

Legal Compliance Workshop

Goods and Services Tax (GST)

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24/06/2017

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Presentation Plan

- Why GST ?
- Cascading impact of tax and double taxation
- Trade barriers and Tax evasion
- Why Constitution Amendment ?
- Taxes to be subsumed in GST
- Taxes not Subsumed
- Commodities kept outside GST
- GST Overview and
- Salient Features of GST

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Key Terms to Understand

- Manufacture and trading
- Goods and Services
- Inter and Intra State Trade
- Import and Export
- Value Added Tax
- Input Tax Credit
- Direct and Indirect Tax
- Indirect Tax - Tax collected and paid by somebody other than the person liable to pay them; Tax on expenditure

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Why GST ?

- To Integrate and harmonize the tax structure and develop a common national market for goods and services - **One Nation one Tax**
- Remove tax barriers between States
- Remove cascading impact of taxes and avoid Double Taxation
- Comprehensive and continuous chain of set-off – **Input Tax Credit**
- Check on tax evasion and widening Tax base
- Rationalise exemptions
- Improve competitiveness of Domestic Industry
- Ease of doing Business

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Taxes on Goods and Services at Present

| Tax | On | By |
|-----------------|----------------------------|---------------------------------------|
| Excise | Manufacture of Goods | Centre |
| Service | Services provided | Centre |
| VAT | Sale of Goods within State | States |
| CST | Inter-state sale of Goods | Levied by Centre, Collected by States |
| Purchase, Entry | Goods | States |

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Trade Barrier

- Different tax rates for same item in States
- CST @ 2% on inter state trade
- CST on intermediate goods moving across states makes manufacturing in India less competitive
 - Raw material from Maharashtra to Andhra 2% CST
 - Processed material from Andhra to TN 2% CST
- Stock transfers – incremental cost of logistics, warehousing and working capital

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Trade Barrier-2

- Check post system at State borders
- Leading to Corruption and Tax evasion
- Increases travel time and resultant costs
- Trucks in India drive 280 km per day as against 800 km per day in US
- 40% of travel time is spent at check points and official stoppages
- (Source - Report on the Revenue Neutral Rate and Structure of Rates for the Goods and Services Tax (GST), December 2015)

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Cascading Tax

- Two parallel streams of taxation
- Centre – Excise, Service Tax, Custom duty
- State - Value Addition Tax (VAT)
- CENVAT-Tax set off only against Excise and Service Tax up to manufacturing. Additional excise and surcharge excluded
- State VAT-No Tax Credit for Excise, Service tax
- No set off for 2% CST either in CENVAT or VAT
- Overall tax burden on goods is currently estimated at 27%-30%. Excise 12.5%, VAT 14.5%

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Cascading Tax Example

Rs.

| | Base Cost | Value addition | Taxable Value | Tax |
|-------------------------------|-----------|----------------|---------------|-----|
| Cloth purchased 14% VAT | 900 | 100 | 1000 | 140 |
| Shirt manufactured 12% Excise | 1140 | 560 | 1700 | 204 |
| Whole seller 14% VAT | 1904 | 196 | 2100 | 294 |
| Consumer cost | 2394 | | | |
| Material + Value Addition | | 1756 | | |
| Total Taxes | | | | 638 |
| Taxes as % of Value Addition | 36.33% | | | |

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Cascading Impact of Taxes at Present

| Sr. | Activity | Tax Type | Base Cost | Value Addition | Taxable Value | Tax % | Amount in Rs. | | | |
|-----|-----------------------------------|----------|--------------|----------------|---------------|-------|---------------|---------------|--------------|-----------------|
| | | | | | | | Tax | Invoice Value | Tax Credit | Net Tax Payable |
| 1 | Yarn Manufacture by A | Excise | 700.0 | 300 | 1000.0 | 12.5 | 125.0 | 1125.0 | | 125.0 |
| 2 | Yarn Sale to B | VAT | 1125.0 | | 1125.0 | 14 | 157.5 | 1282.5 | | 157.5 |
| 3 | Cloth Manufacture by B | Excise | 1282.5 | 500 | 1782.5 | 12.5 | 222.8 | 2005.3 | 125.0 | 97.8 |
| 4 | Cloth Sale Inter State to C | CST | 2005.3 | | 2005.3 | 2 | 40.1 | 2045.4 | | 40.1 |
| 5 | Shirt Manufacture by C | Excise | 2045.4 | 500 | 2545.4 | 12.5 | 318.2 | 2863.6 | 222.8 | 95.4 |
| 6 | Shirt Sale Inter State to D | CST | 2863.6 | | 2863.6 | 2 | 57.3 | 2920.9 | | 57.3 |
| 7 | Sale by Wholeseller to E | VAT | 2920.9 | 100 | 3020.9 | 14 | 422.9 | 3443.8 | | 422.9 |
| 8 | Sale by Retailer to F | VAT | 3020.9 | 200 | 3220.9 | 14 | 450.9 | 3671.8 | 422.9 | 28.0 |
| | Total | | 700.0 | 1600 | | | 1794.7 | 3324.0 | 770.7 | 1024.0 |
| | Net Tax as % of all Inputs | | | 2300.0 | | | | | | 44.52 |

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Tax Credit under GST

| Sr. | Activity | Tax Type | Base Cost | Value Addition | Taxable Value | Amount in Rs. | | Invoice Value | Tax Credit | Net Tax Payable |
|-----|-----------------------------------|----------|--------------|----------------|---------------|---------------|---------------|---------------|--------------|-----------------|
| | | | | | | Tax % | Tax | | | |
| 1 | Yarn Manufacture | | 700.0 | 300 | 1000.0 | | 0.0 | 1000.0 | | |
| 2 | Yarn Sale | GST | 1000.0 | | 1000.0 | 5 | 50.0 | 1050.0 | 0.0 | 50.0 |
| 3 | Cloth Manufacture | | 1000.0 | 500 | 1500.0 | | 0.0 | 1500.0 | | |
| 4 | Cloth Sale Inter State | GST | 1500.0 | | 1500.0 | 12 | 180.0 | 1630.0 | 50.0 | 130.0 |
| 5 | Shirt Manufacture | | 1500.0 | 500 | 2000.0 | | 0.0 | 2000.0 | | |
| 6 | Shirt Sale Inter State | GST | 2000.0 | | 2000.0 | 18 | 360.0 | 2180.0 | 180.0 | 180.0 |
| 7 | Sale by Wholeseller | GST | 2000.0 | 100 | 2100.0 | 18 | 378.0 | 2118.0 | 360.0 | 18.0 |
| 8 | Sale by Retailer | GST | 2100.0 | 200 | 2300.0 | 18 | 414.0 | 2714.0 | 378.0 | 36.0 |
| | Total | | 700.0 | 1600 | 2300.0 | | 1382.0 | 2714.0 | 968.0 | 414.0 |
| | Net Tax as % of all Inputs | | | | | | | | | 18.00 |

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Double Taxation

Excise and Service Tax on

- Software
- Drawings and Designs
- Commissioning and installations

VAT and Service Tax on

- AC Restaurants
- Catering
- Software
- Works contracts
- Right to use of movable goods

Definition of Manufacturing, Goods, Services
Valuation basis – Production capacity, Transaction value, MRP

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Tax Evasion

Volume of Taxable and Non-Taxable
Turnover as per -
Report on the Revenue Neutral Rate
and Structure of Rates for the Goods
and Services Tax (GST)

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Taxable and Non-Taxable Turnover

Amount in Crore Rs.

| State | Taxable Turnover | Non-Taxable Turnover | Ratio of non-taxable to taxable turnover |
|----------------|------------------|----------------------|--|
| Maharashtra | 3,16,598 | 2,41,319 | 76% |
| Tamil Nadu | 2,14,771 | 1,42,,321 | 66% |
| Kerala | 2,93,151 | 44,683 | 15% |
| Karnataka | 1,86,045 | 98,300 | 53% |
| Andhra Pradesh | 60,669 | 1,60,910 | 265% |
| Gujarat | 3,04,479 | 6,51,620 | 214% |
| Total | 13,75,713 | 13,39,154 | 97% |

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Why Constitutional Amendment?

- Centre has the powers to levy tax on:
 - Manufacture of goods (except alcoholic liquor for human consumption, opium, narcotics etc.)
 - Import of goods
 - Inter-State sales of goods (but the tax is collected and retained entirely by the States)
 - Services
- States have the powers to levy tax on the sale of goods
- Centre cannot impose any tax on goods beyond manufacturing (Excise) or primary import (Customs) stage, while states do not have the power to tax services and inter state sale

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Constitutional Provisions

Article 245

- Parliament may make laws for the whole or any part of the territory of India
- Legislature of a State may make laws for the whole or any part of the State

Article 246

- Parliament has exclusive power to make laws with respect to any of the matters enumerated in **List I “Union List”** in the **Seventh Schedule**
- 99 items including Defence, foreign affairs, banks, currency and coinage, union duties and taxes

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Seventh Schedule

- Legislature of any State has exclusive power to make laws for such State or any part thereof with respect to any of the matters enumerated in **List II - “State List”**.
- 61 items including public order and police, local government, public health, sanitation, agriculture, forest and fisheries, education, State taxes and duties
- Parliament and the Legislature of any State, have power to make laws with respect to any of the matters enumerated in **List III “Concurrent List”**

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Constitution 101st Amendment Act

- Deleted Article 268A that empowered Central Govt. to levy Tax on services
- Added Article 246A empowering Parliament and Legislature of every State to make laws with respect to goods and services tax, and
- Empowered Parliament to make laws with respect to supply of goods, or of services, or both in the course of inter-State trade or commerce (including import and export)
- [Amended List I and II](#) in Seventh Schedule

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Existing taxes to be subsumed in GST:

Taxes currently levied and collected by the Centre:

- Central Excise duty
- Duties of Excise (Medicinal and Toilet Preparations)
- Additional Duties of Excise (Goods of Special Importance)
- Additional Duties of Excise (Textiles and Textile Products)
- Additional Duties of Customs (CVD)
- Special Additional Duty of Customs (SAD)
- Service Tax
- Central Surcharges and Cesses so far as they relate to supply of goods and services

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State Taxes to be subsumed

- State VAT
- Central Sales Tax
- Purchase Tax
- Luxury Tax
- Entry Tax (all forms)
- Entertainment Tax (except those levied by the local bodies)
- Taxes on advertisements
- Taxes on lotteries, betting and gambling
- State Surcharges and Cesses so far as they relate to supply of goods and services

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Taxes not Subsumed

Central

- Basic Custom Duty
- Anti Dumping Duty
- Export Duty

State

- Stamp Duty
- Electricity Duty
- Toll Tax
- Passenger Tax

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Commodities kept outside GST

- Alcohol for human consumption
- Petroleum Products viz. petroleum crude, motor spirit (petrol), high speed diesel, natural gas and aviation turbine fuel (ATF)
- Existing taxation system of VAT and Central Excise will continue in respect of the above commodities
- **Tobacco and Tobacco products** would be subject to GST. In addition, the Centre would have the power to levy Central Excise Duty and GST Cess

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GST - Overview

- **Destination based tax** on consumption of goods and services
- Levied at all stages right from manufacture up to final consumption
- Only **value addition** will be taxed
- **Credit of taxes** paid at previous stages available as setoff
- Burden of tax is to be borne by the final consumer
- Tax Credit to the State of final consumption

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GST Rates

- Cap on the Central and State GST rates at 20% each and 40% for IGST
- GST Council finalised a five-tier rate structure at Nil, 5%, 12%, 18%, and 28% for Goods and Services.
- Nil rate for export and unpacked Food items
- 5% rate for items of mass consumption or 'Aam Aadmi' products.
- Standard GST rate of 12% and 18% will be levied on other items.
- Highest slab of 28% will be applicable for white goods

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Threshold for Exemption

- Taxpayers with an aggregate annual turnover Rs. 10 lakh in 11 small hill States and Rs. 20 lakh in other States, would be exempt from GST.
- Small States - Assam, Arunanchal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Tripura, Sikkim, Uttrakhand, Himachal Pradesh, Jammu & Kashmir

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Aggregate turnover?

Aggregate turnover includes the value of:

- all taxable and non-taxable supplies,
- exempt supplies, and
- exports of goods and/or service
- of all persons having the same PAN,
- to be computed on all India basis
- excludes:
 - taxes charged under this CGST, SGST/UGST and IGST Acts
 - value of supplies on which tax is levied on reverse charge basis, and
 - value of inward supplies

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Definitions

- **“Goods and services tax”** means any tax on supply of goods, or services or both except taxes on the supply of the alcoholic liquor for human consumption **Article 366 (12A)**
- **“Goods”** includes all materials, commodities, and articles **Article 366 (12)**
- **“Services”** means anything other than goods **Article 366 (26A)**

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Salient Features of GST

- GST would be applicable on “supply” of goods or services as against the present concept of tax on the **manufacture** of goods or on **sale** of goods or on provision of **services**.
- GST would be based on the principle of **destination based** consumption taxation as against the present principle of **origin based** taxation.
- It would be a **dual GST** with the Centre and the States simultaneously levying it on a common base.

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Salient Features-2

- GST to be levied by the Centre would be called Central GST (CGST)
- GST to be levied by the States would be called State GST (SGST) and UGST by Union Territories.
- An Integrated GST (IGST) would be levied on inter-State supply (including stock transfers) of goods or services, and would be collected by the Centre so that the credit chain is not disrupted and smooth flow of tax credit from one State to another

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Salient Features-3

- Import of goods or services would be treated as inter-State supplies and would be subject to IGST in addition to the applicable customs duties
- CGST, SGST/UGST and IGST would be levied at rates to be mutually agreed upon by the Centre and the States under the aegis of the GST Council (GSTC)
- IGST would be equivalent to the sum of CGST and SGST
- Exports would be zero-rated tax

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Salient Features-4

- The list of exempted goods and services would be kept to a minimum and it would be harmonized for the Centre and the States as well as across States as far as possible.
- The laws, regulations and procedures for levy and collection of CGST and SGST would be harmonized to the extent possible

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Inter and Intra State Supply

- Inter-State supply of goods and/or services refers to those transactions where the location of the supplier and the place of supply are in different States
- Intra-State supply of goods and/or services refers to those transactions where the location of the supplier and the place of supply are in the same State.
- States will be empowered to tax any economic activity in territorial waters up to 12 nautical miles, though it is Union government's territory

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At what point tax is to be levied?

Tax Incidence / taxable event means the point at which tax is levied

- VAT is levied on sale and purchase of goods and follows the destination based principle of taxation
- Excise is levied on the manufacture of goods and follows the origin-based principle of taxation
- Service tax levied on provision of services
- GST taxable event would be supply of goods and services and would follow the destination based principle of taxation
- Tax would accrue to the taxing authority which has jurisdiction over the place of consumption

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Criteria to determine Supply:

- supply of goods and / or services
- for a consideration
- in the course or furtherance of business
- by a taxable person
- in the taxable territory
- is a taxable supply,

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How ITC can be utilized?

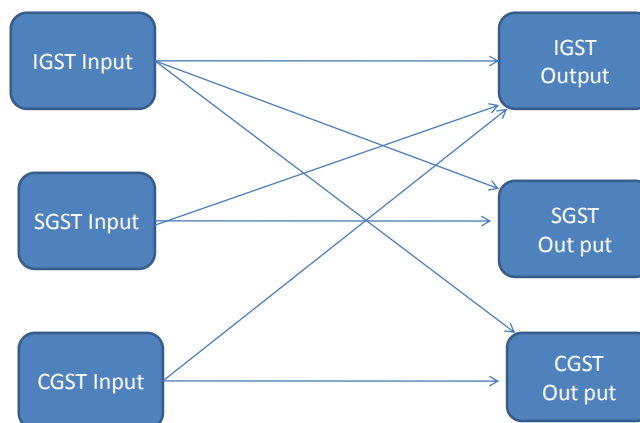
- Credit of CGST paid on inputs may be used only for paying CGST on the output and the credit of SGST paid on inputs may be used only for paying SGST. The two streams of input tax credit (ITC) cannot be cross utilized, except in specified circumstances of inter-State supplies for payment of IGST.
- The permitted combinations are:
 - IGST shall first be utilized towards payment of IGST, CGST and SGST, in that order
 - CGST shall first be utilized towards payment of CGST and then IGST
 - SGST shall first be utilized towards payment of SGST and then IGST
 - Cross-utilization of CGST and SGST credit is not allowed

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Flow of Input Tax Credit



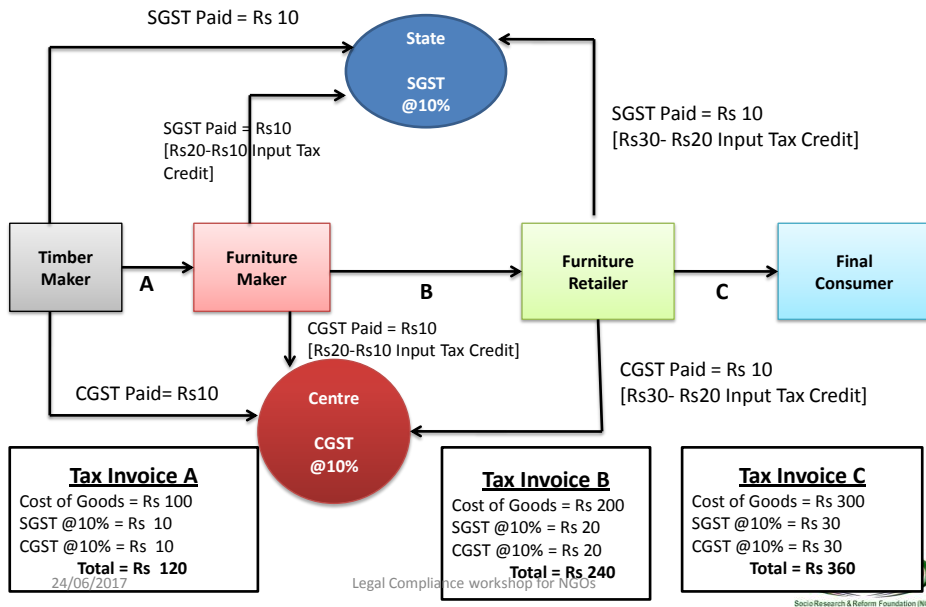
ITC of SGST is not available for CGST and vice-a-versa

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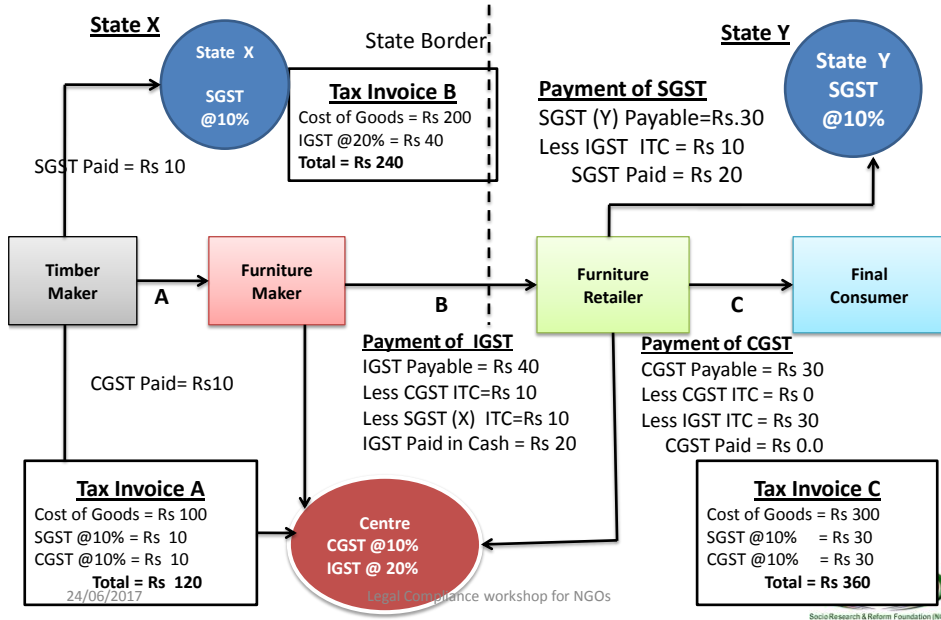
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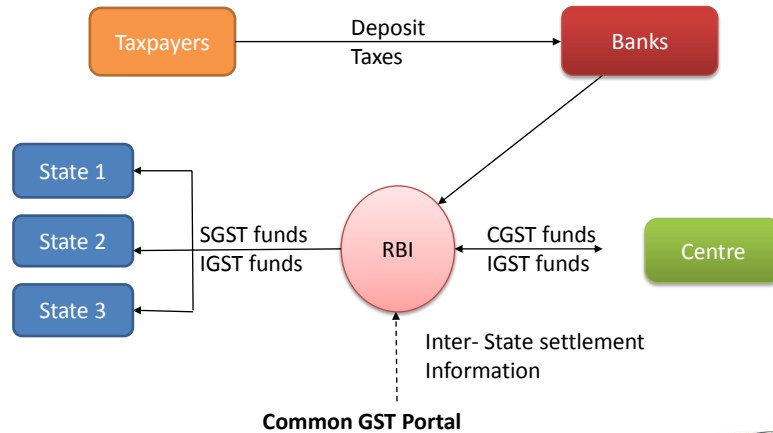
GST – Intra (within) State



GST – Inter (Outside) State (IGST)



Funds flow from Taxpayer to States and Centre



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Registration

- Every supplier shall be liable to be registered in the State from where he makes a taxable supply of goods and/or services if his aggregate turnover in a financial year exceeds threshold
- In case taxpayer supplies goods / services from business establishment in more than one States, he shall be required to be registered in each of the State.
- Person having multiple business verticals in a State may be allowed to obtain a separate registration for each business vertical.

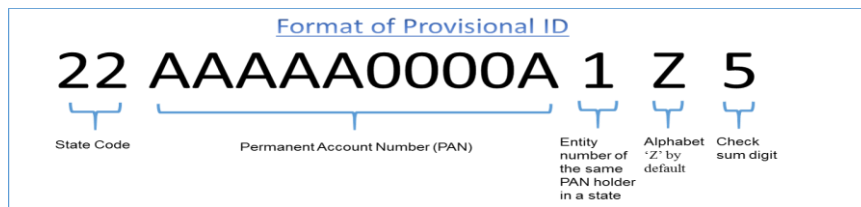
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15 Digit PAN based ID

- First 2 digits –State Code
- Next 10 digits –PAN
- 13th digit –Entity number of the same PAN holder in a state (ISD or Business Vertical)
- 14th digit –Alphabet 'Z' by default
- 15th digit –Check sum digit



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Jai Hind

जय हिन्द

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