



ASSOCIATION OF AUSTRALIAN EDUCATION REPRESENTATIVES IN INDIA

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GST Council Recommendation on Intermediary Services: Place of Supply Proposed Amendment

Prepared for:

Association of Australian Education Representatives in India (AAERI)

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AAERI Advisory Note: Proposed GST Amendment on Place of Supply for Intermediary Services (Section 13(8) of IGST Act)

04 September 2025

To: All AAERI Members

Subject: Key Update – GST Council Recommendation on Intermediary Services: Place of Supply Proposed Amendment (AAERI has been guided by Ms Anita Rastogi and her team at **Price Waterhouse & Co LLP, India**, for this)

1. Background

The GST Council has recommended a significant amendment to the GST law concerning the place of supply for “intermediary services” under Section 13(8) of the Integrated Goods and Services Tax (IGST) Act, 2017. This change is highly relevant for Indian AAERI members who provide services to foreign universities and institutions.

2. What is Changing?

Current Law:

- Under Section 13(8)(b) of the IGST Act, the place of supply for intermediary services is deemed to be the location of the supplier (i.e., in India), even if the recipient is outside India.
- The tax department has classified AAERI member services as intermediary, thereby denying export status and subjecting them to GST in India.

However, several judicial rulings-including the recent Supreme Court judgment in KC Overseas-have ruled against this departmental stance under both the service tax and GST regimes.

Proposed Amendment:

- The GST Council has recommended omitting Section 13(8)(b).
- After the amendment, the place of supply for intermediary services will be determined as per the general rule in Section 13(2) of the IGST Act, i.e., **the location of the recipient of services**¹
- For AAERI members providing services to foreign universities (even if considered as intermediary services), the place of supply will now be outside India, provided the recipient is located outside India.

3. Implications for AAERI Members

a) Export Benefits

- Services provided to foreign universities will qualify as “export of services” if all conditions under Section 2(6) of the IGST Act are met
- Such services will be zero-rated under Section 16 of the IGST Act, making members eligible to supply without payment of IGST under a Letter of Undertaking (LUT) and claim a refund of unutilized tax credit (ITC)

b) Prospective Application

- **It is likely that the amendment will be prospective in nature.** Therefore, it would apply only to invoices raised after the date the law is notified and comes into effect.
- Past transactions **will not** be automatically covered by this change. GST already paid on past supplies cannot be claimed as a refund solely due to this amendment.
- Members who wish to seek a refund for GST paid on past transactions (where the client university has not paid GST) may explore legal remedies, such as appeals based on favorable court decisions. Such claims will be considered independently of the GST Council's recent decision

c) Subagents and Lead Referrals

- Indian suppliers (such as subagents or lead referral partners) providing services to AAERI members (**not located** in SEZ area) **must continue to charge GST** on their invoices to AAERI members, as they are making domestic supplies and do not qualify as exporters.
- However, AAERI members may be able to claim a refund of such GST paid, subject to eligibility and compliance with refund procedures
- Indian suppliers (such as subagents or lead referral partners) to AAERI members **located in SEZ area** must **not charge GST** on their invoices to AAERI members, as the transaction will qualify as zero rate supplies.

5. Action Points for Members

- **For new invoices to foreign universities:** After the amendment is notified, treat such services as exports (subject to other conditions).
- **For subagent/referral arrangements:** Continue to pay GST on such invoices if not located in SEZ zone; claim refund if eligible.
- **For past GST paid:** Consult your tax advisor for possible legal remedies based on case laws.
- **For specific business models:** Members are encouraged to seek tailored advice from tax consultants, as each arrangement may have unique GST implications.

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