



GST



*GST – An Update
(As on 1st March 2019)*

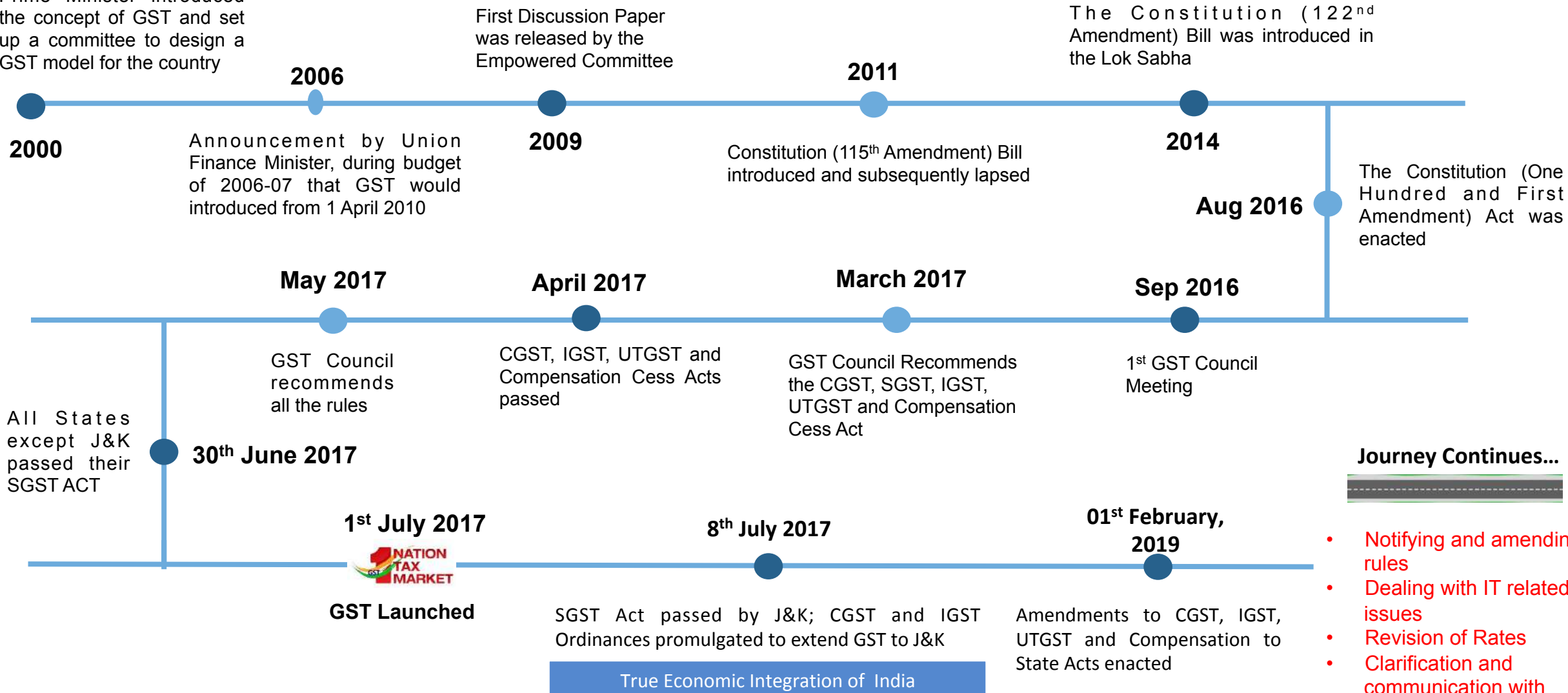


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holds no legal validity*



The Journey to GST

In the year 2000, the then Prime Minister introduced the concept of GST and set up a committee to design a GST model for the country



Journey Continues...

- Notifying and amending rules
- Dealing with IT related issues
- Revision of Rates
- Clarification and communication with taxpayers

GST Law from a Constitutional Perspective (1/2)

Definition of GST

Article 366(12A)

“**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

Sl No	Definition	Article	Definition
1.	Goods	366(12)	Includes all materials, commodities, and articles [Pre Existing Definition]
2.	Service	366 (26A)	Anything other than goods [Introduced vide 101 st Constitutional Amendment Act]
3.	State	366(26B)	With reference to articles 246A, 268, 269,269A and Article 279A includes a Union territory with Legislature. [Introduced vide 101 st Constitutional Amendment Act]

“**Goods and Services tax**” law while having unique principles, has significant elements of prior Central and State laws; and is also inspired by VAT/GST legislation of EU, Australia, Malaysia etc. along with International VAT/GST guidelines of OECD

GST Law from a Constitutional Perspective (2/2)

- Bill passed by Rajya Sabha on 03.08.2016 & Lok Sabha on 08.08.2016
- Notified as Constitution (101st Amendment) Act, 2016 on 08.09.2016
- Key Features:
 - ✓ Concurrent jurisdiction for levy & collection of GST by the Centre & the States – Article 246A
 - ✓ Centre to levy & collect IGST on supplies in the course of inter-State trade or commerce including imports – Article 269A
 - ✓ Compensation for loss of revenue to States for five years on recommendation of GSTC – Clause 19
 - ✓ GST on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas & aviation turbine fuel to be levied from a later date on recommendations of GSTC

Pre-GST Indirect Tax Structure in India

Central Taxes

- Central Excise duty
- Additional duties of excise
- Excise duty levied under Medicinal & Toilet Preparation Act
- Additional duties of customs (CVD & SAD)
- Service Tax
- Surcharges & Cesses

State Taxes

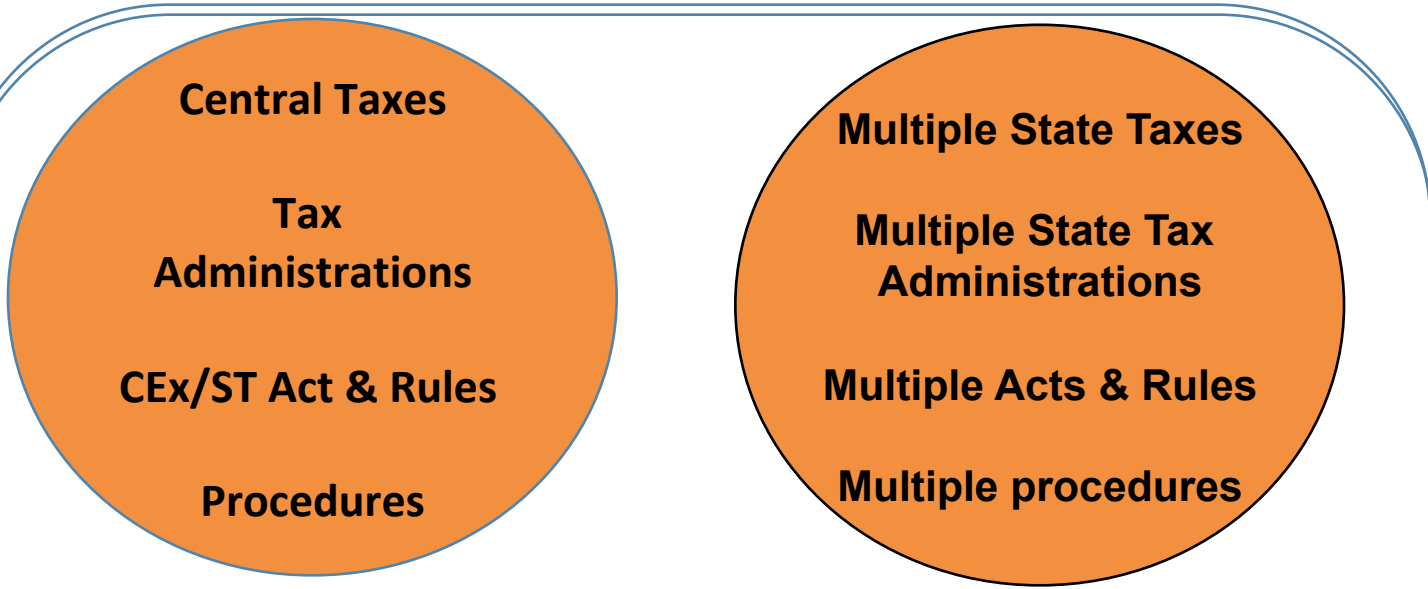
- State VAT / Sales Tax
- Central Sales Tax
- Purchase Tax
- Entertainment Tax (other than those levied by local bodies)
- Luxury Tax
- Entry Tax (All forms)
- Taxes on lottery, betting & gambling
- Surcharges & Cesses

+ 13 Cesses

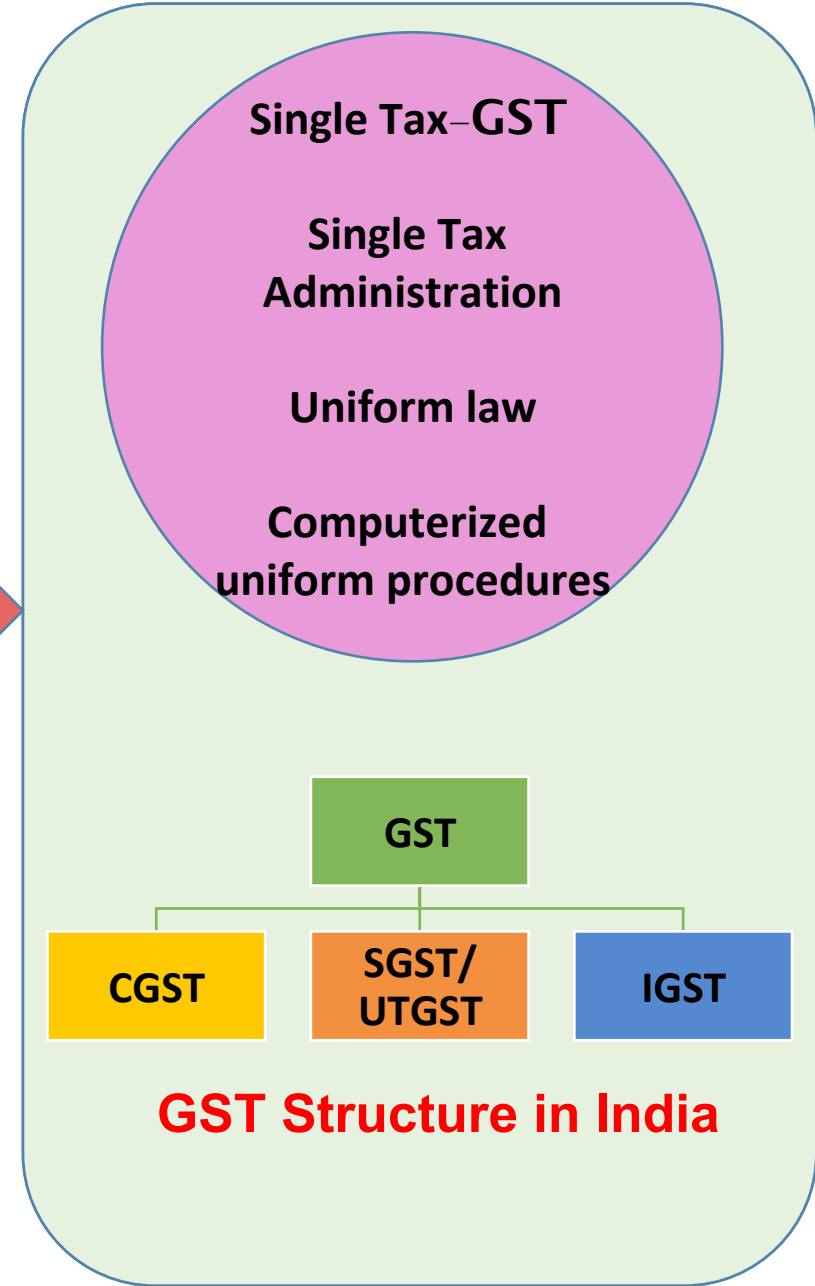
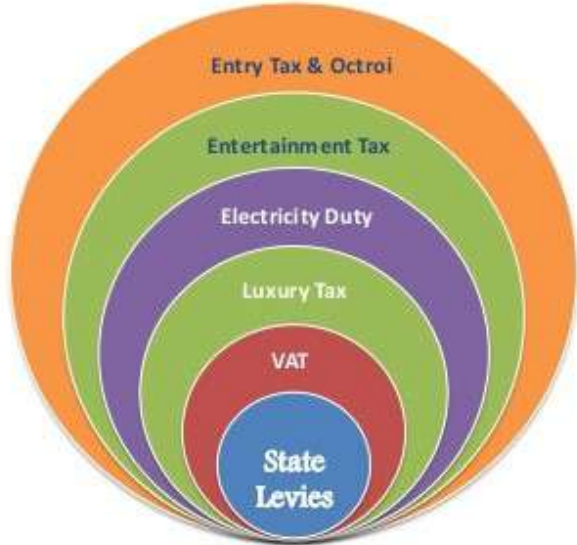
GST



Constitution amended to provide concurrent powers to both Centre & States to levy GST (Centre to tax sale of goods and States to tax provision of services)



Pre-GST Indirect tax structure in India



GST Structure in India

Outside GST !



Alcohol for human consumption

Power to tax remains with the State



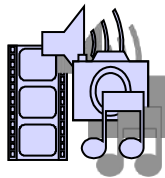
Five petroleum products – crude oil , diesel, petrol, natural gas and ATF

GST Council to decide the date from which GST will be applicable



Tobacco

Part of GST but power to levy additional excise duty with Central Government



Entertainment tax levied by local bodies

Power to tax remains with local bodies

GST Council – Constitution (Article 279A of the Constitution)

- Chairperson – Union FM
- Vice Chairperson - to be chosen amongst the Ministers of State Government
- Members - MOS (Finance) and all Ministers of Finance / Taxation of each State
- Quorum is 50% of total members
- Decision by 75% majority
- States - 2/3 weightage and Centre - 1/3 weightage
- Council to make recommendations on everything related to GST including laws, rules and rates etc.

GST Council Decisions

Registration and Threshold (1/19)

- Threshold exemption limit was set at Rs. 20 lakh. For special category States (except J&K) enumerated in Article 279A of the Constitution, threshold exemption limit had been fixed at Rs. 10 lakh.
- Threshold exemption limit for registration in the States of Assam, Arunachal Pradesh, Himachal Pradesh, Meghalaya, Sikkim and Uttarakhand increased to Rs. 20 lakh from Rs. 10 lakh.
- After the 32nd GST Council meeting, there would be two threshold limits for exemption from registration for suppliers of Goods i.e. Rs. 40 lakhs and Rs. 20 lakhs. Based on the option exercised by the States in opting for either the above two thresholds, the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura and Uttarakhand have kept the said threshold at Rs. 20 lakh where as all others have increased it to Rs. 40 lakh. However, the threshold for registration for Service Providers would continue to be Rs. 20 lakhs and in case of Special Category States at Rs. 10 lakhs. This would be made effective from 01.04.2019.
- The following classes of taxpayers shall be exempted from obtaining registration:
 - ✓ Suppliers of services, having turnover up to Rs. 20 lakh, making inter State supplies
 - ✓ Suppliers of services, having turnover up to Rs. 20 lakh, making supplies through e-commerce platforms.
- Taxpayers may opt for multiple registrations within a State/Union territory in respect of multiple places of business located within the same State/Union territory.
- Mandatory registration is required for only those e-commerce operators who are required to collect tax at source.
- Registration to remain temporarily suspended while cancellation of registration is under process, so that the taxpayer is relieved of continued compliance under the law.

Migration (2/19)

- One more window for completion of migration process permitted. Due date for the taxpayers who did not file the complete FORM GST REG-26 but received only a Provisional ID (PID) till 31.12.2017 for furnishing the requisite details to the jurisdictional nodal officer was extended till 31.01.2019.
- Due date for furnishing FORM GSTR-3B and FORM GSTR-1 for the period July, 2017 to February, 2019 / quarters July, 2017 to December, 2018 by such taxpayers extended till 31.03.2019.

Composition Scheme (3/19)

- Composition threshold limit increased to be Rs. 1.5 Crore
- Composition scheme shall not be available to inter-State suppliers and specified category of manufacturers.

Categories	Tax Rate
Traders	1%
Manufacturers	1%
Restaurants	5%

32nd GST Council meeting
(Decisions effective from 1st April, 2019)

- Limit of Annual Turnover in the preceding Financial Year for availing Composition Scheme for Goods shall be increased to Rs 1.5 cr. But, special category States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Uttarakhand shall have the said limit as Rs. 75 lakh. The compliance under Composition Scheme shall be simplified as now they would need to file one Annual Return but payment of taxes would remain quarterly (along with a simple declaration).
- A Composition Scheme shall be made available for Suppliers of Services (to those who are not eligible for the presently available Composition Scheme) with a tax rate of 6% (3% CGST +3% SGST) having an Annual Turnover in the preceding Financial Year up to Rs. 50 lakhs. They would be liable to file one Annual Return with quarterly payment of taxes (along with a Simple declaration).

Tax Administration (4/19)

- In order to ensure single interface, all administrative control over 90% of taxpayers having turnover below Rs. 1.5 crore would vest with State tax administration and over 10% with the Central tax administration. Further, all administrative control over taxpayers having turnover above Rs.1.5 crore shall be divided equally in the ratio of 50% each for the Central and State tax administration.
- Powers under the IGST Act shall also be cross-empowered on the same basis as under CGST and SGST Acts with few exceptions.
- Power to collect GST in territorial waters shall be delegated by Central Government to the States.
- Power to take intelligence based enforcement action over entire taxpayer's base would be with both Central as well as State tax administration.

Reverse Charge Mechanism (5/19)

- Levy of GST on reverse charge mechanism on receipt of supplies from unregistered suppliers, to be applicable to only specified goods in case of certain notified classes of registered persons, on the recommendations of the GST Council. No such notification has been issued so far.
- Earlier the reverse charge mechanism under sub-section (4) of section 9 of the CGST Act, 2017 and under sub-section (4) of section 5 of the IGST Act, 2017 was kept under suspension till 30.09.2019.

Payment of Tax (6/19)

- There shall be no requirement on payment of tax on advances received for supply of goods by all taxpayers.
- A Group of Ministers constituted for promoting digital payment has recommended to allow cash back to an amount equal to 20% of GST paid or Rs. 100/-, whichever is lower for cases where payment is made by BHIM or Rupay card. The necessary infrastructure is being developed and soon the scheme would be implemented on pilot basis in State of Assam and few other States which volunteer for the same.
- In principle approval has been given for amendment of section 50 of the CGST Act to provide that interest should be charged only on the net tax liability of the taxpayer, after taking into account the admissible input tax credit, i.e. interest would be leviable only on the amount payable through the electronic cash ledger. This would be implemented once the law is amended.

Refunds

- A scheme of single authority for disbursement of the refund amount sanctioned by either the Centre or the State tax authorities would be implemented on pilot basis. The modalities for the same are being finalized.
- All the supporting documents/invoices in relation to a claim for refund in FORM GST RFD-01A shall be uploaded electronically on the common portal at the time of filing of the refund application itself, thereby obviating the need for a taxpayer to physically visit a tax office for submission of a refund application.

Export

- E-Wallet Scheme shall be introduced for exporters from 01.04.2019 and till then relief for exporters shall be given in form of broadly existing practice.
- Supply of services to qualify as exports, even if payment is received in Indian Rupees, where permitted by the RBI.

Return and Late Fees (8/19)

- All taxpayers are required to file return FORM GSTR-3B & pay tax on monthly basis.
- Taxpayers with turnover up to Rs. 1.5 Cr are required to file information in FORM GSTR-1 on a quarterly basis.
 - ✓ Other taxpayers would have to file FORM GSTR-1 on a monthly basis.
- Due date for furnishing the annual returns in FORM GSTR-9, FORM GSTR-9A and reconciliation statement in FORM GSTR-9C for the Financial Year 2017 – 2018 shall be extended till 30.06.2019.
- Late fee shall be completely waived for all taxpayers in case FORM GSTR-1, FORM GSTR-3B & FORM GSTR-4 for the months / quarters July, 2017 to September, 2018 are furnished after 22.12.2018 but on or before 31.03.2019.
- From October 2017 onwards, the amount of late fee for late filing of GSTR-3B payable by a registered person is as follows:
 - ✓ whose tax liability for that month was 'NIL' will be Rs. 20/- per day instead of Rs. 200/- per day
 - ✓ whose tax liability for that month was not 'NIL' will be Rs. 50/- per day instead of Rs. 200/- per day.

New Return System (9/19)

- New return filing system shall be introduced on a trial basis from 01.04.2019 and on mandatory basis from 01.07.2019.
- All taxpayers excluding small taxpayers and a few exceptions like ISD etc. shall file one monthly return.
- New return system is simple with two main tables. One for reporting outward supplies and one for availing input tax credit based on invoices uploaded by the supplier.
- Invoices can be uploaded continuously by the supplier and can be continuously viewed and locked by the buyer for availing input tax credit. This process would ensure that very large part of the return is automatically filled based on the invoices uploaded by the buyer and the supplier. Simply put, the process would be “UPLOAD – LOCK – PAY” for most tax payers.
- Taxpayers would have facility to create his profile based on nature of supplies made and received. The fields of information which a taxpayer would be shown and would be required to fill in the return would depend on his profile.

New Return System (Contd.) (10/19)

- NIL return filers (no purchase and no sale) shall be given facility to file return by sending SMS.
- There shall be quarterly filing of return for the small taxpayers having turnover below Rs. 5 Cr as an optional facility. Quarterly return shall be similar to main return with monthly payment facility but for two kinds of registered persons – small traders making only B2C supply or making B2B + B2C supply. For such taxpayers, simplified returns have been designed called Sahaj and Sugam. In these returns, details of information required to be filled is lesser than that in the regular return.
- New return design provides facility for amendment of invoice and also other details filed in the return. Amendment shall be carried out by filing of a return called amendment return. Payment would be allowed to be made through the amendment return as it will help save interest liability for the taxpayers.

- ITC in relation to invoices issued by the supplier during FY 2017-18 may be availed by the recipient till the due date for furnishing of FORM GSTR-3B for the month of March, 2019, subject to specified conditions.
- Due date for submitting FORM GST ITC-04 for the period July 2017 to December 2018 shall be extended till 31.03.2019.

- TDS/TCS provisions implemented from 01.10.2018.
- Further, to provide some more time to TDS deductor to familiarize themselves with the new system, last date for furnishing return in FORM GSTR-7 for the months of October, 2018 to December, 2018 and January, 2019 extended up to 28.02.2019.
- Exemption from TDS for been made for supply made by Government / PSU to another Government /PSU.

Revenue Mobilization (12/19)

- A Group of Ministers has been constituted to study the revenue trend, including analyzing the reasons for structural patterns affecting the revenue collection in some of the States. The study would include the underlying reasons for deviation from the revenue collection targets vis a vis original assumptions discussed during the design of GST system, its implementation and related structural issues.
- The Group of Ministers will be assisted by the committee of experts from Central Government, State Governments and the NIPFP (National Institute of Public Finance and Planning), who would study and share the findings with GoM. The GoM in turn would give its recommendation to the GST Council.

Real Estate (13/19)

- GST Council in its 33rd meeting held on 24.02.2019 recommended that GST shall be levied at effective rate of 5% without ITC on residential properties outside affordable segment.
- GST shall be levied at effective rate of 1% without ITC on affordable housing properties.
- The new rate shall become applicable from 01.04.2019.
- **Definition of affordable housing:** A residential house/flat of carpet area of up to 90 sqm in non-metropolitan cities/towns and 60 sqm in metropolitan cities having value upto Rs. 45 lacs (both for metropolitan and non-metropolitan cities). Metropolitan Cities are Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR).
- **GST exemption on TDR/ JDA, long term lease (premium), FSI:** Intermediate tax on development right, such as TDR, JDA, lease (premium), FSI shall be exempted only for such residential property on which GST is payable.

Natural Calamity Cess (14/19)

- GST Council in its 32nd Meeting held on 10.01.2019 approved levy of Cess on Intra-State Supply of Goods and Services within the State of Kerala at a rate not exceeding 1% for a period not exceeding 2 years.
- Kerala Government has, accordingly, decided to levy one per cent. 'Kerala Flood Cess' on value of intra-state supply of all goods by registered dealers, at the last supply point, coming within the GST tax bracket of 12%, 18% and 28%.
- 0.25% flood cess will be levied on all goods coming under the fifth schedule including gold, silver and platinum ornaments on the value of supply.
- All services will attract one per cent. cess.
- Kerala government has also decided to allow local bodies to collect entertainment tax on movie tickets up to 10 per cent.

Recent Law amendments wef 01.02.2019 (15/19)

- Scope of input tax credit has been widened, and it would now be made available in respect of the following:
 - ✓ Most of the activities or transactions specified in Schedule III
 - ✓ Motor vehicles for transportation of persons having seating capacity of more than thirteen (including driver), vessels and aircraft
 - ✓ Services of general insurance, repair and maintenance in respect of motor vehicles, vessels and aircraft on which credit is available
 - ✓ Goods or services which are obligatory for an employer to provide to its employees, under any law for the time being in force.
- The order of cross-utilization of input tax credit has been rationalized.
- Commissioner empowered to extend the time limit for return of inputs and capital sent on job work, up to a period of one year and two years, respectively.

Recent Law amendments wef 01.02.2019 (Contd.) (16/19)

- Place of supply in case of job work of any treatment or process done on goods temporarily imported into India and then exported without putting them to any other use in India, would be outside India.
- The following transactions to be treated as no supply (no tax payable) under Schedule III:
 - ✓ Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India;
 - ✓ Supply of warehoused goods to any person before clearance for home consumption;
 - ✓ Supply of goods in case of high sea sales.
- Registered persons may issue consolidated credit/debit notes in respect of multiple invoices issued in a Financial Year.
- Amount of pre-deposit payable for filing of appeal before the Appellate Authority and the Appellate Tribunal capped at Rs. 25 Cr and Rs. 50 Cr respectively.
- Recovery can be made from distinct persons, even if present in different State/Union territories.

Recent Law amendments wef 01.02.2019 (Contd.) (17/19)

- Amount of IGST not apportioned to the Centre or the States/UTs may, for the time being, on the recommendations of the Council, be apportioned at the rate of fifty per cent. to the Central Government and fifty per cent. to the State Governments or the Union territories, as the case may be, on adhoc basis and this amount shall be adjusted against the amount finally apportioned.
- Fifty per cent. of such amount, as may be recommended by the Council, which remains unutilized in the Compensation Fund, at any point of time in any financial year during the transition period shall be transferred to the Consolidated Fund of India as the share of Centre, and the balance fifty per cent. shall be distributed amongst the States in the ratio of their base year revenue.
- In case of shortfall in the amount collected in the Fund against the requirement of compensation to be released for any two months' period, fifty per cent. of the same, but not exceeding the total amount transferred to the Centre and the States as recommended by the Council, shall be recovered from the Centre and the balance fifty per cent. from the States in the ratio of their base year revenue.

Other decisions (Contd.) (18/19)

- Formula and mechanism for GST Compensation Cess has been finalized.
- 50% of the GST paid will be refunded to CSD (Defense Canteens).
- Centralized UIN shall be issued to every Foreign Diplomatic Mission / UN Organization by the Central Government for handling their refund related applications.
- Rate of interest on delayed payments and delayed refund has been recommended.
- Supply from GTA to unregistered persons has been exempted from tax.
- Group of Ministers has been constituted to examine the GST Rate Structure on Lotteries.
- Group of Ministers has been constituted to look into the issues being faced by MSMEs and to provide solutions for the same.

Other decisions (19/19)

- In principle approval has been given for creation of a Centralized Appellate Authority for Advance Ruling (AAAR) to deal with cases of conflicting decisions by two or more State Appellate Advance Ruling Authorities on the same issue. This would be implemented once the law is amended.
- Existing tax incentive schemes of Central or State governments may be continued by respective government by way of reimbursement through budgetary route. The schemes, in the present form, would not continue in GST.
- There would be a single cash ledger for each tax head. The modalities for implementation would be finalized in consultation with GSTN and the Accounting authorities.
- Free Accounting and Billing Software shall be provided to Small Taxpayers by GSTN.

Main Features of the GST Act (1/5)

- Concurrent jurisdiction for levy & collection of GST by the Centre (CGST) and the States (SGST)
- Centre to levy and collect IGST on supplies in the course of inter-State supplies & on imports
- Compensation for loss of revenue to States for five years
- All transactions and processes only through electronic mode – Non-intrusive administration
- PAN Based Registration
- Registration only if turnover more than Rs. 20/40 lac (Rs. 20 lac for special category States except J&K)

- Option of Voluntary Registration
- Composition threshold shall be Rs. 150 lac
 - ✓ Composition scheme shall not be available to inter-State suppliers, service providers (except restaurant service) and specified category of manufacturers
- Deemed Registration in three working days
- Input Tax Credit available on taxes paid on all procurements (except few specified items)

Main Features of the GST Act (3/5)

- Set of auto-populated Monthly returns and Annual Return
- Composition taxpayers to file Quarterly returns
- Automatic generation of returns
- GST Practitioners for assisting filing of returns
- GSTN and GST Suvidha Providers (GSPs) to provide technology based assistance

- Tax can be deposited by internet banking, NEFT / RTGS, Debit / credit card and over the counter
- Concept of TDS for certain specified categories *wef 01.10.2018*
- Concept of TCS for E-Commerce Companies *wef 01.10.2018*
- The e-way bill system has been introduced nation-wide for all inter-State movement of goods with effect from 01.04.2018. As on 16.06.2018, all States and Union Territories have introduced e-way bill system for intra-state movement of goods
- Refund to be granted within 60 days
- Provisional release of 90% refund to exporters within 7 days

Main Features of the GST Act (5/5)

- Interest payable if refund not sanctioned in time
- Refund to be directly credited to bank accounts
- Comprehensive transitional provisions for smooth transition of existing tax payers to GST regime
- Special procedures for job work
- System of GST Compliance Rating
- Anti-Profiteering provision – National Anti-Profiteering Authority already set up
 - ✓ Standing Committee on Anti-Profiteering already set up
 - ✓ State level Screening Committee already set up

Benefits of GST (1/2)

- 1 Reduction in Cascading of Taxes
- 2 Overall Reduction in Prices
- 3 Common National Market
- 4 Benefits to Small Taxpayers
- 5 Self-Regulating Tax System
- 6 Non-Intrusive Electronic Tax System

Decrease in
Inflation

Ease of Doing
Business

Decrease in “Black”
Transactions

Benefits of GST (2/2)

7 Simplified Tax Regime

8 Reduction in Multiplicity of Taxes

9 Consumption Based Tax

10 Abolition of CST

11 Exports to be Zero Rated

12 Protection of Domestic Ind. - IGST

More informed
consumer

Poorer States
to Gain

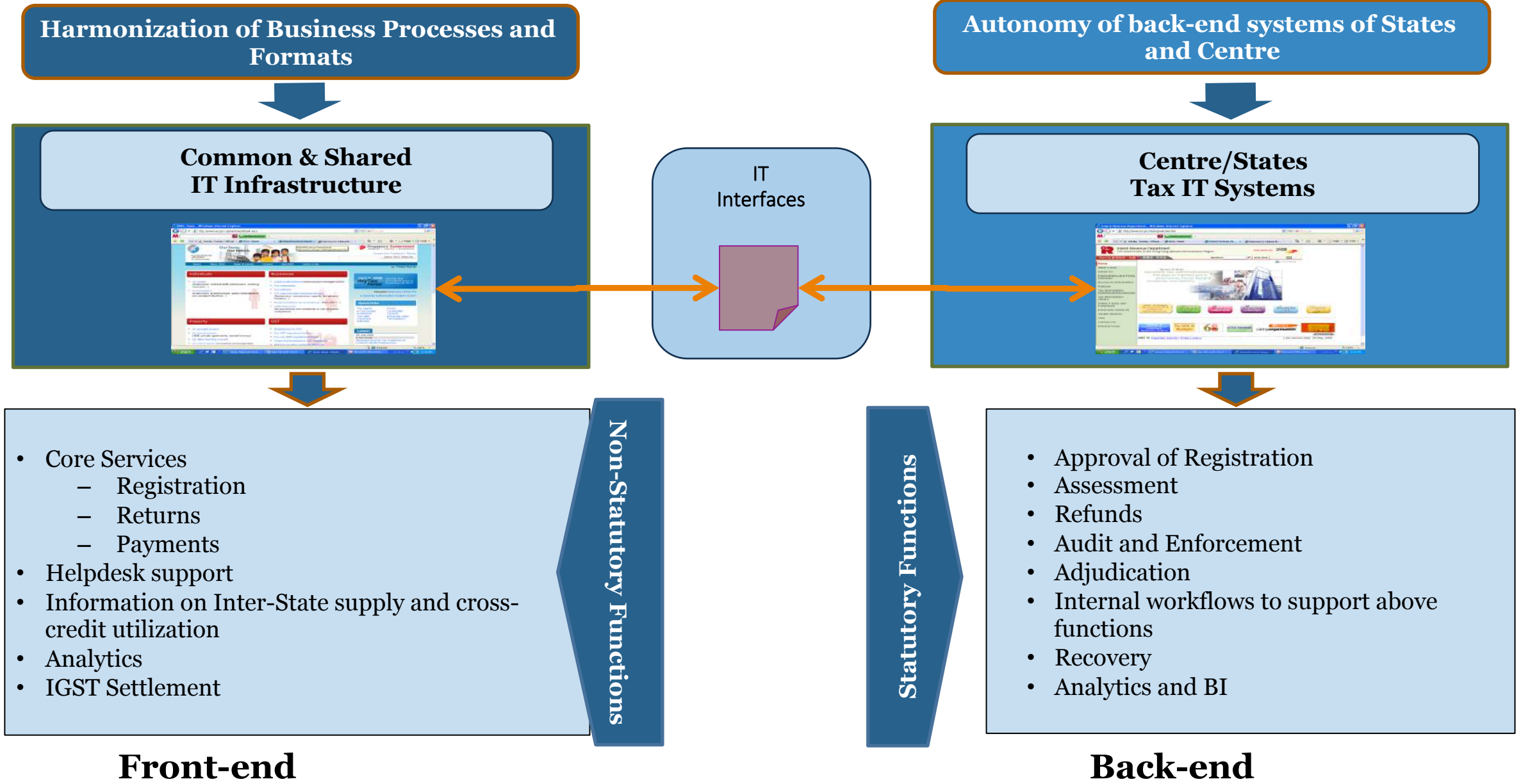
Make in India

Goods and Service Tax Network (1/4)

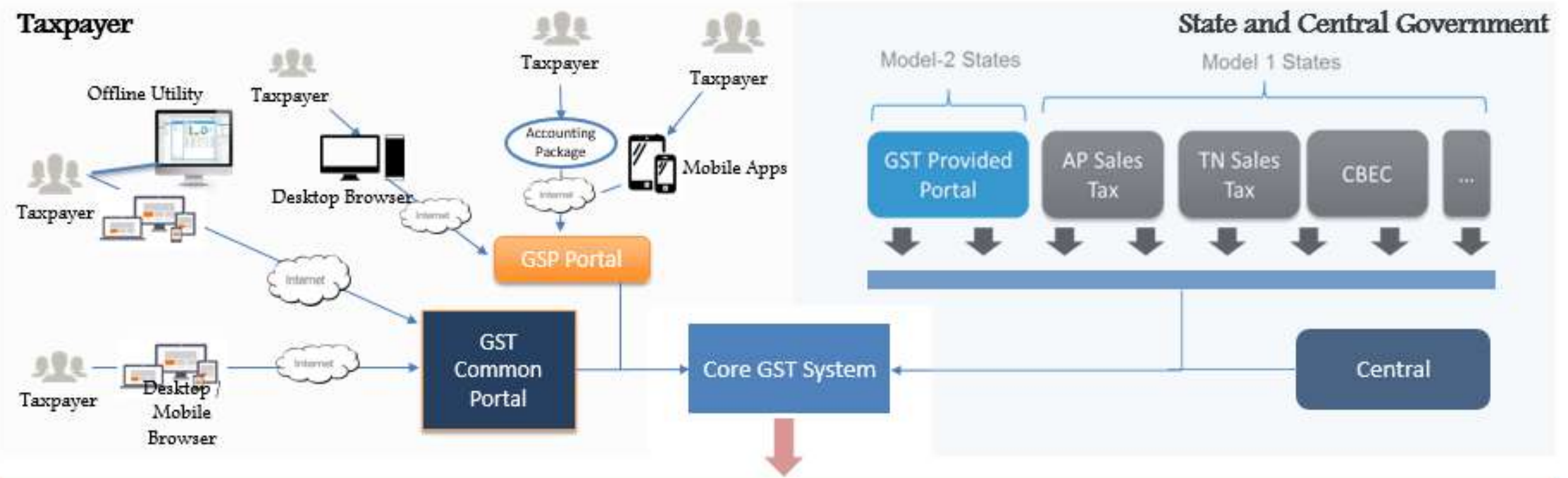
- Incorporated in March 2013 as Section 25 private limited company with paid up capital of Rs. 10 crore
- Equity Holders
 - ✓ Central Government - 24.5%
 - ✓ EC and all States together - 24.5%
 - ✓ Financial Institutions – 51%
- To function as a Common Pass-through portal for taxpayers-
 - ✓ submit registration application
 - ✓ file returns
 - ✓ make tax payments
- To develop back end modules for 27 States (MODEL –II)
- Infosys appointed as Managed Service Provider (MSP)
- Appointed 73 GST Suvidha Providers (GSPs)

- The GST Council in its 27th meeting held on 04.05.2018 has approved the change in shareholding pattern of GSTN
- Considering the nature of ‘state’ function’ performed by GSTN, the GST Council felt that GSTN be converted into a fully owned Government company
- Accordingly, the Council approved acquisition of entire 51 per cent of equity held by non-Governmental institutions in GSTN amounting to Rs. 5.1 Cr, equally by the Centre and the State Governments

Goods and Service Tax Network (3/4)



Goods and Service Tax Network (4/4)



- Role in Policy making: Drafting of GST Law, Rules & Procedures – CGST, UTGST & IGST Law
- CBIC is responsible for administration of the CGST and IGST law
- Assessment, Audit, Anti-evasion & enforcement under CGST, UTGST & IGST Law
- Levy & collection of Central Excise duty on products outside GST – Petroleum Products & Tobacco
- Levy & collection of Customs duties
- Developing linkages of CBIC - GST System with GSTN
- Training of officials of both Centre & States
- Outreach programs for Trade and Industry
- Director General of Anti- Profiteering, CBIC has been mandated to conduct detailed enquiry on anti-profiteering cases



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