



**GST- VALUE OF SUPPLY** |

# TO DISCUSS

Background – Current regime



Concept – GST regime



Examples



Possible / open issues



# BACKGROUND – CHARGING SECTION

## Service Tax

There shall be levied a tax (hereinafter referred to as the service tax) at the rate of Fourteen per cent. on the **value** of all services...

## Excise

There shall be levied and collected in such manner as may be prescribed, -  
(a) a duty of excise to be called the CENVAT on all excisable goods ...

## Customs

... Duties of customs shall be levied at such rates as may be specified under the Customs Tariff Act... on goods imported into, or exported from, India.

# BACKGROUND – VALUATION PROVISIONS

## Service Tax

Section 67 - GAC

Service Tax  
(Determination of Value  
Rules), 2006

## Excise

Section 4 and 4A – TV/  
MRP

Central Excise  
(Determination of Value  
of Excisable Goods)  
Rules, 2000

## Customs

Section 14 - TV

Customs Valuation  
(Determination of Price  
of Imported / Exported  
Goods) Rules, 2007

# GST REGIME

## GST

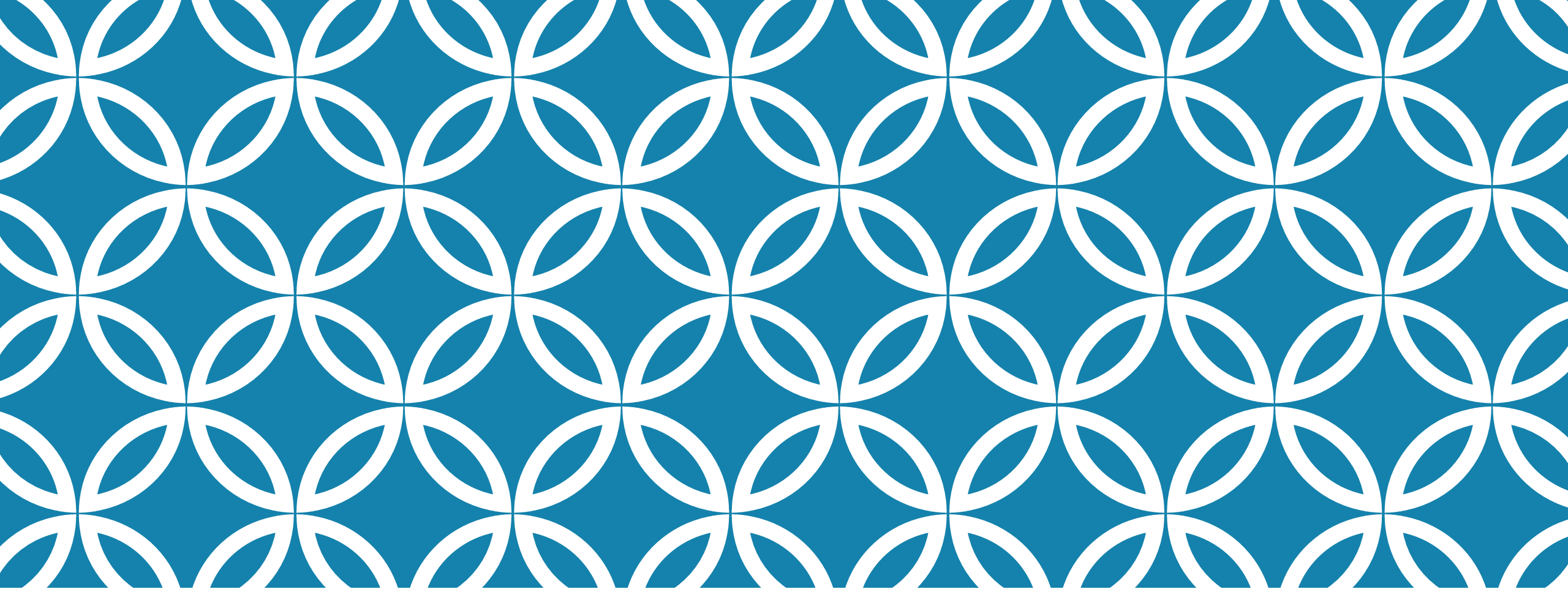
Charging section – Sec. 8

Valuation provisions – Sec. 15

~~GST Valuation (Determination of the Value of Supply of Goods and Services) Rules, 2016~~

# CHARGING SECTION - 8

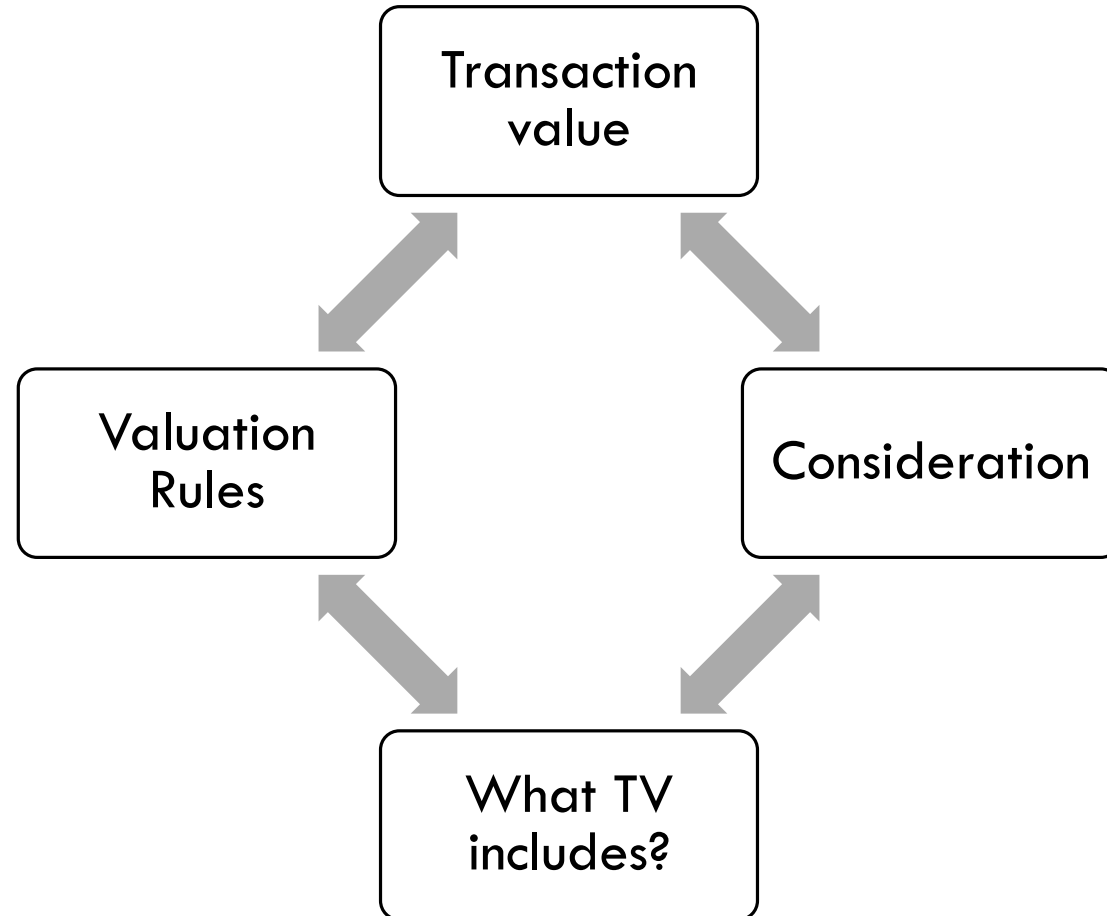
Levy	There shall be levied
Name	A tax called the CGST/SGST
On?	On all intra-State <b>supplies</b>
Goods / Services?	Of goods and/or services
Value?	On the <b>Value</b>
Rate	Notified by the CG/SG in this behalf but not exceeding 14%
Collection	Collected in such manner as may be prescribed



# VALUE OF SUPPLY



# VALUE





# VALUE

- The value of a supply of goods and/or services
- Shall be the **transaction value**,
- That is the price actually paid or payable
- For the said supply of goods and/or services where
  - The supplier and the recipient of the supply are not related and
  - The price is the sole consideration for the supply

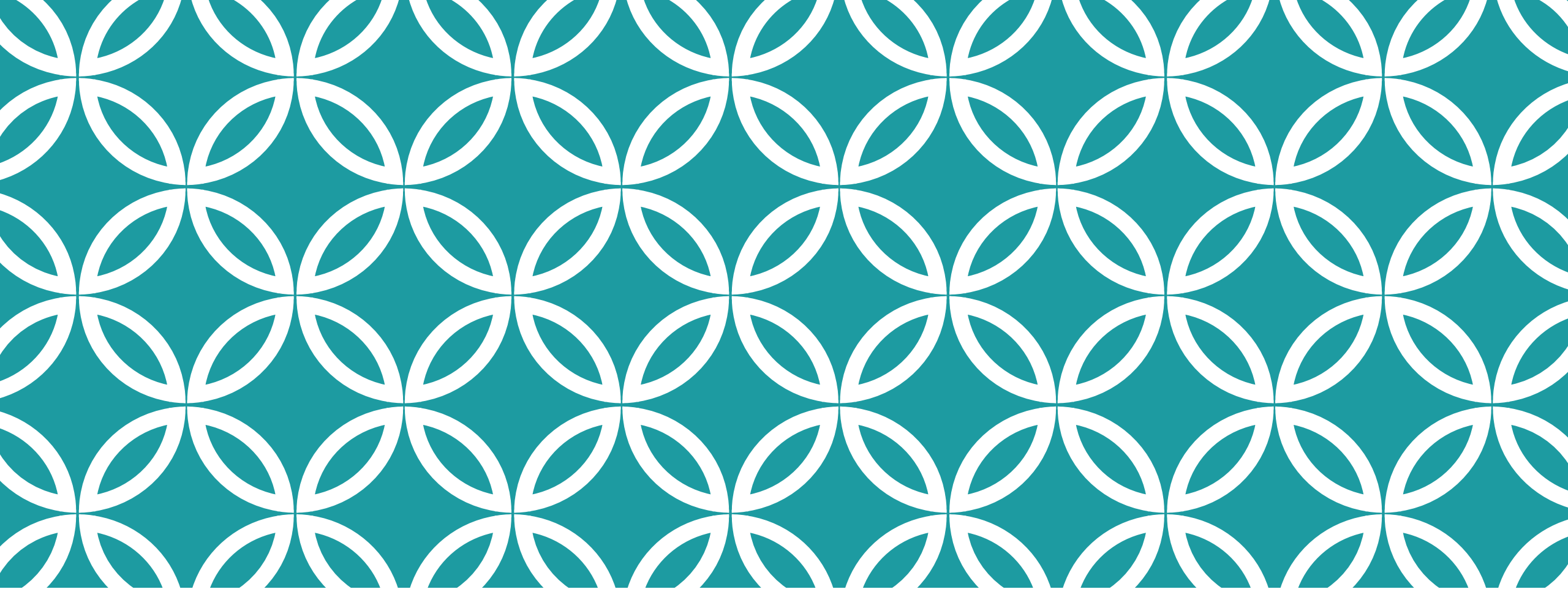
### 3. MEANING AND SCOPE OF SUPPLY

#### (1) Supply includes—

All forms of supply of goods and/or services such as sale, transfer, barter, exchange, license, rental, lease or disposal made or agreed to be made for **a consideration** by a person in the course or furtherance of business,

Importation of services, **for a consideration** whether or not in the course or furtherance of business, and

A supply specified in Schedule I, made or agreed to be made **without a consideration**



**PRICE PAID / PAYABLE** |

# CONSIDERATION

---

(28)  
“Consideration”  
in relation to the  
supply of goods  
or services  
**includes**

**Any payment** made or to be made, whether **in money or otherwise**, in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the **recipient or by any other person** but shall not include any **subsidy** given by the Central Government or a State Government;

---

The **monetary value** of any act or forbearance, whether or not voluntary, in respect of, in response to, or for the inducement of, the supply of goods or services, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government

---

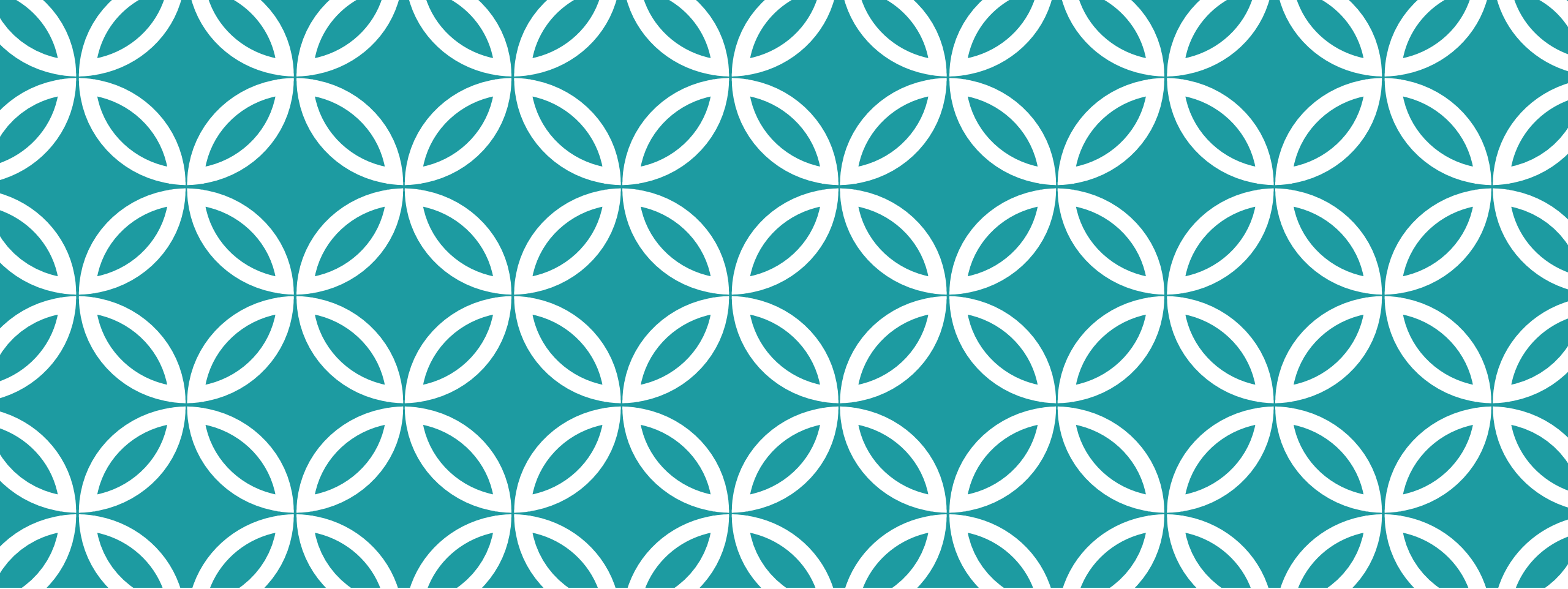
# CONSIDERATION

---

## PROVIDED

That a **deposit**, whether refundable or not, given in respect of the supply of goods or services shall not be considered as payment made for the supply unless the supplier applies the deposit as consideration for the supply;

---



**WHAT NEEDS TO BE INCLUDED** |

# VALUE

## TV to include

- **Any taxes, duties, cesses, fees** and charges levied under any statute, other than the {SGST Act/the CGST Act} and the GST Cess, if charged separately by the supplier to the recipient;

## Example

- Toll tax
- Sugar cess
- Property Tax

# VALUE

## TV to include

- 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 and/or services

## Example

- CA's travel expenses incurred by client



# VALUE

## TV to include

- **Incidental expenses**, such as, commission and packing, charged by the supplier to the recipient of a supply, including any amount charged for anything done by the supplier in respect of the supply of goods and/or services at the time of, or before delivery of the goods or, as the case may be, supply of the services

## Example

- Freight
- Insurance
- Packaging
- Commission

# VALUE

## TV to include

- Interest or late fee or penalty for delayed payment of any consideration for any supply; and

## Example

- Interest on delayed payments
- Late fees
- Penalties on vendors/customers

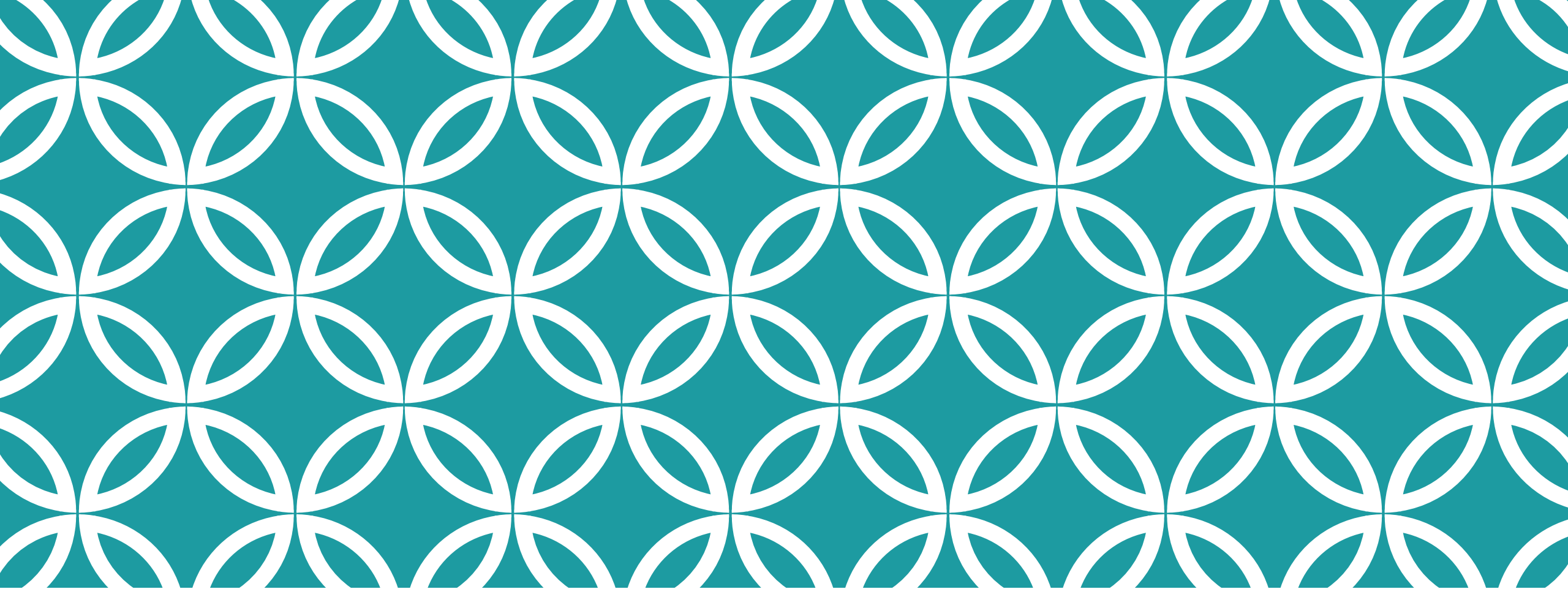
# VALUE

## TV to include

- Subsidies directly linked to the price excluding subsidies provided by the Central and State governments

## Example

- Subsidies?
- Subsidies by Centre/State?



# WHAT NEEDS TO BE EXCLUDED



# EXCLUSIONS

CGST, SGST, IGST,  
Compensation Cess

Subsidies not directly  
linked

Exclusions

Subsidies by Centre  
and State

Discounts

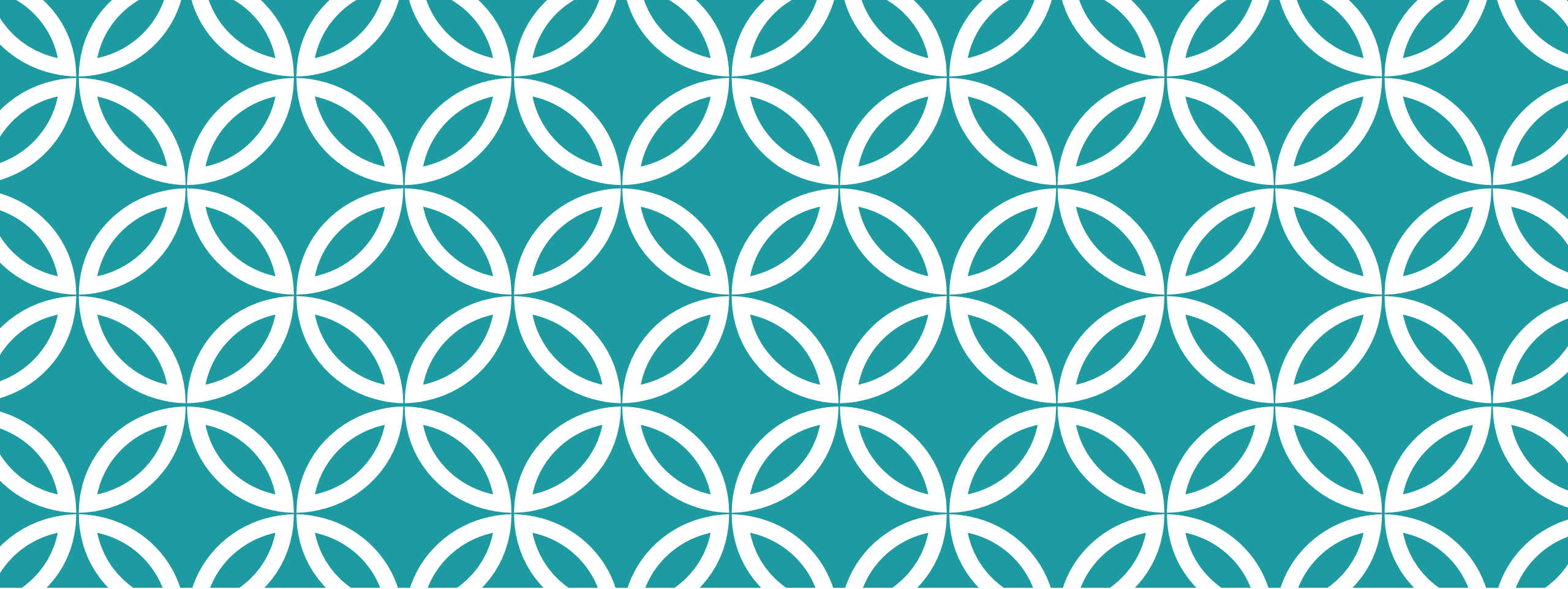
# VALUE OF SUPPLY SHALL NOT INCLUDE ANY DISCOUNT THAT IS GIVEN:

Before or At the time of the supply

- Discount has been duly recorded in the invoice issued in respect of such supply; and

After the supply has been effected:

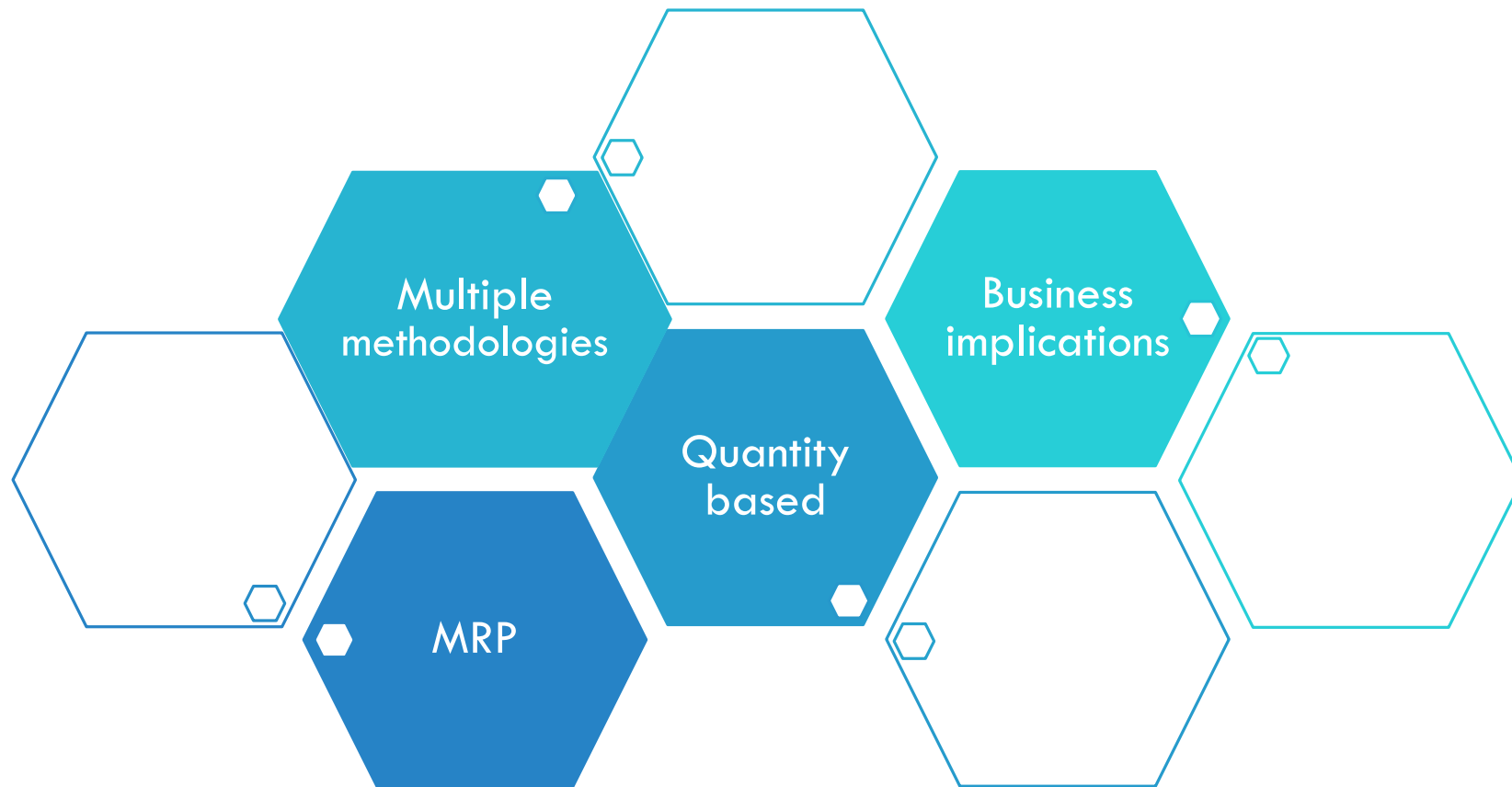
- Discount is established in terms of an agreement entered into at or before the time of such supply and
- Specifically linked to relevant invoices; and
- Input tax credit has been reversed by the recipient of the supply as is attributable to the discount on the basis of document issued by the supplier.



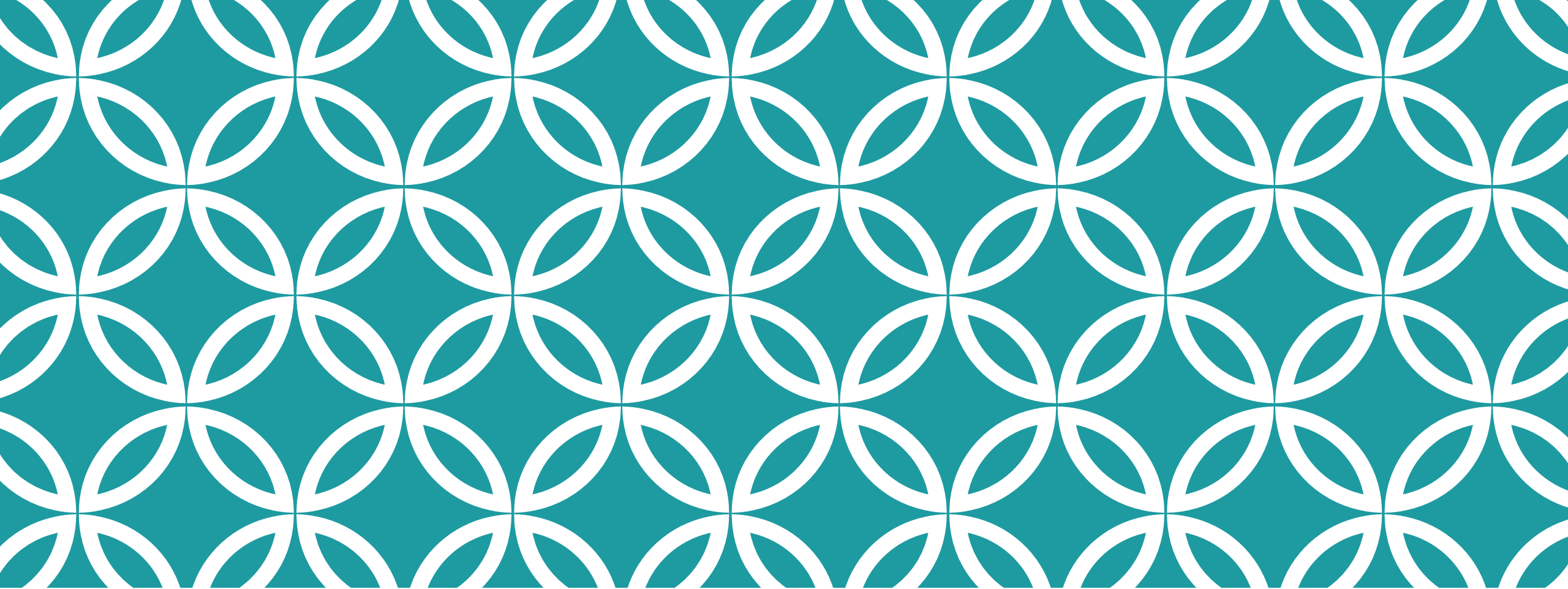
# IMPLICATIONS



# TV - IMPLICATIONS







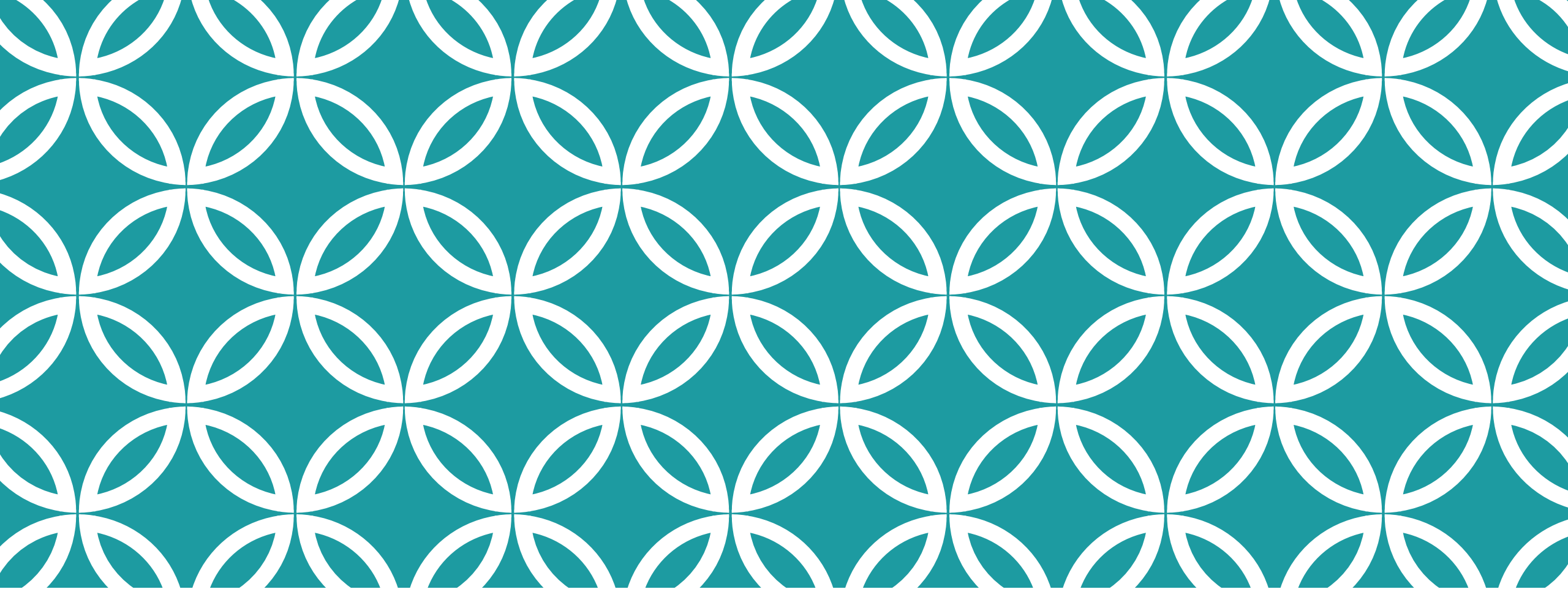
# EXCEPTIONS TO VALUE



# EXCEPTIONS TO VALUE

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

(5) Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be **notified** by the Central or a State Government in this behalf on the recommendation of the Council shall be determined in such manner as may be prescribed.



# COMPOSITE AND MIXED SUPPLY



# WHAT IS COMPOSITE AND MIXED?

Why the differentiation is relevant?

# COMPOSITE AND MIXED SUPPLY

The tax liability on a composite or a mixed supply shall be determined in the following manner —

- A **composite** supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply;
- A **mixed** supply comprising two or more supplies shall be treated as supply of that particular supply which attracts the highest rate of tax.

## (27) “COMPOSITE SUPPLY”

*Means a supply made by a taxable person to a recipient comprising two or more supplies of goods or services, or any combination thereof, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a **principal** supply*

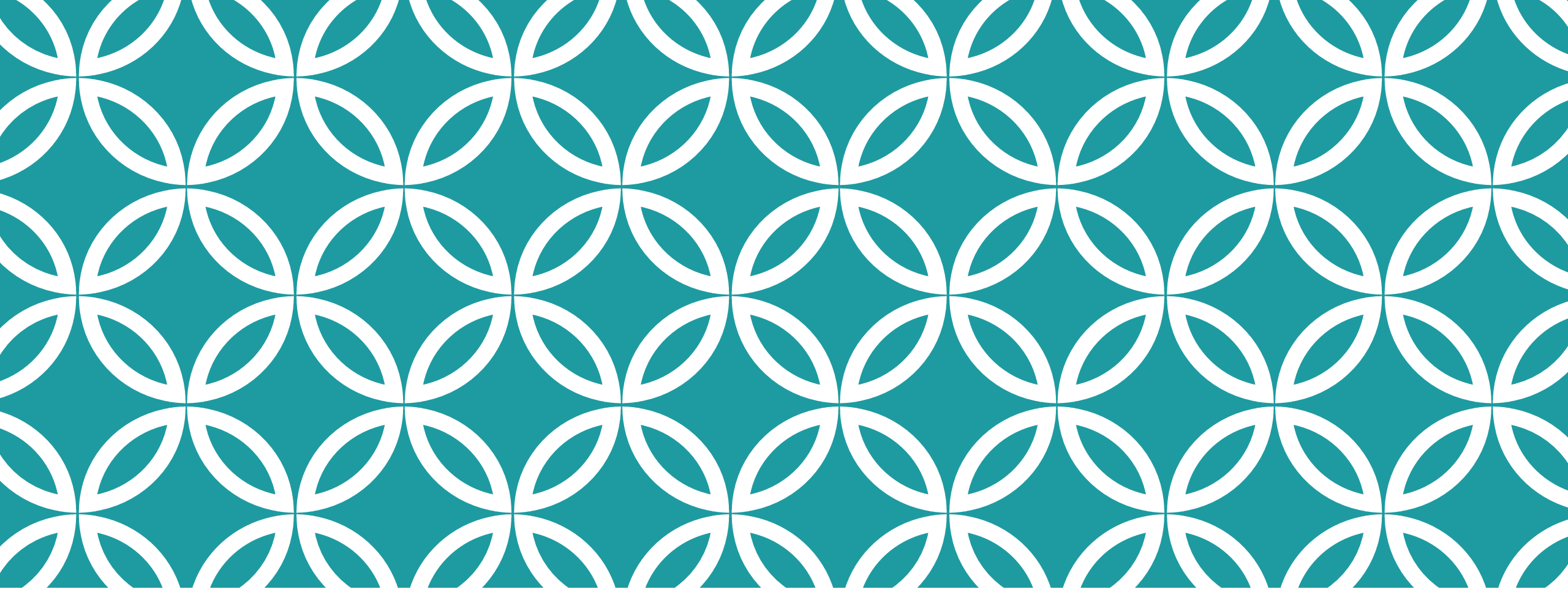
**Illustration** : *Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is the principal supply.*

(78) “**principal supply**” means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary and does not constitute, for the recipient an aim in itself, but a means for better enjoyment of the principal supply

## (66) “MIXED SUPPLY”

Means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply;

**Illustration:** A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.



# RELATED PERSONS





# (84) PERSONS SHALL BE DEEMED TO BE “RELATED PERSONS” IF ONLY -

- (a) they are officers or directors of one another's businesses;
- (b) they are legally recognized partners in business;
- (c) they are employer and employee;
- (d) 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;
- (e) one of them directly or indirectly controls the other;
- (f) both of them are directly or indirectly controlled by a third person;
- (g) together they directly or indirectly control a third person; or
- (h) they are members of the same family;

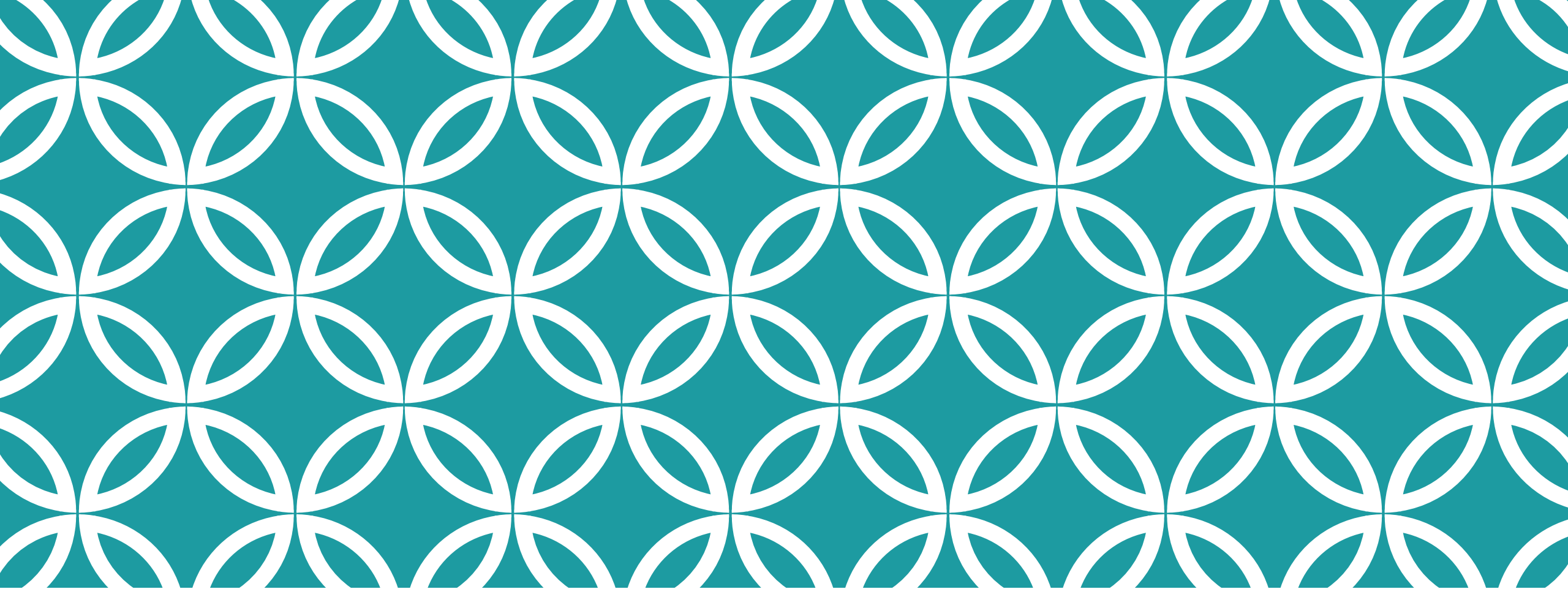
# MARKET VALUE

(64) “**market value**” shall mean the full amount which a recipient of a supply is required to pay in order to obtain the goods and/or services of like kind and quality at or about the same time and at the same commercial level where the recipient and the supplier are not related;

# SCHEDULE I

## **MATTERS TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION**

1. Permanent transfer/disposal of business assets where input tax credit has been availed on such assets.
2. Supply of goods or services between related persons, or between distinct persons as specified in section 10, when made in the course or furtherance of business.
3. Supply of goods—
  - a. By a principal to his agent where the agent undertakes to supply such goods on behalf of the principal, or
  - b. By an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
4. Importation of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business

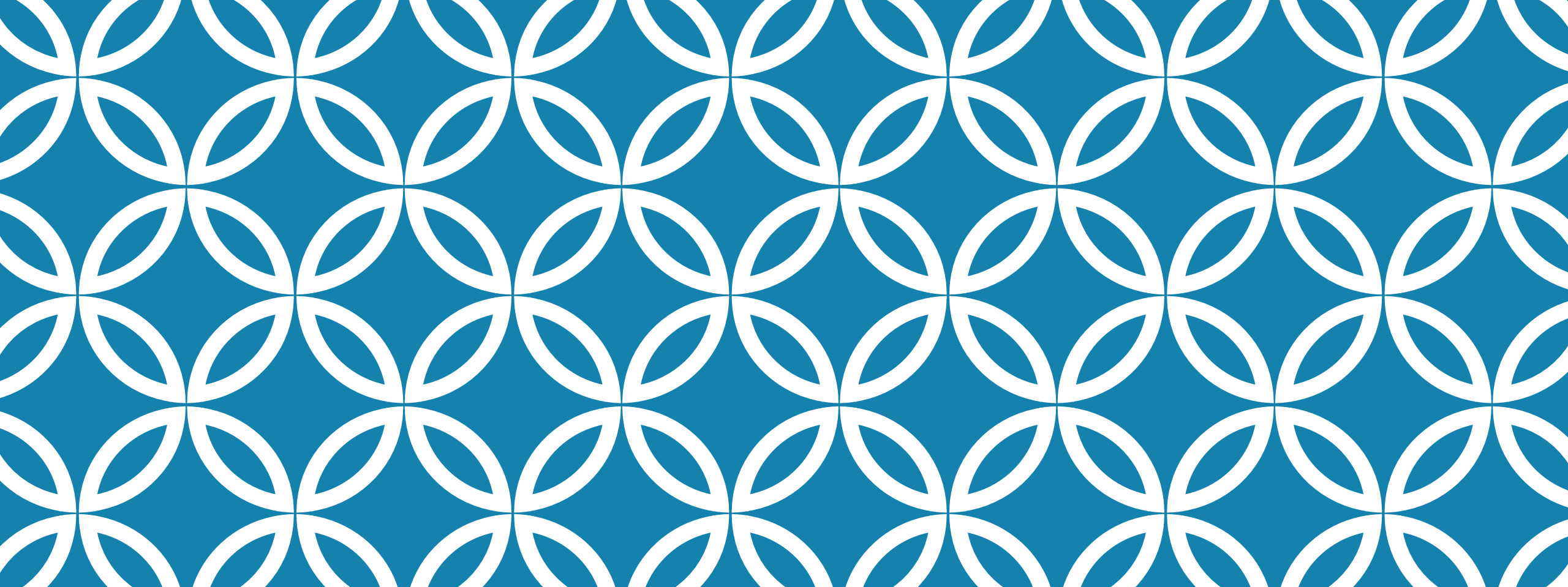


# AUDIT FOR VALUE



## 64. SPECIAL AUDIT

If at any stage of scrutiny, enquiry, investigation or any other proceedings before him, any officer not below the rank of [Deputy/Assistant Commissioner] **having regard to the nature and complexity** of the case and interest of revenue, is of the opinion that the **value has not been correctly declared** or the credit availed is not within the normal limits, he may, with the prior approval of the [Commissioner], direct such taxable person by a communication in writing to get his records including books of **account examined and audited by a Chartered Accountant** or a Cost Accountant as may be nominated by the [Commissioner] in this behalf.



## THANK YOU

FOR ANY CLARIFICATION, PLEASE CONTACT

INDIRECT TAXES COMMITTEE OF ICAI

EMAIL: [IDTC@ICAI.IN](mailto:IDTC@ICAI.IN) ; WEBSITE: [WWW.IDTC.ICAI.ORG](http://WWW.IDTC.ICAI.ORG) OR  
[HTTPS://WWW.YOUTUBE.COM/INDIRECTTAXCOMMITTEE](https://WWW.YOUTUBE.COM/INDIRECTTAXCOMMITTEE)