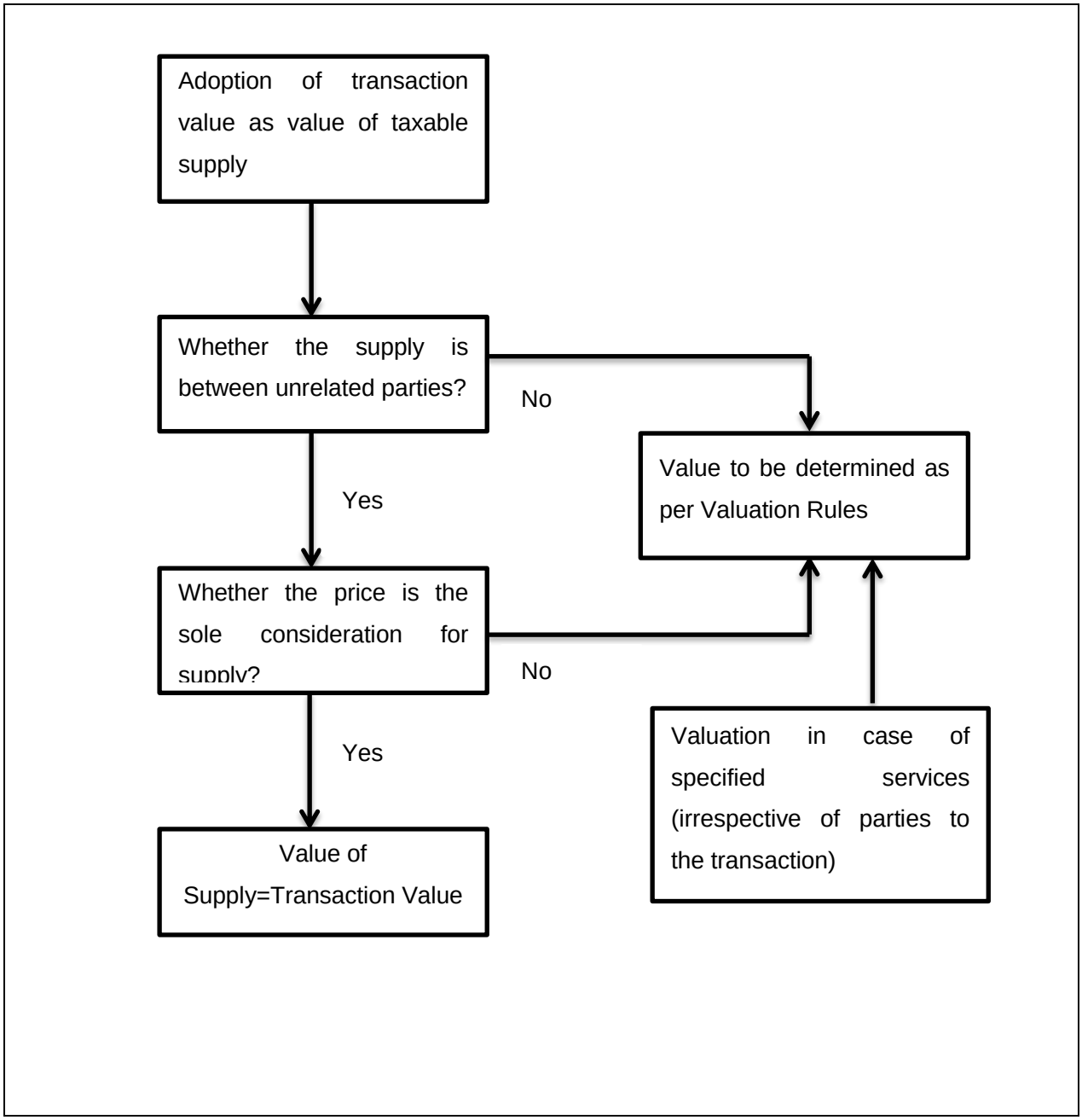
# Valuation of Supply under the Goods and Services Tax Laws

With the Central Government clearing the crucial bills namely the CGST, IGST, UTGST and Compensation Cess Bill, it seems that GST regime is all set to be effective in India from July 01, 2017. While some of Rules have already been approved by the GST Council, some other rules including Valuation Rules is yet to obtain final approval from the GST Council.

This material currently covers the provisions with regard to Determination of Value of Supply under as per the CGST Act read with the Draft Rules released on April 02, 2017 by the Central Government.

## Provisions under the Central Goods and Service Tax Act ("CGST Act")

The provisions with regard to valuation of supply are governed by Section 15 of the CGST Act. As per Section 15 of the said Act, the value of supply of goods or services or both shall be the transaction value of such supply. Further, transaction value shall be determined as under:




For the purpose of Section 15, the following persons shall be deemed to be related persons:

- Persons who are officers or directors of one another's business;
- Partners of a firm;
- Employer and employee;
- Any person who directly or indirectly owns, controls or holds twenty five percent or more of the outstanding voting stock or shares or both;

- One person directly or indirectly controlling the other;
- Two persons being controlled directly or indirectly by a third person; and
- Persons of the same family; and
- Person who acts as a sole agent or sole distributor or sole concessionaire of another person.

Inclusions and exclusion from the value of supply

| **Inclusions** | **Exclusions** |
|---|---|
| Taxes, Cesses or Charges levied under Laws other than GST Laws | Discount provided before or at the time of supply |
| Amounts incurred by the recipient on behalf of the supplier | Discount provided after supply if the discount is as per contract for supply and input tax credit in respect of discount provided has been reversed |
| Incidental expenses including commission, packing in relation to the supply | Subsidies provided by the Central or State Government |
| Any amounts charged for anything done by the supplier before or at the time of supply of goods or services | |
| Amount charged by way of interest/late fee/penalty for delayed payment of consideration. | |
| Subsidies directly linked to the price of the supply | |

**Provisions under the Draft Valuation Rules**

Valuation Rules to be referred to in to the following cases:

- Supply between related or distinct persons;
- Supply where price is not the sole consideration; or
- Supply in case of specific goods or services.

**Rule 1: Value of supply where consideration is not wholly in money**

This Rule deals with transactions where the consideration for supply is not wholly in money. The value of such supply shall be:

a) Open market value of such supply;

b) In case of non-availability of open market value, the value of supply shall be the sum total of consideration paid in money and such further amount in monetary terms equivalent to the non-monetary consideration if such amount is known at the time of supply;

c) If the value is not determinable under a) or b), the value of supply of goods or services or both of like kind and quality;

d) If the value is not determinable under any of the above options, be the sum total of consideration in money and such further amount in monetary terms equivalent to non-monetary consideration determined by application of Rule 4 or Rule 5 in that order.

**Rule 2: Value of supply between distinct or related persons (other than through an agent)**

Under this Rule, supply between the related persons or distinct persons is covered. However, supply between a principal and an agent is not covered under the said Rule but is separately covered under Rule 3 of the valuation Rules.

The value of supply in case of transactions between distinct or related persons shall be:

a) Open market value of such supply;

b) Value of supply of goods or services or both of like kind and quality in case if the open market is not available;

c) If the value is not determinable under any of the above options be the value as determined by application of Rule 4 or Rule 5 in that order.

*However, in cases where the recipient of goods or services is eligible for full input tax credit, the value declared on the invoice shall be deemed to the open market value of goods or services.*

**Rule 3: Value of supply through an agent / principal**

Under the GST Laws a transaction between a principal and his agent is treated as supply for the purpose of levy GST. In such cases the value of supply of goods between the principal and his agent shall be as follows:

a) Open market value of the goods being supplied,

or

At the option of the supplier be ninety percent of the price charged for supply of goods of like kind and quality by the recipient to his customer not being a related person and where such goods are intended to be sold further by the said person.

b) If the value is not determinable as above, be the value determined under Rule 4 or Rule 5 in that order in case.

**Rule 4: Value of supply of goods or services or both based on cost**

The said Rule would be pressed into action when the value of supply of goods or services or both is not determinable under Rule 1, 2 and 3. As per the said Rule, the value of supply shall be one hundred and ten percent of the cost or production or manufacture or cost of acquisition of such goods or cost of provision of such services.

**Rule 5: Residual Method for determination of value of supply of goods or services or both**

The said Rule would be effective in cases where the value could not be determined by application of any of the Rules i.e., Rule 1, 2, 3 and 4. The value of supply as per the said Rule shall be determined using reasonable means consistent with the principles and general provisions of Section 15 and the Valuation Rules.

*The supplier of services has an option to opt for Rule 5 directly disregarding the provisions of Rule 4.*

**Rule 6: Value of supply in certain cases**

The said Rule has been introduced to determine the value of supply in relation to specific type of services like purchase or sale of foreign currency, money changing services, insurance services, air travel agent services, supply of second hand goods and vouchers.