Lakshmikumaran & Sridharan attorneys

L&S Update

an e-update to clients from
Lakshmikumaran & Sridharan

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Update on Draft Determination of Value of Supply Rules

1. Where consideration is not wholly in money:

The value of supply will be determined by application of following methods, in that order (Rule-1)

Method	Description
a) Open Market Value	Full value in money (excluding IGST, CGST, SGST, UTGST and the cess), where the supplier and the recipient are not related and price is the sole consideration, to obtain such supply at the same time when the supply being valued is made
b) Open Market Value not available	Sum Total of consideration in money and money value equivalent to non-monetary consideration, if amount is known at the time of supply
c) Value not determined as per a) and b)	Value of goods/services of like kind and quality
d) Cost plus method [Rule 4]	110% of cost (optional for service providers) of non-monetary consideration
e) Residuary method [Rule 5]	Reasonable means for value of non-monetary consideration

Value of supplies between distinct/related persons will be determined by the following order of determination (Rule-2)

Method	Description
a) Open Market Value	Full value in money (excluding IGST, CGST, SGST, UTGST and the cess), where the supplier and the recipient are not related and price is the sole consideration, to obtain such supply at the same time when the supply being valued is made Note: If the recipient is eligible for full ITC, value shown in invoice will be deemed as open market value.
b) Open Market Value not available	Value of goods/services of like kind and quality
c) Cost plus method [Rule 4]	110% of cost of production/manufacture/acquisition (optional for service providers)
d) Residuary method [Rule 5]	Reasonable means

3. Value of supply of goods made or received through an agent (Rule-3)

a) Either the open market value or 90% of the price charged by agent from its customers for goods of like kind and quality (optional)

b) 110% of cost of production/manufacture/acquisition of such goods [Rule 4]

c) Any reasonable means [Rule 5]

4. Determination of value in respect of certain supplies (Rule-6)

A. Purchase or sale of foreign currency, including money changing

a) Where either of currency exchanged is Indian Rupees (INR)

RBI Reference Rate	Value
Available	(Buying Rate/Selling Rate – RBI Rate) * Total units of currency.
Not Available	1% of gross amount of Indian rupees provided or received.

b) Currencies exchanged are not in Indian Rupees: 1% of lesser of two amounts, if both currencies were converted into Indian Rupee on that day taking RBI reference rate.

c) Deemed valuation

Amount of currency exchanged (INR)	Value
Up to 1 Lakh	1% of gross amount exchanged (minimum Rs. 250)
Exceeding 1 Lakh and up to 10 Lakh	Rs. 1000 plus 0.50% of gross amount exchanged
Exceeding 10 Lakh	Rs. 5000 plus 0.10% of gross amount exchanged (maximum Rs. 60000)

B. Air travel agent

In case of domestic bookings	5 % of *Basic fare
In case of International bookings	10 % of *Basic fare

* Basic fare means that part of air fare on which commission is normally paid to air travel agent by the airline.

C. Life Insurance (except where the entire premium paid is only towards the risk cover in life insurance)

Amount of investment is intimated to policy holder	Gross premium charged minus amount of investment
Single premium annuity policies	10% of premium
Other cases	25% of premium charged in first year 12.5% in subsequent years

D. Token/voucher/coupon/stamp (other than postage stamp)

- Money value of goods or services or both redeemable against such token, voucher, coupon, or stamp.

D. Buying and selling of second hand goods where ITC not availed by seller

Difference between buying price and selling price of such goods.

- Value to be ignored if difference is in negative.

E. Supply of services by notified class of service provider to distinct persons

- Value of services (other than those where credit not available) shall be Nil

5. Value of supply of services in case of pure agent (Rule-7)

The expenditure or costs incurred by the supplier as a pure agent not to be included in value of supply on fulfilment of all the following conditions:-

i. Supplier act as a pure agent while making payment to the third party
ii. Recipient uses services procured by supplier
iii. Recipient liable to make payment to the third party
iv. Recipient authorises supplier to make payment on his behalf
v. Recipient knows that service shall be provided by third party
vi. Payment separately indicated on invoice.
vii. Supplier recovers only such amount as paid by him to third party
viii. Services procured by supplier as pure agent are in addition to his own services.

6. Rate of exchange of currency, other than Indian rupees, for determination of value (Rule-8)

The rate of exchange for determination of value of taxable goods or services or both shall be the applicable reference rate for that currency as determined by the Reserve Bank of India on the date when point of taxation arises in respect of such supply.

Lakshmikumaran & Sridharan attorneys

NEW DELHI
5 Link Road, Jangpura Extension,
Opp. Jangpura Metro Station,
New Delhi 110014
Phone : +91-11-4129 9800

B-6/10, Safdarjung Enclave
New Delhi - 110 029
Phone : +91-11-4129 9900
E-mail : lsdel@lakshmisri.com

MUMBAI
2nd floor, B&C Wing,
Cnergy IT Park,
Appa Saheb Marathe Marg, (Near Century Bazar)
Prabhadevi, Mumbai - 400025.
Phone : +91-22-2439 2500
E-mail : lsbom@lakshmisri.com

CHENNAI
2, Wallace Garden, 2nd Street
Chennai - 600 006
Phone : +91-44-2833 4700
E-mail : lsmds@lakshmisri.com

BENGALURU
4th floor, World Trade Center
Brigade Gateway Campus
26/1, Dr. Rajkumar Road,
Malleswaram West,
Bangalore-560 055.
Ph: +91-80-4933 1800
E-mail : lsblr@lakshmisri.com

HYDERABAD
'Hastigiri', 5-9-163, Chapel Road
Opp. Methodist Church, Nampally
Hyderabad - 500 001
Phone : +91-40-2323 4924
E-mail : lshyd@lakshmisri.com

AHMEDABAD
B-334, SAKAR-VII,
Nehru Bridge Corner,
Ashram Road,
Ahmedabad - 380 009
Phone : +91-79-4001 4500
E-mail : lsahd@lakshmisri.com

PUNE
607-609, Nucleus, 1 Church Road,
Camp, Pune – 411 001
Phone : +91-20-6680 1900
E-mail : lspune@lakshmisri.com

KOLKATA
2ND Floor, Kanak Building
41, Chowringhee Road,
Kolkatta-700071
Phone : +91-33-4005 5570
E-mail : lskolkata@lakshmisri.com

CHANDIGARH
1st Floor, SCO No. 59,
Sector 26,
Chandigarh - 160026
Phone : +91-172-492 1700
E-mail : lschd@lakshmisri.com

GURGAON
OS2 & OS3, 5th Floor, Corporate Office Tower, AMBIENCE Island, Sector 25-A,
Gurgaon - 122001
Phone : +91-124-477 1300
E-mail :lsgurgaon@lakshmisri.com

ALLAHABAD
3/1A/3, (opposite Auto Sales), Colvin Road, (Lohia Marg),
Allahabad -211001 (U.P.)
Phone no. : (0532) – 2421037, 2420359
Email: lsallahabad@lakshmisri.com

www.lakshmisri.com
www.lakshmisri.cn
www.gst.lakshmisri.com
www.addb.lakshmisri.com