

VALUE OF SUPPLY

TRANSACTION VALUE = 15(1)+15(2)-15(3)

3 Conditions

Price **actually paid/ payable**

Price is the **sole consideration.**

Supplier & Recipient are **unrelated.**

If above 3 conditions are not satisfied, then apply rules as per **Sec. 15(4)**.

SEC. 15(5) : Applicable for notified supplies.

SEC 15(1) The value of a supply of goods or services or both shall be the **transaction value**, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the **price is the sole consideration** for the supply.

VALUE OF SUPPLY INCLUDES [SEC 15(2)]

- (a) any taxes, duties, cesses, fees and charges levied under any law for the time being in force other than this Act, the SGST, UTGST, GST (Compensation to States Act).
- (b) any amount that the **supplier is liable to pay** in relation to such supply but which has been incurred by the recipient of the supply and not included in the price actually paid or payable for the goods or services or both (Selling commission paid by recipient will be added but Buying commission paid by recipient will not be added)
- (c) Incidental expenses, including commission and packing, charged by the supplier to the recipient of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both at the time of, or before delivery of goods or supply of services.
- (d) Interest or late fee or penalty for delayed payment of any consideration for any supply.
- (e) Subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.

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Explanation – For the purposes of this subsection, the amount of subsidy shall be included in the value of supply of the supplier who receives the subsidy.

SEC 15(3): The value of the supply shall not include any discount which is given:

- (a) before or at the time of the supply if such discount has been duly recorded in the invoice issued in respect of such supply; and
- (b) after the supply has been effected, if—
 - (i) such discount is established in terms of an **agreement** entered into at or before the time of such supply and specifically linked to relevant invoices; and
 - (ii) **Input tax credit** as is attributable to the discount on the basis of document issued by the supplier has been **reversed** by the recipient of the supply.

SEC 15(4): Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed.

SEC 15(5): Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

VALUATION RULES

RULE 27: Value of supply of goods or services where the consideration is not wholly in money.-

Where the supply of goods or services is for a consideration not wholly in money, the value of the supply shall,-

- (a) be the **open market value** of such supply;
- (b) if the **open market value is not available** under clause (a), be the sum total of consideration in money and any such **further amount in money as is equivalent** to the consideration not in money, if such amount is known at the time of supply;
- (c) if the value of supply is not **determinable under clause (a) or clause (b)**, be the **value**

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of supply of goods or services or both **of like kind and quality**;

(d) if the value is not determinable under clause (a) or clause (b) or clause (c), be the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by the application of **rule 30 or rule 31** in that order.

RULE 28: Value of supply of goods or services or both between distinct or related persons, other than through an agent.-

(a) be the **open market value** of such supply;

(b) if the open market value is not available, be the **value** of supply of goods or services of **like kind and quality**.

(c) if the value is not determinable under clause (a) or (b), be the value as determined by the application of **rule 30 or rule 31**, in that order.

Provided that where the goods are intended for further supply as such by the recipient, the value shall, at the option of the supplier, be an **amount equivalent to ninety percent of the price charged for the supply of goods of like kind and quality by the recipient to his customer not being a related person**.

Provided further that where the recipient is eligible for full input tax credit, the value declared in the invoice shall be deemed to be the open market value of the goods or services.

RULE 29: Value of supply of goods made or received through an agent

(a) be the open market value of the goods being supplied, **or** at the option of the supplier, **be 90% of the price charged** for the supply of goods of like kind and quality **by the recipient to his customer not being a related person**, where the goods are intended for further supply by the said recipient.

(b) where the value of a supply is not determinable under clause (a), the same shall be determined by the application of **rule 30 or rule 31** in that order.

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For eg: A principal supplies groundnuts to his agent and the agent is supplying groundnuts of like kind and quality in subsequent supplies at a price of five thousand rupees per quintal on the day of the supply. Another independent supplier is supplying groundnuts of like kind and quality to the said agent at the price of four thousand five hundred and fifty rupees per quintal. The value of the supply made by the principal shall be four thousand five hundred and fifty rupees per quintal or where he exercises the option, the value shall be 90 per cent. of five thousand rupees i.e., four thousand five hundred rupees per quintal.

RULE 30: Value of supply of goods or services or both based on cost

If the value of a supply of goods and/or services cannot be worked out by the foregoing methods, its value will be 110% of the cost of production/manufacture/acquisition of such goods or cost of provision of such services.

RULE 31: Residual method for determination of value of supply of goods or services or both [Best Judgement Method]

The supplier of goods needs to sequentially follow rules 27 to 30 before valuing goods as per this residual rule 31. Service providers, however, have the option of valuing services as per rule 30 or rule 31 after sequentially following rules 27 to 29.

The residual method consists of determination of value by using reasonable means consistent with the principles and general provisions of section 15 and these Rules.

RULE 31 A – Value of supply in case of lottery, betting, gambling and horse racing

Supply of lottery by the Organising State
Organising State means the State Government which conducts the lottery either in its own territory or sells its tickets in the territory of any other State.

Higher of the two amounts to be deemed as the value **100/128 of the face value** of ticket OR 100/128 of the price as notified in the Official Gazette by the organising State.

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Supply of actionable claim in the form of chance to win in betting, gambling or horse racing in a race club.

100% of the face value of the bet or the amount paid into the totalisator.

RULE 32 – DETERMINATION OF VALUE IN RESPECT OF CERTAIN SUPPLIES

(1) MONEY CHANGING

Special provision relating to determination of value of service of purchase or sale of foreign currency including money changing.

METHOD-1

CASE 1: Transaction where one of the currencies exchanged is Indian rupees.

The value of supply is the difference between buying rate or selling rate of currency and RBI reference rate for that currency at the time of exchange multiplied by total units of foreign currency.

However, if RBI reference rate for a currency is not available then value of supply is 1% of the gross amount of Indian Rupees provided/ received by the person changing the money.

CASE 2: Transaction where neither of the currencies exchanged is Indian rupees

The value of supply is **1% of the lesser of the two amounts** the person changing the money would have received by converting (at RBI reference rate) any of the two currencies in Indian Rupees.

METHOD-2

Currency exchanged	Value of supply
Upto Rs 1,00,000	1% of the gross amount of currency exchanged
	OR
	Rs 250, whichever is higher

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Exceeding Rs 1,00,000 and upto Rs 10,00,000 Rs 1,000 + 0.50% of the (gross amount of currency exchanged 1,00,000)

Exceeding Rs 10,00,000 Rs 5,500 + 0.1% of the (gross amount of currency exchanged 10,00,000)

OR

Rs 60,000, whichever is lower

(2) AIR TRAVEL AGENT

Domestic bookings of passage for travel by air 5% of basic fare

International bookings of passage for travel by air 10% of basic fare

(3) LIFE INSURANCE BUSINESS

Policy with dual benefits of risk coverage and investment • Taxable value = Gross premium charged less amount allocated for investments/savings if such allocation is intimated to the policy holder at the time of collection of premium.

Single premium annuity policy • Taxable value = 10% of the single premium charged from the policy holder where allocation for investments/savings is not intimated to the policy holder

Other cases • Taxable value = 25% of premium charged from the policy holder in the 1st year and 12.5% of premium charged for subsequent years.

Policy with ONLY risk cover • Taxable value = Entire premium charged from the policy holder

(4) MARGIN SCHEME

Where a taxable supply is provided by a person dealing in buying and selling of second hand goods i.e., used goods as such or after such minor processing which does not change the nature of the goods

- where no input tax credit has been availed on the purchase of such goods, the value of supply shall be the difference between the selling price and the purchase price and where the value of such supply is negative, it shall be ignored.

Provided that the purchase value of goods repossessed from a defaulting borrower, who is not registered, for the purpose of recovery of a loan or debt shall be deemed to be the purchase price of such goods by the defaulting borrower **reduced by five percentage** points for every quarter or part thereof, between the date of purchase and the date of disposal by the person making such repossession.

VOUCHERS

The value of a token, or a voucher, or a coupon, or a stamp (other than postage stamp) which is redeemable against a supply of goods or services or both **shall be equal to the money value of the goods or services or both redeemable against such token**, voucher, coupon, or stamp.

RULE 33: VALUE OF SUPPLY OF SERVICES IN CASE OF PURE AGENT

The expenditure or costs incurred by a supplier as a pure agent of the recipient of supply shall be excluded from the value of supply, if all the following conditions are satisfied, namely,-

- (i) the supplier acts as a pure agent of the recipient of the supply, when he makes the payment to the third party on authorisation by such recipient;
- (ii) the payment made by the pure agent on behalf of the recipient of supply has been separately indicated in the invoice issued by the pure agent to the recipient of service; and
- (iii) the supplies procured by the pure agent from the third party as a pure agent of the recipient of supply are in addition to the services he supplies on his own account.

Explanation- For the purposes of this rule, the expression “pure agent” means a person who

- (a) enters into a contractual agreement with the recipient of supply to act as his pure agent to incur expenditure or costs in the course of supply of goods or services or both;
- (b) neither intends to hold nor holds any title to the goods or services or both so procured or supplied as pure agent of the recipient of supply;
- (c) does not use for his own interest such goods or services so procured; and
- (d) receives only the actual amount incurred to procure such goods or services in addition to the amount received for supply he provides on his own account.

Subject to fulfilment of certain conditions, **the expenditure and costs incurred by the supplier as a pure agent of the recipient of supply of service, has to be excluded from the value of supply.**

TAXABILITY OF AIRPORT LEVIES COLLECTED BY AIRLINES AS PURE AGENT

Services provided by an airport operator to passengers against consideration in the form of user development fee (USF) and passenger development fee (PSF) are liable to GST. PSF and UDF are collected by the airlines as an agent and is not a consideration for any service provided by the airlines. Thus, airline is not responsible for payment of GST on UDF or PSF provided the airline satisfies the conditions prescribed for a pure agent under rule 33 of the CGST Rules. It is the licensee, that is the airport operator which is liable to pay GST on UDF and PSF. The airline acting as pure agent of the passenger should separately indicate actual amount of PSF and UDF and GST payable on such PSF and UDF by the airport licensee, in the invoice issued by airlines to its passengers. The airline shall not take ITC of GST payable or paid on PSF and UDF. The airline would only recover the actual PSF and UDF and GST payable on such PSF and UDF by the airline operator. The amount recovered will be excluded from the value of supplies made by the airline to its passengers.

In other words, the airline shall not be liable to pay GST on the PSF and UDF (for airport services provided by airport licensee), provided the airline satisfies the conditions prescribed for a pure agent under rule 33 of the CGST Rules.

The registered passengers, who are the ultimate recipient of the airport services, may take ITC of GST paid on PSF and UDF on the basis of pureagent's invoice issued by the airline to them.

CLARIFICATION REGARDING APPLICABILITY OF GST ON ADDITIONAL/PENAL INTEREST (CIRCULAR NO. 102/21/2019-DT.28/06/2019)

Issue:

1. Whether GST is applicable on additional/penal interest on the overdue loan i.e. whether it would be exempt from GST or such penal interest would be treated as consideration for liquidated damages.[amounting to a separate taxable supply of service under GST]
2. Whether Levy of additional/penal interest could be regarded as consideration received for agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act as per Entry 5 (e) of Schedule II

Facts:

1. Supplier of goods allows recipient to make payment towards value of supply in periodic equal installment i.e. EMI. In case of any delay, the recipient is required to pay pre-agreed penal interest/charges.
2. The recipient avails loan facility and pays for the value of supply of goods. Repayment of loan is undertaken by way of EMI along with interest. In case of delay in repaying the loan EMI, the recipient is required to pay penal interest/charges.

Legal Provision

1. Sec 15(2)(d): The value of supply shall include "interest or late fee or penalty for delayed payment of any consideration for any supply".
2. Services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount (other than interest involved in credit card service) [N/N.12/2017-CT(R) dated 28.06.2017]