

Section 15 - Value of Supply



CA Vishal Bhattad

Sec 15(1)

Value of Taxable Supply = Transaction value Price actually paid or payable for Supply

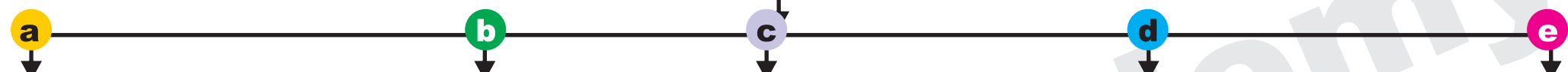
- Conditions:**
- 1) Not related party
 - 2) Price is sole consideration

Duties & Taxes All taxes levied under any law for time being in force other than GST Acts if charged separately

Tobacco & Tobacco Products

Sec 15(2)

Inclusion to Transaction Value



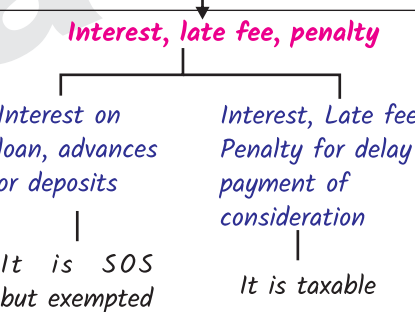
3rd party payment Any payment incurred by the recipient for which supplier is liable to pay

Example: Isha Time Gallery has been appointed as an authorized center of Sony electronics, On sales of worth ₹ 20,00,000 electronic items. Sony electronics is liable to pay commission @ 10 % on such sale i.e. ₹ 2,00,000 but such selling commission to be paid by Sony electronics has been paid by Isha Time Gallery for the month of August. In this case such expense shall be included in transaction value.

Incidental expenses: (packing, commission etc) Any incidental expenses charged by supplier & any amount charged for anything done by the supplier at the time of supply or before delivery

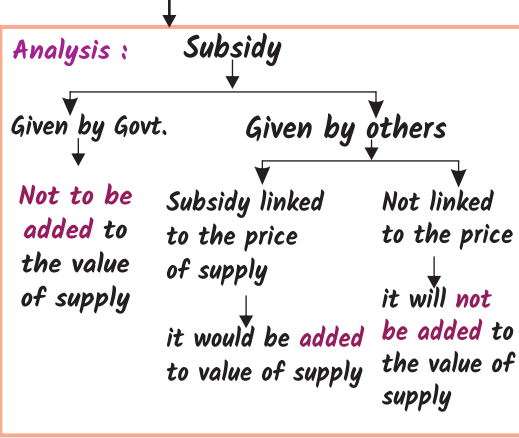
- Examples of additional recoveries by supplier**
- Packing, labeling, designing etc
 - Royalty, warranty charges, etc.
 - Insurance charges
 - Dharmada
 - Weightment charges.
 - Loading, weighing, coolie
 - Freight shown separately in invoice
 - Erection installation charges
 - Pre Delivery Inspection Charges

Interest, late fee penalty for delay payment of consideration



- Important Notes:-**
- 1) **Value:-** Normally interest, late fee, Penalty would be considered as inclusive of GST.
 - 2) **TOS:-** As per 12(6)/13(6) i.e. in a month when a such amount is actually received.
 - 3) **Rate:-** Based of original supply

Subsidy Subsidy directly linked to price by person other than govt.



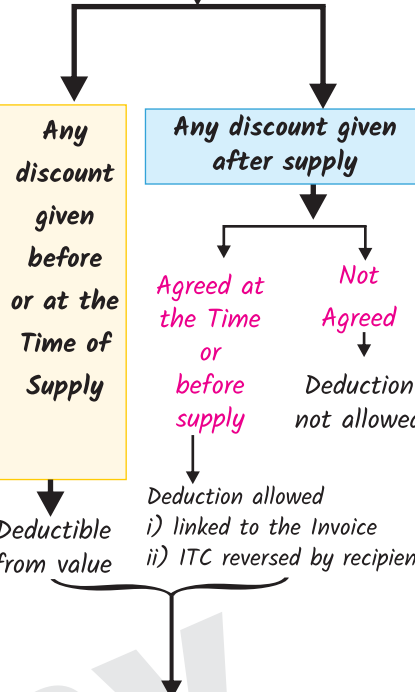
Staggered discount (Buy more, save more offers):- Generally shown in the invoice , to be excluded

Periodic/ year end discount/ volume discounts :- Generally not shown on invoice since given at year end such discount are excluded from value of supply subject to fulfillment of conditions u/s 15(3)(b).

Secondary discounts (not known at TOS):- Such discount shall not be excluded from value of supply since not known at TOS & 15(3)(b) condition not satisfied.

Sec 15(3)

Deduction of discount



Important Clarification

Circular No.:- 47/21/2018	Circular no. 76/50/2018	Circular No.:- 115/34/2019	Circular No. 204/16/2023
<p>1. Components Made Using OEM-owned Moulds/Dies:</p> <ul style="list-style-type: none"> ➤ If a component manufacturer uses moulds and dies owned by the Original Equipment Manufacturers (OEM) which are provided free of cost (FOC), <u>the value of these moulds and dies will not be included in the value of the supply.</u> ➤ Reason: The component manufacturer doesn't incur the cost of these moulds/dies, and hence, as per section 15(2)(b), it will not added to the supply value. 	<p>Issue:- TCS under Income-Tax Act, 1961 is includible in the taxable value or not?</p> <p>Clarification: To determine the value of supply under GST, tax collected at source (TCS) under the IT Act, 1961 would not be includible as it is an interim levy not having the character of tax.</p>	<p>Issue:- (1) Whether GST is on Airport levies? (2) Airport levies do not form part of VOS provided by the airlines and consequently no gst should be charged by airlines on airport levies?</p> <p>Clarification:- For (1) & (2):-</p> <ol style="list-style-type: none"> 1- Passenger service fee (PSF)=Airport licensee(authority) collect it from embarking passengers & utilize it for infrastructure/facilitation of passengers 2- User Development fee (UDF)= Authority, which manages the airport is eligible to levy and charge UDF from embarking passengers at any airport (collected at the time of issue of tickets) 3- Consideration= PSF/ UDF charged by airport operators (i.e. airline company) {u/s 2(31)} 4- Airline company = pure agent (if satisfies all conditions of rule 33)= separately indicate actual amount of PSF/UDF and GST on both, in the invoice issued by airlines to its passengers 5- ITC of GST paid on PSF/UDF = ITC not taken by Airline company 6- Recovered amount= excluded from VOS by airline company to its passengers 7- GST pay to govt on PSF/UDF= Payable be Airport operator (authority) 8- Collection charges (paid by airport operator-to airlines)=consideration for services provided by airlines to airport operator, GST paid= by Airlines (fwd. charge)/ (ITC=available to airport operator) 	<p>1) Personal guarantee provided by Director of Co. to bank/FI:-</p> <ul style="list-style-type: none"> ➤ Personal guarantee provided by Director to banks/ FI for securing credit facilities for their companies is supply of service, even when made without consideration, as director & Co. are related person & this activity gets covered under para 2 of schedule. ➤ Rule 28 states that its taxable value = OMV. As no consideration can be paid by Co. to director as per RBI mandate, OMV = zero & thus, taxable value & tax= zero. ➤ If director providing guarantee is no longer connected with management of Co. but his guarantee is continue, taxable value = remuneration /consideration paid to him by Co. <p>2) Corporate guarantee :-</p> <ul style="list-style-type: none"> ➤ If corporate guarantee is provided by a holding company to bank/FI, for its subsidiary company, even when made without any consideration, it is supply of service between related parties as per provisions of Schedule 1. ➤ Rule 28(2) determines taxable value here. ➤ Rule 28(2) shall not apply for providing personal guarantee by Director to banks/FI for securing credit facilities for their companies & it shall be valued as per (1)
<p>2. Components Made Using Manufacturer-owned Moulds/Dies provided FOC by OEM: If the contract specifies that the components are made using moulds/dies owned by the component manufacturer, but these are supplied by the OEM to the component manufacturer on a FOC basis, <u>the value of such moulds/dies (amortised) should be added to the value of the components.</u></p>	<p>Circular no.186/18/2022</p> <p>Issue:- Whether No Claim Bonus(NCB) allowed by insurance Co. is a consideration for supply, for agreeing to obligation to refrain from lodging insurance claim during the previous year(s)?</p> <p>Clarification: ➤ There is no supply provided by the insured to insurance company in form of agreeing to the obligation to refrain from the act of lodging insurance claim during the PY</p> <ul style="list-style-type: none"> ➤ Hence No Claim Bonus cannot be considered as a consideration for any supply. <p>Issue:- Whether No Claim Bonus provided by insurance company to the insured can be considered as an admissible discount for the purpose of determination of value of supply of insurance service provided by insurance company to insured?</p> <p>Clarification:</p> <ul style="list-style-type: none"> ➤ NCB is a permissible deduction u/s 15(3)(a) of CGST Act to calculate the VOS of insurance services. ➤ Accordingly, if the deduction on account of NCB is provided in the invoice, GST shall be leviable on actual insurance premium amount, payable by policy holders to insurer, after deduction of NCB mentioned on the invoice. 		
<p>Circular No. 206/18/2023:- Reimbursement of electricity charges received by real estate Co., malls, etc. from lessees/ occupants:-</p> <ul style="list-style-type: none"> ➤ If electricity is bundled with renting of immovable property &/or maintenance of premises, it is a composite supply & taxed at rate of principal supply (i.e. renting...) ➤ If electricity is supplied by Real Estate Owners/Developers, Resident Welfare Associations (RWAs), etc., as a pure agent, it will not form part of value of their supply. ➤ Further, if they charge for electricity on actual basis, they are acting as pure agent. 			

Sec 15(4)

If value of supply cannot be determined u/s 15(1) i.e.
 ↳ Supply without price ↳ Related party transaction
 ↳ Supply without consideration or any other considerations then apply

CGST Rules 2017

Rule 27
When consideration is not wholly in money
 (a) Open market value (OMV)
 (b) If (a) is not available
 value = consideration in money + FMV of consideration not in money
 (c) If (a) & (b) not determinable
 Value = value of like kind & quality
 (d) If (a) (b) or (c) not determinable then apply Rule 30 or 31 in that order

Rule 28
 1) Supply between distinct (u/s 25(4)/(5) or related person
 (a) Open Market Value (OMV)
 (b) If (a) is not available, value = value of like kind & quality
 (c) If (a) & (b) not determinable, then apply Rule 30 or 31 in that order
Proviso 1: If further supply is as such by recipient at option of supplier
 Value = 90% of price charged for like kind & quality by recipient to his unrelated customers
Proviso 2: If recipient is eligible Full ITC then OMV = Value declared in invoice for supply of goods or services.
 2) If corporate guarantee service is provided to bank/FI on behalf of recipient who is related person,
 VOS = 1% of guarantee offered, or actual consideration, whichever is higher.

Rule 29
Supply between principle & agent
 (a) Open Market Value (OMV)
 OR
 90% of price of like kind & quality by the recipient to his unrelated customers
 Where such goods are intended for further supply.
 (b) If (a) is not available then Rule 30 or 31 in order.

Rule 30 & 31 are applicable in order in following cases
 1) If situation covered in rule 27,28,29 but Valuation can not be done by applying the principles Stated in rules
 2) If situation not covered in aforesaid rules.

Rule 30: Value of supply based on Cost
 Value = 110% of
 ↳ Cost of production (COP)
 ↳ Cost of acquisition (COA)
 ↳ Cost of provision of service

Rule 31: Residual method or Best judgement by using reasonable means
 - Consistent with the principles & general provision of Sec 15
 - Provision of this chapter (i.e. earlier rules)
Note: In case of supply of services supplier may option for rule 31 instead of rule 30

COP/COA = As per cost accounting standard-4
COP = Exclude - Advt. expenses/ insurance expenses/ non-recurring cost/ abnormal cost/ selling and distribution cost/ interest and financial charges

Rule 33: Deduction of expenses incurred as a pure agent
 This rule is applicable for all supply of services
 Value shall exclude the expenditure & cost incurred by the supplier as a pure agent subject to following conditions.
 1) Supplier act as pure agent of the recipient while making payment to 3rd party
 2) Amount separately shown in invoice
 3) Supplies of goods / services procured by the supplier as a pure agent are in addition to services he supplies on his own A/c.

Definition of pure agent: Means a person -
 (a) entering into contractual agreement with the recipient to incurred the expenditure as pure agent
 (b) Neither holding any title on supplies procured as a pure agent
 (c) Doesn't use such supplies for his own interest
 (d) Received only the actual amount incurred to procure supplies under pure agent.

Rule 34- Rate of exchange of currency (other than Indian Rupees) for value-
 1) SOG = Rate of exchange as notified by board u/s 14 of Customs Act for date of TOS u/s 12
 2) SOS = Rate of exchange as determined by GAAP, for date of TOS u/s 13

Relevant date for exchange rate shall be determine as per Sec 12 & 13

Rule 35- Value of Supply (if inclusive)

$$\text{Tax} = \frac{\text{value including GST} \times \text{Tax Rate}}{100 + \text{Tax Rate}}$$

Sec 15(5): Overriding sec 15(1)/15(4), VOS notified by Govt. to be determined as per rules

Rule 31A: VOS of lottery, betting Gambling & Horse racing
 VOS of lottery = 100/128 of higher of-
 ↳ face value (FV) of ticket or
 ↳ price as notified by organising State

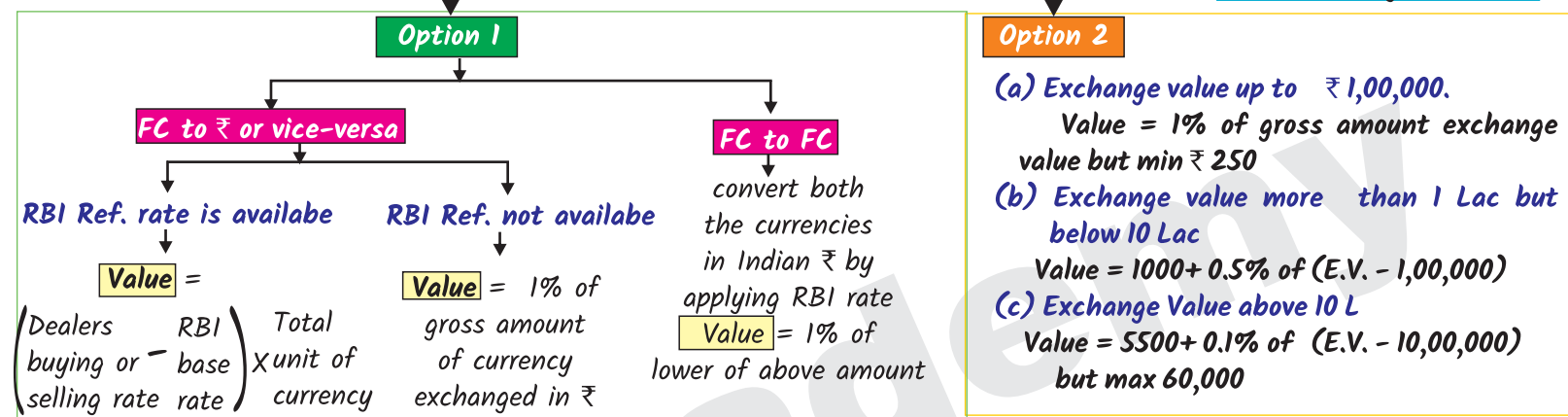
Rule 31B: VOS of online gaming including actionable claims involved in online money gaming
 Value = total amount paid/payable to/deposited with supplier in money/money's worth, including virtual digital assets, by or on behalf of player.
Proviso:- Any refund by supplier to player shall not be deductible from VOS of online money gaming.

Rule 31C: VOS of actionable claims in case of casino
 Value = total amount paid/payable by/on behalf of player for -
 (i) purchase of tokens, chips, coins or tickets, etc. for use in casino; or
 (ii) participating in any event, including game, scheme, competition, etc. in casino (where token, chips, coins or tickets are not required)
Proviso:- Refund by casino to player on return of token, coins, chips, or tickets or otherwise shall not be deductible from value.
Explanation to rule 31B & 31C:- If winnings received by player is used for playing further event without withdrawing, it shall not be considered as amount paid to or deposited with supplier.

Valuation in special cases [Rule 32]

32(2) :Purchase or sale of foreign currency

Note:
 FC = Foreign currency
 EV = Exchange Value



32 (3) : Value of the supply of Services in relation to booking of tickets for travel by air

(a) Domestic Booking - Value = 5% of basic fare
 (b) International Booking - Value = 10% of basic fare
Note: Basic fare means airfare on which commission is payable to air travel agent. i.e. It doesn't includes other charges & taxes.

32 (4) : Life insurance business

Saving policy
 Investment or saving intimated to policy holder
 Investment not intimated to policy holder -
 (a) 1st year value = 25% of premium charged
 (b) 2nd & subsequent year value = 12.5% of premium charged

Single Annual Policy
 Value = 10% of single premium charged

Risk Policy
 Value shall be determined as per Sec 15(1) i.e. gross premium charged

Value = gross Premium Less Investment
Note: If this option is exercised it can't withdrawn in the same financial year

32 (5) : Buying & Selling of 2nd hand goods. (used as such/after minor processing)

If ITC is not taken on purchase of such goods
 Value = selling price - purchase price (if negative = ignore)

If ITC is taken on purchase of such goods
 Value = Transaction value u/s 15(1) or outward supply of such goods

In case of repossessed goods from defaulting borrowers.
 Purchase price - 5% of each qtr or part thereof between date of purchase of defaulting borrower & date of disposal by person

32 (6) : Value of token, voucher, coupon, Stamp

Value = money value of goods / services / both redeemable against such coupon, token, voucher, stamp

32 (7) : Value of supply of service to distinct person

In case of notified supply of services by govt. the value of supply made to distinct person where ITC is available shall be Nil