

# Goods and Services Tax Model Law – Way Ahead

- CA Prashant Deshpande
- CA Ankur Jain
- CA Nainish Shah

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**JB Nagar / Andheri East Study Circle**



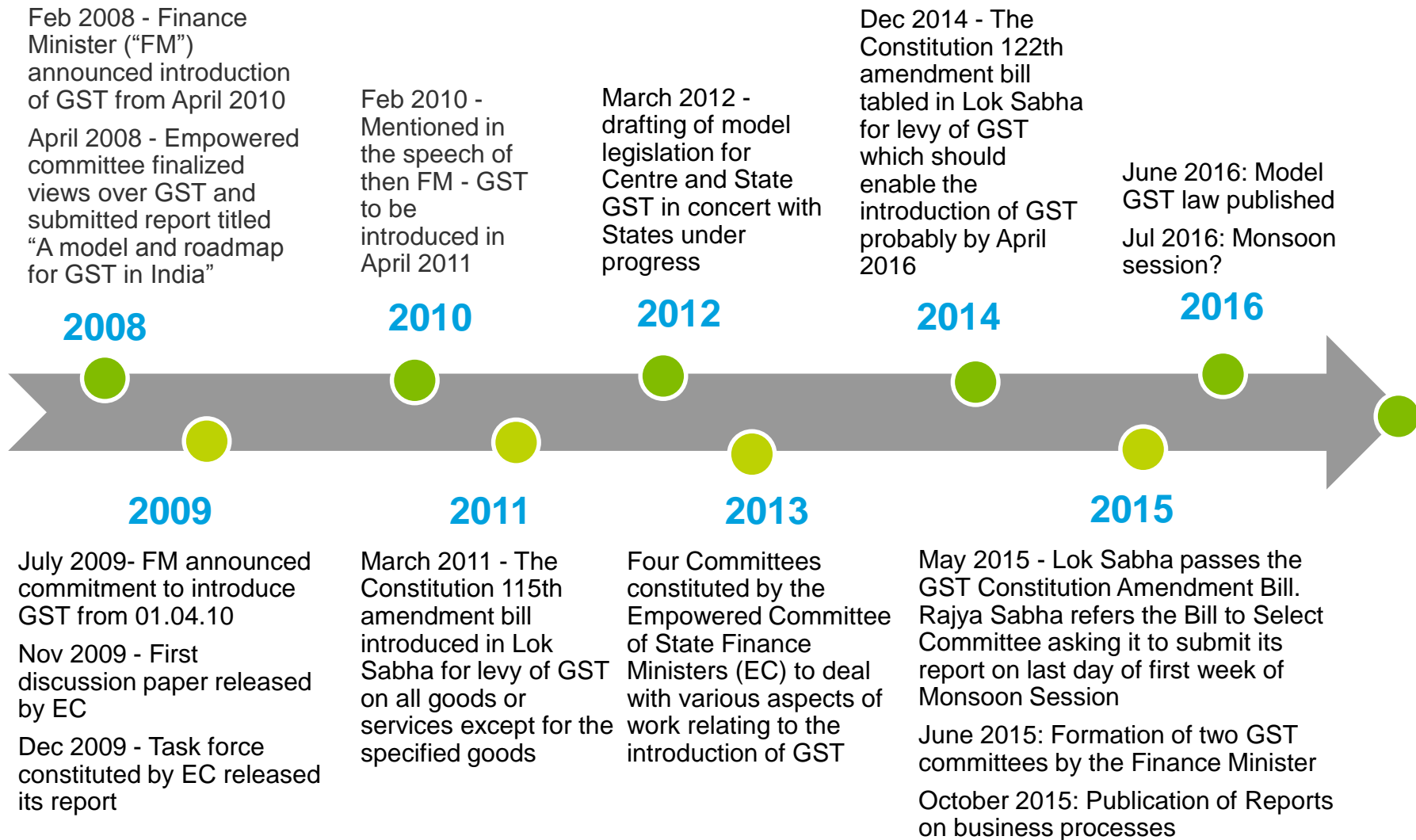
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# Setting the Context...



# GST Journey in India



# GST – What and why?

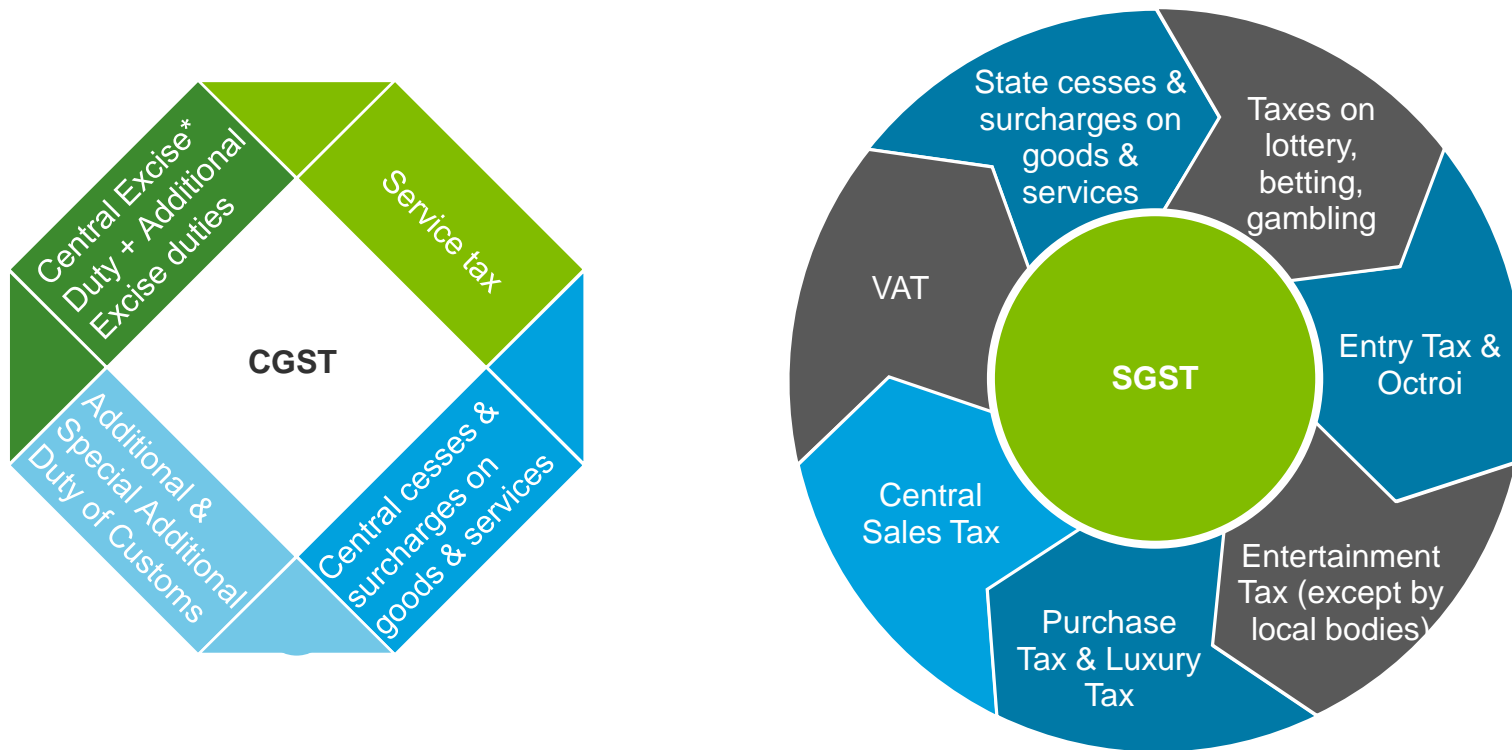
## What is GST?

- **Comprehensive value added tax** on goods & services
- Expected to be introduced from **April 2016**
- **One taxable event** against multiple events at present
- Expected to **widen tax base** and lower the effective tax rate on goods
- Make India a **common market**

## Why GST?

- Indian indirect tax structure involving **multiple taxes** is out of sync with global practices
- Multiple taxes lead to **double taxation** and **cascading effect**
- **High cost of tax compliance and double taxation** leads to higher prices of goods & service
- **High cost of tax collection** leads to lower tax yield to Government

# Taxes to be subsumed in GST



## Note:

- 1) Alcoholic beverages for human consumption are proposed to be kept out of the purview of GST
- 2) GST on petroleum products would be levied from a notified date recommended by the GST Council
- 3) \* Includes Excise duty levied under Medicinal & Toilet Preparations (Excise Duties) Act, 1955

# Dimensions of the proposed GST

- **Dual GST:** Central GST (CGST) and State GST (SGST) to **operate concurrently** on supply of goods and services
- **Inter-State transactions** subject to **Integrated GST (IGST)** which will be **aggregate of CGST and SGST**
- **Taxable event of 'supply'** as against manufacture (excise), sales (VAT) and service (service tax)
- Existing **industrial incentives** to be continued by way of 'refund' mechanism
- **Cross utilization** of CGST and SGST credit will not be permitted except under IGST

What are the dimensions of significance?

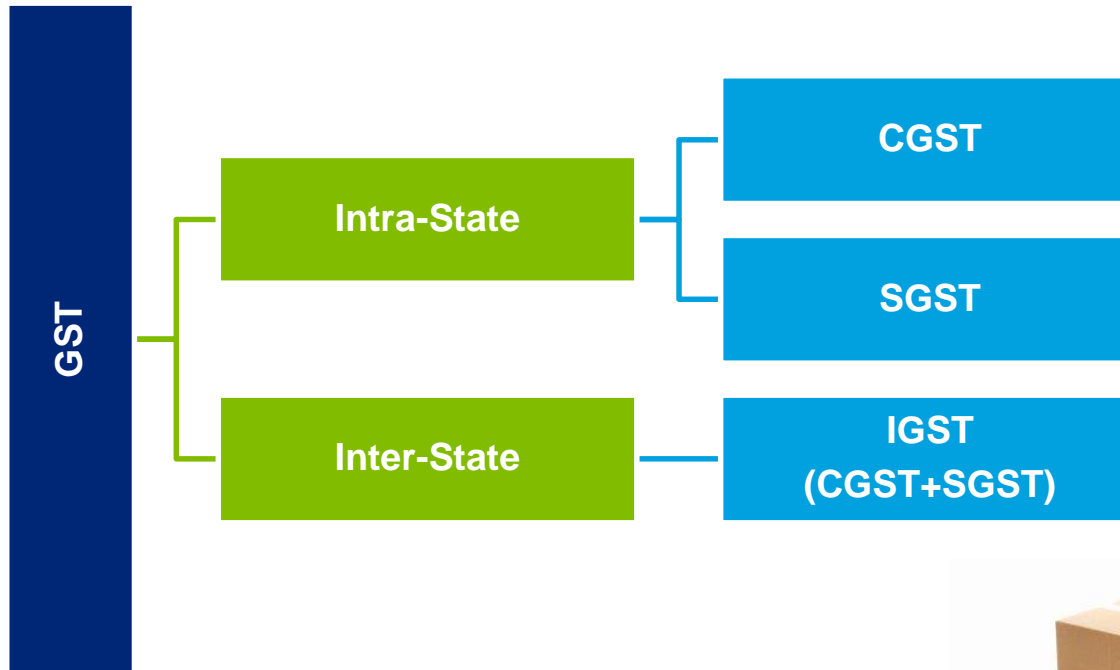
# Dimensions of the proposed GST

What are the dimensions of significance?

- Levy of **additional tax of 1%** on inter-state movement of goods. However, the report of Rajya Sabha Committee has recommended that the same should not be levied on supplies which are undertaken without a consideration
- Exports and supplies to SEZ to be zero-rated
- **Imports would be subjected to IGST** on destination principle; SGST component of IGST to be appropriated by State where supplies get consumed



# Proposed GST Model



# GST framework

# GST framework in India

**Taxation on destination based consumption principles**

**Taxable event of "supply" as against manufacture (excise), sales (VAT) and services (service tax)**

**Dual GST (Central GST and State GST) to apply concurrently on supply of all goods and services**

**Integrated GST (IGST) on inter-State transactions including stock transfers**

**1% additional tax (non-creditable) on all inter-State sales of goods**

**Imports subject to IGST; Exports zero-rated**

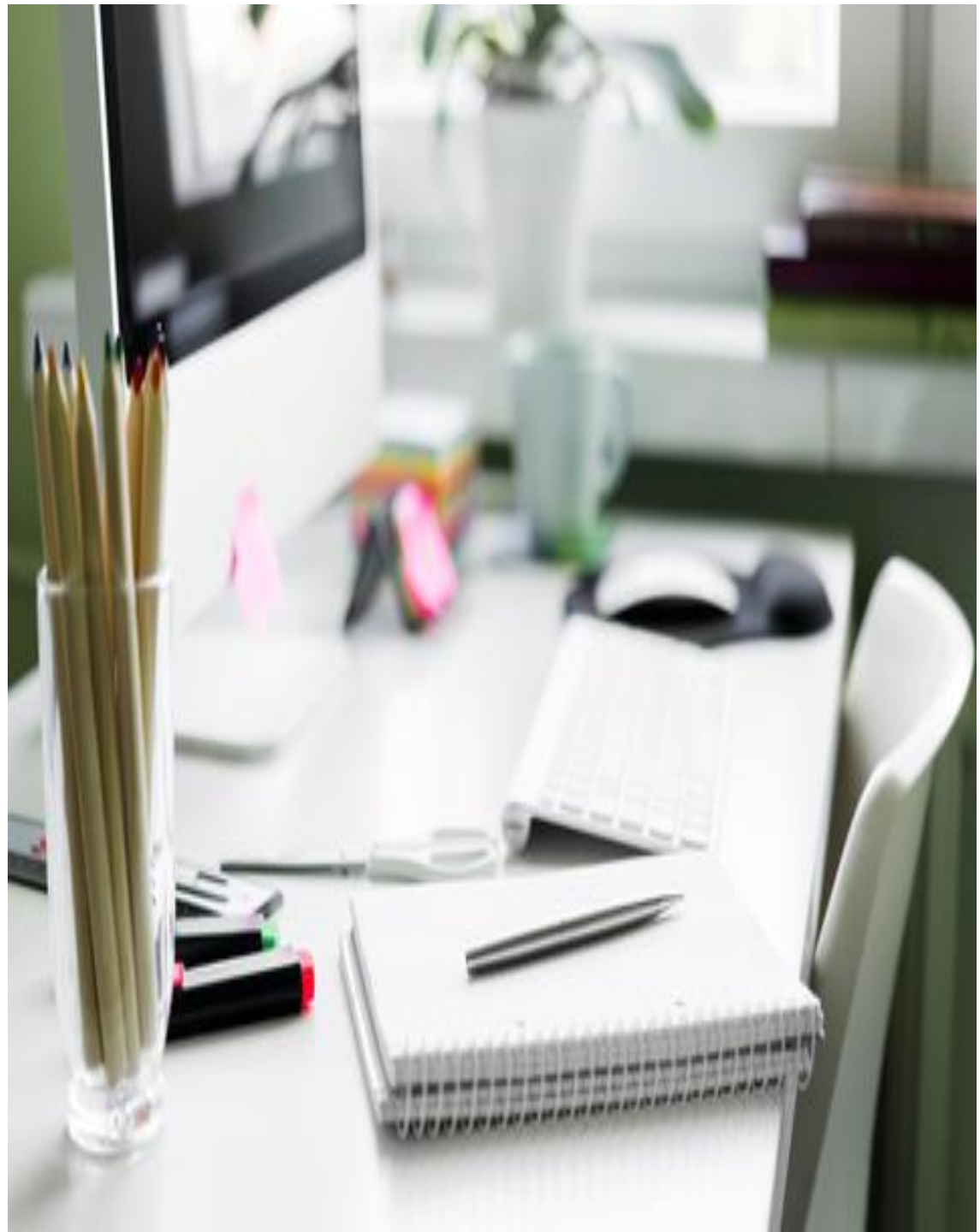
- **Expected to neutralize tax driven decision making**
- **Offers opportunities to address new markets and access supply bases which were earlier constrained**
- **GSTN – a common portal to be set-up for GST implementation and compliance**

# Existing indirect tax structure versus Model GST Law

## Key differences

Existing indirect tax structure	Versus	Model GST Law
Multiple levies based on various activities – Central Excise on manufacture, Service Tax on provision of service, VAT on sale, etc.		Levy on “Supply” of goods and services; Subsume most of current indirect taxes into a Single GST levy
Place of Provision of Services Rules, 2012 to determine place of provision of services		Place of Supply Rules prescribed for both goods and services
Valuation Rules differ across legislations both at Center and State levels including MRP based valuation		Transaction value to be adopted; Model Law silent on MRP based valuation
Different rate of tax on goods and services		Uniform rate of tax on goods and services
Restriction on cross utilization of credits		Seamless cross-utilization of credits allowed
Separate registration under each law		PAN based all-India registration
Cap on number of times a return can be revised as well as comparatively lesser time limit		No cap on number of times a return can be revised and a substantial broader time limit prescribed for filing revised forms / returns
Reverse charge provisions for services		Reverse charge provisions for both goods and services

# Model GST Laws



# Levy, Taxable person and Exemption

CGST and SGST will be levied and collected on all 'intra-state supplies' of goods and/ or services at the specified rate.

IGST will be levied and collected on all 'inter-state supplies' of goods and/ or services at the specified rate.

For certain notified categories of goods/ services, as per the recommendation of the GST Council, the tax will be payable on reverse charge basis

# Interstate/intrastate Supplies

## **Interstate supplies of Goods and services**

Supply of Goods/Services where location of supplier and place of supply are in the different state.

## **Intrastate supplies of Goods and services**

Supply of Goods/Services where location of supplier and place of supply are in the same state.

# Supply – meaning and scope

## Meaning and Scope of 'Supply'

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

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

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## Deemed Supply

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Where a person, acting as an agent, for an agreed commission or brokerage, either supplies or receives any goods and/or services on behalf of any principal, the transaction between such principal and agent shall be deemed to be a supply

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The supply of any branded service by an aggregator under a brand name or trade name owned by him shall be deemed to be a supply of the said service by the said aggregator.



# Schedule I

## Supplies made or agreed to be made without consideration

Permanent transfer/disposal of business assets

Temporary application of business assets to a private or non-business use

Services put to a private or non-business use

Assets retained after deregistration

Supply of goods and/or services by a taxable person to another taxable person or non-taxable person in the course or furtherance of business

***Please note: Supply of goods by a registered taxable person to a job-worker not to be treated as supply of goods***

# Matters to be treated as Supply of Goods or Services

Particulars of supply	Nature of Transactions	To be Treated as supply of
Transfer	Title in goods	Goods
	Goods or of right in goods or of undivided share in goods without the transfer of title thereof	Services
	Property in goods will pass at a future date upon payment of consideration	Goods
Transfer of business assets	Where goods forming part of the assets of a business are transferred or disposed of by or under the directions of the person carrying on the business, whether or not for a consideration	Goods
	Goods held or used for the purposes of the business are put to any private use or are used, or made available to any person for use, for any purpose other than a purpose of the business, whether or not for a consideration	Services

# Matters to be treated as Supply of Goods or Services

Particulars of supply	Nature of Transactions	To be Treated as supply of
Transfer of business assets	Where any goods, forming part of the business assets of a taxable person, are sold by any other person to recover any debt owed by the taxable person	Goods
	<p>Where a person ceases to be taxable person, any goods forming part of the assets of any business carried on by him shall be deemed to be supplied by him in the course or furtherance of his business immediately before he ceases to be taxable person, unless-</p> <ul style="list-style-type: none"> <li>• The business is transferred as a going concern to another person; or</li> <li>• The business is carried on by a person representative who is deemed to be a taxable person</li> </ul>	Goods

# Matters to be treated as Supply of Goods or Services

Particulars of supply	Nature of Transactions	To be Treated as supply of
Land and Building	Any lease, tenancy, easement, license to occupy Land	Services
	Any lease or letting out the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly	Services
Treatment or process	Any treatment or process which is being applied to another person's goods	Services
Declared list of services	Similar to clause 66E of the Finance Act, except for clause (j) of 66E introduced w.e.f. 14.05.2016 stating that, assignment by the government of the right to use the radio frequency spectrum and subsequent transfer thereof	Services

# Matters to be treated as Supply of Goods or Services

<b>Particulars of supply</b>	<b>Nature of Transactions</b>	<b>To be Treated as supply of</b>
By unincorporated association or body of person to its members	Any supply of goods for cash, deferred payment or other valuable consideration	Goods

# Time of Supply

# Time of Supply

Time of supply is to be earliest of the following

Category	Goods	Services
Forward charge	<ul style="list-style-type: none"> <li>• Date of removal of goods/making available the goods to the buyer (where not required to be removed)</li> <li>• Date of issuance of invoice</li> <li>• Date of receipt of payment</li> <li>• Date on which recipient shows receipt of goods in books of account</li> </ul>	<ul style="list-style-type: none"> <li>• Date of issuance of invoice</li> <li>• Date of receipt of payment</li> <li>• Date of completion of service (if invoice not issued within prescribed period)</li> <li>• Date on which recipient shows receipt of service in books of account (where there is no invoice or payment)</li> </ul>
Reverse charge	<ul style="list-style-type: none"> <li>• Date of receipt of goods</li> <li>• Date of receipt of invoice</li> <li>• Date of making payment</li> <li>• Date of debit in the books of accounts</li> </ul>	<ul style="list-style-type: none"> <li>• Date of receipt of services</li> <li>• Date or receipt of invoice</li> <li>• Date of making payment</li> <li>• Date of debit in the books of accounts</li> </ul>

# Time of Supply – Cont.

For the following cases the time of supply is as specified

Scenario	Goods	Services
Continuous supply	<ul style="list-style-type: none"><li>• Where successive statements of accounts/ payments are involved - date of expiry of period to which such statements relate</li><li>• Where no such statements of account are involved – date of issuance of invoice or receipt of payment, whichever is earlier</li></ul>	<ul style="list-style-type: none"><li>• Where due date of payment is ascertainable from the contract – date on which payment is liable to be made by recipient, whether or not invoice issued or payment received by supplier</li><li>• Where due date of payment is not ascertainable from the contract – each time when the supplier receives payment or issues an invoice, whichever is earlier</li><li>• Where payment is linked to completion of an event – time of completion of event</li></ul>



# Time of Supply – Cont.

For the following cases the time of supply is as specified

Scenario	Goods	Services
Specific scenarios	<ul style="list-style-type: none"><li>Where it is not possible to determine when the supply will take place (e.g. sale on approval basis) – when it becomes known that the supply has taken place or, 6 months from date of removal, whichever is earlier</li></ul>	<ul style="list-style-type: none"><li>Where supply of services ceases under a contract before the completion of the supply – when the supply ceases</li></ul>
Residuary	<ul style="list-style-type: none"><li>Where a periodical return is to be filed, the date on which such return is to be filed</li><li>In any other case, the date on which CGST/ SGST is paid</li></ul>	

*Note: In all the above cases, receiving/ making payment refers to the date on which the payment is entered into books of account or date on which payment is credited/ debited to bank account, whichever is earlier.*

# Place of Supply

## Place of supply of goods

Particulars	Present principles	Draft GST legislation
Where supply involves movement of goods	Place of sale occasioning the movement of goods	Place where movement of goods terminates for delivery
Where goods are delivered before or during their movement either by way of transfer of documents of title to the goods or otherwise, to a recipient or any other person on the direction of a third person		Principal place of business of third person
Where supply does not involve movement of goods		Place of such goods at the time of delivery
Where the goods are assembled or installed at site		Place of such installation or assembly
Where the goods are supplied on board a conveyance such as vessel, aircraft, train or motor vehicle		Place at which such goods are taken on board
In any case not falling in above		Determined by Parliament in accordance with the recommendations of the Council

## Place of supply of services

Particulars	Present principles	Draft GST legislation
Services in relation to training and performance appraisal	Location where services are performed	When provided to registered person – location of such person When provided to other than registered person – location where services are actually performed
<p>Services provided by way of organization of event including supply of service in relation to a conference, fair, exhibition or similar event</p> <p>Services ancillary to organization of event and services</p> <p>Assigning of sponsorship of any of the above events</p>	Location where event is actually held	When provided to registered person – location of such person When provided to other than registered person – location where services are actually performed
Transportation of goods including mail or courier	<p>Transportation of goods: Location of destination of goods / person liable to pay tax</p> <p>Mail or courier: Location of service recipient</p>	When provided to registered person – location of such person When provided to other than registered person – location where goods are handed over for transportation

## Place of supply of services

Particulars	Present principles	Draft GST legislation
<p>Passenger transportation service</p>	<p>The place where the passenger embarks on the conveyance</p>	<p>When provided to registered person – location of such person When provided to other than registered person – the place where the passenger embarks on the conveyance</p>
<p>Telecommunication services</p> <p>Services by way of fixed telecommunication line, leased circuits, internet leased circuits, cable or dish antenna</p> <p>Mobile connection for telecommunication and internet services provided on post-paid basis</p> <p>Mobile connection for telecommunication and internet services provided on pre-payment through a voucher or any other means</p>	<p>Location of service recipient</p>	<p>Location where the telecommunication line, leased circuit or cable connection or dish antenna is installed</p> <p>Location of billing address of the service receiver on record of the service provider</p> <p>Location where such pre-payment is received or such vouchers are sold. If prepaid service is availed through electronic network – the location of the service recipient as per the record of the service provider</p>

## Place of supply of services

Particulars	Present principles	Draft GST legislation
Banking or other financial services including stock broking	Location of service provider	Location of the service receiver on the record of the service provider Where the service is not linked to the account of the recipient of services - the location of the supplier of services
Insurance services	Location of service recipient	When provided to registered person – location of such person  When provided to other than registered person – location of the service receiver available on the records of the service provider
Services not specifically covered	Location of service recipient	When provided to registered person – location of such person  When provided to other than registered person –location of the service receiver available on the records of the service provider or location of the service provider

# Value of Supply

# Valuation

- **Transaction value**

- Supplier and recipient are not related
- Price is the sole consideration

- **Transaction value will include**

- Expenses incurred by service receiver for which provider was liable
- Free supplies
- Royalty and license fees
- **Any tax, duties, fees** and charges other than SGST, CGST, and IGST
- Incidental expenses such as commission, packing
- **Subsidies** linked to supply
- Reimbursable expenditure
- **Discount** after the supply has been affected



# GST Valuation Rules

Value of goods and /or services would be the “transaction value” viz. the value of goods and/or services within the meaning of Section 15 of the CGST Act.

The transaction value is to be determined in monetary terms.

In cases where the supply consists of both taxable and non-taxable supply, the monetary consideration attributable to the taxable supply will constitute the transaction value.

Transaction value shall be accepted even where the supplier and recipient of supply are related, provided that the relationship has not influenced the price.

Value of goods transferred from one place of business to another place of the same business and from the principal to an agent or from an agent to the principal whether or not situated in the same State shall be the transaction value.

The value of supplies in cases prescribed under Section 15(4) shall be determined by proceeding sequentially through Rules 4 to 6 which have been summated in the next slide.

# GST Valuation Rules

Rule	Determination of Value
Determination of value of supply by comparison – Rule 4	Where value of supply cannot be determined under the Transaction Value Method, the value shall be determined on the basis of transaction value of goods and/or services of like kind and quality supplied at or about the same time to customers.
Computed value method – Rule 5	Where value cannot be determined under the Comparison method, it shall be based on a computed value which shall include cost of production, manufacture or processing of the goods or, the cost of the provision of services, the charges, if any, for design & brand and amount towards profit & general expenses equal to that usually reflected in supply of goods and/or services of the same class or kind as the goods and/or services being valued which are made by other suppliers.
Residual method - Rule 6	The value shall be determined using reasonable means consistent with the principles and general provisions of these rules.

# Input tax Credit

# Input Tax Credit (ITC)

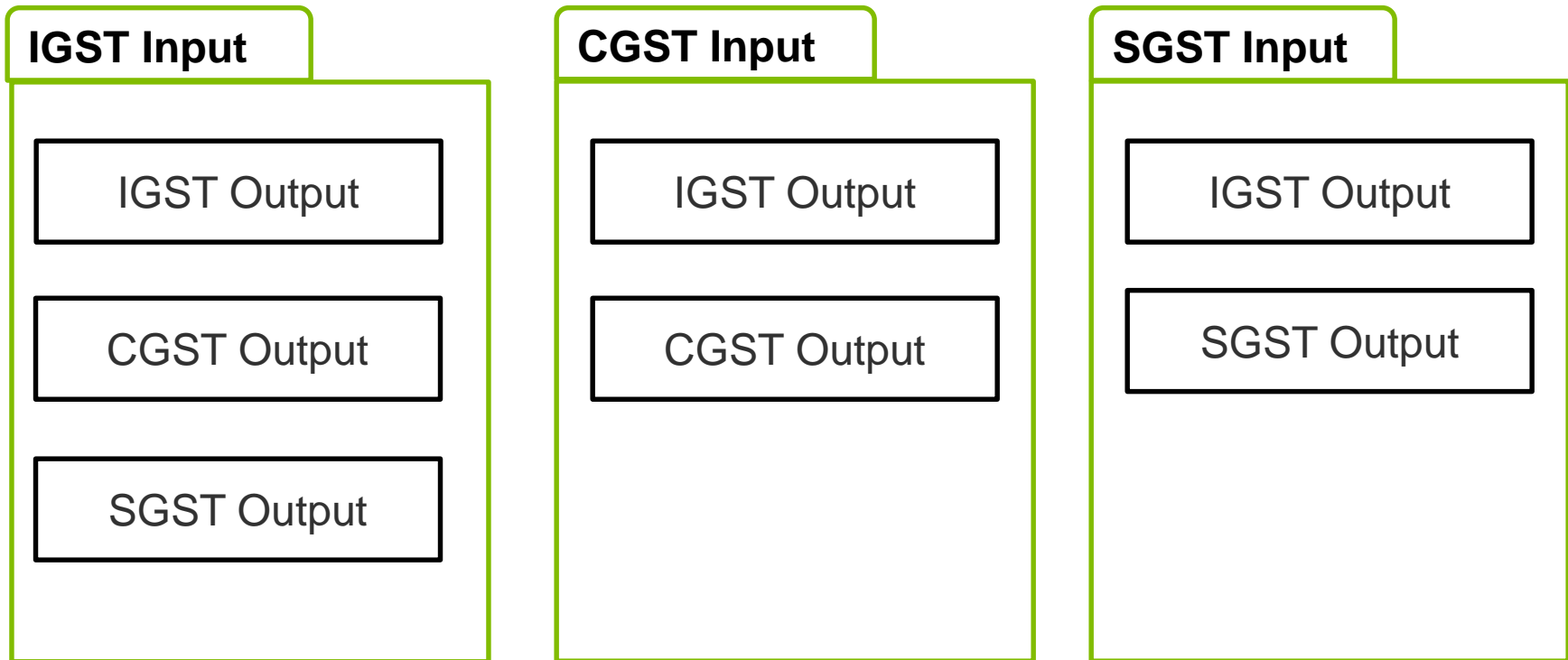
## Prerequisite for ITC Claim

- Claimant must be a taxable person
- Goods and services are received or deemed to be received for the purpose of business
- Goods and services are acquired for the purpose of making a taxable supply
- Must have a valid tax invoice
- Tax charged in respect of said supplies has been actually paid to the credit of the appropriate government
- Return has been furnished by the registered taxable person
- Goods and services acquired are not subject to any input tax restriction (i.e. motorcars)

## Input Tax & Output Tax

- Tax paid on inputs can be offset against the output tax charged to customers.
- Subject to a time limit of **1 year** from the date of tax invoice is issued.

# GST ITC Chain



# Input Tax Credit Restrictions

Motor vehicle except when supplied for usual course of business or are used for providing the following taxable services:

- Transportation of passenger.
- Transportation of goods.
- Imparting training on motor driving skills.

Goods and services used for private/personal consumption such as outdoor catering, beauty treatment, health services, membership of club, life and health insurance.

Works Contracts resulting in immovable property other than plant and machinery

# Registration & Returns

# Registration

## Section 19-22 of GST Act, 2016

- Every supplier who makes a taxable supply of goods and / or services liable to get himself registered in the state from where he supplies
- Threshold limit (computed on all India basis)
  - North Eastern states – INR 4 lakhs
  - Other states – INR 9 lakhs
- Separate registration for each business vertical
- Application to be made within 30 days
- Following persons to obtain registration irrespective of their threshold limit
  - Persons making inter-state taxable supply
  - Casual taxable persons
  - Persons required to pay tax under reverse charge
  - Non-resident taxable persons
  - Persons who are required to deduct tax under section 37
  - Persons acting as agents or who supply on behalf of other taxable persons



# Registration

## Section 19-22 of GST Act, 2016

- Input service distributor
- Electronic commerce operator
- Persons who supply through electronic commerce operator
- Aggregator supplying services under his brand name or his trade name
- Such other persons as may be notified

# Returns

## Section 25 – 34 of GST Act, 2016

Type of return / forms	Person required to file the return	Periodicity and due date of filing returns	Details to be disclosed in the return
Forms / Annexures furnishing details of outward supplies	<ul style="list-style-type: none"><li>Taxable person other than input service distributor, those paying under composition levy or those deducting tax at source</li></ul>	<ul style="list-style-type: none"><li>Monthly returns</li><li>10<sup>th</sup> of the month succeeding the tax period</li></ul>	<ul style="list-style-type: none"><li>Details of outward supplies of goods and / or services</li></ul>
Forms / Annexures furnishing details of inward supplies	<ul style="list-style-type: none"><li>Taxable person other than input service distributor, those paying under composition levy or those deducting tax at source</li></ul>	<ul style="list-style-type: none"><li>Monthly returns</li><li>15<sup>th</sup> of the month succeeding the tax period</li></ul>	<ul style="list-style-type: none"><li>Details of inward supplies and credit and debit notes</li></ul>
Periodic return	<ul style="list-style-type: none"><li>Taxable person other than input service distributor, those paying under composition levy or those deducting tax at source</li></ul>	<ul style="list-style-type: none"><li>Monthly returns</li><li>20<sup>th</sup> of the month succeeding the tax period</li></ul>	<ul style="list-style-type: none"><li>Details of inward and outward supplies, input tax credit, tax payable, tax paid</li></ul>

# Returns

## Section 25 – 34 of GST Act, 2016

Type of return / forms	Person required to file the return	Periodicity and due date of filing returns	Details to be disclosed in the return
Periodic return	<ul style="list-style-type: none"><li>Taxable person paying tax under composition levy</li></ul>	<ul style="list-style-type: none"><li>Quarterly returns</li><li>18<sup>th</sup> of the month succeeding the tax period</li></ul>	<ul style="list-style-type: none"><li>Details in such form and manner as may be prescribed</li></ul>
Periodic return	<ul style="list-style-type: none"><li>Taxable person deducting tax at source</li></ul>	<ul style="list-style-type: none"><li>Monthly returns</li><li>10<sup>th</sup> of the month succeeding the tax period</li></ul>	<ul style="list-style-type: none"><li>Details in such form and manner as may be prescribed</li></ul>
Periodic return	<ul style="list-style-type: none"><li>Input service distributor</li></ul>	<ul style="list-style-type: none"><li>Monthly returns</li><li>13<sup>th</sup> of the month succeeding the tax period</li></ul>	<ul style="list-style-type: none"><li>Details in such form and manner as may be prescribed</li></ul>

# Returns

## Section 25 – 34 of GST Act, 2016

Type of return / forms	Person required to file the return	Periodicity and due date of filing returns	Details to be disclosed in the return
Annual return	<ul style="list-style-type: none"><li>Taxable person other than input service distributor, those deducting tax at source, casual taxable person and non-resident taxable person</li></ul>	<ul style="list-style-type: none"><li>Annual returns</li><li>31<sup>st</sup> of December following the end of financial year</li></ul>	<ul style="list-style-type: none"><li>Details in such form and manner as may be prescribed</li></ul>
<ul style="list-style-type: none"><li>Taxable persons required to get their accounts audited shall file such annual return along with audited annual accounts and reconciliation statement along</li><li>Taxable person who applies for cancellation of registration shall furnish a final return within 3 months of the date of cancellation or date of cancellation order, whichever is later.</li></ul>			

### Tax deducted at source:

- Certain persons as may be notified, to deduct tax at source at the rate of one percent from payment made to supplier of taxable goods and / or services where the total value exceeds INR 10 lakhs (excluding tax amount)

# E-Commerce

# Electronic commerce

## Definitions

- Electronic commerce shall mean
  - Supply or receipt of goods and / or services
  - Transmitting of funds or data
  - Over an electronic network by using any of the applications that rely on internet
  - Whether or not payment is conducted online and whether or not the ultimate delivery of the goods / services is done by the operator
- Electronic commerce operator shall include
  - Every person who, directly or indirectly, owns, operates or manages an electronic platform
  - Engaged in facilitating the supply of any goods and/or services or in providing any information or any other services incidental to or in connection there with
  - But shall not include persons engaged in supply of such goods and/or services on their own behalf

# Electronic commerce

## Present regime and draft GST legislation

<b>Present regime</b>	<b>Draft GST legislation</b>
<p>Entry tax is required to be paid by electronic operator on the e-commerce transactions as per relevant State specific Entry Tax legislation</p>	<p>E-commerce operator would be required to collect tax from the amount paid or payable to supplier at the rate to be notified</p> <p>Pay the said tax to the government within 10days after end of the month in which such collections is made</p> <p>E-commerce operator shall furnish a statement electronically towards outward supplies of goods or services effected by said operator within 10days after end of such calendar month</p> <p>Heavy accounting and compliance burden for e commerce companies</p>

# Transitional provisions



# Transitional provisions

## **Carry forward of tax credits**

- Eligible to carry forward tax credits available as per tax returns

## **Unavailed credit including those on capital goods**

- Eligible but unavailed credit including those on Capital Goods will be allowed subject to certain conditions

## **Amount payable in the event of a taxable person switching over to composition scheme**

- As on cut off date, switching over to the composition scheme in GST legislation, taxable person would be required to pay an amount equivalent to credit in respect of inputs. The balance credit, if any, shall lapse

## **Treatment of long term construction / works contract**

- The goods and/or services supplied on or after the appointed day in pursuance of long term contract will be liable to proposed GST

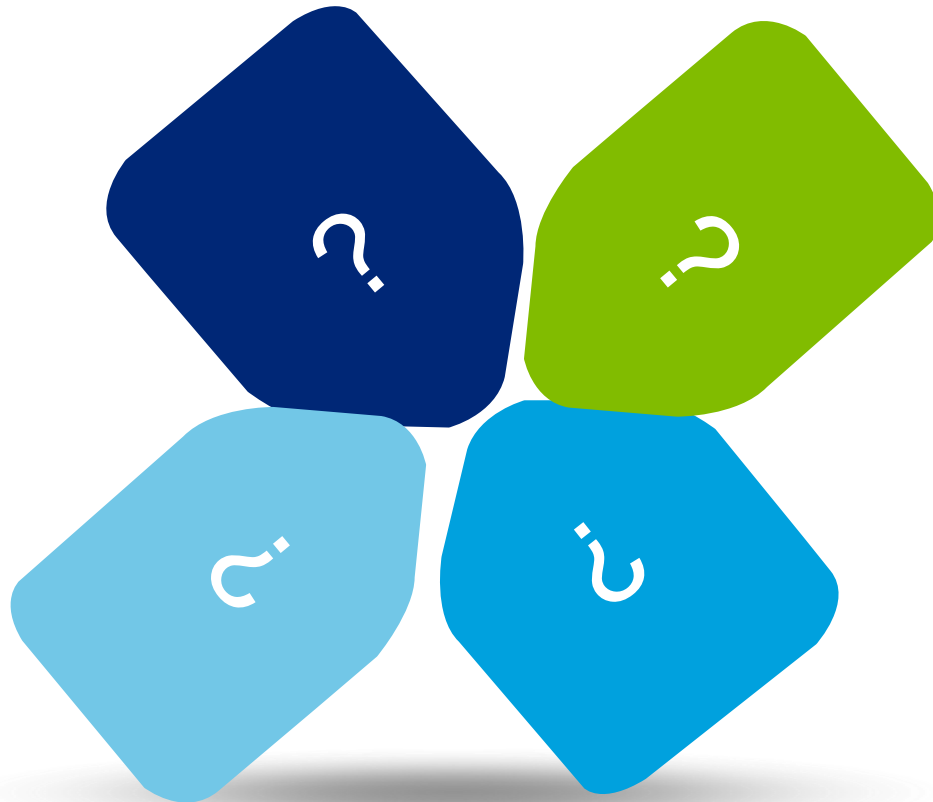
# **GST Compliance Rating**

# GST Compliance Rating

## Section 116 of GST Act, 2016

- Every taxable person shall be assigned a GST compliance rating score based on his record of compliance with the provisions of this Act
- The GST compliance rating score shall be determined on the basis of parameters to be prescribed in this behalf
- The GST compliance rating score shall be updated at periodic intervals and intimated to the taxable person and also placed in the public domain in the manner prescribed

# Questions



Ankur Jain  
Manager – Indirect Tax  
Telephone : +91 22 6185 5264  
Email: [jankur@deloitte.com](mailto:jankur@deloitte.com)

***Thank***

***You***

# Glossary

GST – Goods and Service Tax

CGST – Central Goods and Service Tax

CST – Central Sales Tax

CVD – Countervailing Duty

SGST – State Goods and Services Tax

IGST - Integrated Goods and Services Tax

ITC - Input Tax Credit

SAD – Special Additional Duty