



# GST & Indirect Taxes Committee, ICAI

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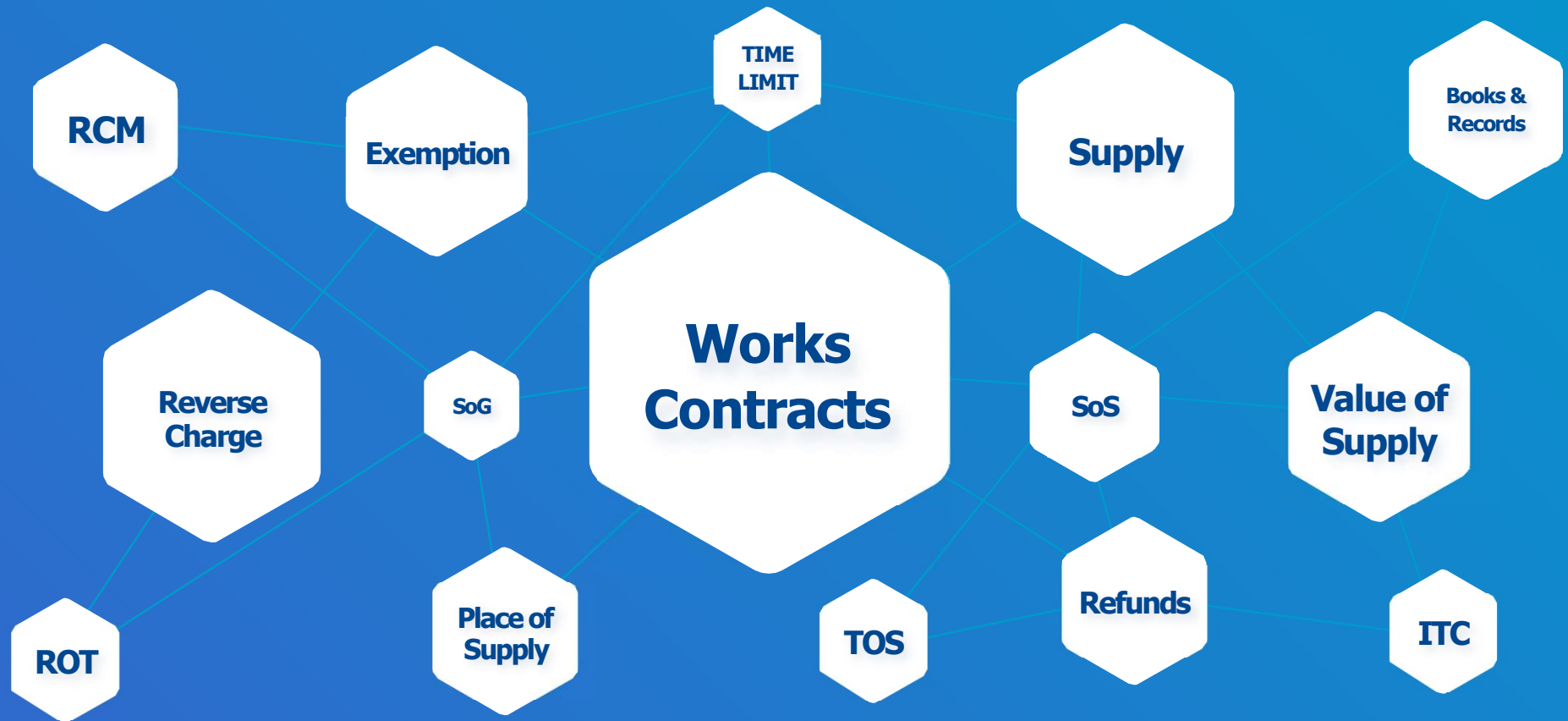
## GST Implications in Works Contracts

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# Agenda for Discussion

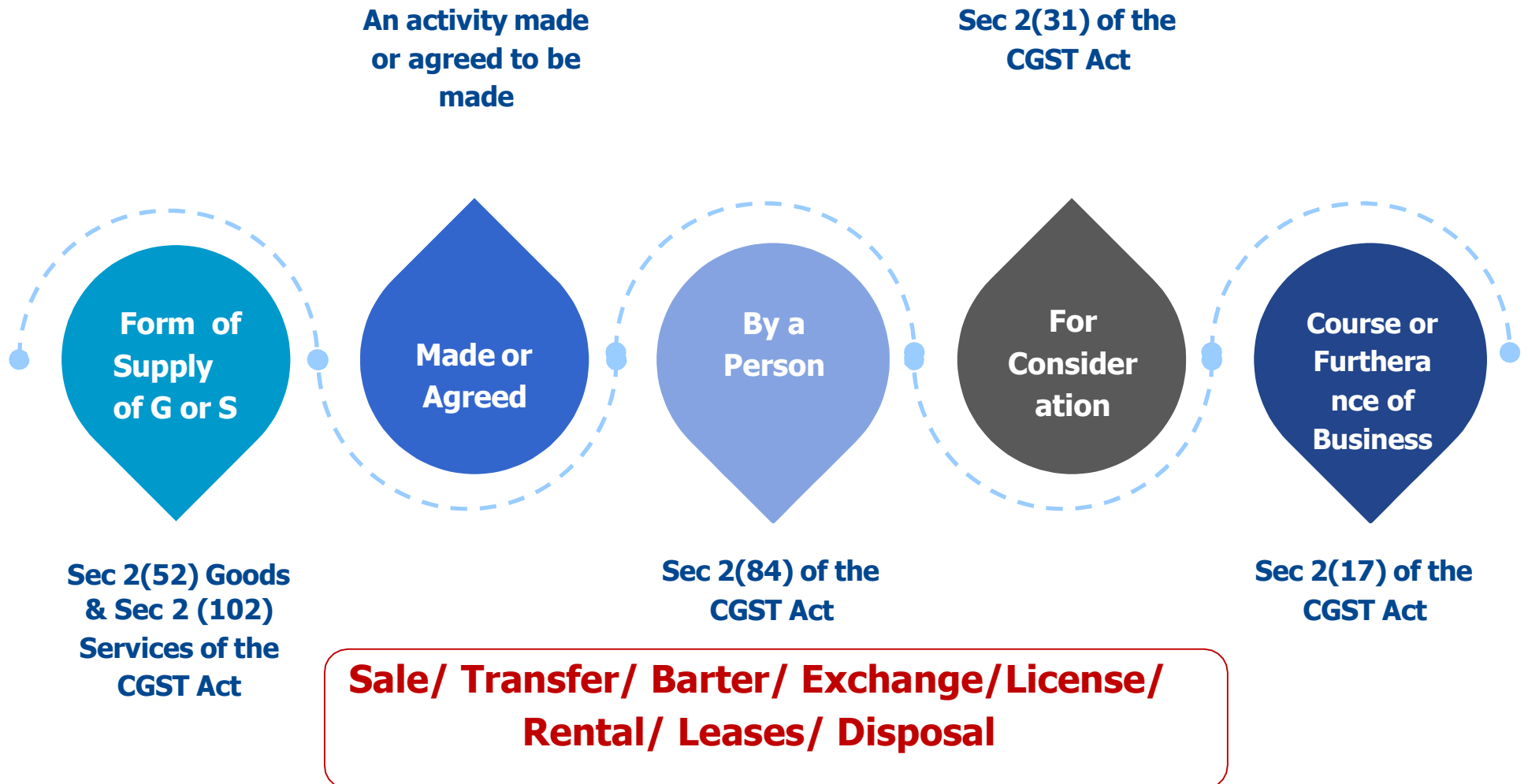


# Works Contract – Sec 2(119) of CGST Act

- Means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of **any immovable property**
- wherein **transfer of property in goods** (*whether as goods or in some other form*) is involved in the execution of such contract



# SUPPLY UNDER GST – IN GENERAL



# Sch II Supply of Goods or Services

## SCHEDULE II

[See Section 7]

### ACTIVITIES OR TRANSACTIONS] TO BE TREATED AS SUPPLY OF GOODS OR SUPPLY OF SERVICES

The following composite supplies shall be treated as a supply of services, namely:-

(a) *works contract* as defined in clause (119) of section 2; and



# Time of Supply in case of Works Contract Service???





# TIME OF SUPPLY

## GOODS

## SERVICES

### FORWARD CHARGE

Invoice or  
Payment  
Whichever is earlier



### REVERSE CHARGE

Receipt of goods or  
Payment or  
31<sup>st</sup> day from date of invoice  
Whichever is earlier



### VOUCHER SALES

Date of issue if supply is  
identifiable or else  
Date of redemption



### INTEREST PENALTY

Date of payment



### RESIDUARY

Periodical return is required –  
date of return or else  
Date on which tax is paid



### FORWARD CHARGE

Invoice or  
Payment  
Whichever is earlier



### REVERSE CHARGE

Payment or  
61<sup>st</sup> day from date of invoice  
Whichever is earlier



### VOUCHER SALES

Date of issue if supply is  
identifiable or else  
Date of redemption



### INTEREST PENALTY

Date of payment



### RESIDUARY

Periodical return is required –  
date of return or else  
Date on which tax is paid





# Sec 12 (2) – ToSG - General

➤ **Liability to pay Tax** shall arise at the Time of Supply

➤ **Time of Supply of Goods** : (Regular Charge)

❖ Date of Issue of Invoice by supplier; or

Last date on which such invoice is required to be issued u/s 31

❖ Date on which supplier receives payment w.r.t supply

(i.e., Earlier of Entry in Books or Credit in Bank Account)

**Whichever is earlier**

\* Upto Rs.1,000/- of Excess Payment Received Option of Supplier



# TOS IN CASE OF CONTINUOUS SUPPLY OF SERVICES

## DD Ascertainable from Contract

Due date of payment is ascertainable from the contract, the invoice shall be issued on or before the due date of payment.



## DD NOT Ascertainable

Due date of payment is not ascertainable from the contract, the invoice shall be issued before or at the time when the supplier of service receives the payment

“continuous supply of services” means a supply of services which is provided, or agreed to be provided, **continuously or on recurrent basis, under a contract, for a period exceeding three months with periodic payment obligations** and includes supply of such services as the Government may, subject to such conditions, as it may, by notification, specify;

## Sec 12 (3) – ToSG - RCM

- Date of Receipt of Goods
- Date of Payment
- Date **immediately following 30 days from the DoI**  
**- Whichever is earlier**

### **Date of Payment :**

Date of book Entry of Recipient

OR

Date of Amount Debited in Bank

**Whichever is earlier**



# Sec 15(1) of CGST - Value of Taxable Supply

- Value of supply of Goods & / or Services – **TV**
- **Price** actually paid or payable – Such Supply
- Supplier & Recipient ≠ **not be related**
- Price is the **Sole Consideration**



# Explanation to Sec 15 of CGST Act, 2017

For the purposes of this Act, (a) persons shall be deemed to be “**related persons**” if—

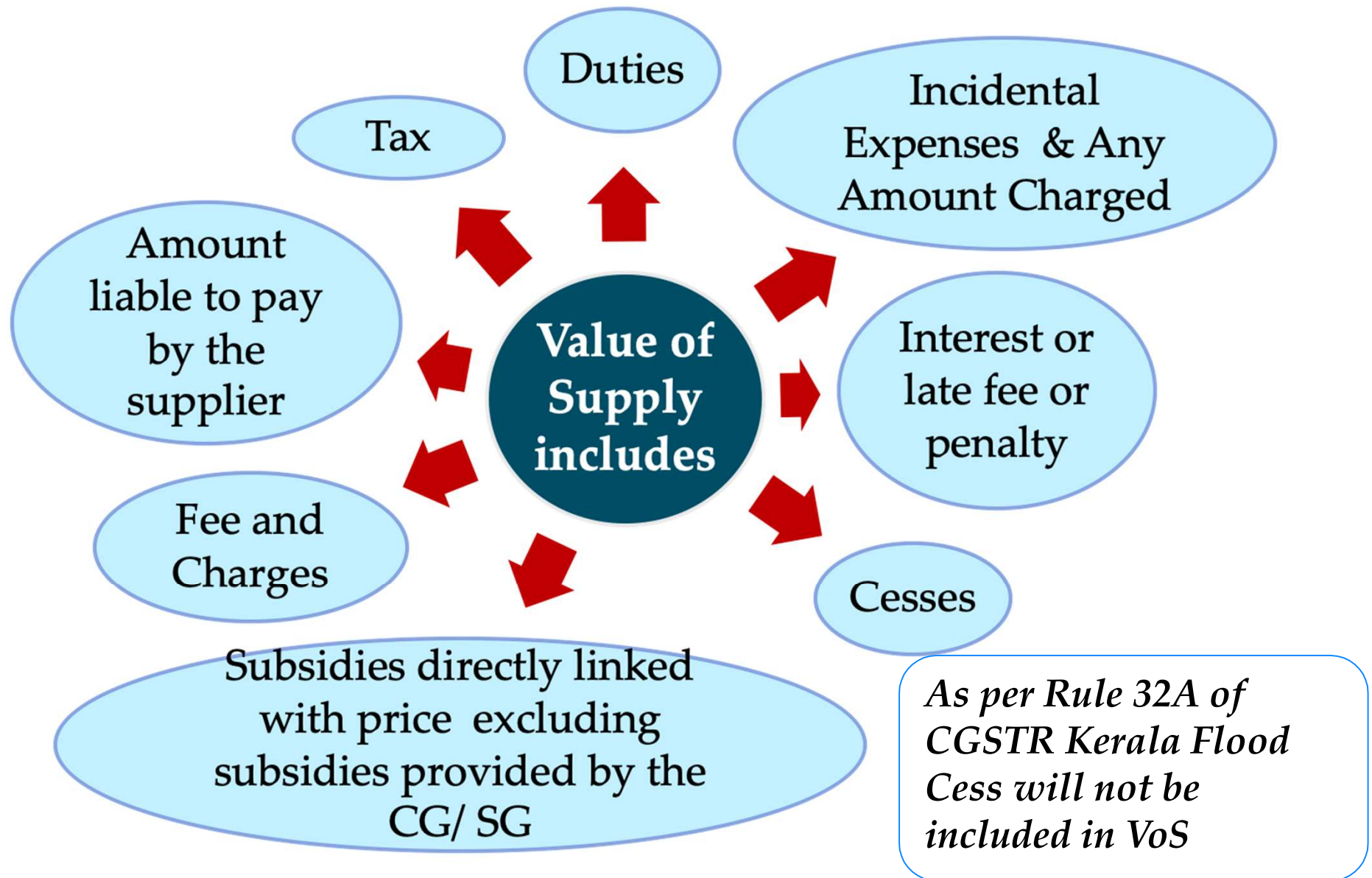
- (i) such persons **are officers or directors** of one another’s businesses;
- (ii) such persons **are legally recognised partners** in business;
- (iii) such persons **are employer and employee**;
- (iv) any person **directly or indirectly owns, controls or holds twenty-five per cent. or more**;
- (v) one of them directly or indirectly **controls the other**;
- (vi) both of them are directly or indirectly **controlled by a third person**;
- (vii) together they directly or indirectly **control a third person**; or
- (viii) they are members of the **same family**;

(b) the term “person” also includes legal persons;

(c) persons who are associated in the business of one another in that one is the **sole agent or sole distributor or sole concessionaire**.



# Sec 15(2) of CGST - Value of Supply



# Sec 15(3) of CGST – VoS – NOT Include

Value of Supply shall not include

- Any Discount
- invoice raised before or at the time of supply – separately shown in invoice
- invoice raised after supply – If an agreement is entered into and specifically linked to invoices
- ITC attributable to such discount for which document issued by supplier and ITC Reversed by Recipient



## Sec 15 (4) & (5) Determination of VoS using Rules

- In case Value of Supply of G or S or B, if value of supply cannot be determined as per the above mentioned general provision.
- The same shall be determined in such manner as may be prescribed.
- Value of certain Supply of G or S which are notified by the Government shall be determined in such manner as may be prescribed.
- *The manner prescribed is as per Ch VI – Determination of VoS - Rule 27 to Rule 35 of CGST Rules, 2017.*

# Rule 33 - VoS – Pure Agent

Value of supply in case of Pure Agent

- Supplier acts as pure agent of Recipient of Supply
- Recipient of Supply uses the Service
- Recipient of Supply liable to make payment to 3<sup>rd</sup> party
- Recipient of Supply authorizes to make payment on his behalf
- Recipient of Supply knows payment made by supplier service shall be provided by 3<sup>rd</sup> party

# Rule 33 - VoS – Pure Agent

- Payment made on behalf of the recipient has been separately shown in invoice
- Supplier recovers from recipient only such amount paid by 3<sup>rd</sup> party
- Services procured by supplier from 3<sup>rd</sup> party as pure agent are in addition to supply on his own

If all the above conditions are satisfied cost incurred by the supplier as a pure agent shall be excluded from the value of supply.



## RCM on Construction Services under GST



# Sec 9(3) of CGST – Levy of GST on Recipient

- CG – Recommendation GST Council
- **Specify Goods or Services or Both**
- Tax on which Payable under Reverse Charge
- Tax shall be paid by **Recipient**
- All provisions apply to recipient as if he is the person liable for paying tax in relation to supply of such Goods or Services.

## Rule 56 - Maintenance of Accounts – Works Contract

- Person executing works contract – keep separate Accounts showing
- Name & addresses of person of suppliers & whose behalf – WC executed
- Description, Value & quantity of G & S utilised in WC
- Details of payment received – each WC
- Person having custody over the goods – Capacity of Carrier or clearing & forwarding agent for delivery – on behalf of RP maintain true & correct records of such goods
- Every RP – on demand produce the BOA – required to maintain under any law in force



*Thank  
you*



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