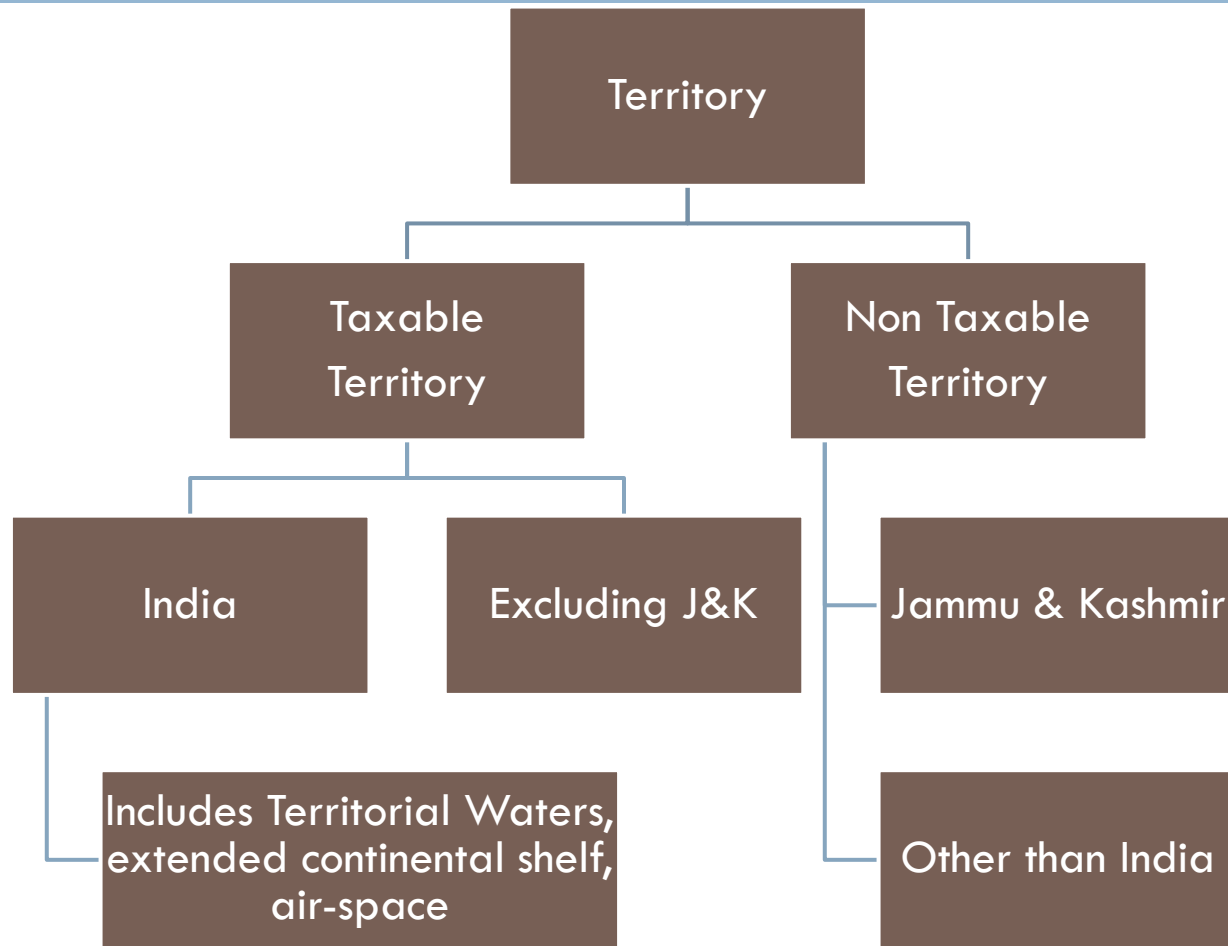


NEGATIVE LIST BASED TAXATION OF SERVICES

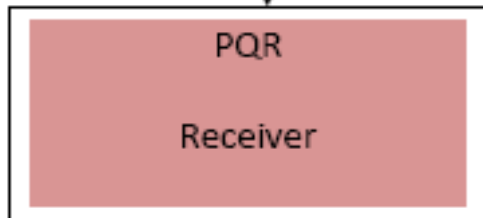
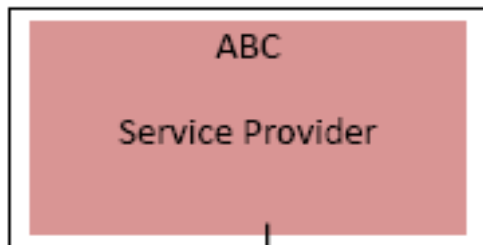
PLACE OF PROVISION OF SERVICE RULES

Territory

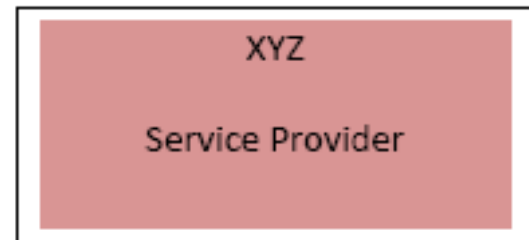
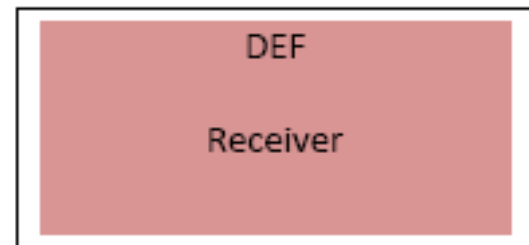


Situs of Taxation

Taxable Territory



Non-taxable Territory



Some Concepts

- Transaction either covered or not covered
- Based on Place of Provision of Services Rules
- Concepts of Import / Export of Service deleted
- Reverse Charge Mechanism applicable, if Service Provider located outside India
- No Major Impact – more confusing due to use of word “provision” instead of “receipt”

Snapshot of Impact

	Old Provisions	New Provisions
Basis of Determination	Separate Rules for Import and Export based on category of service	Common Rules based on substance of transaction
Services rendered to foreign clients	Not Liable for Payment of service tax	Not Liable for Payment of Service Tax since territory outside India
Impact of receipt in Indian Currency	Taxable	Still Not Taxable but, reversal of CENVAT Credit required
Services from foreign vendors	Liable for Payment under RCM	Liable for Payment under RCM
Transactions with J&K	Not Applicable	Applicable
Transactions between Branches	Impacted Imports only	Impacts Imports as well as Exports

Place of Provision of Services Rules...

Description	Rule
General Rule	Location of Service Receiver. In case the location of the service receiver is not available, then Location of service provider
Services provided in respect of goods that are required to be made physically available by the service receiver to the service provider, in order to provide the service	Place of Performance
When such services are provided from a remote location by way of electronic means.	Location of goods at the time of provision of service
Services provided entirely or predominantly, in the ordinary course of business, in the physical presence of an individual, represented either as the service receiver or a person acting on behalf of the receiver	Place of Performance

...Place of Provision of Services Rules

Description	Rule
Services in relation to immovable property	Location of Immovable property
Services in relation to Events	where the event is actually held
When Service Provider and Service Receiver are located in taxable territory	Location of service receiver
Specified services:	Location of Service Provider
a) Banking & Financial Services	
b) Online Information and Database access or retrieval services	
c) Intermediary services	
d) Hiring of means of transport	
Service of Transport of Goods	Destination of Goods
Goods Transport Agency	Location of Service Recipient
Passenger Transportation	Place of Origin
On Board a conveyance	Place of Origin

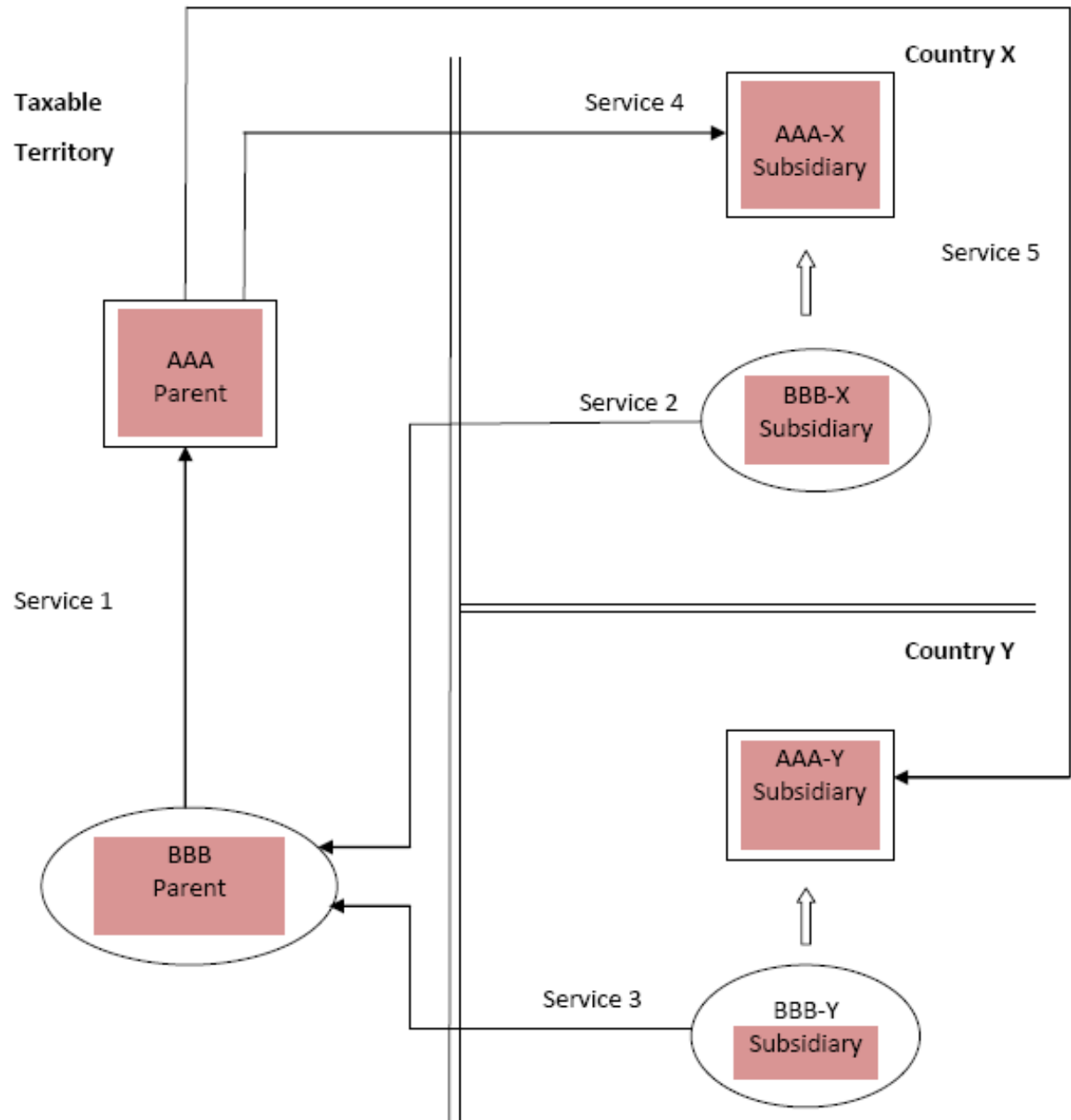
Snapshot of Impact

	Old Provisions	New Provisions
Generic Issues		
Service Provider and Service Recipient in same location	Debatable if the service is rendered abroad	Taxable even if service rendered abroad
India Specific Definitions (like telecommunication services)	Earlier not taxable	Now Taxable in view of negative list
Category Specific Issues		
Technical Testing and Analysis	Recipient Based	Performance Based
Service Intermediaries	Recipient Based	Provider Based
Online Information and Database Access	Recipient Based	Provider Based

Force of Attraction Rule

- In case of multiple establishments, place of establishment more closely connected with the activity to be considered
- How to determine the place of establishment more closely connected?
 - ▣ Invoice
 - ▣ Contract
 - ▣ Payment
 - ▣ Debit to Accounts (Bearing of Cost)
 - ▣ Actual Performance/Consumption of the Service

Example for Global Services



**TIME FOR QUESTIONS
AND REFRESHMENTS...**