

Goods and Services Tax Act, 2017

Overview

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GST Design – Principles – Are they too different from current system ?

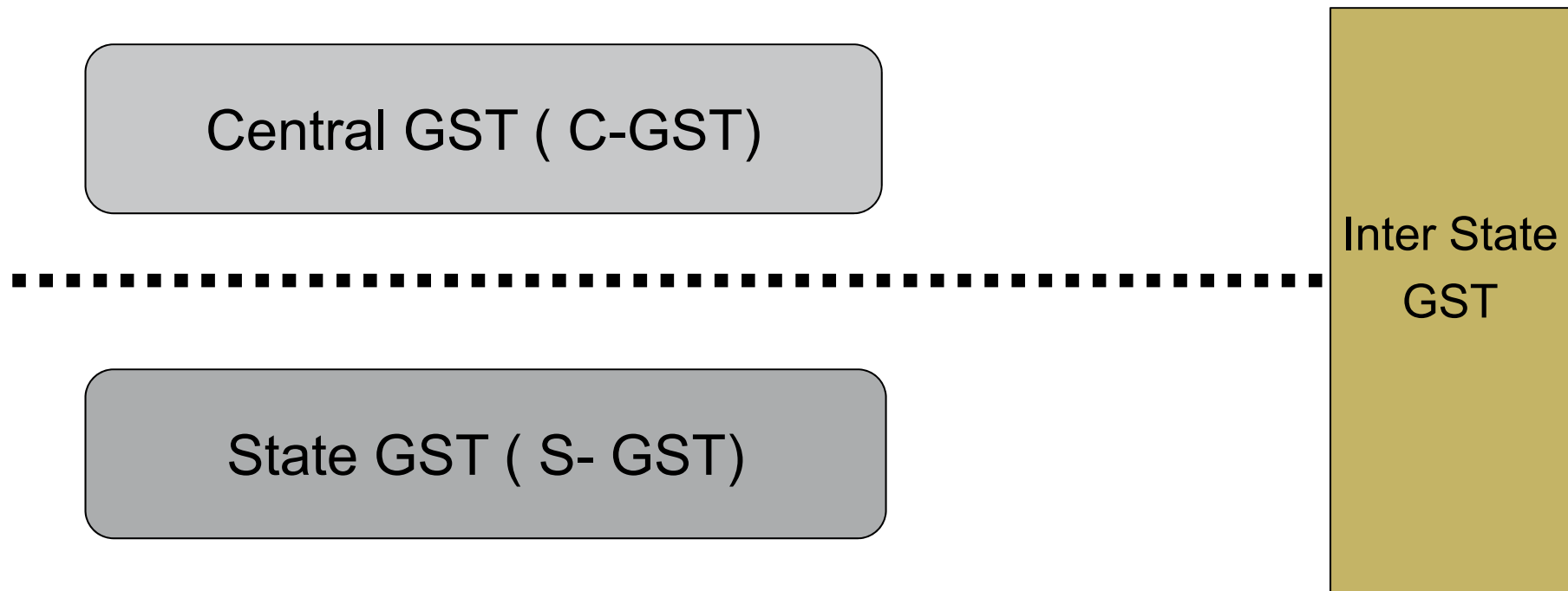
- A destination based multi-point system of taxation
- Taxes consumption
- Pass through for businesses – ultimate burden passed on to the consumer
- Input tax credit mechanism
- Invoice based system

Coverage : Goods and Services both – entire chain

GST Model – In nutshell...

- Levy on supply of goods and services
- International Transactions
 - Exports – IGST - Zero rated
 - Imports – IGST
- Domestic Transactions – Dual Model
 - Intra-state Transactions – Central GST + State GST (C + S)
 - Inter-state transactions –Integrated GST (I)

Dual Model – how it works ?



Centre and State - separate legislations and administration

Determination of tax liability

Whether a transaction is international or domestic ?

Whether it is intra-state or interstate ?

International Transactions

➤ Goods:

- Import - Bringing into India from a place outside India
- Export - Taking out of India to a place outside India

➤ Services:

- Where location of the supplier **or** location of the recipient is outside India

Inter-state transactions

- Goods and Services:
 - Place of Supplier & Supply – Different State
- **Includes:**
 - Supply till goods cross customs frontiers
 - Supply to/by SEZ developer/unit
 - Any transaction that is not intra-state transaction

Intra-State transactions

- Goods and Services:
 - Location of supplier and place of supply: In the same state
- Intra-state excludes:
 - Supply till goods cross customs frontiers
 - Supply to/by SEZ developer/unit
 - Any transaction that is not intra-state transaction

Constitutional Provisions....

Goods and Services tax – Art 366(12A)

Any tax on **supply** of **goods** or **services** or both except taxes on the supply of the alcoholic liquor for human consumption

Goods –Art 366(12) - Existing


Include all materials, commodities and articles

Services – Art 366(26A)

Anything other than goods



...Constitutional Provisions...



Subsumed: Central Excise, Service tax, Additional Duties of Customs (in lieu of Central Excise and Sales tax), State Value Added Tax, Central Sales tax, Entry tax, Octroi, Local Body Tax, Entertainment Tax, Luxury Tax

Excluded: BCD, Entertainment Tax levied by Panchayat, Municipality, Regional or District Council, Electricity Duty, Stamp Duty

...Constitutional Provisions

Goods



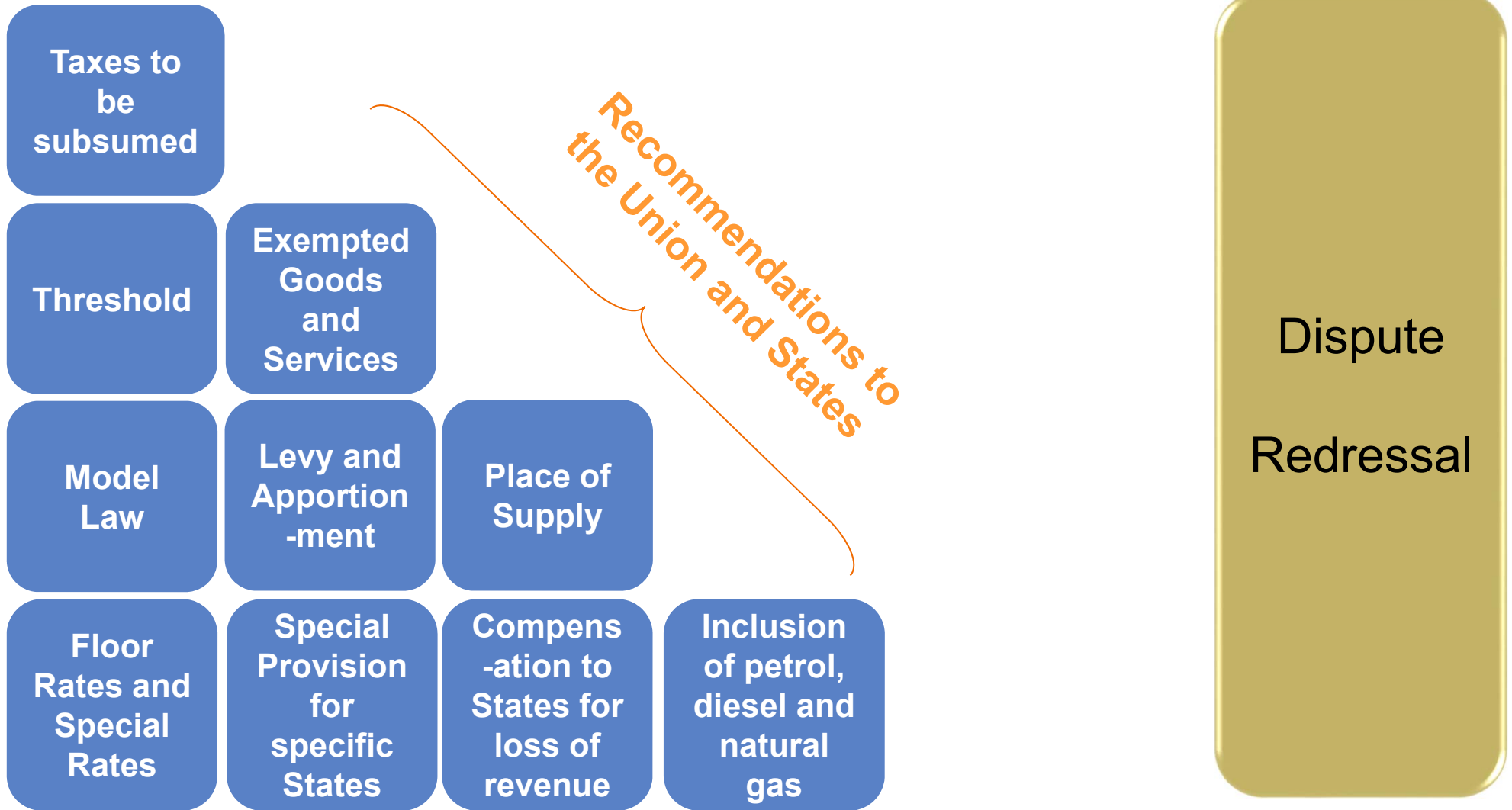
Excluded : Alcohol for human consumption

Excluded Temporarily: Crude, Diesel, Petrol, Natural Gas, Air Turbine Fuel

**Retained in Entry 84, List I, Seventh Schedule :
Tobacco and Tobacco Products**

*Tobacco and Tobacco Products will attract GST along with the Central Excise presently applicable

GST Council



The Levy – S 9/CGST Act

- **Tax on intra-state supply of goods or services or both...on value determined.....at such rates.....collected in such manner as prescribed and shall be paid by taxable person**

GST Law – Overview of key provisions

Taxable Transaction

Taxable Person & Registration

Input Tax Credit

Place of Supply

Time of Supply

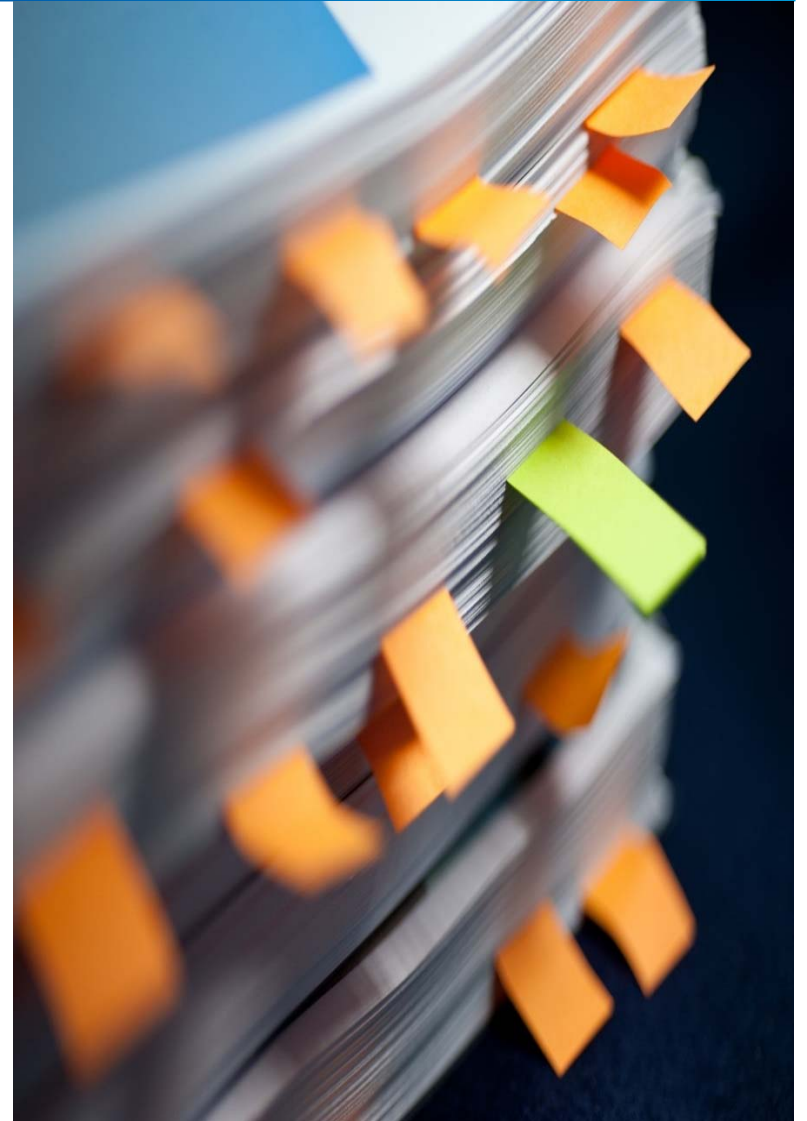
Valuation

Transition

Returns

Other Processes

Open Issues



Taxable Transactions

| VAT | Excise Duty | Service Tax | Proposed GST |
|------------------------------------------|----------------------------------------------------------------------------------------------------------------|------------------------|--------------------------------------------------------------------------------------------------------------------------------------|
| Sale or Purchase of Goods Within a State | Manufacture within India and Additional Duty of Customs equivalent to Central Excise Duty on import into India | Provision of "service" | Supply of goods and services Key aspects: "Supply" "Goods" "Services" |

Meaning of “Supply”...

➤ Inclusive definition – S 7

- All forms of supply of goods/services -sale, transfer, barter, lease...for consideration...in the course of or furtherance of business
- Import of services for consideration – whether or not in the course or furtherance of business
- Activities mentioned in **Sch I – without consideration**

...Schedule I...

- **To be treated as Supplies (without consideration)**
 - Transfer or disposal of business assets where ITC is availed
 - Supply between **related persons** or **distinct persons** in course of or furtherance of business (exclusion of Rs 50k in a fin year by employer to employee)
 - Related Person –S 15-CGST- Very broad
 - Distinct Person – separate registrations by a taxable person

Meaning of Related Person

- **S 15 – Valuation – for the purpose of this Act:**
 - Such persons are directors or officers of one another's businesses
 - Such persons are legally recognized partners in business
 - **Such persons are employer and employee**
 - Any person owns, controls or holds, directly or indirectly, 25% of voting stock/shares
 - One of them dir or indirectly controls other/they are controlled by third person/together they control third person
 - They are members of same family
 - Agent, distributor, sole concessionaire

...Schedule I...

- **To be treated as Supplies (without consideration)**
 - Supply of goods by principal to agent & agent to principal
 - Import of services by taxable person from related person/establishment outside India-course or furtherance of business

...Meaning of “Supply” ...

➤ Exclusions

- Activities specified in **Sch III**- neither goods nor services – employer-employee relating to employment, funeral, burial, etc, sale of land/completed building, actionable claims other than lottery, gambling, betting, MPs, MLAs, Tribunals..
- Activities or transactions undertaken by Govts as public authorities – to be notified

Activities treated as supply of goods or services – Sch II

...Schedule II...

➤ **What is Supply of Goods/Service**

- Transfer of title – Goods
- Rights in goods/undivided share – without transfer of title - Service
- Lease/renting of land/building/trf of right to use - Service
- Construction of building/civil structure – Service
- Works contract-immovable prop-Service
- Food for human consumption - Service
- Declared Services - Service

Meaning of “Goods” – S 2 (52)

Goods –Art 366(12) - Existing

Include all materials, commodities and articles

Every kind of movable property **other than money and securities** but includes actionable claim, growing crops, grass or things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply

Meaning of “Services” – S 2 (102)

Other than goods, money and securities

and, includes services relating to use of money or its conversion by cash or any other mode from one form, currency or denomination to another form, currency or denomination for which a separate consideration is charged

Taxable Person....

| VAT | Excise Duty | Service Tax | Proposed GST |
|--------|--------------|------------------------------------------------------------------------------------------------------------------------------|---------------------------------------------------------------------------|
| Dealer | Manufacturer | Service Provider or Service Recipient (Reverse Charge Mechanism for import of services and certain domestic services) | Registered or required to be registered Person – S 2(107)/CGST Act |

...Who is required to be registered...S 22

- Aggregate TO in a FY > 20 L/10 L only in NE/Sikkim
- Registration in the state from where he makes taxable supply
- Specifically Excludes (S23)- Agriculturist (supply of produce out of land), exclusively supplying goods/services not liable to tax/wholly exempt

Time and Place of Supply ...

| VAT | Excise Duty | Service Tax | Proposed GST |
|-------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------------|----------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------|-----------------------------------------------------------------------------------------------------------------------------------------|
| <ul style="list-style-type: none"> ▪ Ascertainable Goods ▪ Unascertained Goods ▪ Within State ▪ Outside State ▪ In the course of import ▪ In the course of export | <p>At the time and place of “removal” of goods</p> | <p>Place – As per Place of Provision Rules, 2012</p> <p>Time – As per Point of Taxation Rules, 2011</p> | <p>Place– S 10-13 of IGST Act</p> <p>Time – S 12 & 13 of C/S-GST Act</p> <p>Separate rules for goods and services</p> |

Time & Place of Supply – Significance

Time : When liability to pay arises ?

Place of Supply
+
Location of Supplier

Whether Inter-state or Intra-State ?
Whether domestic or international ?
Different rules for Goods and Services

Time of Supply - Goods...

➤ **General Rule – Earliest of :**

- **Date of invoice**

or last date for issuance of invoice:

- **Date of removal for supply**
- **If not required to be removed, date of making available to supplier**
- **Date of receipt of payment or deemed date of receipt-
date of entry in books/credit in bank account**

Time of Supply - Goods...

- **Reverse charge – Earliest of:**
 - **Date of receipt of goods**
 - **Date of payment/entry in books/bank a/c**
 - **Date following 30 days from date of issue of invoice**
 - **If none of above, date of entry in books of recipient of supply**
- **Vouchers – date of issue if supply identifiable/date of redemption**
- **Addition in value- interest, late fee, penalty for delay in payment of consideration - date of receipt**
- **Exceptional cases – due date for filing return/date of payment GST**

Time of Supply – Services...

- **General Rule – Earliest of :**
 - **Date of invoice if issued within prescribed time**
 - **Date of completion of service if invoice not issued within prescribed time**
 - **Date of receipt of payment**
- **If General Rule does not apply – date on which recipient records in the books of account**

...Time of Supply – Services...

- **Exceptional cases – due date for filing return/date of payment GST**
- **Reverse Charge – Earliest of:**
 - **Date on which payment is made**
 - **Date of 60 days from date of issue of invoice**
 - **If both above not possible, date of debit in books of account**
- **Voucher – Date of issue/redemption**
- **Addition in value – interest, late fee, penalty for delay-date of receipt**

**Place of
Supply of Goods
-Domestic
Transactions**



...Place of Supply – Goods – domestic transactions - S 10 of IGST Act...

- In case of movement of goods – location at the time of delivery
- If transferred to another person before or during movement of goods-location of business of such person – **Bill to – Ship to**
- In case of no movement – location at the time of delivery
- Assembled or installed at site – location of site
- Supplied on board conveyance – location at which taken on board
- Other cases – as per GST Council Direction

Place of Supply of Goods – International

- **S 11 of IGST Act**
- **Imports – Location of Importer**
- **Exports – Location outside India**

Place of Supply of Services – Domestic -S 12 of IGST Act...

- **General – Supplies to :**
 - **Registered person – location of registered person**
 - **Non registered person-location of recipient if address exists, if not, location of service provider**
- **Specific Rules for several supplies of services depending on nature of services**

...Place of Supply of Services...Domestic...

| | |
|-------------------------------------------------------------------|--------------------------------------------------------------|
| In relation to Immovable Property | Location of imm property |
| Restaurant, catering, beauty treatment, health services... | Where performed |
| Admission to cultural, artistic...event | Place of event/location of Amusement |
| Telecom- post paid | Billing address of recipient |
| Telecom – pre-paid Online recharge | Where payment recd/voucher sold Address on record |

...Place of Supply of Services...Domestic...

Fixed Telephone Line/DTH..

Where installed

Banking, Other financial services, Stock broking

Location of recipient as per records of supplier

If not available

Location of provider

Advt services to Govt

Each State- apportionment – as per contract or reasonable basis

...Place of Supply of Services...domestic...

- **Different rules for supply to Registered (B2B – Location of Recipient - LOR) and Unregistered Persons (B2C) in five cases:**
 - **Training, performance appraisal LOR/Place of Performance**
 - **Organisation of cultural, artistic, scientific...event or ancillary services thereto – LOR/Where held**

...Place of Supply of Services...domestic

- **Transportation of goods, mail, courier – LOR/Where handed over for transportation**
- **Passenger Transportation – LOR/ embarkation place for journey – if for future use-address as per record – else, supplier location**
- **Insurance – LOR/Recipient Location on record of supplier**



Place of supply of services - International

Import /Export of Services - International

| | Export S 2(6)/IGST | Import S 2(11)/IGST |
|-----------------------|-------------------------------------------|--------------------------------------------|
| Location of Supplier | India | Outside India |
| Location of Recipient | Outside India | India |
| Place of Supply | Outside India | India |
| | Convertible foreign exchange | |
| | Not mere establishment of distinct person | Not mere establishments of distinct person |

Place of Supply of Services – International – S 13 of IGST Act

- **No distinction between B2B & B2C**
- **General Rule – Location of recipient – if not on record, location of supplier**
- **Several Specific rules**

...Place of Supply of Services...International...

| | |
|-------------------------------------------------------------------|---------------------------------------------|
| In relation to Immovable Property | Location of imm property |
| Restaurant, catering, beauty treatment, health services... | Where performed |
| Admission to/Organisation of cultural, artistic...event | Place of event/location of Amusement |
| Transport of goods (other than mail, courier) | Destination of goods |
| Passenger Transportation | Location of embarkation for journey |

...Place of Supply of Services...International

On board a vessel

First Scheduled point of departure

Banking, Fin Institution, NBFC Services to account holder (NRE/NRO A/c – any account bearing int to depositor)

Location of supplier

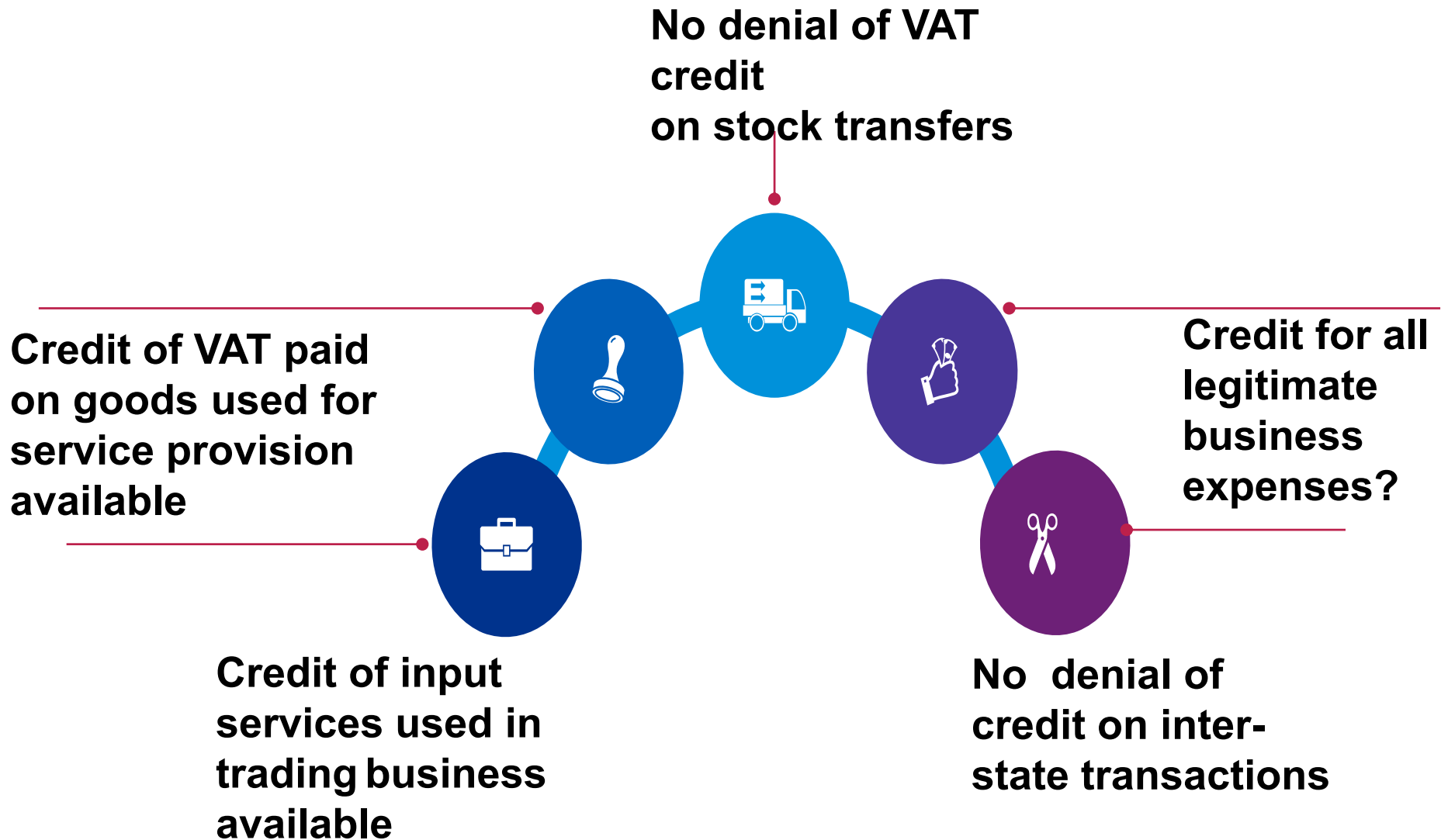
Online Database access and retrieval services

**Location of recipient of service – very wide
Billing address, IP address, Crd,etc issued in India, Bank a/c in India, fixed line in India, country code of India**

Input Tax Credit

- **C-GST against C-GST (ISD – distribution as IGST permissible)**
- **S-GST against S-GST ((ISD – distribution as IGST permissible)**
- **I-GST against I-GST, C-GST and S-GST – I-GST, a settlement mechanism**
- **Invoice based system – within one year from date of invoice**
- **Used for supply of taxable goods/services – partial – proportionate**

Liberal input tax credit regime



Input tax Credit

Conditions

- Possession of a tax invoice, tax-paying document
- Receipt of Goods / services – receipt in instalments
- **Payment of tax by supplier**
- Filing of return

Restrictions

- Motor vehicles, personal use of employees...
- **Goods / services used for personal consumption**
- **Works contract resulting in immovable property (other than plant and machinery)**
- Goods / services suffering composition levy

Input Tax Credit - Impact on Compliances

- Complete Automation - Returns and Payments
- Documentation significant under self credit mechanism
- Credit availment mechanism – strict discipline required

Input Tax Credit data will be auto populated from Suppliers' GSTR-1 (Outward Supplies)

1

Non disclosure by Supplier would result in loss of credits in the hands of Company

2

Need to reconcile balances with Suppliers on a month on month basis, within the prescribed time

Post submission, reconciliation and rectification by Supplier to be ensured by Company within the time lines specified

4

Even if reconciliation is not carried out, Company can add / modify credit details and submit GSTR-2 (Inward Supplies)

3

Valuation – S 15 of C/S GST Act

- **Transaction Value – price actually paid/payable where supplier and recipient not related and price is the sole consideration**
- **To include:**
 - **Taxes, duties, cesses – other than GST**
 - **Incurred by recipient & not included in price..**

Contd.....

Valuation – S 15 of C/S GST Act

- **To include (contd):**
 - **Incidental expenses- commission, packing- at the time of/before supply**
 - **Interest, late fee, penalty-delay in payment of consideration**
 - **Subsidies linked to price – excludes C & State Govt subsidies**

Compliances

- **Registration**
- **Payments**
- **Returns**
- **Refunds**

Impact on Compliances

GST registrations and related compliance to be state-specific

Maintenance of state-specific CGST/SGST/IGST ledgers and balances

Maintenance of invoices, credit registers, purchase records, etc.

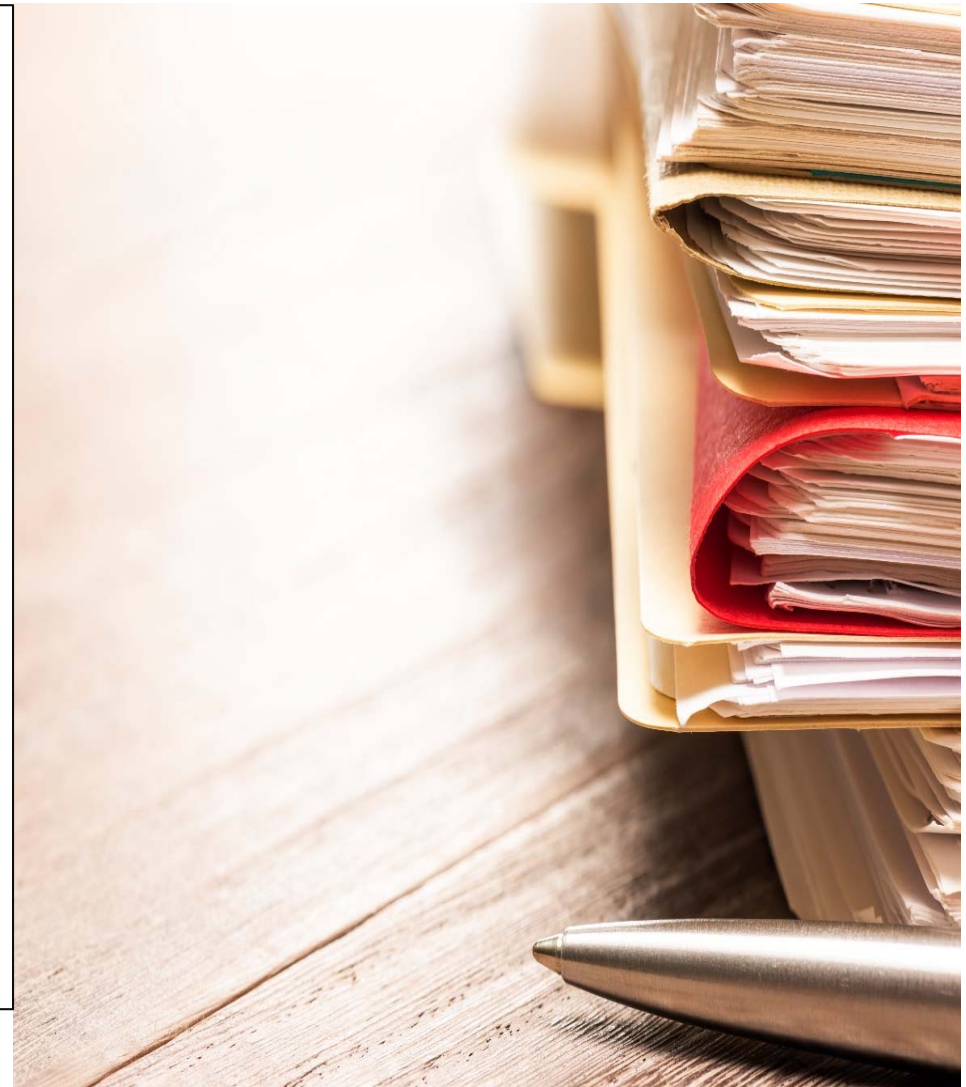
Way-bill requirements

No check posts

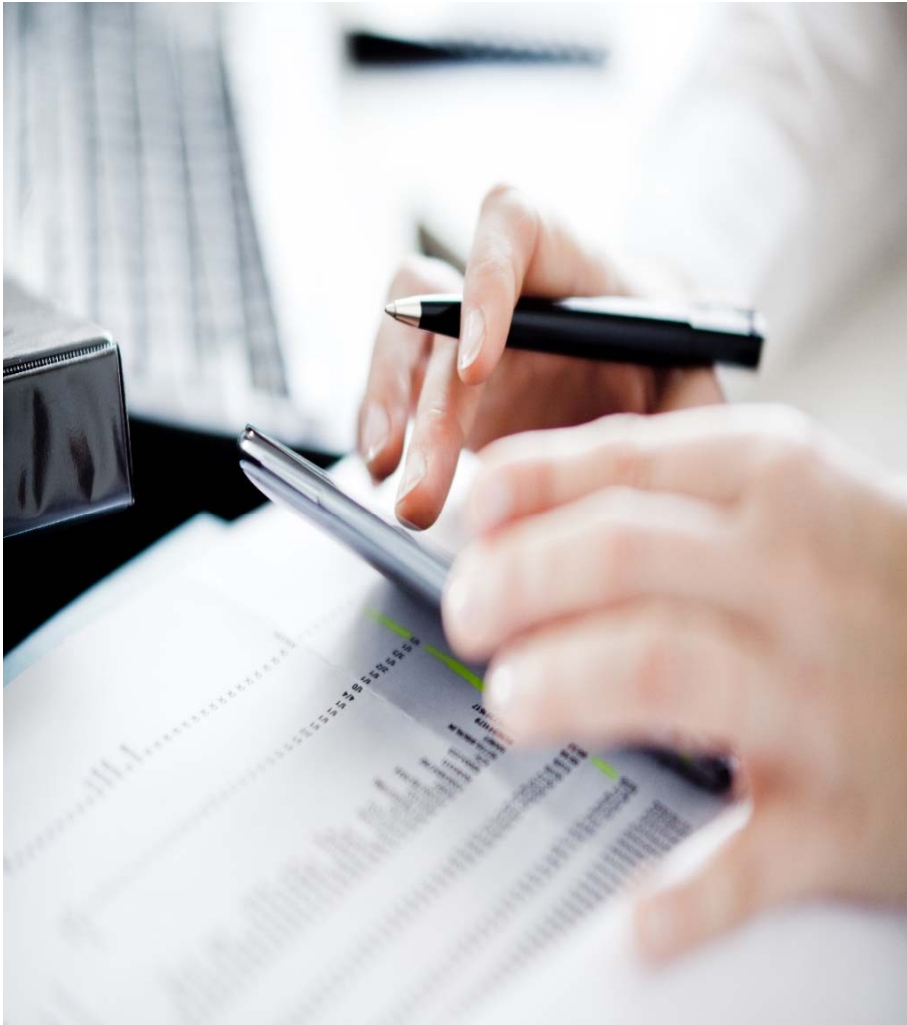
Need to shift from manual systems to automation for e-payments, e-filings, etc.

Registration

- Threshold – Dealer wise – all India Basis
- Within State – one or more-business vertical wise
- Interstate Supplier
- Reverse Charge Payer
- Non-Resident Dealer
- ISD- only for Services
- 15 Digits



Payments



- Three modes
 - Internet banking –authorized banks & Dr /Cr cards
 - OTC – Authorised Banks
 - NEFT/RTGS- any bank
- RBI consolidator – Credit to C Govt and State Govts
- Accounting Codes – 20
- Corrections and mismatches

Electronic Cash Register

Refunds

- International tourists
- Exports - “Zero” rated
- Inverted duty structure
- ICEGATE & GSTN linkage
- Export of Service – E-BRC
- Time limit – 1 year from relevant date



Returns

- Only Electronic Filing – NIL Returns also reqd
- Upload Outward Supply and TDS Data – 10th
- Upload ISD data – 13th
- Verify, Correct and upload Inward Supply Data – 15th
- Payment and tax return by suppliers under composite scheme - qtrly– 18th
- Pay tax and file monthly return – 20th
- Annual Return – 30th December
- Rectification – upto return due date for 2nd qtr of following year

Electronic Cash & Credit Registers

Transition

- **Stock on hand – tax paid with supports & without supports**
- **Services in progress/stock in transit**
- **Construction projects /Lease transactions**
- **Job work**
- **Invoices issued but collection pending**
- **Input tax credit balances**
- **Pending refunds**
- **Pending assessments**
- **Recoveries**

Specific provisions – S 139-142

Administrative Control

- Enforcement
- Evasion
- Dispute Resolution
- Litigation

**90:10 and 50:50 formula
for audit**

Key Open Issue – Rates/Exemption

- Rates : 5 %, 12 %, 18 %, 28 % + GST Compensation Cess

- Exemptions:
 - State VAT List – 96
 - Central VAT List –
 - 243 Exempt
 - 32 Nil Rate
 - 3 @1 %
 - 123 @ 2%
 - 115 @ 6%

Services

- Negative List
- Exempt List

Other areas...

- Unregistered dealer purchases
- Composition Scheme
- Mixed Supply
- Composite supply
- Job workers
- Second-hand car dealers
- Anti-profiteering...

Impact of GST – A Business Reform





**How can we help
businesses in
transition ?**

What businesses need to do?

- Review Act/Draft Rules – identify likely issues – general and specific - suggest solutions - advocacy
- Perform **Impact** Assessment
- Review key areas being impacted
- Examine business process/supply chain/IT/system changes
- Training and Education at all levels – own, vendors, customers, contractors
- Prepare for Implementation – transition, compliance...

DISCUSSION/QUESTIONS ?



THANK YOU

Presenter : Bhavna Doshi