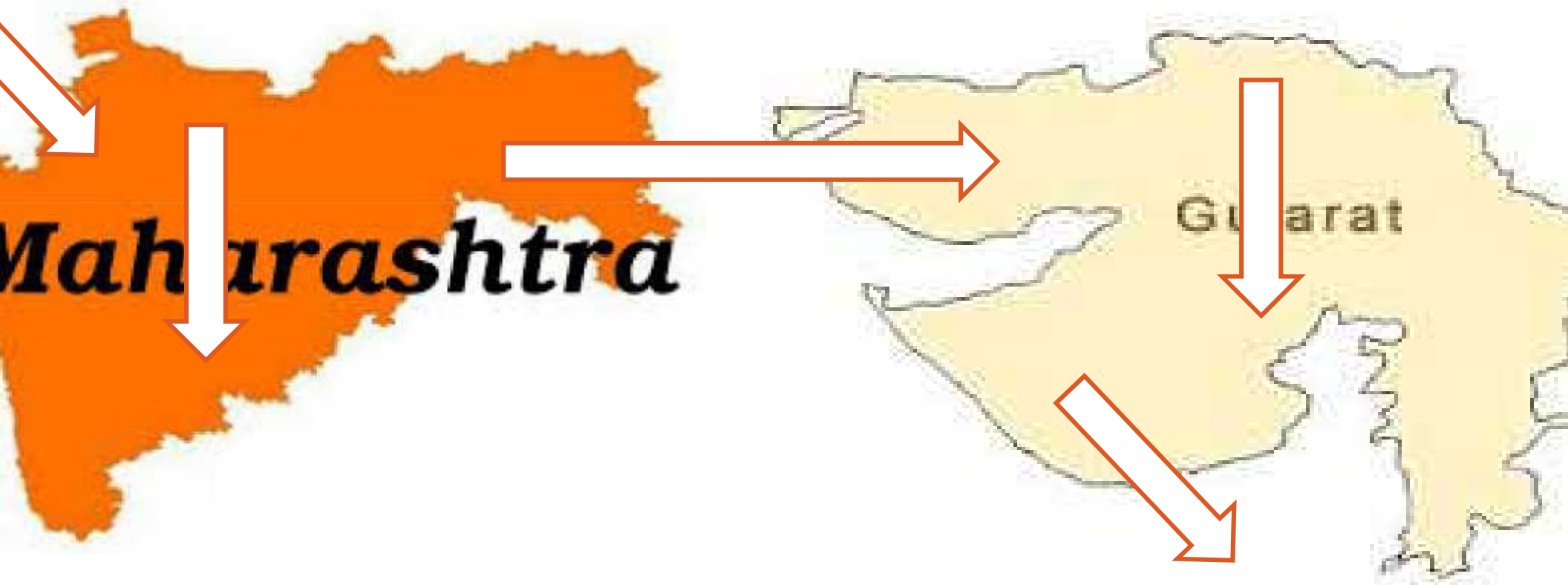
Goods	Services
means every kind of movable property other than money and securities	means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged
Supplying of any Tangible Product	Renting of Immovable Properties
	Under - Construction purchase of Immovable Property

Dissection of Charge...

CGST/SGST & IGST Act



Destination based Vs Origin based



Place of Supply

Subject matter	Place of taxability
Goods	Where the delivery of goods originate for sale
Services	Where services are consumed

Departure from present VAT Law which are ORIGIN based to CONSUMPTION based tax structure

Essential to determine where the goods and services are consumed and authority which should be entitled to tax revenue

To prescribe harmonious manner of determination of place of supply (especially intra-state OR inter-state AND cross-border)

Certain Posers

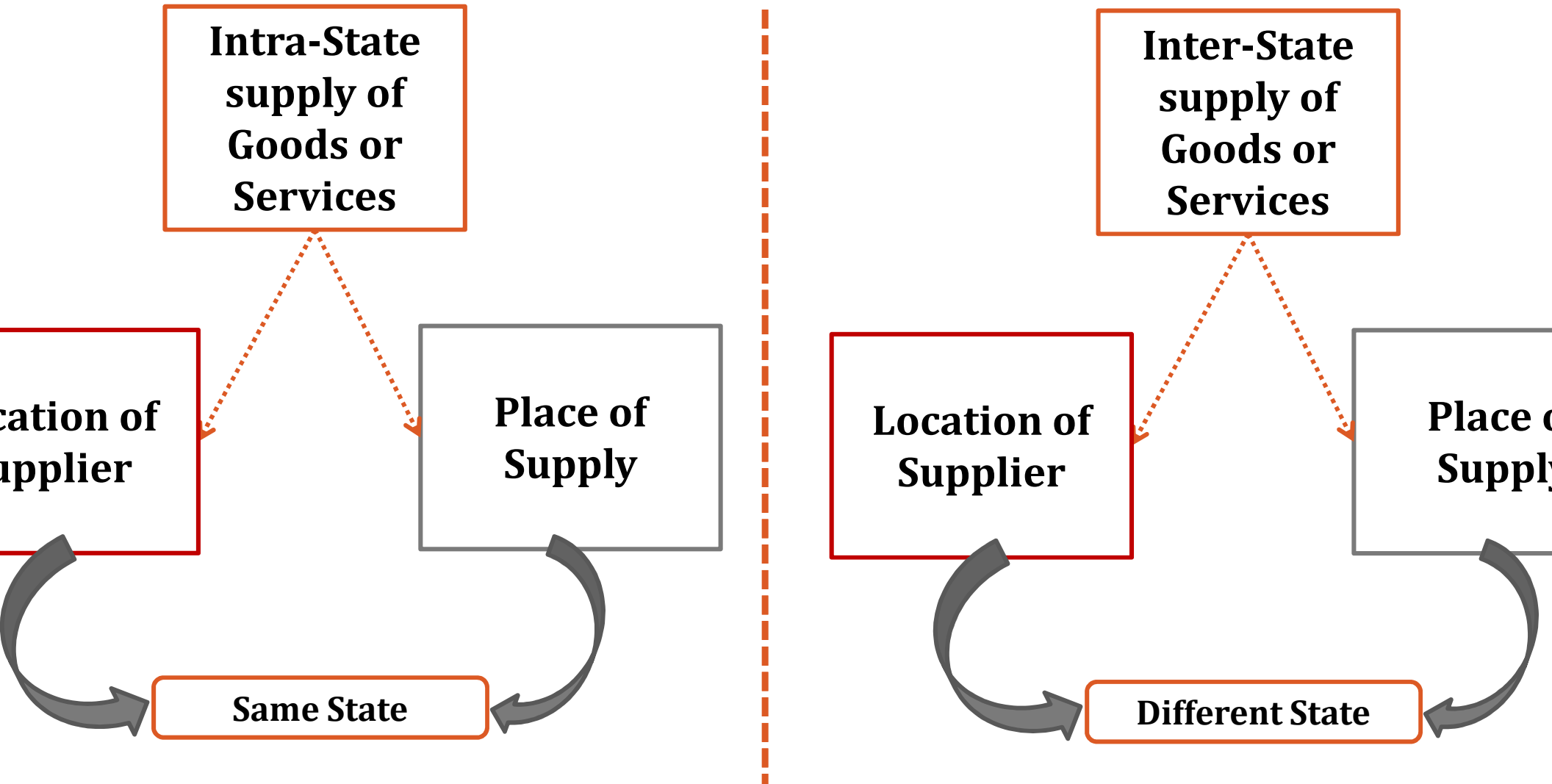
A Person residing in Mumbai may buy a ticket on the internet from a service provider outside India for a journey from Delhi to London

A person of Gujarat Origin is settled in Mumbai for Employment purpose has a bank account in Gujarat which is non operating. Bank has charged certain Bank charges for non-operating account

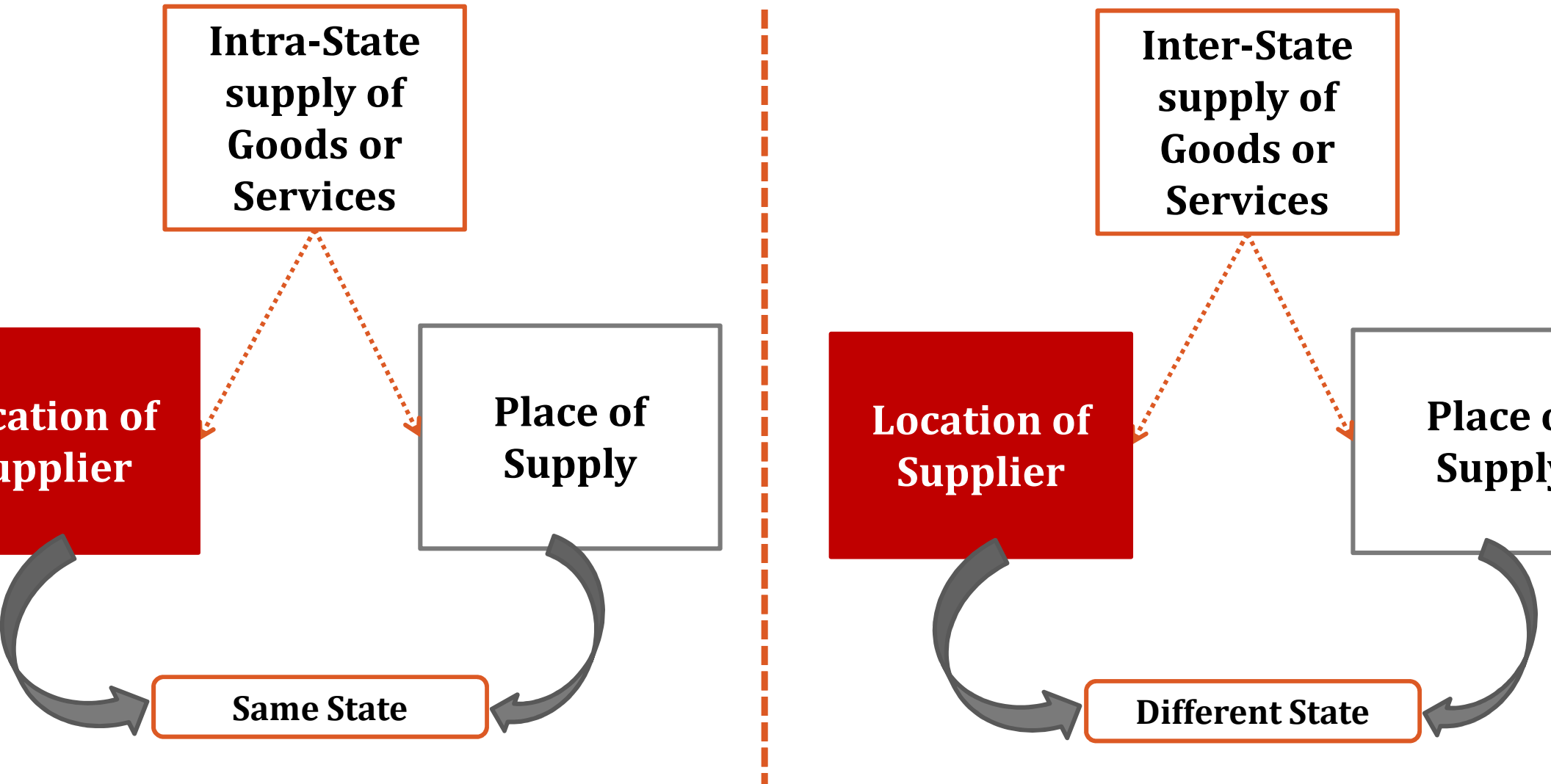
Visiting faculty providing a lecture in classroom located in some other state. The lecture is live telecasted all across the country

A person buys a packet of toffee for an outstation trip. He opens the packet in the middle of the journey and consumes some of the toffee's there

Intra-State transaction Vs Inter-State transaction



Intra-State transaction Vs Inter-State transaction



Relevant Definitions

Section 2(105) “*Supplier*”

in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied

Relevant Definitions

Section 2(71) "*location of supplier of service*" means –

- (i) where a supply is made from a place of business for which registration has been obtained, the location of such place of business;
- (ii) where a supply is made from a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
- (iii) where a supply is made from more than one establishment, whether the place of business is a fixed establishment, the location of the establishment most directly concerned with the provision of the supply; and
- (iv) in absence of such places, the location of the usual place of residence of the supplier;

Relevant Definitions

Section 2(85) "*place of business*" includes

- a) a place from where the business is ordinarily carried on, and **includes a warehouse, a godown or any other place where a taxable person stores his goods, supplies or receives goods or services or both; or**
- b) a place where a taxable person maintains his books of account; or
- c) a place where a taxable person is engaged in business through an agent, by whatever name called.

Section 2(50) "*Fixed Establishment*"

"Fixed Establishment" means a place (other than the registered place of business) which is characterized by a sufficient degree of permanence and suitable structure in terms of human and technical resources to supply services, or to receive and use services for its own needs.

Relevant Definitions

Section 2(70) "*location of recipient of service*" means –

- (i) where a supply is received at a place of business for which registration has been obtained, the location of such place of business;
- (ii) where a supply is received at a place other than the place of business for which registration has been obtained, that is to say, a fixed establishment elsewhere, the location of such fixed establishment;
- (iii) where a supply is received at more than one establishment, whether the place of business is a fixed establishment, the location of the establishment most directly concerned with the receipt of the supply; and
- (iv) in absence of such places, the location of the usual place of residence of the recipient;

Relevant Definitions

Section 2(93) of the CGST Act, 2017 “**Recipient**” of supply of goods or services or both means-

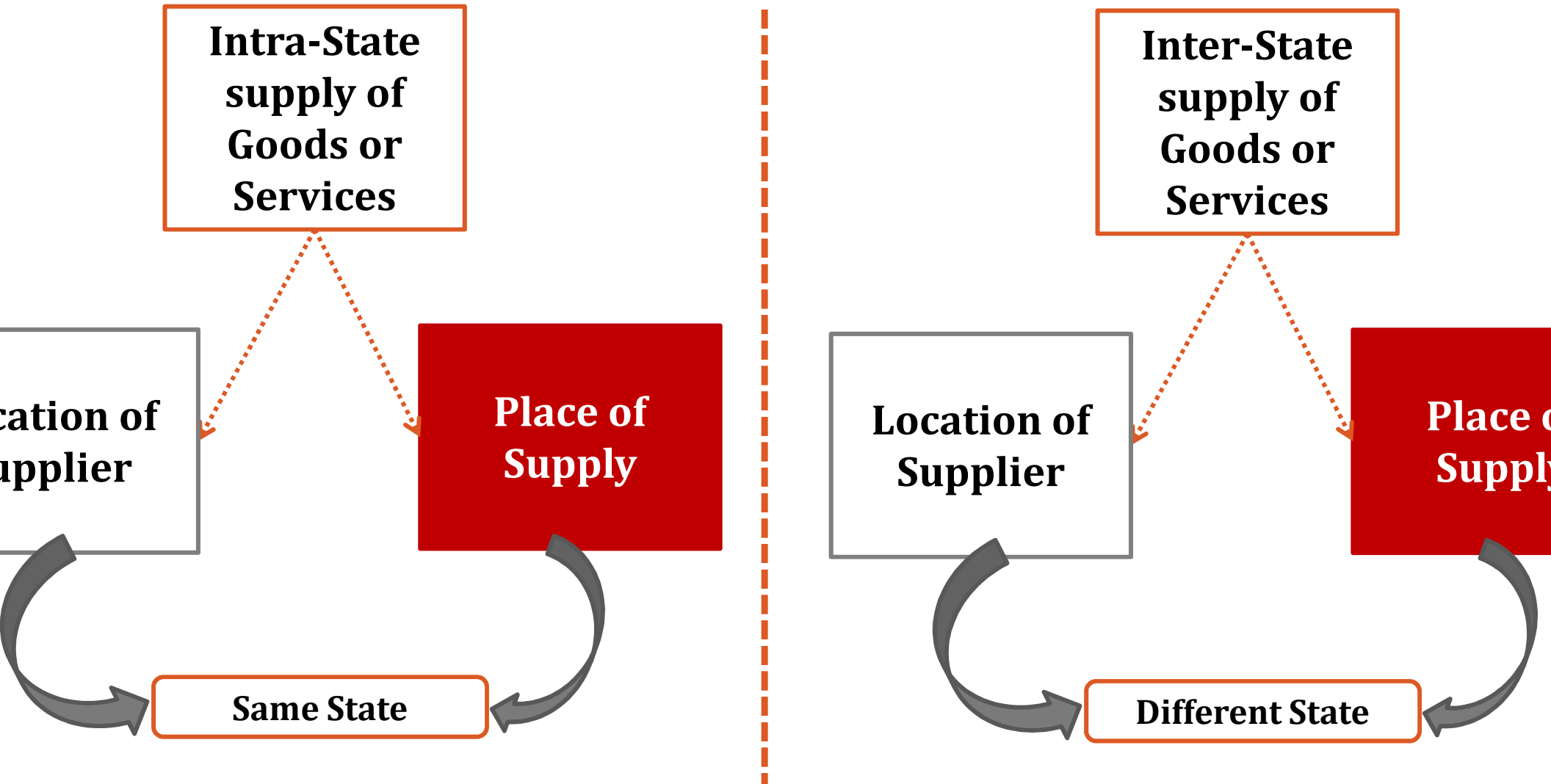
(a) Where consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration

(b) Where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and

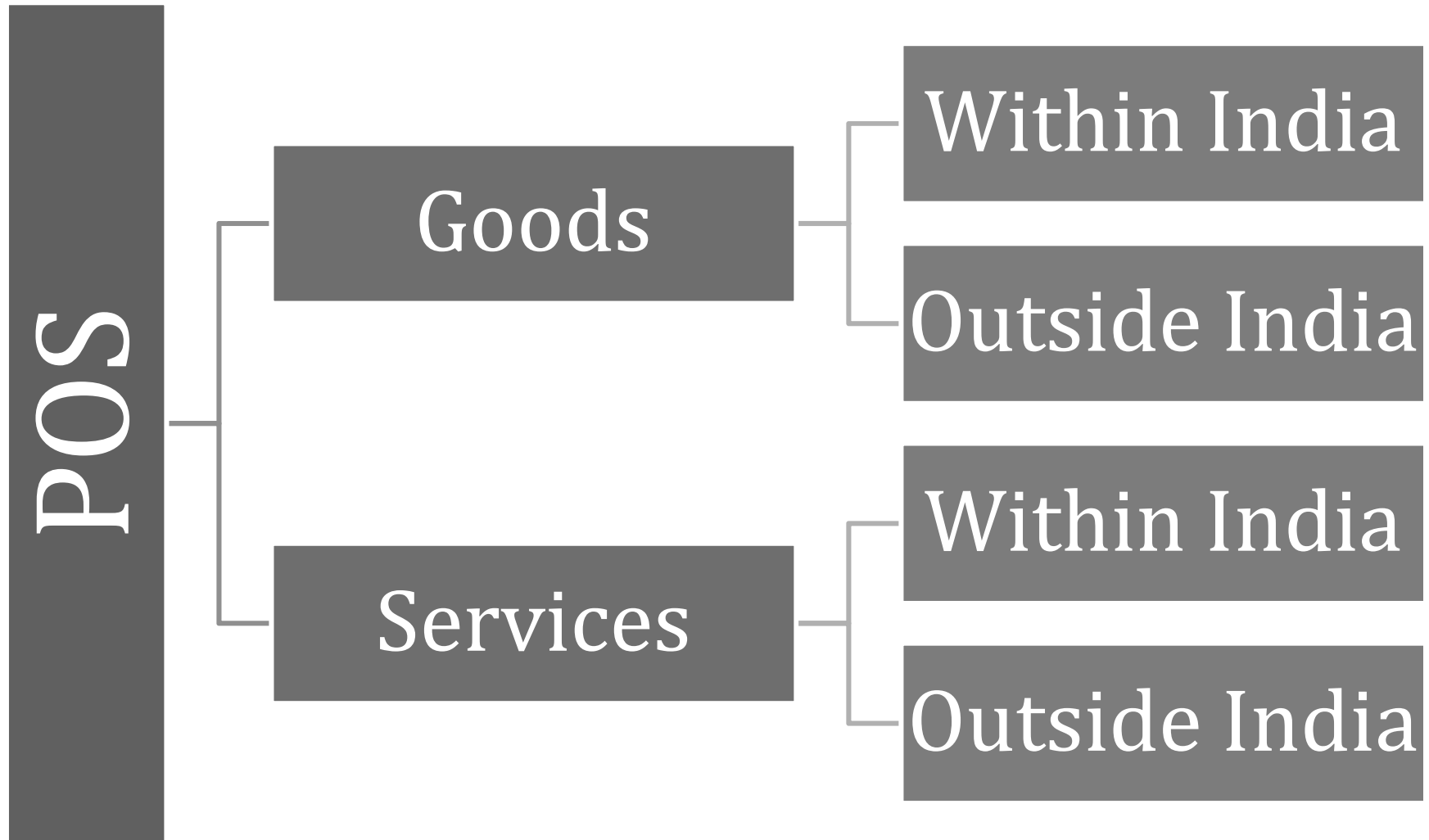
(c) Where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied

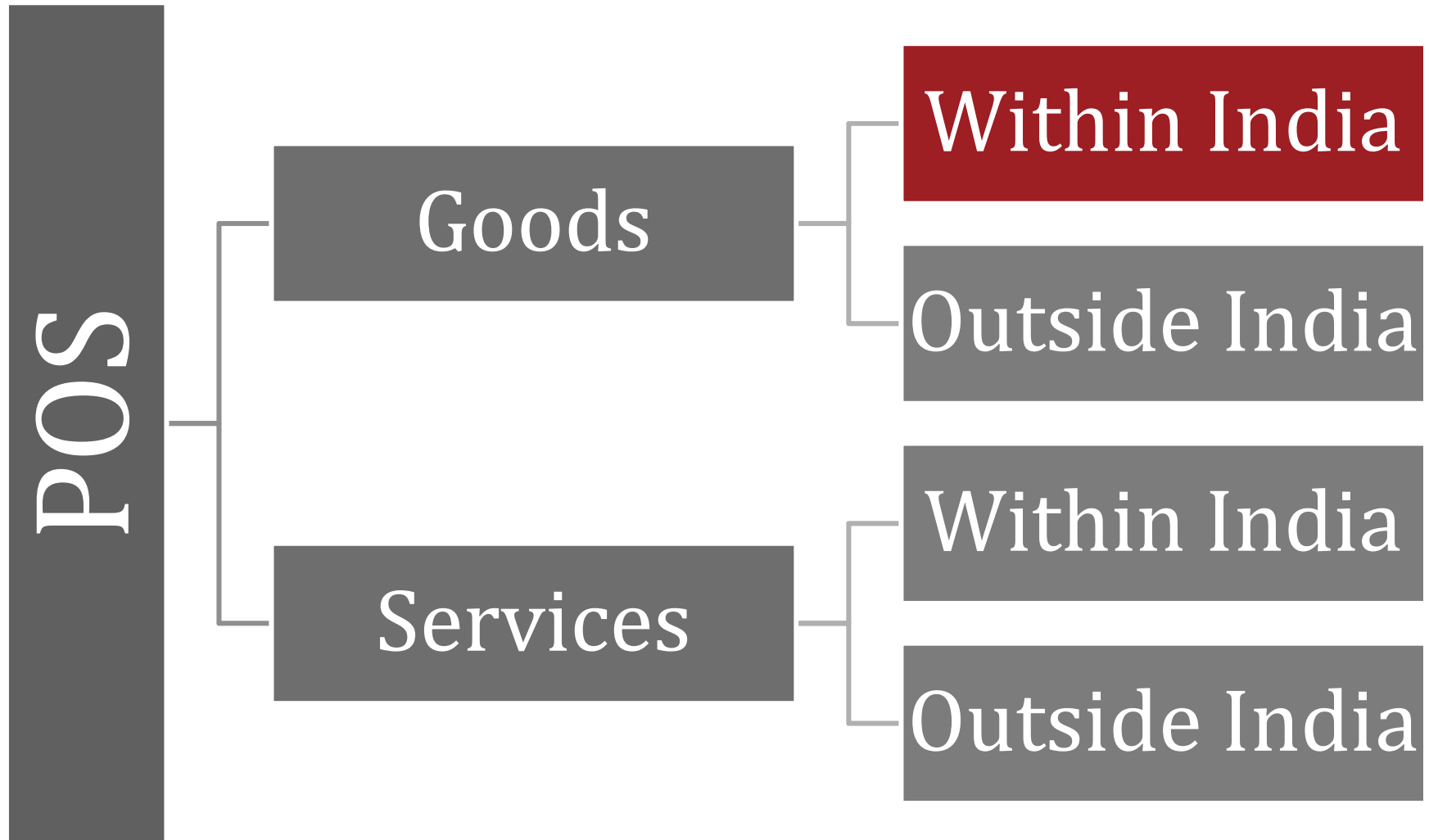
Intra-State transaction Vs Inter-State transaction



Place of Supply

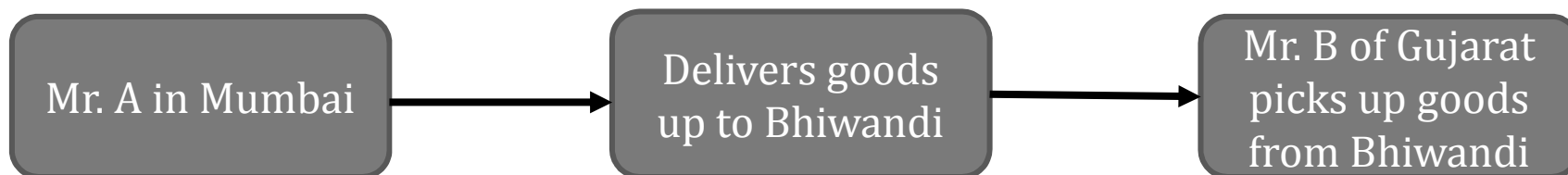


Place of Supply



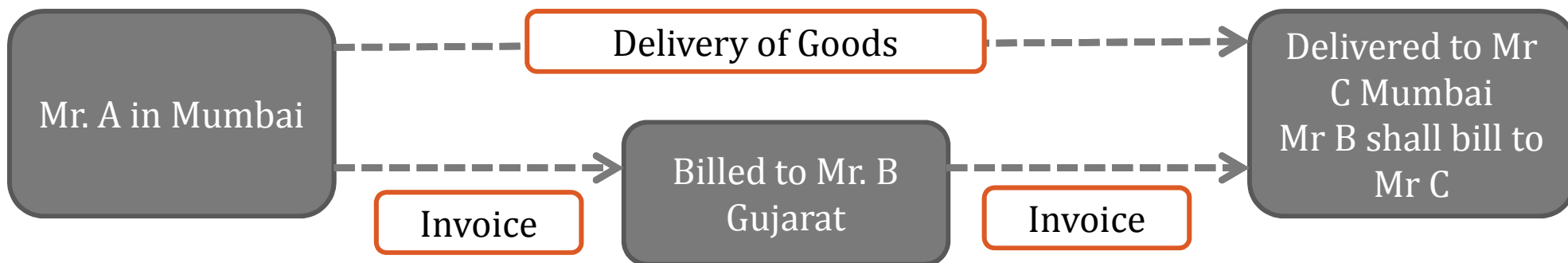
Place of Supply of Goods – Under IGST

Particulars	Place of Supply
Where the supply involves movement of goods, whether by the supplier or by the recipient or by any other person [Section 10(1)(a)]	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



Place of Supply of Goods - Under IGST

Particulars	Place of Supply
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 after the movement of goods, either by way of transfer of documents of title to the goods or otherwise [Section 10(1)(b)]	It shall be deemed that that the sale of goods is made at the place where the third person has received the goods and the place of supply of such goods shall be the principal place of business of such person



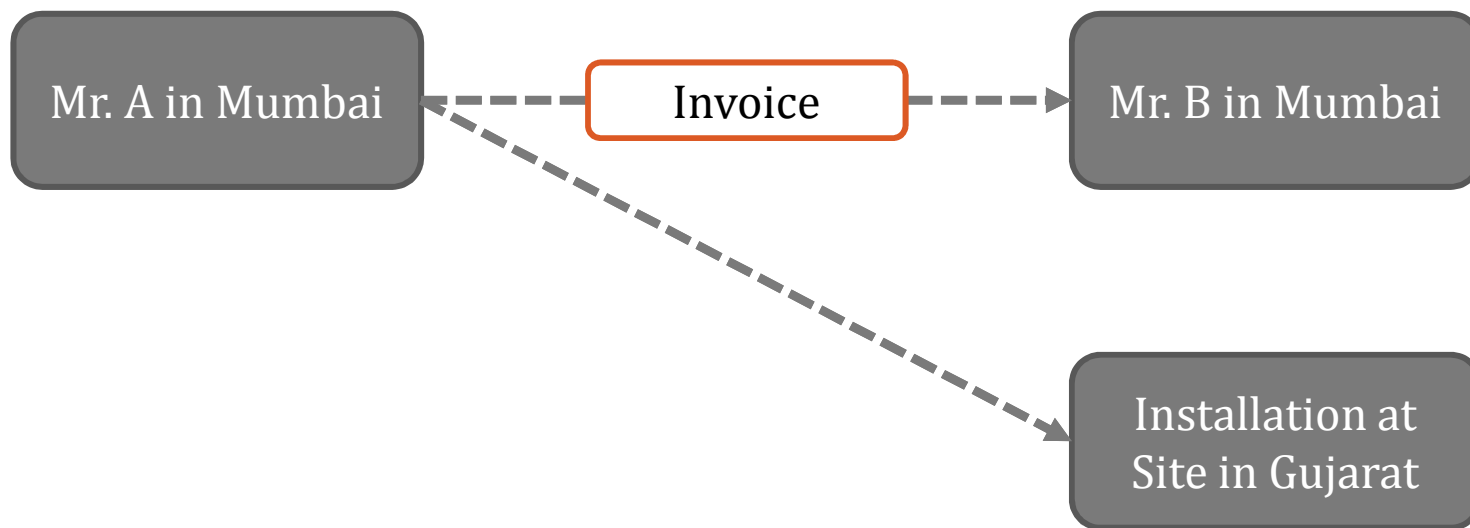
Place of Supply of Goods – Under IGST

Particulars	Place of Supply
Where the supply does not involve movement of goods, whether by the supplier or the recipient [Section 10(1)(c)]	The place of supply shall be the location of such goods at the time of the delivery to the recipient



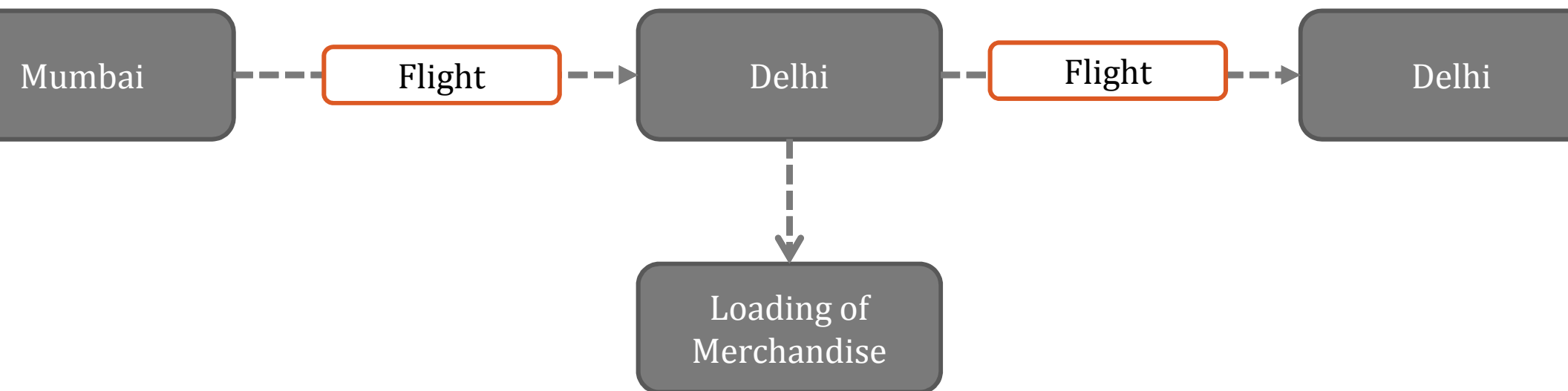
Place of Supply of Goods – Under IGST

Particulars	Place of Supply
Where the goods are assembled or installed at the site [Section 10(1)(d)]	The place of supply shall be place of supply at the site of installation or assembly

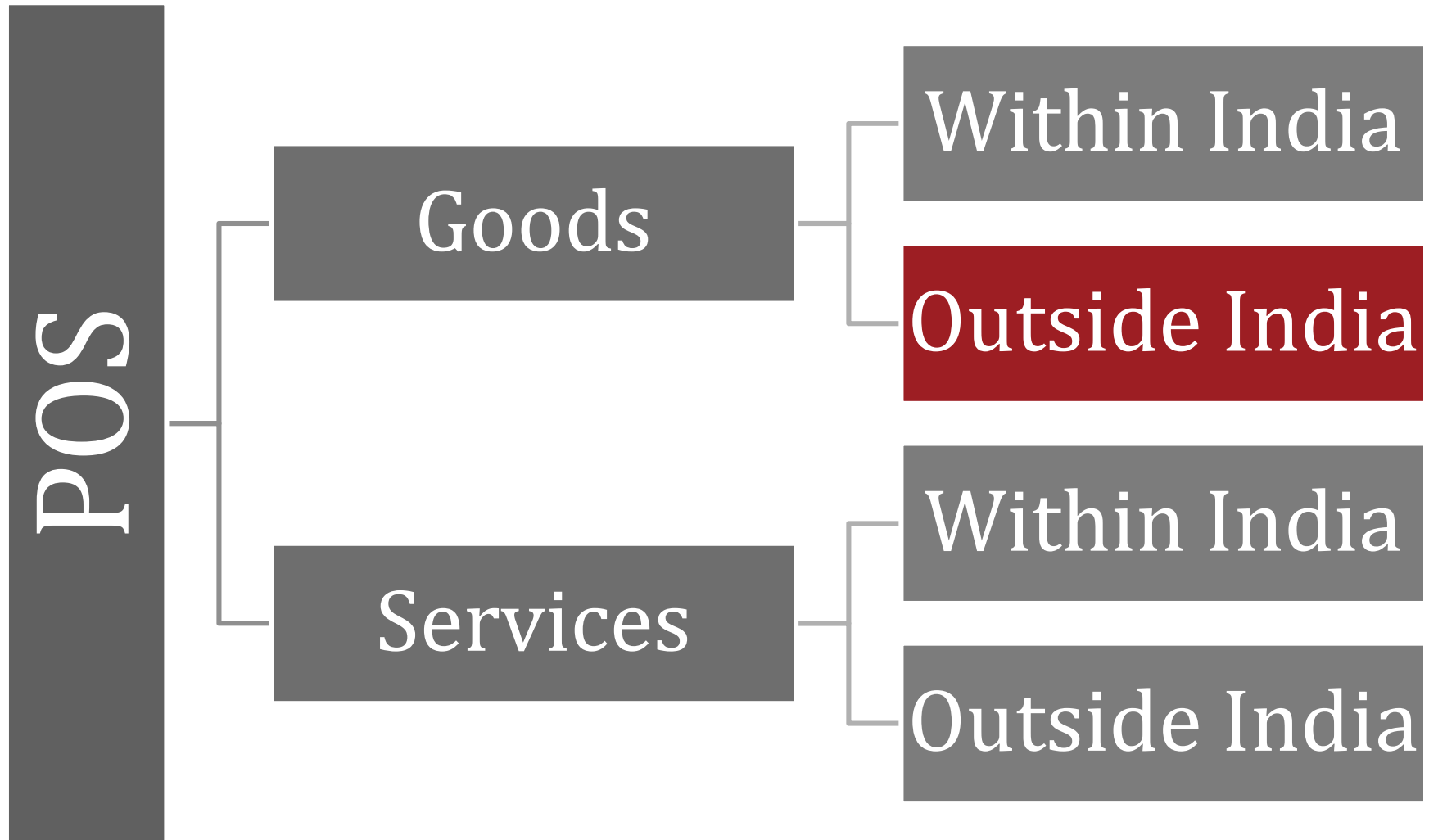


Place of Supply of Goods - Under IGST

Particulars	Place of Supply
Where the goods are supplied on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle [Section 10(1)(e)]	The place of supply shall be the location at which such goods are taken on board



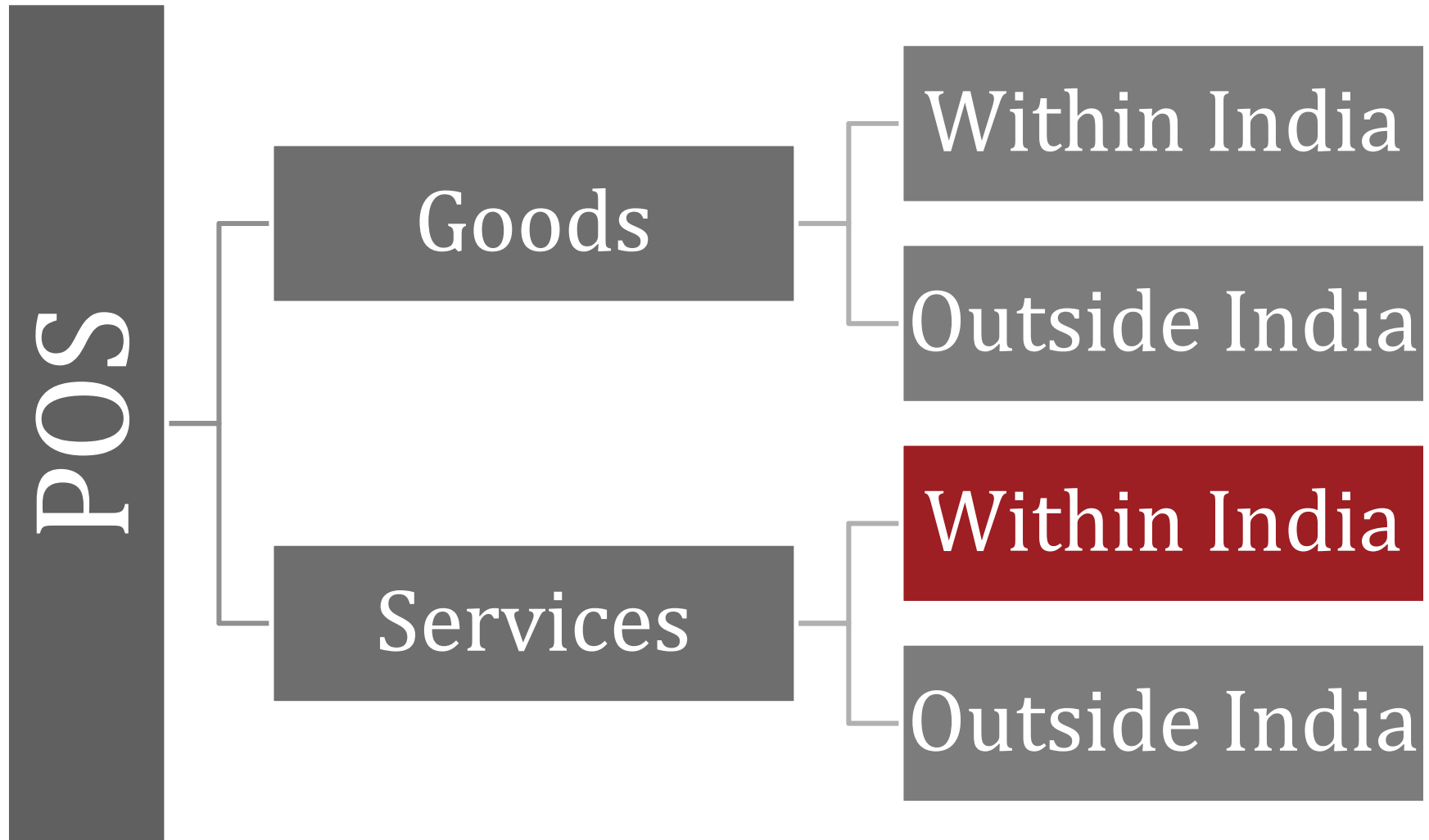
Place of Supply



Place of Supply of Goods – Under IGST

Particulars	Place of Supply
Section 2(10) of the IGST Act, 2017- “Import of Goods” with its grammatical variations and appropriate expressions, means bringing goods into India from a place outside India	The place of supply of goods imported into India shall be the location of the importer [Section 11]
Section 2(5) of the IGST Act, 2017- “Export of Goods” with its grammatical variations and appropriate expressions, means taking goods out of India to a place outside India	The place of supply of goods exported from India shall be the location outside India [Section 11]

Place of Supply



Place of Supply of Services – Under IGST

Particulars	Place of Supply
Supply of services made to a registered person not covered elsewhere [Section 12(2)]	Location of service recipient
Supply of services made to a person other than registered person not covered elsewhere [Section 12(2)]	Location of service recipient where address on record exists; and Location of service supplier in other cases

Place of Supply of Services – Under IGST

Particulars	Place of Supply
Supply of services in relation to immovable property including architects, interior decorators, surveyors, engineers & other related experts or estate agents, any service provided by way of grant of right to use immovable property for carrying out or co-ordination of construction work	Location of immovable property. 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 location of the recipient
Supply of Service by way of Lodging Accommodation by a Hotel, Inn, Guest house, Home Stay, Club or campsite including House boat or any other vessel	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 location of the recipient
Supply of Service by way of Accommodation in any immovable property for organizing any marriage or reception or any social function [Section 12(3)]	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 location of the recipient

Place of Supply of Services – Under IGST

Particulars	Place of Supply
Supply of services in nature of restaurant and Catering services, personal grooming, fitness, beauty treatment, health service including cosmetic and plastic surgery [Section 12(4)]	The location where the services are actually performed

Place of Supply of Services – Under IGST

Particulars	Place of Supply
Supply of services with respect to Training and Performance appraisal made to a registered person not covered elsewhere [Section 12(5)]	Location of service recipient
Supply of services with respect to Training and Performance appraisal made to a person other than registered person not covered elsewhere [Section 12(5)]	The location where the services are actually performed

Place of Supply of Services – Under IGST

Particulars	Place of Supply
Supply of services by way of admission to a cultural, artistic, sporting, scientific, educational, entertainment event or amusement park or any other place [Section 12(6)]	The location where the event is actually held or where the park or such other place is located

Place of Supply of Services – Under IGST

Particulars	Place of Supply
Supply of services with respect to Organizing of event and service ancillary to organizing of event made to registered person not covered elsewhere [Section 12(7)]	Location of service recipient
Supply of services with respect to Organizing of event and service ancillary to organizing of event made to a person other than registered person not covered elsewhere [Section 12(7)]	The location where the event is held If the event is held outside India, the place of supply shall be the location of recipient

Place of Supply of Services – Under IGST

Particulars	Place of Supply
Supply of services with respect to Transportation of goods including mail or courier made to a registered person not covered elsewhere [Section 12(8)]	Location of service recipient
Supply of services with respect to Transportation of goods including mail or courier made to a person other than registered person not covered elsewhere [Section 12(8)]	The location where such goods are handed over for transportation

Place of Supply of Services – Under IGST

Particulars	Place of Supply
Supply of services with respect to Transportation passenger made to a registered person not covered elsewhere [Section 12(9)]	Location of service recipient
Supply of services with respect to Transportation passenger made to a person other than registered person not covered elsewhere [Section 12(9)] <i>Explanation- For the purposes of this sub-section, the onward journey shall be treated as a separate journey, if the right to passage for onward and return journey is issued at the same time</i>	The location where the passenger embarks on the conveyance for 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)

Place of Supply of Services – Under IGST

Particulars	Place of Supply
The place of supply of services on board a conveyance, including a vessel, an aircraft, a train or a motor vehicle [Section 12(10)]	The place of supply shall be the location of the first scheduled point of departure of that conveyance for the journey

Place of supply of services of data transfer, broadcasting, cable and direct to home television services [Section 12(11)]

Particulars	Place of Supply
telecommunication line, leased circuits, internet leased circuit, cable or dish antenna	Location where installation is done for receiving services
paid mobile/ internet connection	Billing address of the service recipient on record
paid, internet connection, D2H – Voucher	Through selling agent, re-seller, distributor (Billing Address) By any other person place where such payment is received or such vouchers are sold
paid service is availed or recharge is made through internet banking/electronic mode	Location of the service recipient on record

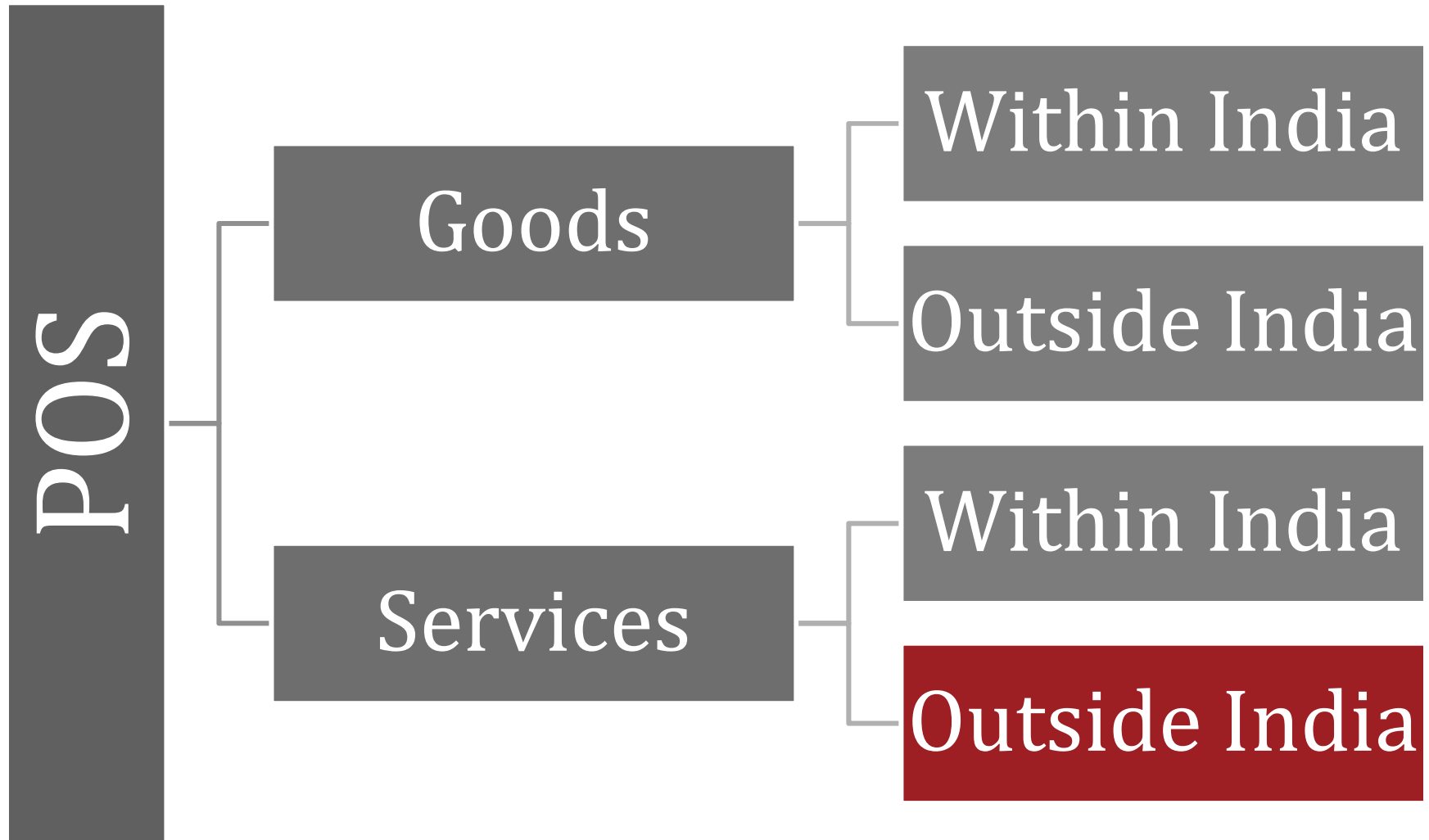
Place of Supply of Services – Under IGST

Particulars	Place of Supply
Supply of services with respect to Banking and Financial Services including Stock broker service made to any person [Section 12(12)]	The place of supply shall be location of service recipient on the records of the supplier of service In case the address on record is not available, the place of supply shall be location of supplier

Place of Supply of Services – Under IGST

Particulars	Place of Supply
Supply of services of Insurance made to registered person not covered elsewhere [Section 12(13)]	Location of service recipient
Supply of services of Insurance made to person other than registered person not covered elsewhere [Section 12(13)]	Location of service recipient where address on record exists; and

Place of Supply



Place of Supply of Services – Under IGST

Particulars	Place of Supply
Supply of services not covered anywhere [Section 13(2)]	Location of service recipient In case the location of recipient is not available, the place of supply shall be the location of supplier

Import of Service – Section 2(11) – Import of service means supply of any service where supplier is located outside India, Recipient is located in India and place of supply is in India

Export of Service – Section 2(6) – Export of service means supply of any service where supplier is located in India, Recipient is located outside India and place of supply is outside India

Place of Supply of Services – Under IGST

Particulars	Place of Supply
<p>Services that are related to goods, which require such goods to be made available to the service provider or a person acting on behalf of the service provider so that the service can be rendered, are covered here.</p> <p>[Section 13(3)(a)]</p>	<p>The place of Supply shall be location where services are actually performed</p> <p>Provided in case when services are provided from a remote location by way of electronic means, location shall be location of goods at the time of supply</p> <p>This provision does not apply for goods temporarily imported into India for repair and exported without use</p>

Place of Supply of Services – Under IGST

Particulars	Place of Supply
<p>Services in this category is capable of being rendered only in the presence of an individual. Services can be received by a representative of a company.</p> <p>[Section 13(3)(b)]</p>	<p>The place of Supply shall be location where services are actually performed</p>

Place of Supply of Services – Under IGST

Particulars	Place of Supply
Service that is directly in relation to immovable property, the place of provision is where the immovable property (land or building) is situated, irrespective of where the provider or receiver is located. [Section 13(4)]	The place of Supply shall be location of the Immovable Property

Place of Supply of Services – Under IGST

Particulars	Place of Supply
Services provided by way of admission to, or organization of a cultural, artistic, sporting, scientific, educational, entertainment event, or celebration, conference, fair, exhibition, or any other similar event and of services ancillary to such admission. [Section 13(5)]	The place of Supply shall be the place where the event is held

Place of Supply of Services – Under IGST

Particulars	Place of Supply
Where any service stated in sub-sections 3, 4, or 5 is provided at more than one location, including a location in the taxable territory [Section 13(6)]	The place of Supply shall be the location in the taxable territory
Where any service stated in sub-sections 3, 4, or 5 is provided at more than one State or Union Territory. [Section 13(7)]	Place of supply shall be taken as each state based on proportionate value as defined in contract. In case not defined in agreement, a manner shall be prescribed.

Place of Supply of Services – Under IGST

Particulars	Place of Supply
<p>The place of supply of the following services, namely-</p> <p>Services supplied by a banking company, or a financial institution, or a non-banking financial company, to account holders</p> <p>Intermediary Services</p> <p>Services consisting of hiring of means of transport, including yachts but excluding aircrafts and vessels, up to a period of one month</p> <p>[Section 13(8)]</p>	<p>The place of Supply shall be the location of supplier</p> <p>“Account” means an account bearing interest to the depositor and includes a non-resident external account and a non-resident ordinary account</p>

Place of Supply of Services – Under IGST

Particulars	Place of Supply
Services of Transportation of Goods other than air or courier [Section 13(9)]	The place of Supply shall be the destination of such goods
Services of Transportation of Passengers [Section 13(10)]	The place of Supply shall be the place where the passenger embarks on the journey
Services provided on board a conveyance for providing passenger transportation [Section 13(11)]	The place of Supply shall be the first scheduled point of departure

Place of Supply of Services – Under IGST

Particulars	Place of Supply
<p>Place of Supply of Online Information and Database access Service [Section 13(12) & 13(14)]</p> <p><i>Services supplied by a person located in non-taxable territory which are received by non-taxable online recipient, will be taxable in India and non-resident supplier will be liable to pay IGST himself or by his agent</i></p>	<p>The place of Supply shall be the location of Recipient</p> <p>However, person receiving the services shall be deemed to be in taxable territory if any of the 2 following conditions are satisfied:</p> <ul style="list-style-type: none">• The location of address presented by the recipient is in taxable territory• Card used for payment is issued in taxable territory• Billing address of recipient is in taxable territory• IP address of the device used by recipient is in taxable territory• Bank account of the recipient used is in taxable territory• Location of fixed land line through which service is received is in taxable territory

Definition of Online Information

“Online information and database access or retrieval services” means services whose delivery is mediated by information technology over the internet or an electronic network and the nature of which renders their supply substantially automated and involving minimal human intervention and impossible to ensure in the absence of information technology and includes electronic services such as,--

(i) advertising on the internet; (ii) providing cloud services;

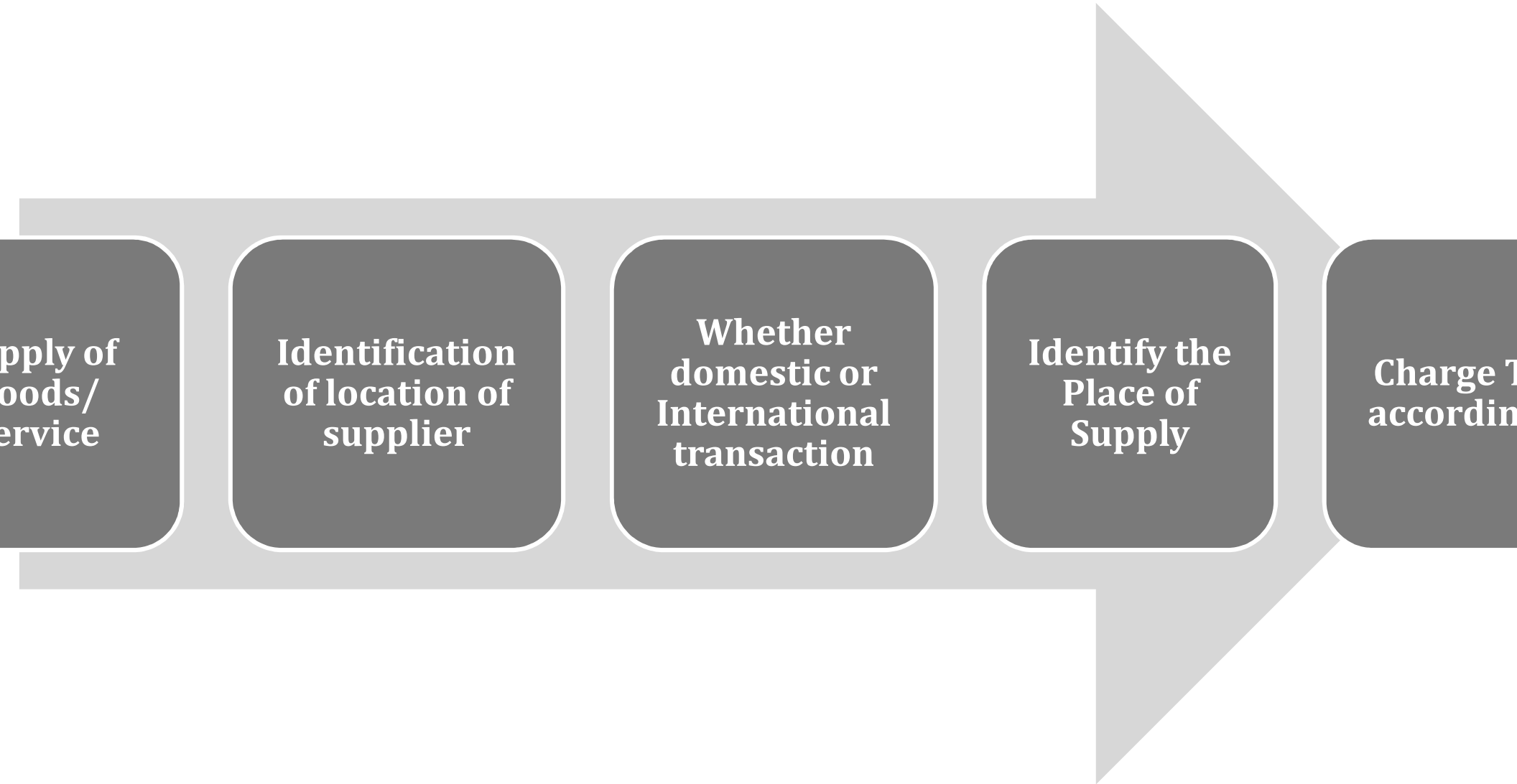
(iii) provision of e-books, movie, music, software and other intangibles through telecommunication network; (iv) provision of internet; (v) provision of e-mail; (vi) provision of internet; (vii) provision of internet;

(viii) providing data or information, retrievable or otherwise, to any person in electronic form through a computer network; (ix) provision of internet; (x) provision of internet;

(xi) online supplies of digital content (movies, television shows, music and the like);

(xii) digital data storage; and (xiii) online gaming

Way Forward



*Thank
you*



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