



Valuation Under GST

Law & Rules

What is GST?

Goods & Services Tax Law in India is a comprehensive, multi-stage, destination-based tax that will be levied on every value addition.

In simple words, GST is an indirect tax levied on the supply of goods and services. GST Law has replaced many indirect tax laws that previously existed in India.

Central Taxes

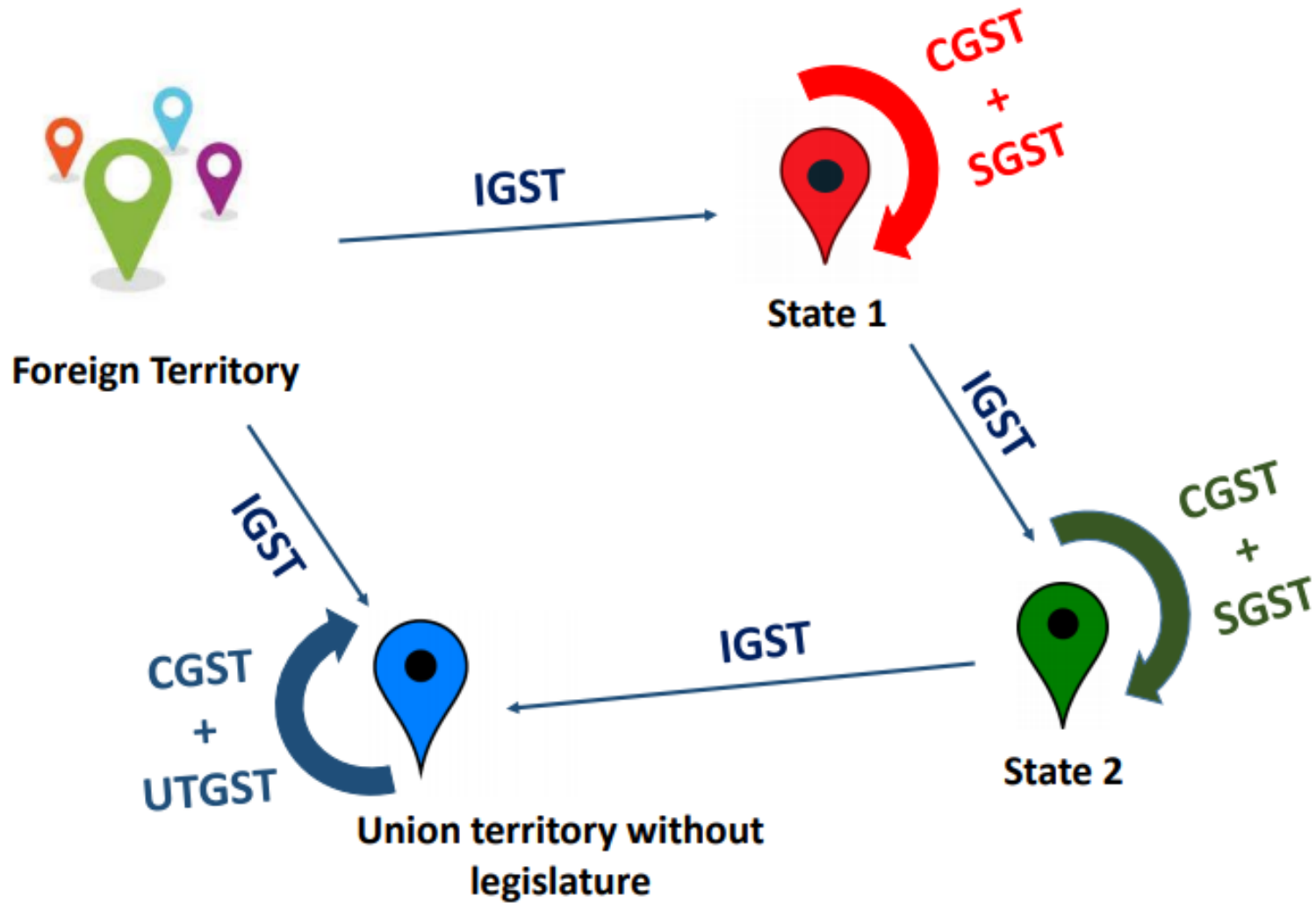
- Central Excise duty
- Additional duties of excise
- Excise duty levied under Medicinal & Toilet Preparation Act
- Additional duties of customs (CVD & SAD)
- Service Tax
- Surcharges & Cesses

GST

State Taxes

- State VAT / Sales Tax
- Central Sales Tax
- Purchase Tax
- Entertainment Tax (other than those levied by local bodies)
- Luxury Tax
- Entry Tax (All forms)
- Taxes on lottery, betting & gambling
- Surcharges & Cesses

GST Types



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What is the Value of Supply?

Value of supply of goods and/or services shall be the ***Transaction value***.

Transaction value refers price actually paid or payable

Where-

- Supplier and recipient of supply ***are not related***
- Price is the ***sole consideration*** for the supply

What are the inclusions in Value of Supply?



The following shall be included in Value of supply:-

- Any taxes, duties, cesses, fees and charges levied under any statute other than GST law.
 - Eg : Entertainment taxes (Levied by local authorities) is includible.
 - Eg : Municipal tax paid by tenant to owner or local authority
- Any **amount** supplier is liable to pay in relation to such supply but incurred by recipient and not included in price actually paid or payable.
 - Eg. If recipient supplies some inputs free of cost, it is includible.
- Incidental expenses, including
 - Commission and packing, or
 - Any amount charged or anything done by the supplier in respect of supply of goods/services at the time of, or before delivery of the goods.
 - Eg : Inspection, Testing before supply will be includible
- Interest, late fee, penalty for delayed payment of any consideration.
- **Subsidy directly linked to the supply** includible in value **except** subsidy provided by Central and State Governments.

What are the exclusions in Value of Supply?



Any discount given

Before or at the time of supply provided ***recorded in invoice.***

After the supply, provided

- As per agreement
- At or before the time of supply
- Specifically linked with invoice
- ITC has been reversed by the recipient of the supply on the basis of document issued by supplier

What are the different rules for determining Value of Supply?

Rules are:-

Rule	Details
27	Consideration is not wholly in Money
28	Value of Supply between Distinct or Related Persons, other than agent
29	Value of Supply made or received through Agent
30	Cost Method
31	Residual Method
32	Value in respect to Certain Supplies
33	Value of Supply in case of pure Agent
34	Applicable Rate of Tax
35	Value of Supply: Inclusive Method

Rule 27: Determination of Value of Supply

Where Consideration is not wholly in Money

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

Open Market Value

- Value as available in Open Market

If open market Value not Available

- Sum of
 - Consideration in Money
 - Money equivalent to consideration not in money

If the value is not determinable under the points above

- Value of Supply of goods or services or both of LIKE KIND AND QUALITY

Residuary Option

- Apply in order
 - Apply rule 30- Cost Method
 - Apply rule 31- Residual Method

Rule 27...

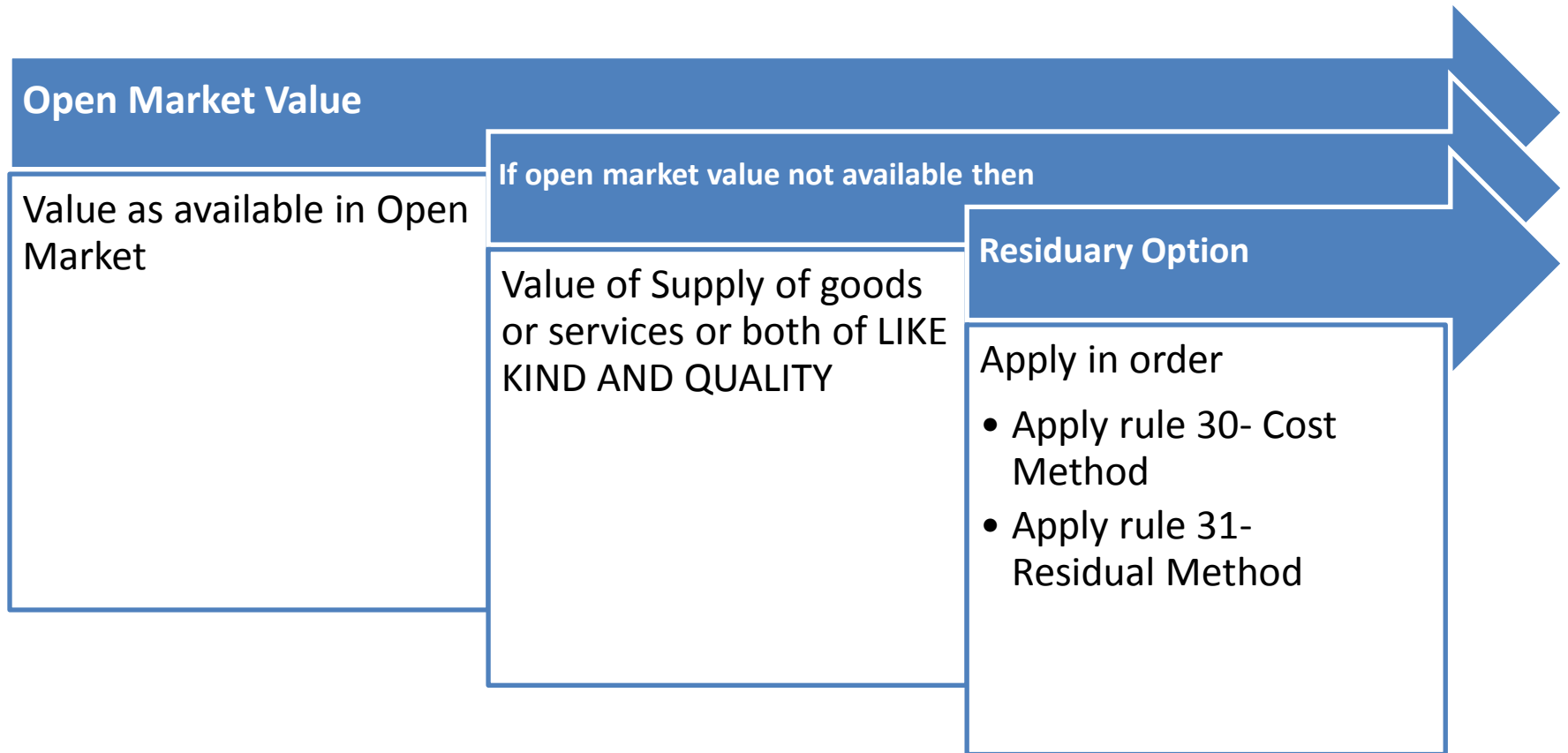
Examples:-

- Where a new phone is supplied for Rs 20,000/- along with the exchange of an old phone and if the price of the new phone without exchange is Rs 24,000/-, the open market value of the new phone is rs 24,000/-.
- Where a laptop is supplied for Rs 24,000/- along with the barter of a printer that is manufactured by the recipient and the value of the printer known at the time of supply is Rs 4,000/- but the open market value of the laptop is not known, the value of the supply of the laptop is Rs 24,000/-.

Rule 28: Determination of Value of Supply

Where distinct or related persons are involved

Value of supply in case of Distinct person*, or where supplier and receipt is related#, shall be:-



...Rule 28

Note:-

- If goods are intended for further supply as such by the recipient, value shall, at the option of supplier be equivalent to 90% of price charged for LIKE KIND AND QUALITY by the recipient to his customer (they should not be related){ case of distinct persons}
- Where recipient is eligible for ITC, value declared in invoice shall be deemed to be open market value.

*Distinct Person, shall be:-

- A person, who has obtained or is required to obtain more than one registration in one state/UT or more, shall be considered as distinct persons.
- Where a person who has obtained or is required to obtain registration in a State/UT in respect of an establishment, has an establishment in another State/UT, then such establishments shall be treated as establishments of distinct persons.

..Rule 28

#Related Person, shall be:-

1. They are officers or directors of one another's businesses;
2. Legally recognized partners in business;
3. Employer and employee;
4. Any person directly or indirectly owns, controls or holds twenty five per cent or more of the outstanding voting stock or shares of both of them;
5. One of them directly or indirectly controls the other;
6. Both of them are directly or indirectly controlled by a third person;
7. Together they directly or indirectly control a third person; or
8. Members of the same family

Rule 29: Determination of Value of Supply made or received through Agent

Value of supply between principal* and agent# shall be:-

Either of:-

- Open market value
- At the option of supplier be equivalent to 90% of price charged for LIKE KIND AND QUALITY by the recipient to his customer { not between related parties and goods are intended to further supply by the said recipient }

If not, then value shall be determined on the basis of Cost Method or Residual Method.

..Rule 29



***Who is a Principal?**

As per the definition provided in the GST law, the term “Principal” means a person on whose behalf an agent carries on the business of supply or receipt of goods or services, or both.

For instance, a dealership store of an automobile company is an excellent example of Principal-Agent relationship.

#Who is an Agent?

GST law defines an “Agent” as a person, including a factor, broker, commission agent, arhatia (term used in local markets), del credere agent*, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another.

*A *del credere agency* is a type of principal-agent relationship wherein the agent acts not only as a salesperson or broker for the principal but also as a guarantor of credit extended to the buyer.

Rule 30: Cost Method



Where the value of a supply of goods or services or both is not determinable by any of the preceding rules, the value shall be one hundred and ten percent of the cost of production or manufacturing or cost of acquisition of such goods or cost of provision of such services

“Value = 110% of COP/COA/COP/Manufacturing Cost”

Rule 31: Residual Method



As per the residual method, where the value of supply of goods or services or both cannot be determined under the cost method, the same shall be determined using **reasonable means** consistent with the principles and general provisions of the Goods and Services Tax law.

A simple interpretation of this rule suggests that supplier can use any method to determine the value of supply under GST, provided such method is justifiable in the case of inquiry. The registered taxable person should not exploit this method to displace the GST liability as the penal provisions are strict under the new indirect tax regime.

Rule 32: Value in case of Certain Supplies



Case-1: Foreign Currency including Money Exchange

The person changing the currency has the option to determine the value of supply on the basis of either of the options:-

Option 1

Value of supply shall be:-

1. Where Currency exchanged from/to INR

The value of supply, shall be computed by the following method:-

Value= {Difference between Buying or Selling Rate and RBI Reference rate} *
Total units of currency

Where RBI reference rate is not available, value shall be 1% of Gross amount of INR received/paid.

2. Where Neither Currency exchanged from/to INR

Value of Supply= 1% of lower of the two:-

- Converting Currency -1 to INR
- Converting Currency -2 to INR

...Rule 32, Case-1

Option 2

Value of supply shall be determined on the basis of gross amount of currency exchanged, and shall be:-

Where gross amount of currency is:-	Value
Upto Rs 1 lacs	1% of Gross Amount, min Rs 250/-
Above 1 lacs and less than 10 Lacs	Rs 1,000/- + 0.5% of amount exceeding Rs 1 lac
Above 10 Lacs	Rs 5,500/- +0.1% of amount exceeding Rs 10 lac

Rule 32: Value in case of Certain Supplies



Case-2: Air Travel Agent

Value of service provided by the air travel agent, in case of booking of air ticket shall be calculate as follow:-

Nature of Travel	Value
Domestic Travel	5% of Base Fare
International Travel	10% of Base Fare

Base fare means that part of air fare on which commission is normally paid to air travel agent by the airlines.

Rule 32: Value in case of Certain Supplies



Case-3: Life Insurance Business

Value of supply in relation to life insurance business shall be:-

- The gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of the policy holder, if such an amount is intimated to the policy holder at the time of supply of service
- In case of single premium annuity policies , value shall be 10% of single premium charged from the policy holder(other than covered above)
- In all other case, 5% of premium charged from the policy holder for 1st Year and 12.5% from subsequent year.

Rule 32: Value in case of Certain Supplies



Case-4: Second Hand Goods

Value of supply in case of second hand goods shall be the difference in selling price and Purchase price, subject to ITC is not availed. If the value so arrived is negative, then it shall be ignored.

Further, purchase value of goods repossessed from defaulting borrower, shall be the purchase value as reduced by 5% points per quarter or part thereof, between the date of purchase and date of disposal.

Rule 33: Value of supply in case of Pure Agent



Value of supply in case of services provided by the pure agent shall exclude the expenditure or cost incurred by the him, if:-

He acts as an pure agent and makes payment on authorization

Payment made by pure agent and the same has been shown separately on his invoice

Supplies procured by the pure agent from the third party are in addition to the supplies on his own account.

Who is a pure Agent?

A person who

- Enters into a contract to act as a pure agent to incur expenditure or cost in course of supply of goods or services or both
- Neither intends nor hold any title of goods or services or both
- Doesn't use his own interest on goods/service procured
- Receives only the actual amount incurred (100% reimbursement)

...Rule 33

Example:-

Corporate services firm A is engaged to handle the legal work pertaining to the incorporation of Company B. Other than its service fees, A also recovers from B, registration fee and approval fee for the name of the company paid to the Registrar of Companies. The fees charged by the registrar of Companies for the registration and approval of the name are compulsorily levied on B. A is merely acting as a pure agent in the payment of those fees. Therefore, A's recovery of such expenses is a disbursement and not part of the value of supply made by A to B.

Rule 34: What is the applicable Rate of exchange for determining value of supply?

Applicable rate shall be:-

Rate of Exchange for	Applicable Rate
Taxable Goods	Rate notified by Board under Sec 14 of Customs Act (CBEC Rate)
Taxable Services	Rate as per generally accepted accounting principals

Rule 35: Value of Supply: Inclusive Method



Where value of supply includes tax amount, i.e. Integrated tax , central tax, state tax or union territory tax, then tax amount shall be calculated by following method:-

Tax Amount = (Value inclusive of Tax * Tax Rate in %) / (100+ sum of tax rate in %)

THANK YOU

- 1. Central Goods and Services Tax, 2017**
- 2. Bare Law on GST by ICAI- IDT Department**
- 3. Central Goods and Services Tax (CGST) Rules, 2017**

Notified vide Notification No. 3 /2017-Central Tax (Dated 19th June 2017) and further as amended by

- Notification No. 7/2017-Central Tax (Dated 27th June 2017)
- Notification No. 10/2017-Central Tax (Dated 28th June 2017)
- Notification No. 15/2017-Central Tax (Dated 1st July 2017)
- Notification No. 17/2017- Central Tax (Dated 27th July 2017)
- Notification No. 22/2017-Central Tax (Dated 17th August 2017)
- Notification No. 27/2017-Central Tax (Dated 30th August 2017)
- Notification No. 34/2017-Central Tax (Dated 15th September 2017)
- Notification No. 36/2017-Central Tax (Dated 29th September 2017)
- Notification No. 45/2017-Central Tax (Dated 13th October 2017)
- Notification No. 47/2017-Central Tax (Dated 18th October, 2017)
- Notification No. 51/2017-Central Tax (Dated 28th October, 2017)
- Notification No. 55/2017-Central Tax (Dated 15th November, 2017)

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