

# ENTERPRISE IRELAND

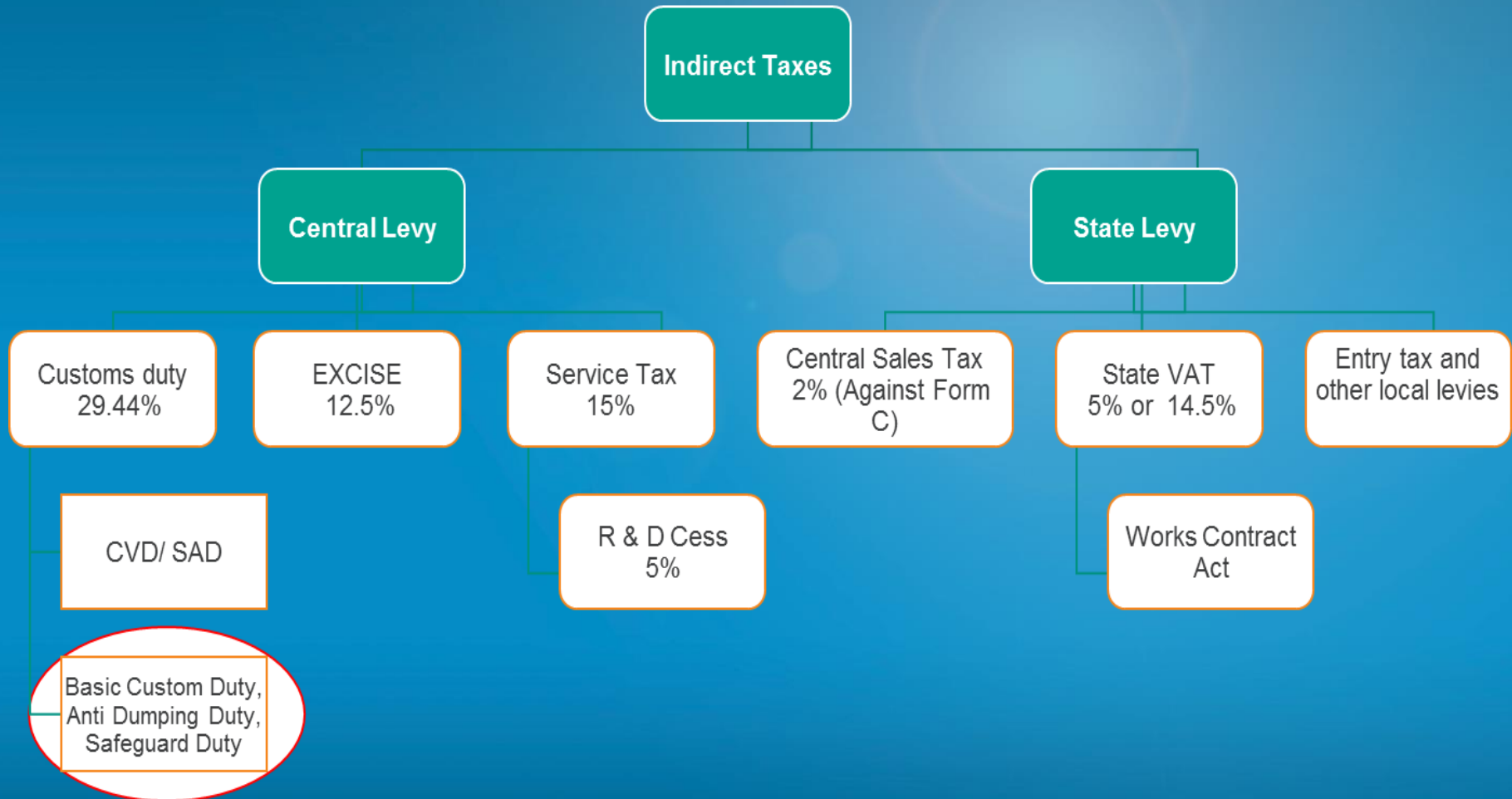
## Where innovation means business

**Indian Goods and Services Tax (GST)  
Webinar: Impact on Irish companies Doing Business in India**

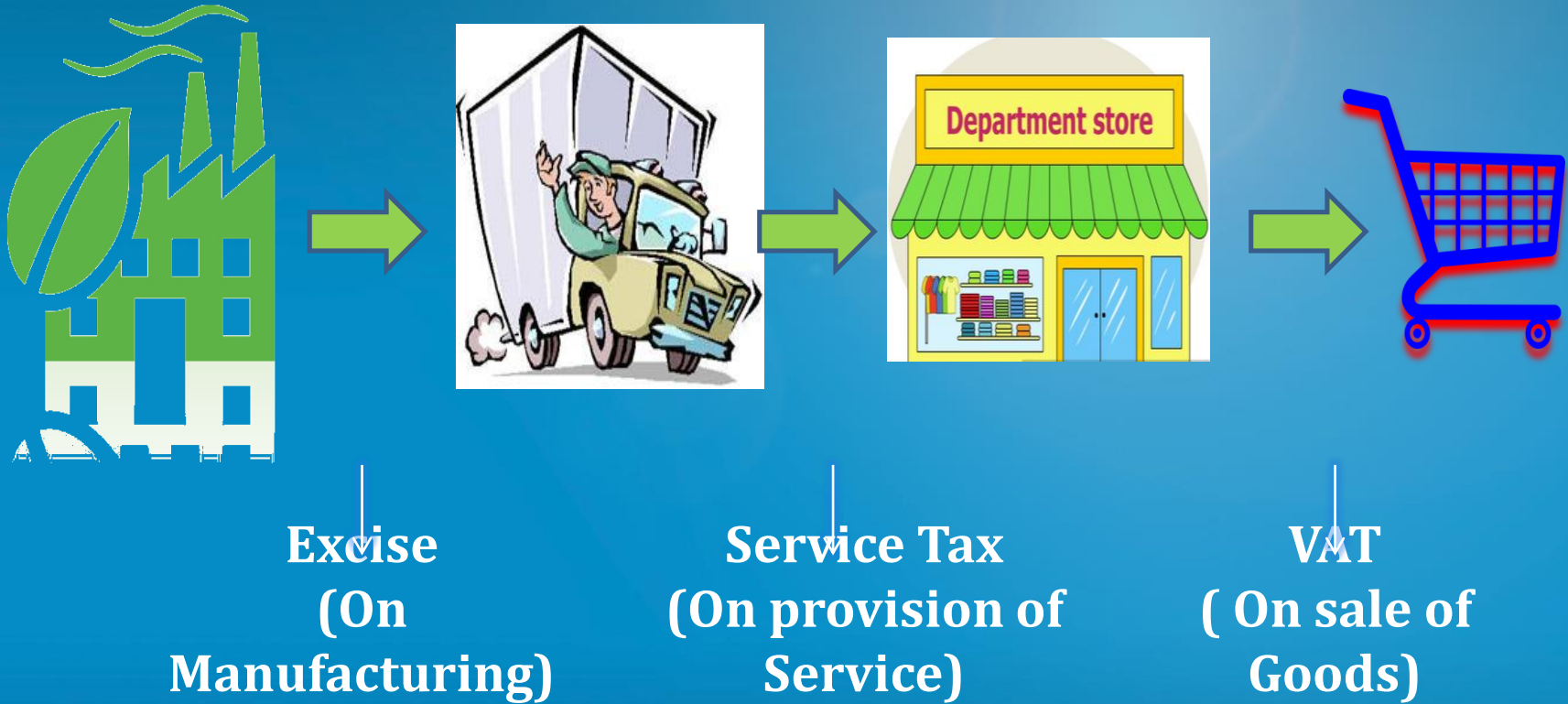
**Nidhi Goyal, India Tax Expert  
9<sup>th</sup> August 2017**



# Pre GST Indirect tax regime in India



# Different Point of Taxation in Pre GST Regime



# Lack of Uniformity in Pre GST Regime



# What is GST

One Tax  
For

Manufacturing

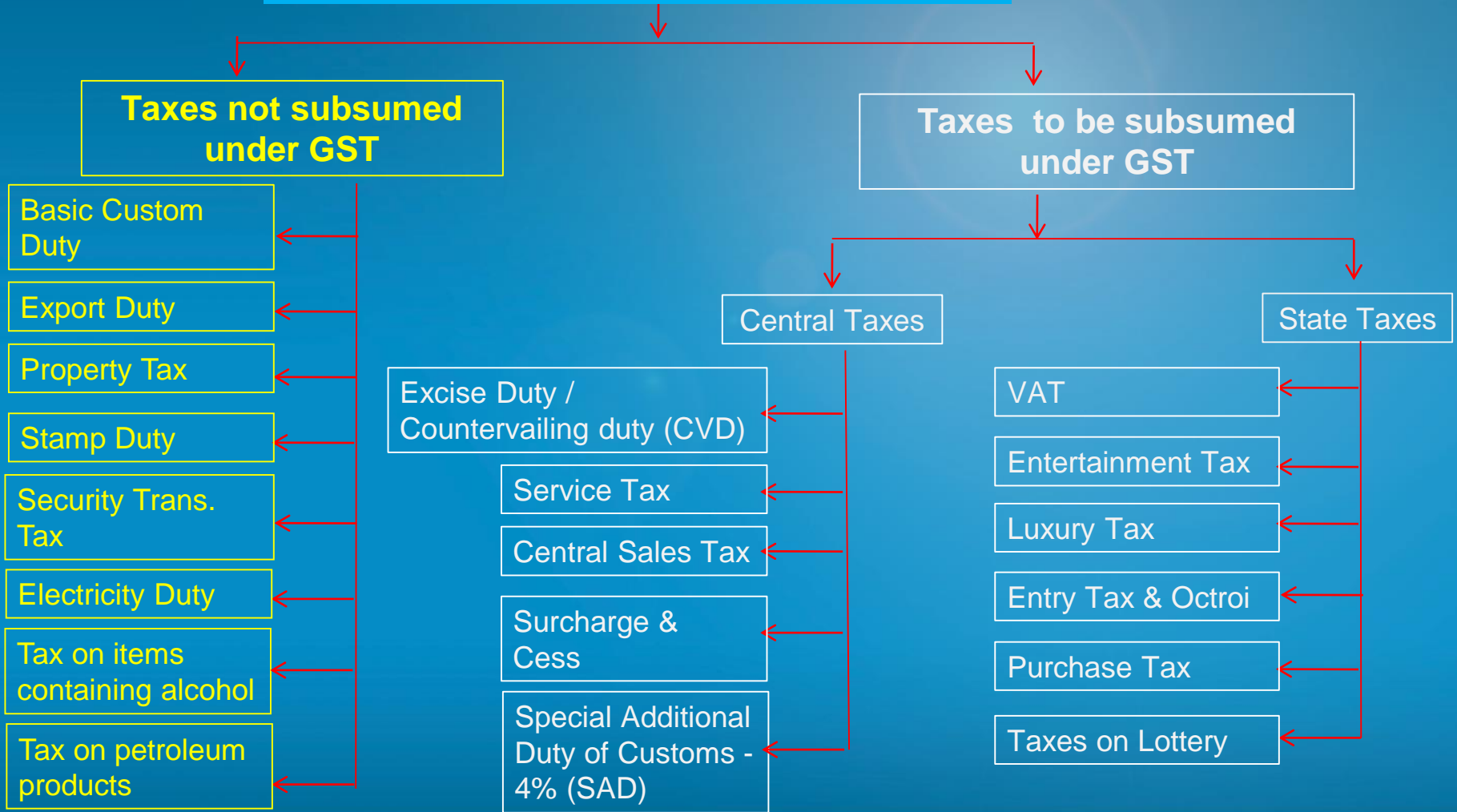
Trading

Services



# GST Regime

## Proposed Tax Structure under GST



# Salient Features of GST

- GST is applicable **on the supply** of goods or services
- It is a **destination based consumption tax**
- It is a **dual GST** with the Centre and States simultaneously levying it on a common tax base
- GST is levied by the Centre, called Central GST (**CGST**) and levied by States called State GST (**SGST**)
- GST is applicable on **all goods** other than alcoholic liquor for human consumption and five petroleum products
- GST is applicable on **all services** barring a few as specified

# Salient Features of GST

- **Tobacco** and tobacco products are subject to GST. In **addition**, the Centre could levy excise duty on these products
- CGST and SGST is levied at rates to be **jointly** followed by the Centre and States
- **Exemption list** is common for the Centre and the States

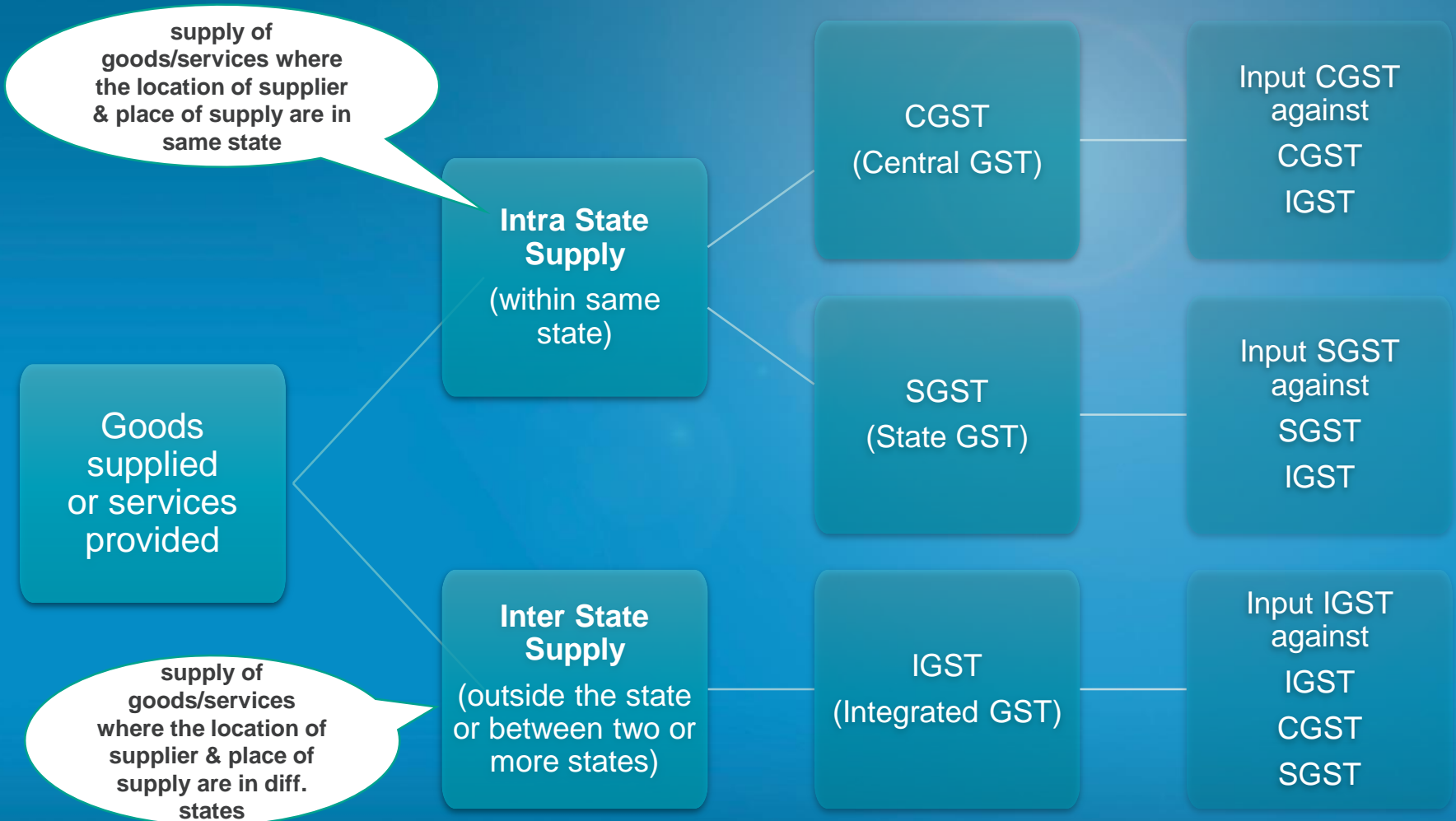


# GST Tax Rate Structure – Goods & Services

Category of Goods/ Services	Tax Rate	Goods & Services
Exempt	0	Basic Necessity e.g. Food Grains
Lower	5%	Mass consumption items like spices, mustard oil, tea, coffee
Standard 1	12%	Processed Foods, computers, mobile phones
Standard 2	18%	Soaps, oil, Toothpaste
High Rate	28%	Consumer goods like refrigerator, washing machine, small cars
High + Cess	28% + Cess	Luxury items, sin & de-merit goods like luxury cars, tobacco,
Services	Nil, 5%, 8%, 12%, 18%	Services of any nature (except exempted category)

- CERTAIN SERVICES ARE COVERED UNDER **REVERSE CHARGE** WHERE RECIPIENT OF SERVICES ARE LIABLE TO PAY GST
- RECIPIENT IS ALSO LIABLE TO DEPOSIT GST ON **RECEIVING SERVICES** FROM UNREGISTERED PERSON
- CENTRAL GOODS AND SERVICES TAX ACT
- INTEGRATED GOODS AND SERVICES TAX ACT
- GOODS & SERVICES TAX (COMPENSATION TO STATES) ACT
- STATE GOODS & SERVICES TAX ACT (FOR EACH STATE)
- U.T. GOODS & SERVICES TAX ACT (FOR EACH U.T.)
- RULES

# GST Structure in India



# GST Registration

## Registration



Compulsory Registration for Each State where business situated



Option to take multiple registration for each business vertical within the same State

# Salient Features of GST

- Tax payers with an aggregate turnover in a financial year up to [**Rs.20 lakhs**] would be exempt from tax. For NE States and Sikkim, the threshold exemption shall be [**Rs. 10 lakhs**]
- Tax payers making **inter-State supplies** or paying tax on **reverse charge basis** are eligible for threshold exemption
- Small taxpayers with an aggregate turnover in a financial year up to [**Rs. 75 lakhs**] is eligible for **composition levy scheme**
- Under the aforesaid scheme, a taxpayer is liable to tax as a percentage of his turnover during the year **without the benefit** of input tax credit (ITC)
- Tax payers making inter-State supplies or paying tax on reverse charge basis shall **not be eligible for composition scheme**

# Salient Features of GST

- **HSN and SAC code** to be used for classifying goods and services
- Exports shall be treated as **zero-rated supply**. No tax is payable on exports but Input tax credit (ITC) related to the supply shall be refunded to exporters
- **Import of goods/services** is subject to IGST in addition to basic custom duty and cesses
- **IGST paid is available** as ITC for further transactions

# Valuation of Taxable Supply of Goods and Services

- Value of supply is 'transaction value' where supplier and recipient are unrelated and price is the sole consideration
- **Transaction value includes:**
  - Any amount paid by recipient instead of supplier and value not included in price
  - Taxes, duties, cesses, fees and charges other than GST
  - Incidental costs/ expenses (such as commission, packing, etc.)
  - Interest or late fee or penalty for delayed payment of consideration
  - Subsidies directly linked to price
- Exclusions:
  - Subsidies given by Central/ State government
  - Discount given before or at the time of the supply provided duly recorded in the invoice
  - Discount given after the supply provided
    - such discount is established from agreement and linked to relevant invoices; and
    - input tax credit has been reversed by the recipient of the supply as is attributable to the discount
- Where value of supply cannot be determined according to above provision then it shall be determined according to Determination of Value of Supply rules

# Definition of Related Person

- (a) persons shall be deemed to be “related persons” if—
- i. They are officers or directors of one another's businesses;
  - ii. They are legally recognized partners in business;
  - iii. They are employer and employee;
  - iv. Any person directly or indirectly owns, controls or holds five per cent or more of the outstanding voting stock or shares of both of them;
  - 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, howsoever described, of the other, shall be deemed to be related

# Input Tax Credit

- **Input Tax Credit (ITC) is available in respect of defined inputs, input services and capital goods (including GST paid under reverse charge)**

Definition	
Inputs/ Input Services	<ul style="list-style-type: none"><li>• Goods/ Service</li><li>• Used or intended to be used</li><li>• By a supplier</li><li>• In the course or furtherance of business</li></ul>
Capital Goods	<ul style="list-style-type: none"><li>• Goods, value of which is capitalized</li><li>• In books of accounts</li><li>• Of the person claiming the credit</li><li>• Used or intended to be used</li><li>• In the course or furtherance of business</li></ul>

## Conditions for availing ITC:

- Valid documents viz. invoice
- Taxpayer has received goods and/ or services
- ITC only on last lot or instalment
- Supplier has actually paid the tax
- Buyer has filed the return
- Monthly return to be filed within 20 days after the end of such month
- ITC to be availed on any invoice prior to filing of return for the month of September following end of FY or filing relevant annual return, whichever is earlier



# Input Tax Credit- Negative List of Items

- Motor vehicles and other conveyances, except when used for providing specified taxable supplies viz. transportation of passengers/ goods; imparting training on driving, flying, navigating; supply of such vehicle;
- supply of goods and services, namely,
  - (i) food and beverages, outdoor catering, beauty treatment, health services, cosmetic and plastic surgery except where such inward supply of goods or services of a particular category is used by a registered taxable person for making an outward taxable supply of the same category of goods or services;
  - (ii) membership of a club, health and fitness centre,
  - (iii) rent-a-cab, life insurance, health insurance except where the Government notifies the services which are obligatory for an employer to provide to its employees under any law for the time being in force; and
  - (iv) travel benefits extended to employees on vacation such as leave or home travel concession.
- Works contract services when supplied for construction of immovable property, other than plant & machinery, except where it is an input service for further supply of works contract;
- Goods or services received by a taxable person for construction of immovable property on his own account, other than plant & machinery, even when used in course or furtherance of business;
- Goods and/or services on which tax has been paid under composition scheme;
- Goods and/or services used for private or personal consumption, to the extent they are so consumed;
- Goods lost, stolen, destroyed, written off, gifted, or free samples;
- Any tax paid due to short payment on account of fraud, suppression, mis-declaration, seizure, detention

# GST Return Filing Process

## GSTR-1 (Statement of Outward Supplies):

- a. This return signifies the tax liability of the supplier for the supplies effected during the previous month.
- b. It needs to be filed by the 10th of every month in relation to supplies effected during the previous month. For example, a statement of all the outward supplies made during the month of July 2017 needs to be filed by 10th August, 2017

## GSTR-2 (Statement of Inward Supplies)

- a. This return signifies accrual of ITC (Input Tax Credit) from the inputs received during the previous month
- b. It is auto-populated from the GSTR-1s filed by the corresponding suppliers of the Taxpayer except for a few fields like imports, and purchases from unregistered suppliers
- c. It needs to be filed by the 15th of every month in relation to supplies received during the previous month. For example, a statement of all the inward supplies received during the month of July 2017 needs to be filed by 15th August, 2017

GSTR-3: This is a consolidated return. It needs to be filed by the 20th of every month.

It consolidates the following details:

- a. Outward Supplies (Auto-Populated from GSTR-1)
- b. Inward Supplies (Auto-Populated from GSTR-2)
- c. ITC availed
- d. Tax Payable
- e. Tax Paid (Using both Cash and ITC)

*NOTE: Payment should be made on or before 20th of every month*

## Penal Provisions Relating to Returns:

Any registered person who fails to furnish form GSTR-1, GSTR-2, GSTR-3 or Final Return within the due dates, shall be liable to pay a late fee of Rs. 100 per day, subject to a maximum of Rs. 5,000

# GST Compliances

Returns		Particulars	Due Date
GSTR-1	Outward Supplies	Every registered taxable person is required to furnish the details of outward supplies of goods/ services	10 <sup>th</sup> of next month
GSTR-2	Inward Supplies	Every registered taxable person is required to verify, validate, modify, delete the details relating to outward supplies and shall include inward supplies not disclosed	15 <sup>th</sup> of next month
GSTR-3	Monthly Returns	Monthly Return by every registered taxable person (dealer) for inward and outward supplies of goods and / or services, input tax credit availed, tax payable, tax paid, etc. shall be filed before 20 <sup>th</sup> of next month	20 <sup>th</sup> of next month
GSTR-4	Composition Levy	Dealers paying tax under composition scheme shall file quarterly return	18 <sup>th</sup> of next quarter
GSTR-5	Non-resident taxable person	Every registered non-resident taxable person is required to file monthly return	20 <sup>th</sup> of next month/ 7 days after last day of registration due date
GSTR-6	Input Service Distributer (ISD)	Every ISD shall file monthly return	13 <sup>th</sup> of next month
GSTR-7	TDS Return	Dealer who is required to deduct tax at source shall file return for the month in which deduction is made	10 <sup>th</sup> of next month
GSTR-8	E-commerce Operator	Monthly Statement for E-Commerce Operator depicting supplies	Above Due dates applies Mutatis mutandis
GSTR-9	Annual Return	Annual return for every financial year shall be filed	On or before 31 <sup>st</sup> December following the end of such financial year
GSTR-10	Final Return	Every dealer who applies for cancellation of registration shall furnish a final return	within 3 months of date of cancellation or date of cancellation order, as later

# TDS / TCS Provisions

## Tax Deducted at Source

- Following persons are required to deduct tax at source @ 1% on credit or payment made to supplier of goods and/or services.
  - Department or establishment of Central or State Govt.
  - Local authority
  - Government agencies
  - Such person or category of person as may be notified by the Central or State Government
- The above provision will be applicable when the value of supply under contract exceeds Rs. 5 lacs. For TDS, only value of supply shall be considered excluding the tax shown in invoice
- The amount so deducted to be deposited in Government account within 10 days from the end of the month in which it is deducted
- Deductor to issue certificate to the deductee mentioning the contract value, rate and amount of tax deducted and paid
- Deductee shall take **credit of TDS** in Electronic Cash Ledger

# TDS / TCS Provisions

## Collection of Tax at Source

- **Every electronic commerce operator not being agent, shall collect 1% of the net value of taxable supplies, where the consideration for such supplies is collected by operator**
  - “ Net value of taxable supplies“ means aggregate taxable value of goods or services other than services notified in Section 8[4], made during any month by registered taxable person, reduced by aggregate of taxable supplies return to the supplier during the said month
- **Amount collected above shall be deposited in Government account within 10 days from the end of the month in which it is deducted**
- **Supplier shall take credit of TCS collected in his Electronic Cash Ledger**

**Direct Sales Model (Titan, Nike), Marketplace Model (ebay, Naaptol), **Managed Marketplace Model (Amazon India), Fulfillment Model (SnapDeal)**, Inventory Model (Jabong), **Hybrid Model (Myntra)**, Aggregators (Uber, Ola and Oyo Rooms) – Covered under Levy of GST under Section 9 (5) of the Act – reverse charge**

# GST Accounts and Records

- Every registered taxable person shall be required to keep and maintain at his place of business [including the principal place of business] a true and correct books of account including the following:
  - Production or manufacture of goods
  - Inward or outward supply of goods and/or services
  - Stock of goods
  - Input tax credit availed
  - Output tax payable and paid
  - such other particulars as may be prescribed in this behalf
- Every registered taxable person whose turnover during a financial year exceeds the prescribed limit shall get his accounts audited by a chartered accountant or a cost accountant
- The time period for retaining accounts is prescribed as follows:

Particulars	Time Limit
Records including books of accounts pertaining to the appeal [or revision] or any other proceeding before any Appellate Authority or Tribunal or Court	One year after final disposal of such appeal or revision or proceeding or for a time period, as may be prescribed, whichever is later
Any other case	72 months [i.e. 6 years] from the date of filing of annual return for the year

# GST Ledgers

**Three ledgers to be** maintained for all the taxpayers and can be collectively known as Taxpayer ledgers, which are as follows:

- I. Electronic Cash ledger
- II. Electronic Credit ledger
- III. Electronic liability ledger

## Electronic Cash ledger

- All the **payments** deposited via challan under the minor head **Tax, Interest, Penalty, Fees and others** of the respective Major head like **CGST, SGST** and **IGST** shall be credit under the electronic cash ledger of the taxpayer. Any utilization of the **available** credit towards payment w.r.t. liability arising out of the return or any other demand will be **debited** to such **cash ledger**

## Electronic Credit ledger

- All the **input taxes** under various major heads i.e. CGST, SGST and IGST shall be **credited** to electronic ledger also known as **Input tax credit or ITC ledger** in the following situations: (All or any of them will form part of ITC ledger)

## Electronic liability ledger

- **Tax liability ledger** is electronically maintained which will display the **amount of liability** arising out the **regular return** of the taxpayer or any other liability arising out of **demand notice, penalty etc.**

# Import of Goods

- The Indian company **importing goods from the overseas company** would have to pay IGST on the value of the imported goods (including the Basic Customs Duty). That Indian company can then immediately claim that IGST as an input tax credit

Existing Indirect tax Regime			GST Regime			Remarks on comparison
<b>Items : Aircraft : helicopters, aeroplanes</b>						
CIF Value plus landing charges @ 1%	A	101.00	CIF Value plus landing charges @ 1%	A	101.00	
Basic Custom Duty @ 10%	B	10.10	Basic Custom Duty @ 10%	$B = 10\% * A$	10.10	No Change in Basic Custom Duty
			Customs Duty Cess @ 3%	$C = 3\% * B$	0.30	Cess on customs to continue
Countervailing duty (12.5%)	$C = 12.5\% * (A+B)$	13.89	Integrated Goods and services tax (IGST) @ 5%	$D = 5\% * (A+B+C)$	5.57	New GST replacing CVD and SAD
Customs Duty Cess @ 3%	$D = 3\% * (B+C)$	0.72	No Cess on IGST			No Cess on IGST
Special Additional Duty (SAD) @4%	$E = 4\% * (A+B+C+D)$	5.03	No special Additional Duty			No SAD
Total Value	F	130.74	Total Value	$E = A+B+C+D$	116.97	
Total Customs duty	$G=F-A$	29.74	Total Customs duty	$F=E-A$	15.97	



# Import of Services

- If an Indian company will have to pay **IGST under reverse charge on import of services** from a foreign company
- **Online Information and Database Access or Retrieval ('OIDAR')** services provided to unregistered recipient in India person through information technology over internet or electronic network are subject to GST in the hands of non resident person. Foreign companies can appoint a representative in India for GST registration, filing GST returns and paying GST

Where the foreign supplier provides services to a registered Indian entity such recipient would be liable to GST under reverse charge mechanism and undertake necessary compliances

# Non-Resident taxable person

## Definition

*Non-Resident taxable person” means a taxable person who occasionally undertakes transactions involving supply of goods and/or services whether as principal or agent or in any other capacity but who has no fixed place of business or residence in India;*

(Such taxpayers are typically providing some form of services – consulting, specialized skills, education, or the like in India)

- ***Section 24 (Registration Provisions w.r.t Non Resident Taxable person)***
  - a non-resident taxable person shall apply for registration at least five days prior to the commencement of business
  - a non-resident taxable person may be granted registration under subsection (1) on the basis of any other document as may be prescribed(section 25 sub clause 7 – procedure for registration)

# Export of Goods and Services

- GST shall not be charged on goods/services exported from India.
- For claiming nil tax on exports, either a bond or letter of undertaking has to be submitted to the Jurisdictional Commissioner

# GST on health care services and medicines

- Exempt Services
  - (i) Health care services by a clinical establishment, an authorised medical practitioner or para-medics;
  - (ii) Services provided by way of transportation of a patient in an ambulance
  - (iii) Services provided by cord blood banks by way of preservation of stem cells or any other service in relation to such preservation is exempt from GST.
- No GST on Human Blood and its components
- Goods falling under 5% GST : Animal or Human Blood Vaccines, Diagnostic kits for detection of all types of hepatitis, Desferrioxamine injection, medicaments (including veterinary medicaments) used in bio-chemic systems and not bearing a brand name, Oral re-hydration salts, Drugs or medicines including their salts and esters and diagnostic test kits, Formulations manufactured from the bulk drugs
- GST rate is 12 % on Wadding, gauze, bandages and similar articles, medicaments, including Ayurvedic, Unani, Siddha, Homeopathic or Bio-chemic systems
- Nicotine polacrilex gum is the only medicine or pharmaceutical product taxed at 18% GST rate

# GST on Medical Devices

5%

- Coronary stents and coronary stent systems for use with cardiac catheters
- Artificial kidney
- Disposable sterilized dialyzer or microbarrier of artificial kidney
- Parts of the, Wheel chairs, Walking frames, Tricycles, Brailers, Artificial limbs, Assistive devices, rehabilitation aids and other goods for disabled

12%

- a. Blood glucose monitoring system (Glucometer) and test strips
- b. Patent Ductus Arteriosus
- c. Instruments & appliances used in medical, surgical, dental or veterinary sciences, including scintigraphy apparatus, other electro-medical apparatus and sight testing instruments
- d. Mechano-therapy appliances; massage apparatus; psychological aptitude-testing apparatus; ozone therapy, oxygen therapy, aerosol therapy, artificial respiration or other therapeutic respiration apparatus
- e. Other breathing appliances and gas masks, excluding protective masks having neither mechanical parts nor replaceable filters
- f. Orthopedic appliances
- g. Apparatus based on the use of X-rays or of alpha, beta or gamma radiations
- h. Spectacle lenses, contact lens
- i. Mathematical calculating instruments and pantographs
- j. Drawing instruments, Other drawing and marking out instruments

# GST on Medical Devices

18%

- a. Frames and mountings for spectacles, goggles or the like, and parts
- b. Spectacles, and the like, corrective, protective or other and goggles, corrective
- c. Instruments and apparatus for physical or chemical analysis
- d. Gas, liquid or electricity supply or production meters, including calibrating meters
- e. Oscilloscopes, spectrum analysers and other instruments and apparatus for measuring or checking electrical quantities; instruments and apparatus for measuring or detecting alpha, beta, gamma, X-ray, cosmic or other ionising radiation.
- f. Measuring or checking instruments, appliances and machines, not specified or included elsewhere in this Chapter; profile projectors.

28%

- a. Goggles (other than corrective)
- b. Compound optical microscopes, including those for photomicrography cinephotomicrography or microprojection
- c. Microscopes other than optical microscopes; diffraction apparatus
- d. Apparatus based on the use of X-rays or of alpha, beta or gamma radiations, for other than medical, surgical, dental or veterinary uses, including radiography or radiotherapy apparatus, X-ray tubes and other X-ray generators, high tension generators, control panels and desks, screens, examinations or treatment tables, chairs and the light
- e. Photographic (other than cinematographic) cameras; photographic flashlight apparatus and flashbulbs other than discharge lamps)
- f. Binoculars, monoculars, other optical telescopes, and mountings therefor; other astronomical instruments and mountings therefor, but not including instruments for radioastronomy
- g. Apparatus and equipment for photographic (including cinematographic) laboratories, not specified or included elsewhere in this Chapter; negatoscopes; projection screens

# GST on IT Sector

## Pre GST regime

The sale of packaged software attracted both VAT @ 5% and service tax @15%. Excise duty was also applicable on manufacturing of IT products.

## GST Regime

- IT, Software development services attract 18% GST
- Freelancers offering software services such as designing, app development, website designing etc., is liable to 18% GST
- Export of information technology continues to be exempt from GST with claim of refund on tax paid on local inputs and input services

# GST on Education Services

## Exempted services

- Services provided by an educational institution to its students, faculty and staff
- Following services provided to an educational institution imparting pre-school education and education up to higher secondary school or equivalent:
  - ❖ Transportation of students, faculty and staff;
  - ❖ Catering, including any mid-day meals scheme sponsored by the Government;
  - ❖ Security or cleaning or house-keeping services performed in such educational institution;
  - ❖ Services relating to admission to, or conduct of examination by, such institution; upto higher secondary
- Primary and pre-primary education services
- Various Management Programmes of IIMs (except executive development programme)

## 18% GST Rate

- Specialised services
- Most of the other education and training services and educational support services
- Executive Development Programme IIMs



# GST on Aviation Services

- GST rate for **economy class flight tickets** to 5%. Whereas the **business class tickets** attract a higher tax at 12%
- Airlines can only **claim ITC on input services** for the economy class while for the business class they can claim **ITC for spare parts, food items and other inputs, apart from fuel**
- Import of aircraft, aircraft engines and other parts is **exempt** from the integrated goods and service tax (IGST) when airlines bring these into the country on lease
- 5% IGST will be applicable only on **the lease rental** paid by the importer
- **MRO services** are subject to GST @ 18% irrespective of where the MRO services are procured, if the carrier operates in India
- GST rates on **aerospace items**:

Industries	Item heading HSN	Particulars	GST Rates (%)
Aerospace	8801	Spacecraft (including satellites) and suborbital and spacecraft launch Vehicles	0
	8802	Other aircraft (for example, helicopters, aero planes), other than those for personal use and parts thereof	5
	8805	Gliders, or simulators of aero planes or simulators of helicopters	0

# Miscellaneous

- Refund of ITC allowed in case of zero rated exports( including deemed exports) or inverted duty structure
- Refund of ITC not allowed where the export goods are subject to export duty or where Drawback claimed
- Refund shall be granted within 60 days, else interest upto 6%, In case of exports/ deemed exports, 90% of the claim can be given immediately on a provisional basis
- Self assessment for ALL, provisional assessment on request of tax payer
- Maximum penalty upto tax evaded & prosecution varies between 1-5 years and fine
- Advance ruling may be sought for classification, method of valuation, rate of tax, admissibility of ITC, taxability, registration, “supply”

For any queries, please contact Nidhi Goyal at

00 91 9811321971