

Moving towards a Composite Goods and Services Tax

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Roadmap to GST introduction

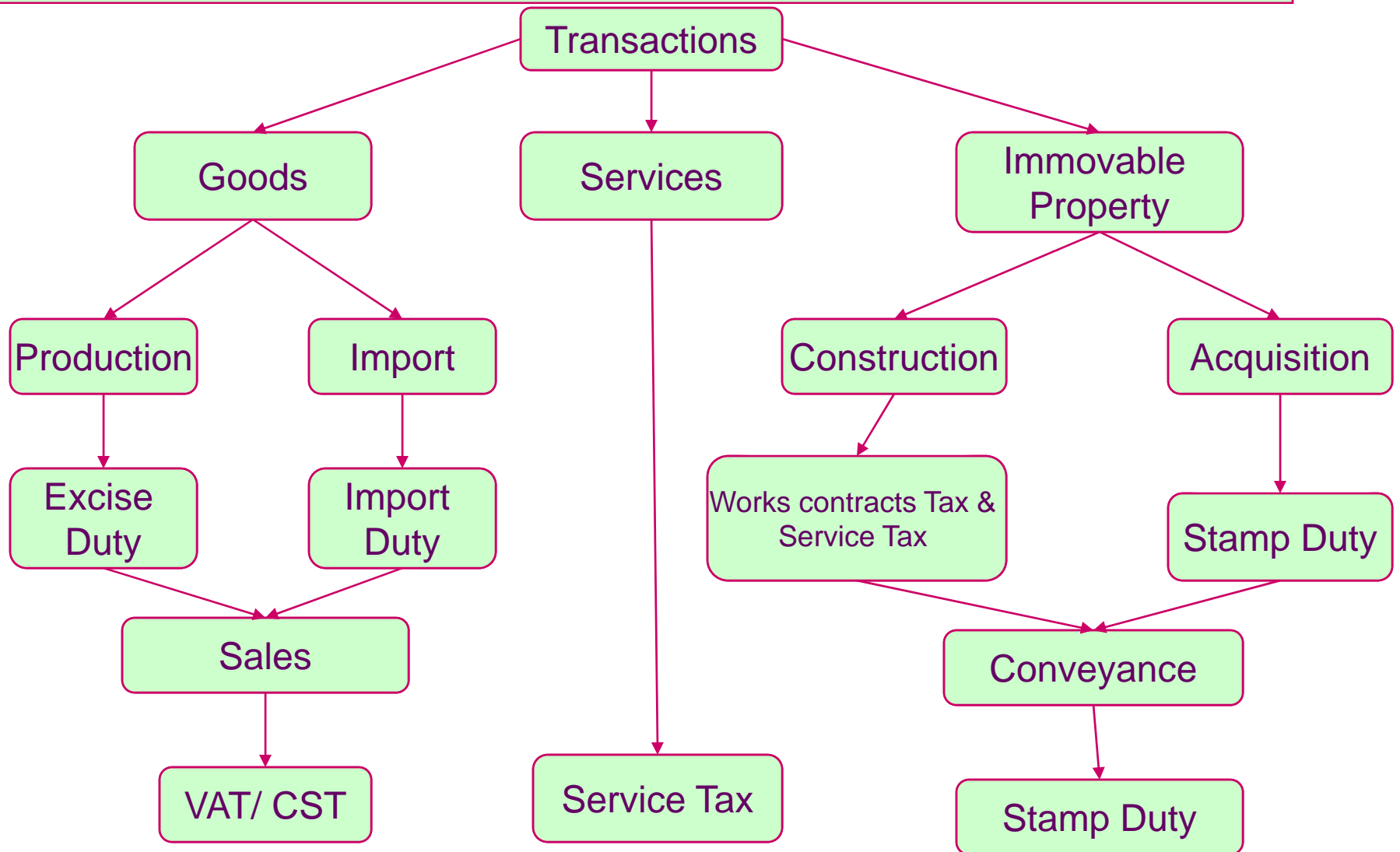
- Discussion Paper of the Empowered Committee on 10 Nov 2009
 - 13th Finance Commission Report (Dec 2009) also dedicates an entire Chapter on GST
 - Finance Commission Task Force has also submitted a 170-page report
[http://fincomindia.nic.in/writereaddata/html_en_files/Report1512091.pdf]
- As per Budget 2010, to be implemented from 1st April 2011
 - Concept Paper targeted 1st April 2010

Why GST



- The objective is to eliminate cascading taxes
 - Cascading taxes distort the taxation of goods and services by being affected by number of times goods/services change hands
- Non-cascading VAT currently exists under Central Excise and services taxes, and separately under VAT
- However, present system fraught with lot of confusion:
 - There is no connectivity between service tax and sales-tax
 - Hence, if inputs liable to service tax, and output to sales-tax,
 - Or vice versa, no set off available
 - No connectivity between Excise and sales tax
 - Huge confusion lies on whether an item falls under sales-tax or service tax, or falls under both
 - Several cases have gone upto Supreme Court [for example, BSNL] as to whether an item is sale or service
 - Multiplicity of taxes
 - Luxury tax
 - Entertainment tax, etc
 - Central Sales-tax is an additional burden on trade

Current Tax Scenario in India



Constitutional background

- Currently, right to tax intra-state sales of goods is with the States
- Right to tax inter-state sales is with the Center
- There is no right to tax imports/exports
- Service tax falls under general taxing power of the Central Govt
 - Hence, states have no power to charge service tax

Broad overview of what happens under GST

- CST goes away; CGST comes in
- Import transactions also liable to GST – import duty remains
- These taxes get consolidated
 - Excise and additional excise
 - Service tax
 - CVD and special additional duty (SAD)
 - Surcharges/cesses
- Other multiple indirect taxes get subsumed
 - VAT
 - Luxury tax
 - Entertainment tax
 - Taxes on lotteries and betting
 - Entry tax not in lieu of octroi
 - Cess and surcharges
- No consensus on subsumption of purchase tax
- Alcohol to be kept out of GST
- Excise duty on tobacco to be additional to GST

Significant features of GST

- Dual tax
 - GST to have 2 elements: Central and State
 - Every transaction of sale of goods/services liable to both SGST and CGST
 - Inter-state transactions liable to IGST
 - Multiple legislations like at present
 - Central GST law, state GST laws
 - Concept paper says there will be basic uniformity; however, as the VAT experience suggests, uniformity is a holy objective
 - Not only multiple taxes, even multiple payment accounts
 - No inter-tax set off – that is, CST paid can be set off against CST only, and GST can be set off against GST only
 - This is outrageous, as most GST purchases are meant to be sold locally
 - Since separate set off, this would mean separate accounting as well
- All goods and services chargeable to GST
 - Except where exempted; or transactions below threshold limits
 - Suggested threshold of Rs 10 lacs for state taxes
 - Rs 1.50 crores for Central tax
- Apparently, exemption for SSIs from excise goes away as excise replaced by GST

Tax regime for services

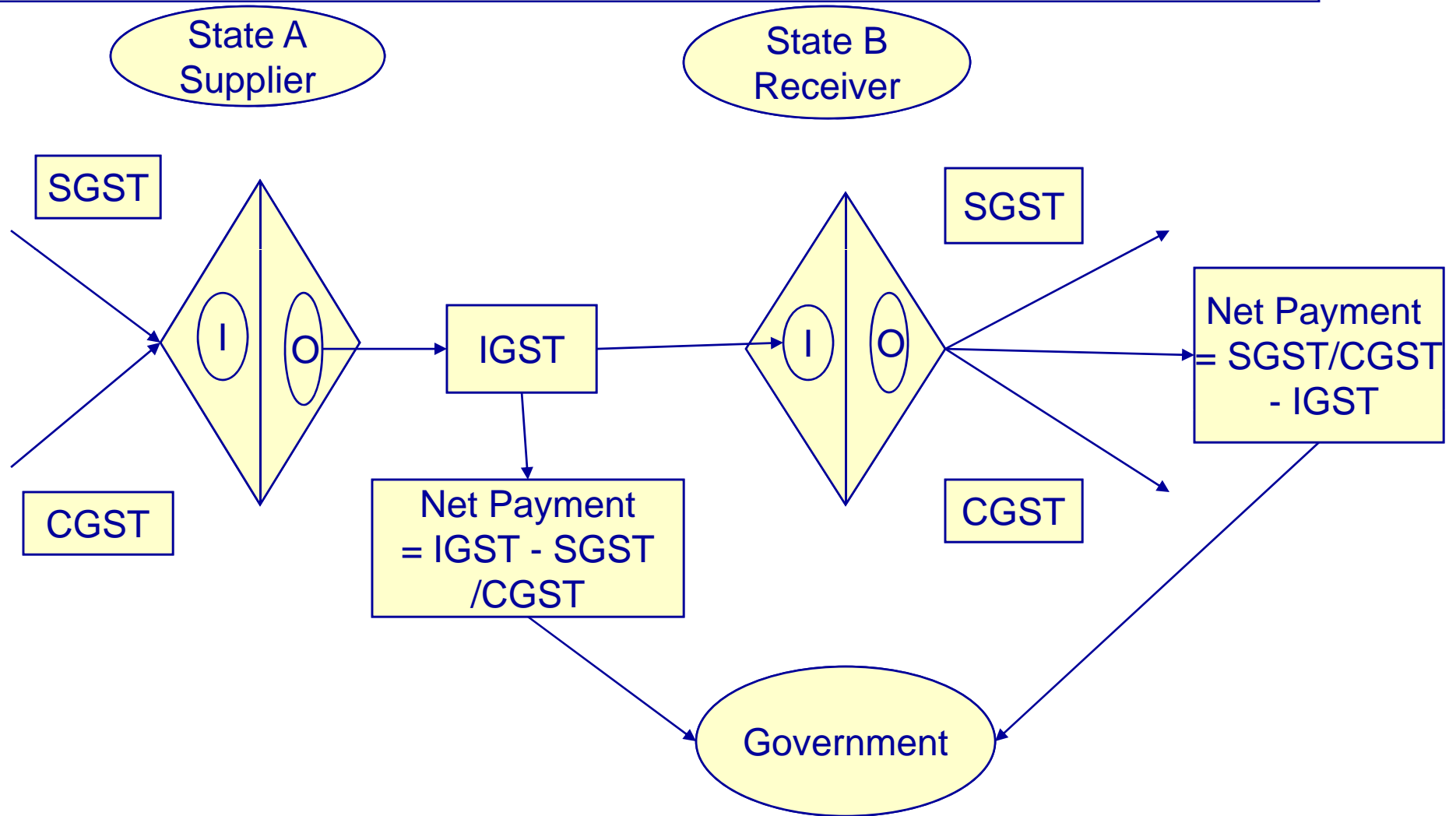
- Distinction between inter-state and intra-state services
 - Basis of distinction not clear
 - In case of goods, it is based on age-old principles of movement of goods; in case of services, the modalities need to be fixed

Integrated GST



- On inter-state transactions of sale of goods or supply of services, center to levy IGST
- $IGST = CGST + SGST$
- Credit of IGST available to the buying dealer
- Among the states and center, transfer of funds takes place through a clearing house based on credit of SGST against IGST and vice versa
- Selling dealer to pay IGST to Central Govt; file return to Central govt along with a copy to clearing house

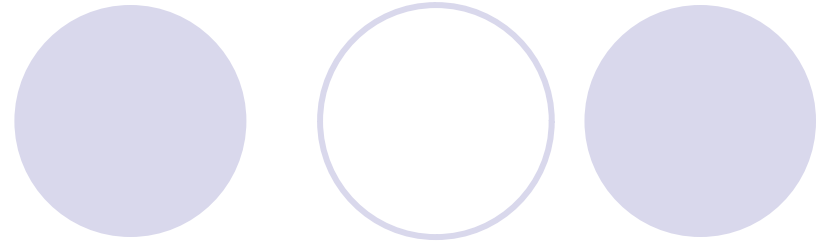
Basic concept of IGST



Consignments and stock transfers

- Discussion paper talks of “appropriate provision” for consignments and stock transfers
 - Not clear from the Discussion paper
- However, presentations by the Working Group members (Mr Rajeev Ranjan) shows that branch transfers will be treated at par with inter-state sales
 - Price of branch transfer to be defined in the law
 - This will create a huge scope for controversy

GST rate structure



- Normal rates
 - Two rate structure
- Special rates
 - Exempted goods
 - Precious metals

Treatment of capital goods



- Discussion Paper not clear
- However, 13th Finance Commission task force recommends equal treatment to capital goods and other inputs

Taxes that remain outside GST

- Discussion paper has not made a mention of stamp duty, which is a major irritant
 - Task Force of Finance Commission strongly recommends subsumption
 - However, stamp duty transactions pertain to a different field, and it may not be practical to integrate them with GST

Filing of returns etc



- The concept papers consistently talk about filing of returns monthly, and electronically
- Given the scheme of clearing house involvement, electronic filing of returns seems to be a must
- In fact, presentation by Mr Rajeev Ranjan states that all the following will be required for dealers
 - E-enrolment
 - E-returns
 - E-payment
 - Computer access with Net connectivity

Significant recommendations of the Task Force of the Finance Ministry

- Base of levy should shift from production to consumption – destination-based tax
 - Hence, imports liable to be taxed
 - Exports get zero-rated
- There should be no distinction between sale of goods and services
 - Hence, classification disputes get resolved
- All inter-state sale of goods and services should be zero-rated
- Existing exemption (from excise) for SSIs upto Rs 1.50 crores of turnover should not be continued under GST
- All real estate transactions, including stamp duty and renting, should come under comprehensive GST
 - Inflation adjustment may be made following IT rules

Suggested model of the Task Force for inter-state transactions

- Instead of the Empowered Group's recommendation of clearing house, the Task Force recommends an all India bank that receives tax payments