

# CIRCULAR ON TREATMENT OF SALES PROMOTION SCHEMES UNDER GST



## Scope of discussion

A number of representations received seeking clarification on issue raised with respect to tax treatment of sales promotion. The purpose of this article is to understand the treatment of sales promotion scheme under GST. There are number of sales promotion schemes which is offered by the company to attract the customers. To ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 hereby clarifies the issues.

It has been noticed that there are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products.

Some of these schemes have been examined and clarification on the aspects of taxability, valuation, availability or otherwise of Input Tax Credit in the hands of the supplier.

S.no	Schemes
1.	Free samples and gifts:
2.	Buy one get one free offer:
3.	Discounts including 'Buy more, save more' offers
4.	Secondary Discounts

Lets discuss each scheme one by one.

## FREE SAMPLE AND GIFT



It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration.

When we pay attention to the definition of supply given under sub clause (a) of sub-section 1 of the said act, the expression “supply” includes all form of supply made or agreed to be made for a consideration by a person in the course or furtherance of business. **Therefore, the goods or services or both which are supplied free of cost shall not be treated as „supply“ under GST(except in case of activities mentioned in Schedule I of the said Act).**

It is clarified that samples which are supplied free of cost, without any consideration, do not qualify as “supply” under GST, except where the activity falls within the ambit of Schedule I of the said Act.

Now, the second question is whether the supplier is eligible to take Input Tax Credit on supply in the form of free sample or not.

Further, clause (h) of sub-section (5) of section 17 of the said Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Thus, it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration.

BUY ONE GET ONE FREE



Companies normally announce “buy one get one free” offer. For eg. Buy one jeans and get another one jeans free. In the last topic we came to know that the goods or services which are supplied free of cost shall not be treated as “Supply” under GST. It may appear at first glance that in case of offers like „Buy One, Get One Free“, one item is being „supplied free of cost“ without any consideration.

In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply.

It can at best be treated as supplying two goods for the price of one.

- Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.
- It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

## BUY MORE SAVE MORE

- Sometimes the supplier offers staggered discount to his customers. For eg. Get 10 % discount for purchases above Rs. 5000/-, Such discounts are shown on the invoice itself.
- Some suppliers also offer periodic / year ending discounts to their stockists etc.  
For example- Get additional discount of 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 pieces in a year.
- In commercial parlance, such discounts are colloquially referred to as “volume discounts”.  
Such discounts are passed on by the supplier through credit notes.



- It is clarified that discounts offered by the suppliers to customers shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.
- It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

## SECONDARY DISCOUNT

These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10000 packets of Circular No. 92/11/2019-GST Page 4 of 5 biscuits to M/s B at Rs. 10/- per packet. Afterwards M/s A re-values it at Rs. 9/- per packet. Subsequently, M/s A issues credit note to M/s B for Rs. 1/- per packet.

Representations have been received from the trade and industry that whether credit notes(s) under sub-section (1) of section 34 of the said Act can be issued in such cases even if the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied.

The provision of sub-section 1 of section 34 of the said Act provides as under:-

- “Where one or more tax invoices have been issued for supply of any goods or services or both
- and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or,
- where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both.

May issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.

It is hereby clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied.

- In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.
- It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied.
- In other words, value of supply shall not include any discount by way of issuance of credit note(s), except in cases where the provisions contained in clause (b) of sub-section (3) of section 15 of the said Act are satisfied.
- There is no impact on availability or otherwise of ITC in the hands of supplier in this case.