

# GOODS AND SERVICES TAX A DISCUSSION



**CA. SHASHANK SHEKHAR GUPTA**  
**PARTNER - INDIRECT TAX**

**JUNE 2016**

# BACKGROUND



WHAT IS  
GST ?

WHY GST ?  
(a) & (b)

# BRIEF HISTORY



1918

- German Industrialist proposed concept of VAT
- Envisioned a sales tax on goods that did not affect the cost of manufacture or distribution but was collected on the final price charged to the consumer

1954

- France became the first country to adopt this tax in April 1954

1973

- UK joined the European Union and replaced the existing sales tax with VAT

# LEVIES TO BE SUBSUMED

## Central Levies



Excise Duties including the additional excise duties

Excise duty under MTPA

Additional duties of customs (ie CVD and ACD)

CST to be abolished

Service tax

Cesses and surcharges levied by Union ie education cess etc

Central GST

## State Levies



VAT/ Sales tax

Entry tax not in lieu of octroi

Entertainment tax (unless levied by the local bodies)

Luxury tax

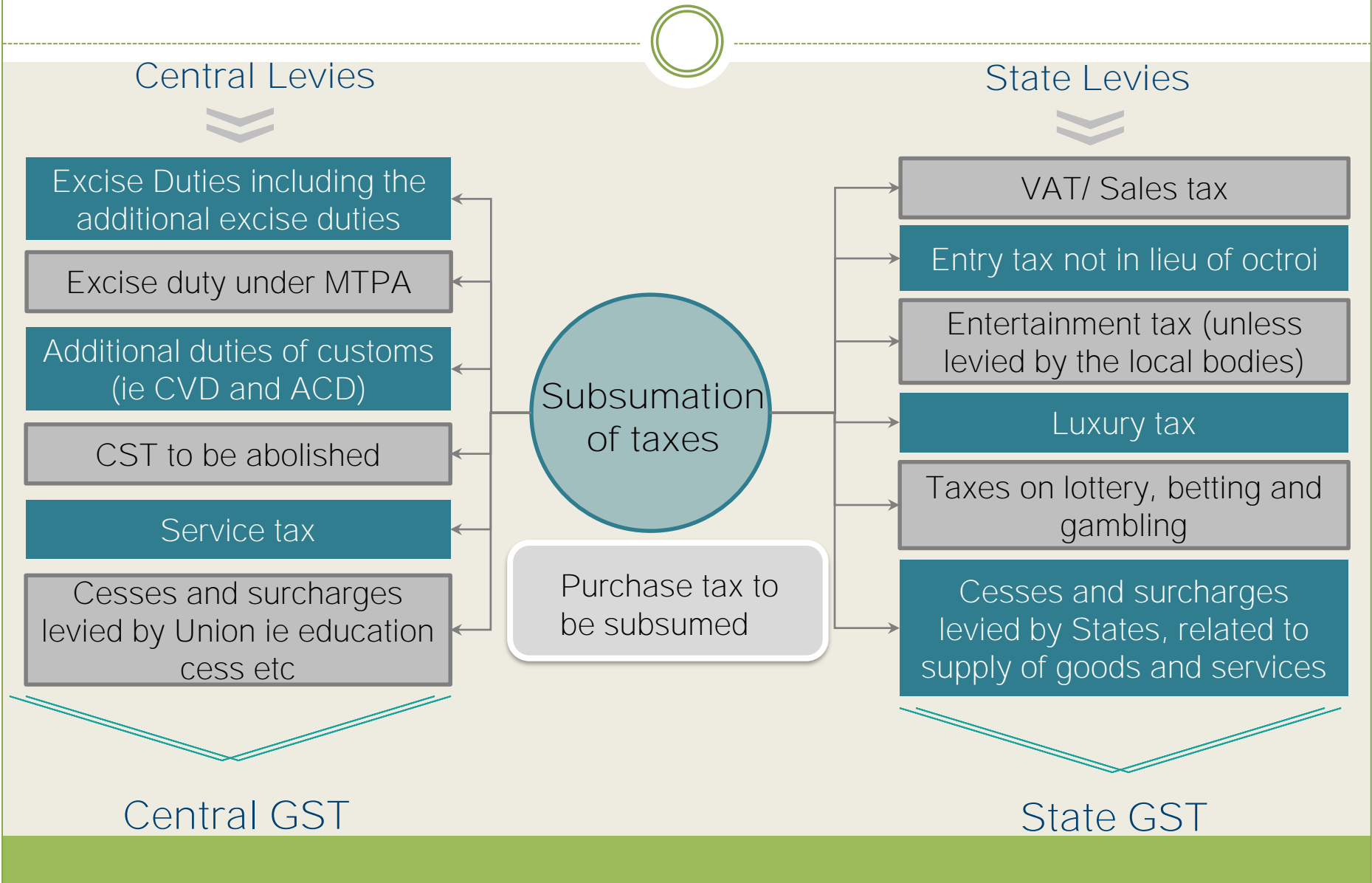
Taxes on lottery, betting and gambling

Cesses and surcharges levied by States, related to supply of goods and services

State GST

Subsumation of taxes

Purchase tax to be subsumed



# GST STRUCTURE



- How would GST work in India – given its federal structure ?
- How would inter-state transactions be governed ?
- Rate of IGST
  - Components ?
  - Tax rate whether of origin state or destination state ?
- Exemption v/s Zero Rating

# FEATURES OF PROPOSED GST STRUCTURE

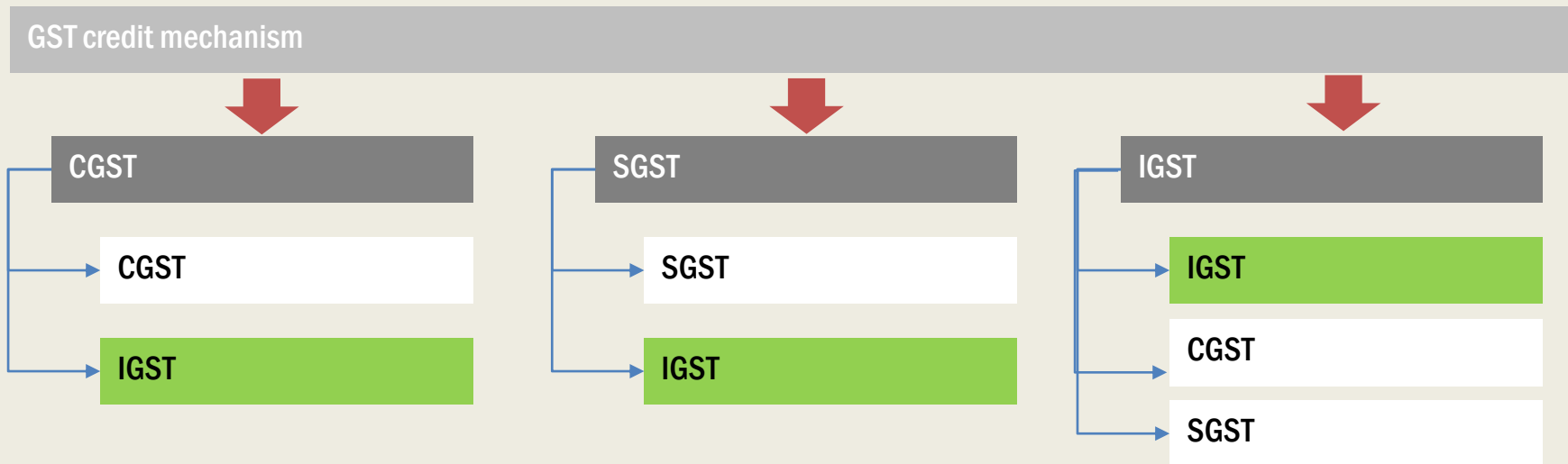


- Who would formulate the laws for GST as per Constitutional Amendment Bill
- Each state would have its own GST Legislation with uniform basic features:
  - Definition of taxable event and taxable person
  - Uniform Rate of SGST on goods and services
  - Measure of levy including manner of valuation of goods and services
  - Basis for classification of goods and services
  - Procedure for levy and collection of tax
- How would such uniformity be ensured ?
- Threshold for CGST and SGST for both goods and services is proposed – INR 10 Lakhs [INR 5 Lakhs for North East]

# CREDIT MECHANISM UNDER GST



Taxes paid at input stage are available as credit against the output tax liability of each transaction



# EXPORT & IMPORT UNDER GST



- Zero rated v/s Exemption
- Exports to be zero-rated
- Supply of goods and provision of services, to processing zones in a **Special Economic Zone ('SEZ') would be zero rated**
  - It appears that STP/ EOU may not get upfront exemption
- Import of goods would be subject to
  - **Basic customs duty ("BCD") + IGST**



# NEW CONCEPTS UNDER GST

## Taxable event

Would change significantly

## Credit eligibility

No differentiation between goods and services for credit availment

## Point of supply

Existing concepts will have to be reworked

Introduction of Point of Taxation Rules under service tax

## Exemptions

either be withdrawn or be converted into refund mechanism

## Valuation

Mix of Excise and Customs

## Taxability of services

Comprehensive service tax regime introduced – step towards GST

States would levy tax on services

## Place of supply rules

Applicable for goods

# REGISTRATION UNDER GST



- Registration will have to be obtained in all states where any legal entity is engaged in supply of goods or/and services
- The registration number under GST will be a 15 digit PAN based identification number.
- For taxpayers registered under Excise and VAT, GST – **Identification Number ('GSTIN')** to be generated basis their TIN under VAT.
- In case of service tax assesses, information would be sought from them for the states they would want to be registered.
- Suppliers undertaking supplies on a temporary basis would also be required to undertake registration either as a Non-Resident Supplier or as a Casual Dealer

# RETURNS UNDER GST



- Return under GST will have to be filed by every registered person even if there has been no business activity.
- In total eight different types of returns have been prescribed which are to be filed on the basis of classification of the supplier.
- Normal/ regular taxpayers would have to file three monthly returns i.e.
  - GSTR-1 (details of outward supplies);
  - GSTR-2 (details of inward supplies);
  - GSTR-3 (monthly return);
  - GSTR – 8 (annual return) which will be based on financial records.
- Input Service Distributor - GSTR-6 (monthly return)
- For Tax Deducted at Source i.e. GSTR-7 (monthly return)

# RETURNS UNDER GST



- For compounding dealers, quarterly return would be filed in GSTR-4
- For non-resident foreign taxpayer, return would have to be filed in GSTR-5 (last day of registration)
- There are certain suggestive measures in the reports which indicate that revision of returns may not be allowed
- Separate norms have been prescribed for B2B and B2C transactions

# REFUND UNDER GST



- Specified cases wherein refund may arise under GST regime includes the following
  - Exports (includes deemed exports),
  - Credit accumulation,
  - Excess payment of tax due to mistake,
  - Finalization of provisional assessment,
  - Refund of pre-deposit etc.
- Refund not to be available for goods on which Customs Export Duty is applicable.
- Refund claim to be filed within the specified time limit to be laid down under GST laws.
- Bank Realization Certificate to be filed in case of export of services.
- In case of export of goods post – facto verification likely to be provided for.

# REFUND UNDER GST



- The amount of **Input Tax Credit ('ITC')** claimed would be blocked at the time of submission of refund application.
- ITC would be proportionately restored to the extent refund claim is rejected.
- As per the reports, refunds are likely to be processed on quarterly basis

# COMPOUNDING DEALERS



- Compounding Dealers
  - A threshold limit to be prescribed upto which the registered person can opt to pay tax at a specified percentage.
  - Such person can neither collect tax on supplies nor claim any input tax credit.
  - The person can choose to opt out of such scheme during any financial year.
  - He can again avail such scheme by applying afresh at beginning of the next financial year.

# BLACKLISTING OF DEALERS



- Blacklisting of Dealers
  - It has been suggested in the report on registration, that a system of compliance rating be introduced under the GST regime.
  - Events such as:
    - Fall in the rating below the prescribed level will lead to blacklisting of the dealer.
    - continuous short reporting of sales beyond a prescribed percentage and time;
    - Continuous default in reversing ITC credit for a specified period etc would entail blacklisting.
  - Further, information of blacklisted dealer would be sent via SMS to dealers who have pre-registered the said dealer as their supplier.
  - Profile of such suppliers would be put in the public domain so as to keep the prospective buyers informed.



# Miscellaneous



- Audit of accounts – CA or a CMA
- TDS @ 1 percent – in specified cases
- Accounts to be preserved for five years – litigation – one year (whichever is later)

# GLOBAL EXPERIENCE POST IMPLEMENTATION OF GST



Q&A



Q&A

THANK YOU !





MARG TAX ADVISORS

Delivering Excellence



**CA. SHASHANK SHEKHAR GUPTA  
PARTNER - INDIRECT TAX**

**FOR ANY QUERIES PLEASE FEEL FREE TO  
CONTACT**

**[SHASHANK.GUPTA@MARGTAXADVISORS.COM](mailto:SHASHANK.GUPTA@MARGTAXADVISORS.COM)**

**[IDTSHASHANK@GMAIL.COM](mailto:IDTSHASHANK@GMAIL.COM)**

**+91 9711012424**