

BASICS OF GST

Direct Taxes and Indirect Taxes

Direct Taxes	Indirect Taxes
Can the burden of direct tax be shifted by taxpayer?	
No	Yes
Who makes the payment of taxes to the government?	
Himself	Supplier (usually)
Progressive or Regressive	
Progressive	Regressive Mukesh Ambani and Amit Mahajan – both pay 18% of GST

Taxes subsumed under GST

Central Taxes

- ☐ Central Excise Duty & Additional Excise Duties
- ☐ Service Tax
- ☐ Excise Duty under Medicinal & Toilet Preparation Act
- ☐ CVD & Special CVD
- ☐ Central Sales Tax
- ☐ Central surcharges & Cesses in so far as they relate to supply of goods & services

State Taxes

- ☐ State surcharges and cesses in so far as they relate to supply of goods & services
- ☐ Entertainment Tax (except those levied by local bodies)
- ☐ Tax on lottery, betting and gambling
- ☐ Entry Tax (All Forms) & Purchase Tax
- ☐ VAT/ Sales tax
- ☐ Luxury Tax
- ☐ Taxes on advertisements

GST



Features of INDIRECT TAXES

1. An important source of revenue
2. Tax on commodities and services
3. Shifting of burden
4. No perception of direct pinch
5. Inflationary
6. Wider tax base
7. Promotes social welfare
8. Regressive in nature

1st country to introduce GST – France in 1954

GST model – Dual GST (Tax collected by both the Govts)

CONCEPT OF GST

- ❖ GST is a value added tax levy on sale or service or both
- ❖ Destination based consumption tax
- ❖ GST offers comprehensive and continuous chain of tax credit
- ❖ GST where burden borne by final consumer
- ❖ GST eliminate cascading effect of tax
- ❖ GST brings uniform tax structure all over India

CONCEPT OF GST

Deficiencies in the erstwhile value added taxation

has led to

GST

A cure for ills of erstwhile indirect tax regime

Manufacturer (₹)	Distributor (₹)	Retailer (₹)	Consumer (₹)
Cost: 1,00,000 GST @ 18% = 18,000	Cost: 1,00,000 Profit: 11,200 Sale Price: 1,11,200 GST @ 18% = 20,016	Cost: 1,11,200 Profit: 24,640 Sale Price: 1,35,840 GST @ 18% = 24,451.20	Cost: 1,60,291.2 (1,35,840 + 24,451.20)
Input Tax Credit = NIL	Input Tax Credit = 18,000	Input Tax Credit = Rs. 20,016	Input Tax Credit = NIL
Paid to Government GST = 18,000	Paid to Government GST = 2,016 (Output tax – Input tax)	Paid to Government GST = 4,435.20 (Output tax – Input tax)	Tax Borne by the Consumer 18,000 + 2,016 + 4,435.20 = 24,451.20
Value Addition = 1,00,000 GST @ 18% = 18,000	Value Addition = 11,200 GST @ 18% = 2,016	Value Addition = 24,640 GST @ 18% = 4,435.20	Value Addition = NIL

Deficiencies in the VAT

- ❖ **Double Taxation** – Double Taxation of a transaction as both goods & services. [Ex: Hotel Business, Softwares.] (VAT + ST)

Under earlier tax regime, software was subject to both service tax and VAT. This was so because both sale of goods and provision of service were involved and therefore taxable event under both the Statutes i.e. respective VAT law and service tax law got triggered. This aspect has been taken care of under GST law.
- ❖ **Set off of CENVAT & State VAT against the credit of one another was not possible** as CENVAT was a central levy & State-level VAT was a State levy
- ❖ **Several Local taxes in the states (Ex: Luxury tax, Entertainment tax)** were not subsumed in State VAT
- ❖ **Non-integration of VAT & Service Tax:** VAT on goods was not integrated with tax on services, at the state level, to remove cascading effect on Service Tax
- ❖ **When goods were manufactured & sold,** both Excise duty (CENVAT) & State-level VAT were levied

Assessable value under excise law	1000
Excise Duty @ 12.5%	<u>125</u>
Taxable Value for VAT	1125
VAT @ 14.3%	<u>160.88</u>
Total Invoice value	1285.88

Destination based tax - GST is a destination based tax

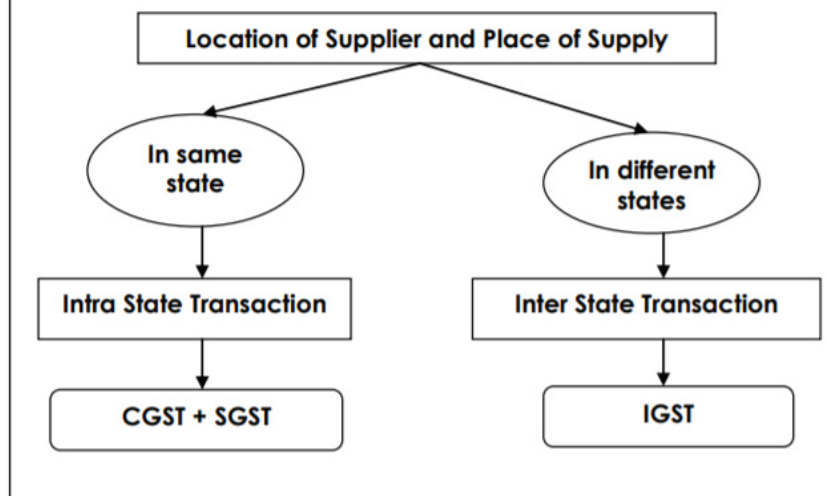
What is Intra-state transfer? (S8)

- i) **Location of supplier**
AND
i) **Place of supply**
Are in
1. Same state; or
 2. Same Union Territory

What is Inter-state transfer? (S7)

- i) **Location of supplier**
AND
i) **Place of supply**
Are in
- 1) Two different states
 - 2) Two different UTs
 - 3) A state and a UT

How to Decide IGST or CGST + SGST while raising invoices:



Import of G/S into India will be deemed to be inter-state

GST Common portal

- Goods and services tax network | Website - www.gst.gov.in.
- It is also known as GST Electronic Portal.
- It is managed by GSTN
- GSTN is set by the Government to establish a uniform interface for the tax payer and a common and shared IT infrastructure between the Centre and States.
- Functions include Filing of registration application, filing return, creation of challan for tax payment etc.

GST Compensation Cess

- GST Compensation Cess at specified rate has been imposed under the Goods and Services Tax (Compensation to States) Cess Act, 2017
- **Applicability** - Specified luxury items or demerit goods, like pan masala, tobacco, aerated waters, motor cars etc., computed on value of taxable supply.
- **Purpose** - Compensation cess is leviable on intra-State supplies and inter-State supplies with a view to provide for compensation to the States for the loss of revenue arising on account of implementation of the GST.
- **Validity** - Compensation is to be provided to a State for a period of **5 years** from the date on which the State brings its SGST Act into force.

GST applicability

GST is levied on all goods and services, **except alcoholic liquor** for human consumption and **petroleum crude, diesel, petrol, ATF and natural gas**

Goods	Excise Duty	VAT / CST	GST
Alcoholic liquor for Human Consumption	YES	YES	NO
Petroleum crude, HSD, Motor Spirit, Natural Gas, ATF	YES	YES	NO
Tobacco & Tobacco Products	YES	NO	YES
Other Goods	NO	NO	YES

Special note

Opium, Indian hemp and other narcotic drugs and narcotics:

- ❖ **Within** the purview of GST
- ❖ However, Union Government has also **retained the power** to levy **excise duties**
- ❖ Resultantly, Opium, Indian hemp and other narcotic drugs and narcotics are subject to **GST as well as State excise duties**

Benefits of GST

- ❖ **Boost to 'Make in India' initiative** – Since Lower cost due to reduced taxes
- ❖ **Enhanced investment, export and employment**, Ease of doing business
- ❖ Certainty in **tax administration**
- ❖ **Ease of doing business** – **Simpler tax regime**, reduction in multiple tax laws, procedures, rates of tax across the country
- ❖ **Benefits to small traders and entrepreneurs**: GST has increased the

threshold for GST registration for small businesses. Further, single registration is needed in one State

- ❖ **Automated procedures with greater use of IT**: There are simplified and automated procedures for various processes such as registration, returns, refunds, tax payments. All interaction is through the common GSTN portal, therefore, less public interface between the taxpayer and the tax administration.
- ❖ **Reduction in compliance costs**: Less compliance cost is lesser under GST as multiple record-keeping for a variety of taxes is not needed.
- ❖ **Benefits to small traders** – GST has increased the threshold for GST registration for small businesses.
 - 1 registration in 1 state
 - Small businesses can opt for composition scheme

GST Council – Article 279A

- Article 279A of the Constitution empowers the President to constitute a joint forum of the Centre and States namely, Goods & Services Tax Council (GST Council).
- The Union **Finance Minister** is the **Chairman** of this Council
- **Union Minister** of State in charge of Finance as a **member**
- Ministers in charge of Finance/Taxation or any other Minister nominated by each of the States & UTs with Legislatures are its members in GST council
- The function of the Council is to make recommendations to the Union and the States on important issues like tax rates, exemptions, threshold limits, dispute resolution etc

- GST Council shall recommend the date on which the GST be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel
- Every decision of the GST Council is taken by a majority of not less than **3/4th** of the weighted votes of the members present and voting.
- Vote of the **Centre** has a weightage of **1/3rd** of total votes cast and votes of all the **State** Governments taken together has a weightage of **2/3rd** of the total votes cast, in that meeting
- Quorum – 1/2 of total number of members

GSPs and ASPs

- **GSPs – GST Suvidha Providers**
- GSPs have access to GST System and have the capability to develop applications to be used by taxpayers for interacting with the GSTN
- GSP develops applications having features like return filing, reconciliation of purchase register data with auto populated data for acceptance / rejection / modification, dashboards for taxpayers for quick monitoring of GST compliance activities
- GSP is an additional channel being made available for facilitating the taxpayers for performing some of the functions and use of their services is optional.
- GSPs may take the help of Application Service Providers (ASPs) who act as a link between taxpayers and GSPs.

Constitutional Provisions

- **Article 265** – It states that “no tax shall be levied or collected except by authority of law”
- **Article 246** – It gives the respective authority to Union and State Governments for levying tax
- **Article 246A**: Power to make laws with respect to Goods and Services Tax
 - Intra state – both parliament and state legislature has power to make laws
 - Inter state – Only parliament has power to make laws

Need for constitutional amendment

- ❖ Earlier constitutional provisions had given separate powers for the Centre and the States to impose various taxes.
- ❖ Whereas the Centre levied excise duty on all goods produced or manufactured in India, the States levied Value Added Tax once the goods entered the stream of trade upon completion of manufacture.
- ❖ In the case of inter-State sales, the Centre had the power to levy CST, but the tax was collected and retained entirely by the States (from where the movement of goods start).
- ❖ Services were exclusively taxed by the Centre together with applicable cesses, if any.
- ❖ Besides, there were State specific levies like entry tax, Octroi, luxury tax, entertainment tax, lottery and betting tax, local taxes levied by Panchayats etc.

- ❖ With respect to goods imported from outside the country into India, Centre levied basic customs duty and additional duties of customs together with applicable cesses, if any
- ❖ Introduction of the GST required amendment in the Constitution so as to enable integration of the central excise duty, additional duties of customs, State VAT and certain State specific taxes and service tax into a comprehensive Goods and Services Tax and to empower both Centre and the States to levy and collect it.
- ❖ Consequently, Constitution (101st Amendment Act), 2016 (hereinafter referred to as CAA) was passed

Student's notes

[illegible]