



Overview, Levy, Composition, Exemption & ITC under GST

On 12-05-2017 at CAPITOL HOTEL, Bangalore

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Brain Teasers

- **Some months have 30 days, some of them have 31 days, how many of them have 28 days?**
- **I went to bed at 8 o'clock in the evening and wound up the clock and set the alarm to sound at 9 o'clock in the morning. How many hours sleep would I get before being woken by the alarm.**
- **Take 2 apples from 3 apples. How many do you have?**



EVOLUTION OF TAXES ON



GOODS SERVICE SUPPLY

CASCADING EFFECT OF TAX



Transaction without the concept of VAT

Sale By	Selling Price	Tax	Amount
Raw Material supplier to Manufacturer	6,000	300	6,300
Manufactures to Wholesaler	10,000	500	10,500
Wholesaler to Retailer	16,000	800	16,800
Retailer to Customer	20,000	1,000	21,000
Total Tax to be paid		2,600	

In this situation the ultimate tax to be paid to Government is 2,600

CASCADING EFFECT OF TAX



Transaction under the Concept of VAT

Sale By	Selling Price	Tax	Input Credit	Tax to be paid	Amount
Raw Material supplier to Manufacturer	6,000	300	-	300	6,300
Manufacturer to Wholesaler	10,000	500	300	200	10,500
Wholesaler to Retailer	16,000	800	500	300	16,800
Retailer to Customer	20,000	1,000	800	200	21,000
Total Tax to be paid				1,000	

In this situation the ultimate tax to be paid to Government is 1,000



Applicability & Mechanism of GST

ReLakhs.com



Origin / Need for GST



- Origin of GST is dated back to 2000, Vajpayee Govt Started Discussion
- Kelkar Committee on implementation of FRBM Act in 2003 suggested that Comprehensive GST based on VAT Model
- Replace existing Multiplicity of Taxes
- Increase in Direct / Indirect Tax revenue
- Increased Transparency
- Reduced inflation

Origin / Need for GST



- Increase FDI
- GDP will go up by 1%
- International competitiveness by about 5%
- Remove barriers of trade – Check post
- Substantial transaction cost + reduced corruption
- Transfer of business from parallel economy to compliance economy

GST – Journey So far

Idea of GST takes shape

Date of Presidential assent to 101st Const Amndmnt Act

GST Council set up

Central GST Bills passed by Lok Sabha

Central GST Bills passed by Rajya Sabha

Lok Sabha passed Taxation Laws (Amendment) Bill, 2017

2000

08.09.2016

15.09.2016

31.03.2017

06.04.2017

06.04.2017

01.07.2017 – PROPOSED DATE OF INTRODUCTION OF GST

CONSTITUTION AMENDMENT TO MAKE GST POSSIBLE



- **Article 246**

- Parliament and State legislatures/Union Territories empowered to legislate on GST (*CGST & SGST/UTGST respectively*)
- Centre exclusively empowered to levy GST on inter-state movement of goods and/ or services (IGST)
- States for the first time empowered to levy tax on services/Union empowered to levy tax on intra-state supply (sale) of goods

- **Article 269 A**

- Parliament to levy GST on supplies in the course of inter-state trade or commerce
- Supply of goods or services in the course of import into India- to be treated as supplies in the course of inter-state trade or commerce

CONSTITUTION AMENDMENT TO MAKE GST POSSIBLE



- **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”*
- Article 286 prohibits States from taxing supply of goods/ and or services:
 - Outside the state
 - In the course of import into India
 - In the course or export out of India
- Petroleum products, natural gas and aviation turbine fuel to be subsumed under GST from a later date (*to be notified based on recommendation of the GST Council*)

What is the change?

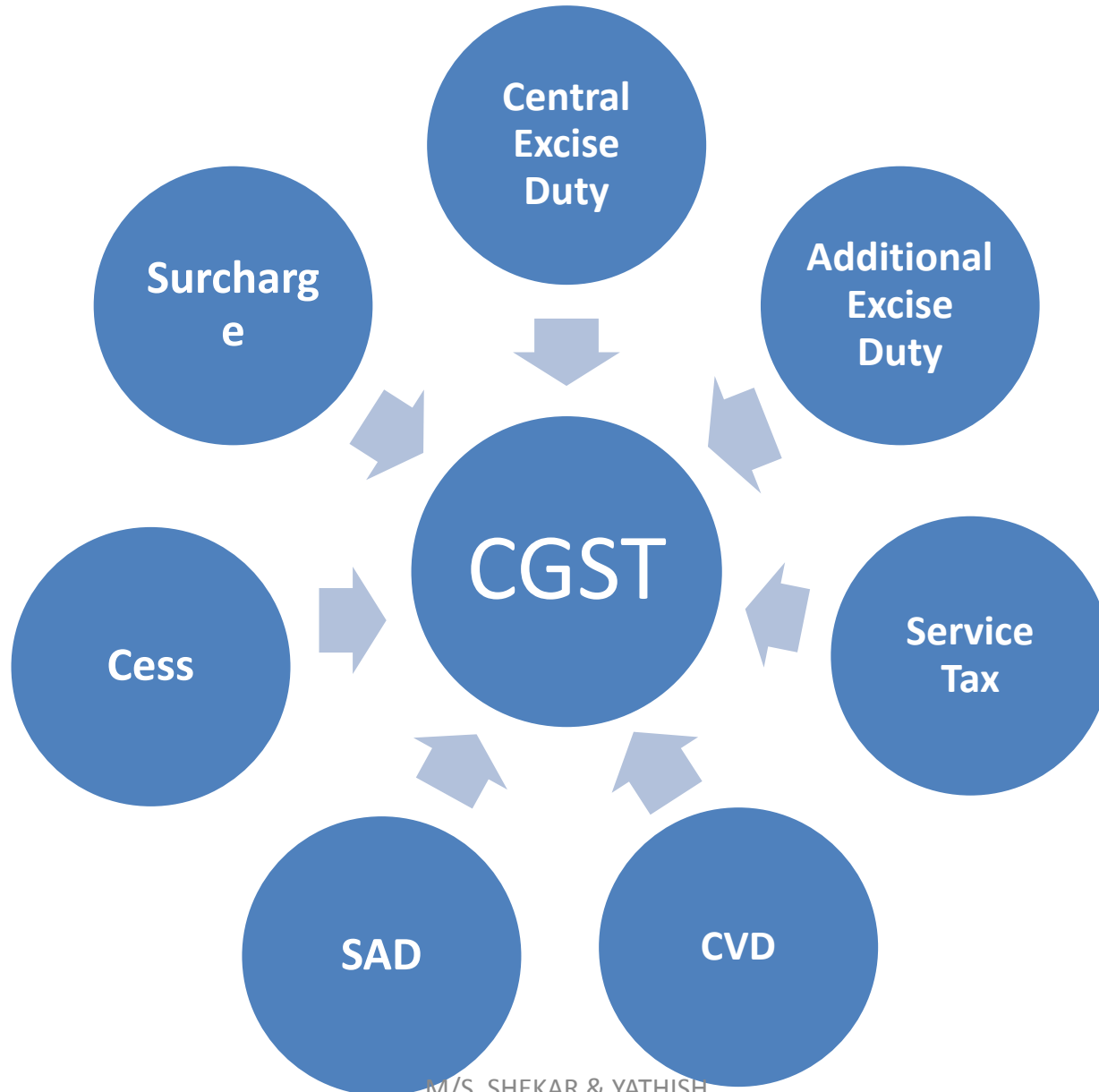


- Current point of levy in Indirect Tax Laws –
 - VAT is on Sale
 - Service Tax is on Provision of or on agreeing to provide Service
 - Excise duty is on Manufacture
- A Shift in the point of levy to “SUPPLY” – Tax Shall be levied on “*Supply of Goods & Services*”.
- What is supply? How is it different from the current context of Sale, Provision of Service or Removal??

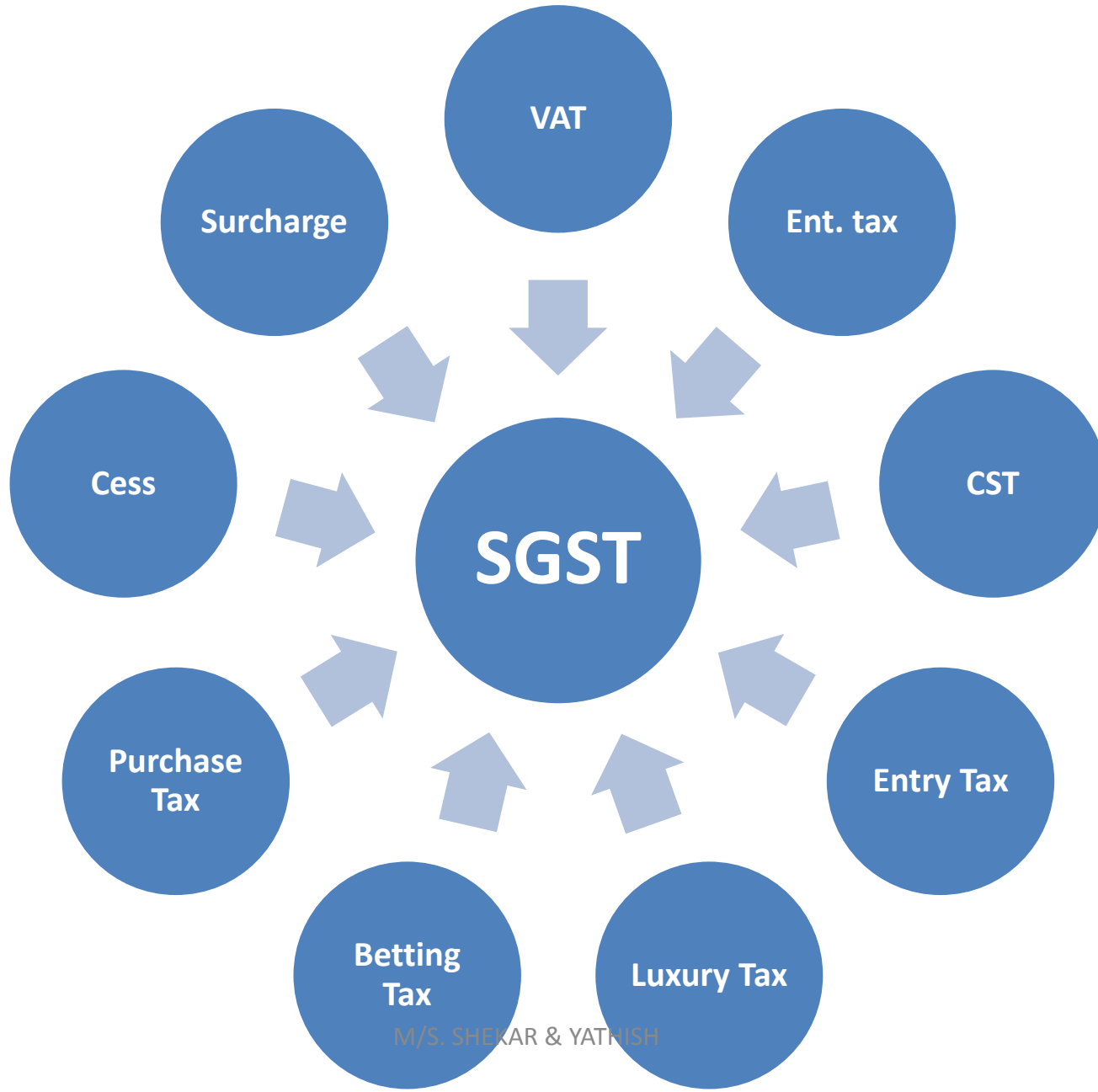
Gamut of GST

- CGST Act, IGST Act, UTGST Act
- Drafts
 - Composition Rules
 - Determination of Value
 - Input Tax credit
 - Tax Invoice, Credit & Debit Notes
 - Registration
 - Payment of tax
 - Returns
 - Transition Provisions

Central Taxes to be subsumed into GST



State Taxes to be subsumed into GST



Principles of GST

Scope of supply,
levy & collection

Valuation of
supply

Input credit &
setoff

Procedural –
registration,
payment, refund

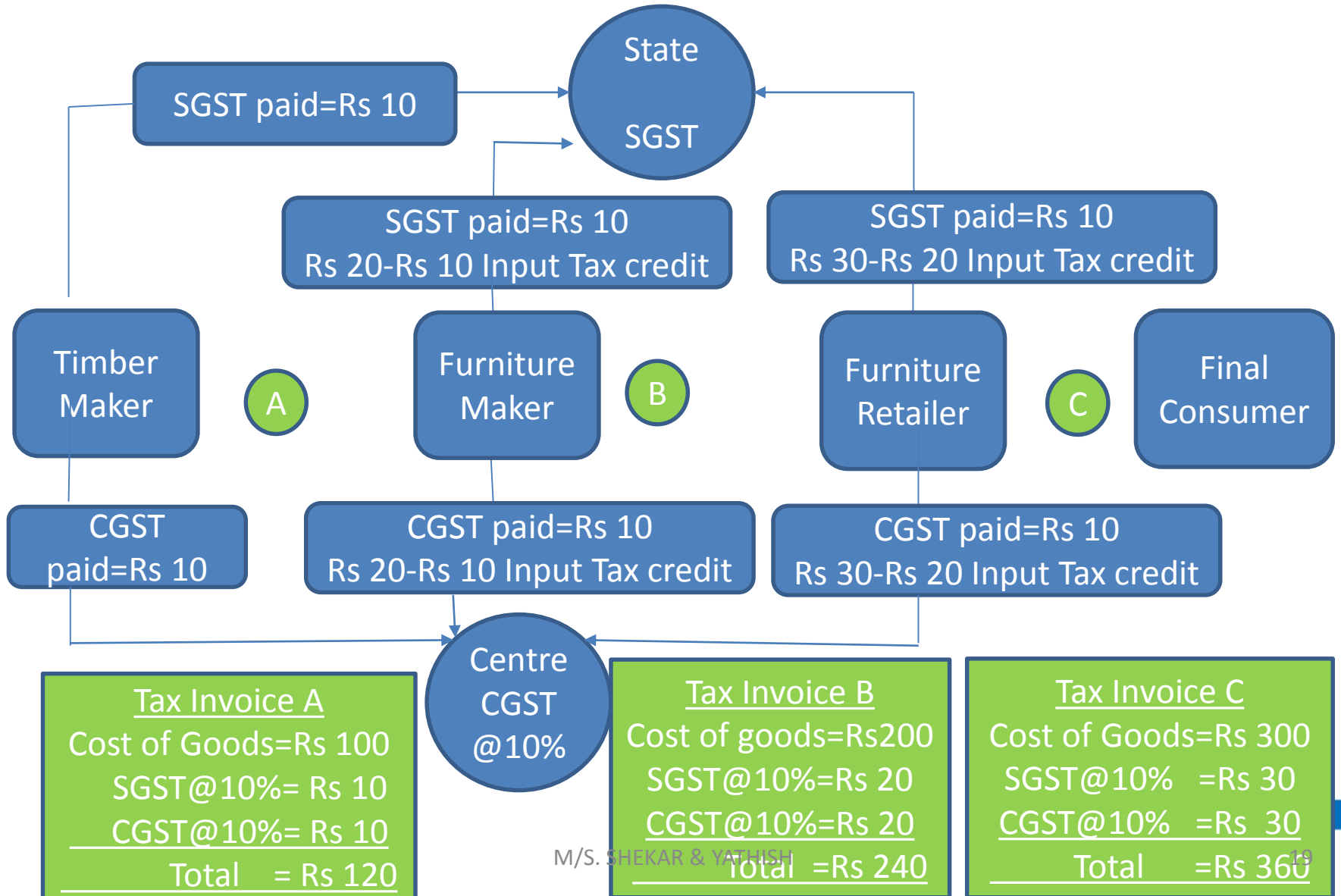
Dual GST Model

Example



	INVOICE OF A	INVOICE OF B	INVOICE OF C
COST OF GOODS	100	200	300
SGST@10%	10	20	30
CGST@10%	10	20	30
TOTAL	120	240	360

Dual GST within State: Working Example



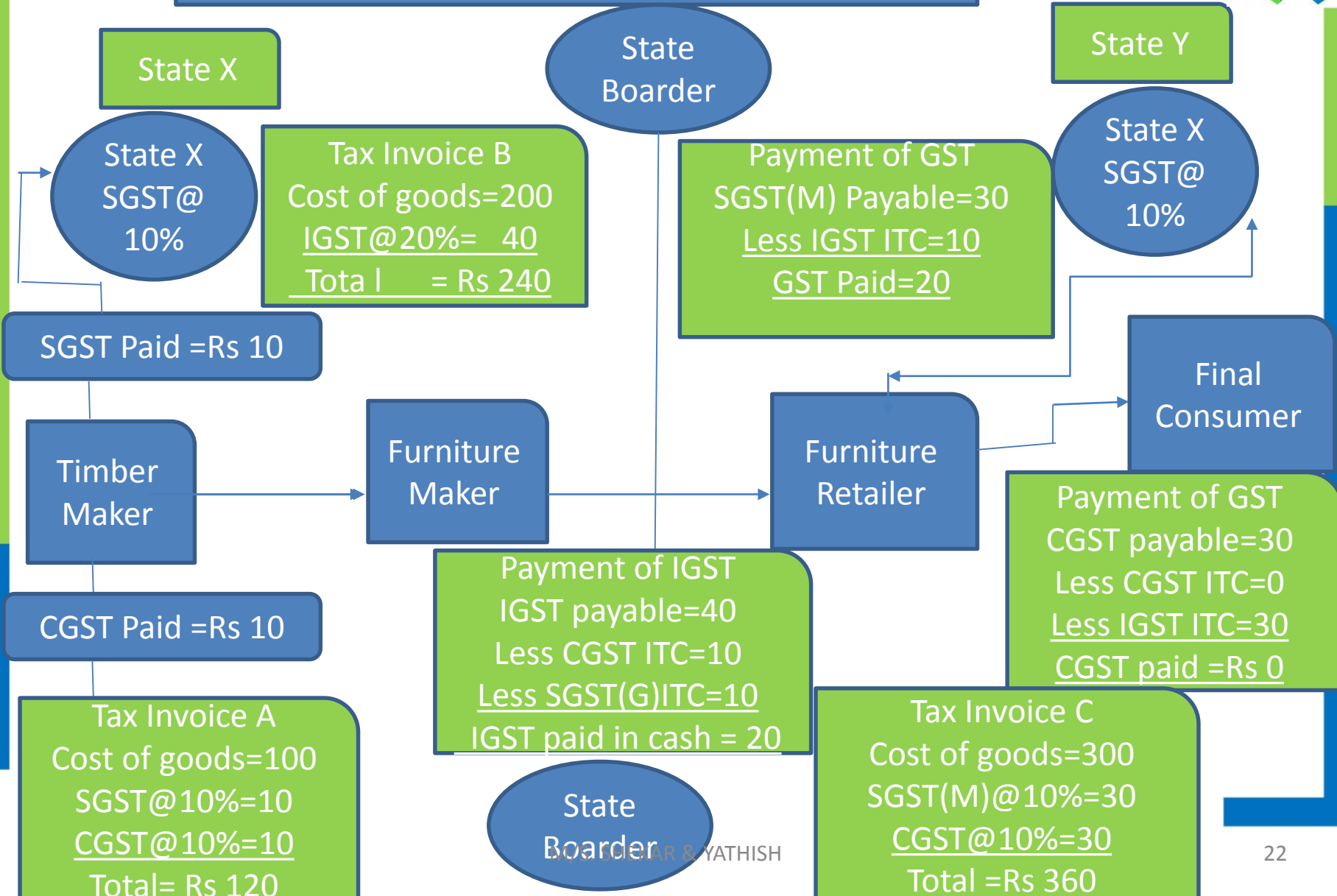
IGST MODEL

Example – IGST MODEL



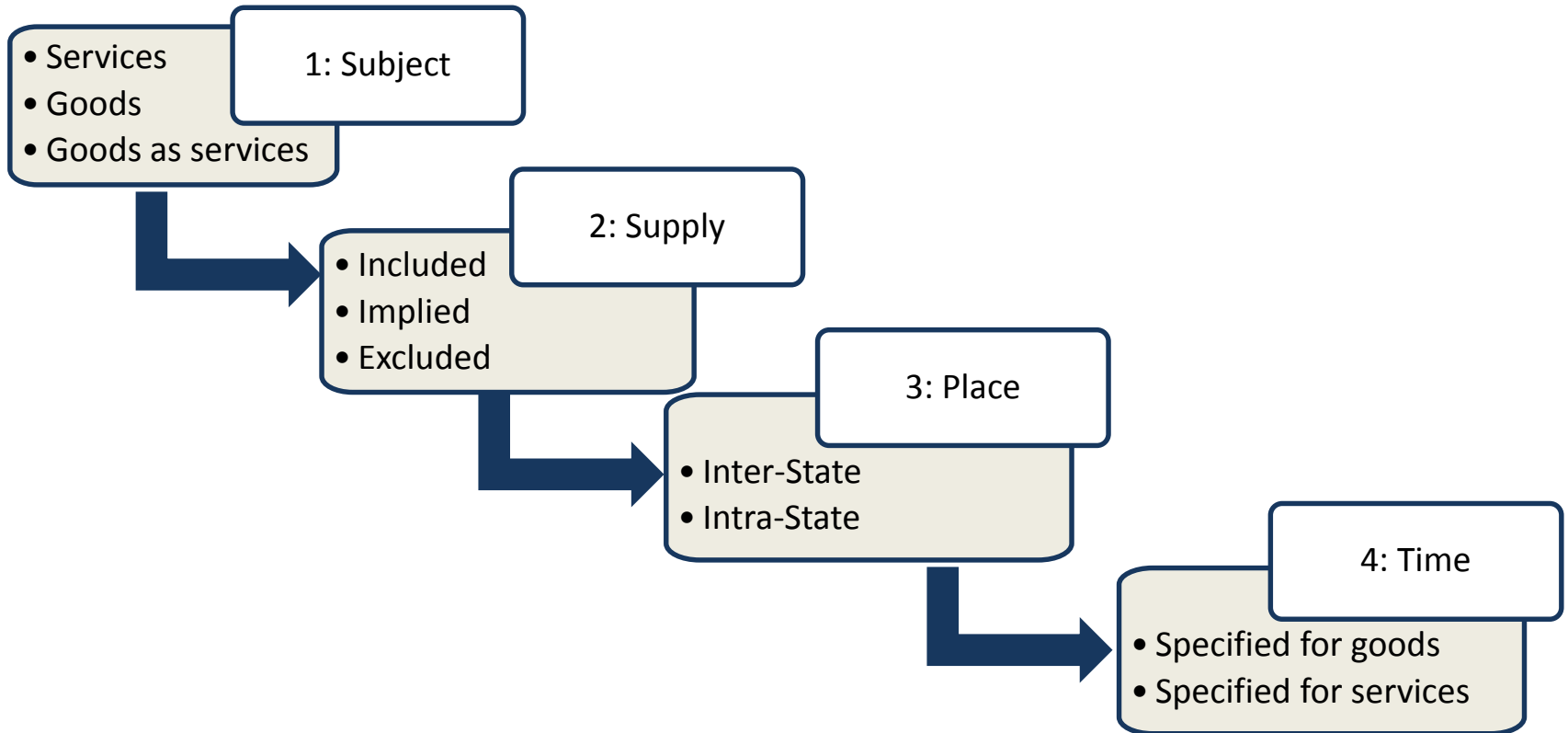
	INVOICE OF A	INVOICE OF B	INVOICE OF C
	State X	State X	State Y
COST OF GOODS	100	200	300
SGST@10%	10		30
CGST@10%	10		30
ISGT@20%		40	
TOTAL	120	240	360

IGST MODEL: Working Example





Levy & Collection



LEVY

SEC. 9 OF CGST

SEC. 5 OF IGST



What is the levy on	Supply of goods and/or services
At what rate	To be notified – but shall not exceed 20%.
On what value	Value determined in terms of Section 15 of CGST
When CGST+SGST would apply	On intra- state supply of goods &/Services
When IGST would apply	On inter- state supply of goods &/Services
How to determine place of supply	Refer to Sections 10 to 14 of IGST

GST – Rates



- Proposals as regards rate of duty
 - Separate tax rate for precious metals
 - Cess over peak rate of 28% on specified luxury/sin goods
- Ceiling rates prescribed under various bills are as under:
 - CGST – 20%
 - IGST – 40%
 - Cess under GST (Compensation to States) Bill/Act
- The rate slabs which have been discussed are set out below:
 - Various goods/services will be fitted into these rate slabs based on the principle of ‘revenue equivalence’

5%

12%

18%

28%

Basics of Levy under GST



- *Supply of Goods/Services*
- CG/SG can notify category of Goods/Services on which **Reverse Charge** to apply.
- CG/SG can notify category of Goods/Services on **URD purchases**.
- CG/SG can notify category of Services on which **ecommerce operator** would be liable to pay for **services supplied through** them.

Basics of Levy under GST



Out side Levy

- Alcoholic Liquor for human consumption

Supply to be taxed in future

- Supply of Petroleum Crude,
- High speed diesel
- Motor spirit (petrol)
- Natural Gas
- Aviation Fuel

Levy shall be ***with effect from such date as may be notified*** by Govt on recommendation of council

Concept of Supply

- Expression of supply includes-
- Supply of Goods and Services.
- Supply to be in the course or furtherance of business
- Supply to be for a Consideration.

Levy -Goods / Services



- Goods –
 - Means every kind of movable property
 - Other than money
 - Other than Securities
 - Includes actionable claims
 - *NO specific exclusion for intangible property*
- Service –
 - Anything other than goods is a service
 - Other than money
 - Other than Securities
 - Includes activity of changing of money from one form to another for a consideration

Exception to “Consideration” condition



- Disposal of Assets, if Input Tax Credit (ITC) is availed.
- Supply to Related Persons.
- Supply between Business Verticals
- Supply between branches located in different states
- Gifts not exceeding Rs. 50,000/- in a FY by an employer to an employee
- Supply from Principal to Agent and vice versa
- Import of services by a taxable person from a related person/other estd in the course or furtherance of business

Is it a “Good” or “a Service”??!!



- Transfer of title in goods?
- Right to use goods?
- Transfer of right to use goods?
- Transfer of title in goods where property in goods passes on a future date on payment of instalments?
- Any treatment or process which is being applied to another person’s goods?
- Goods put to private/non business use, even without consideration?

Is it a “Good” or “a Service”??!



- Works Contract/Construction of a building?
- Temporary transfer/permitting usage of IPR?
- Development, Design, programming, customization etc of a software?
- Agreeing to refrain from an Act?
- Supply of Food in a restaurant?

Issue is it a “Good” or “a Service”??!

- Long term lease ?
- Hire purchase ?
- Goodwill ?
- Stolen goods ?
- Free Samples ?
- Perquisites ?
- Renting of immovable property ?

Neither Supply of “Goods” nor of “Services”!



- Employee to Employer
- Services by any Court
- Functions performed by MPs, MLAs, etc
- Funeral/burial services/ambulance
- Sale of land, sale of building
- Actionable claims, other than lottery, betting and gambling

Concept of Supply – Sec. 7 GST ACT



Section 7 - Meaning and scope of supply

Section 7(1)(a)

All forms of supply of goods and/ or services,
- for a consideration
- in the course or furtherance of business

such as:

- sale, transfer,
- barter, exchange,
- license, rental,
- lease or disposal

Section 7(1)(b)

Importation of service,
- for a consideration
- whether or not in the course or furtherance of business

Concept of Supply – Sec. 7 GST ACT



Section 7 - Meaning and scope of supply

Section 7(1)(c)

Supplies specified*

- To be treated as supplies made without a consideration

*Schedule I:

1. Permanent transfer/ disposal
2. Supplies between related persons/ distinct persons in the course or furtherance of business
3. Supply of goods by principal (or agent) to agent (or principal)
4. Importation of service from a related person, etc.,

Sec 7(2)

- Activities not treated neither as supply of goods/ services
- Activities by CG/SG/etc.,

Govt related services, not treated as Supply



- Yet to be notified
- **Indicative list (Earlier Model law)**
- Government to Government like CG to SG/vice versa/between departments of govt.
- Following services to individuals –
 - Passport, Visa, DL, Birth/Death Certificate
- Services entrusted to municipality
- Health care and educational services
- Services of registration under any law

Composite Supply or Mixed Supply



- What is Composite Supply?
- What is Mixed Supply?
- Works Contract Vs Composite Supply Vs Mixed Supply

Some practical business scenarios

- Packing material along with goods supplied
- Buy one get one offers
- Supply and installation of Electronic gadgets
- Sale of material along with transportation
- Airline ticket with food
- Accommodation with free breakfast
- A/c with installation

Composite Supply [Sec.2(30)]



SUPPLY CONSISTING OF

two or more goods

two or more services

a combination of goods and services

which are naturally bundled and supplied in conjunction

with each other in the ordinary course of business

one of which is a principal supply;

Illustration : *Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is the principal supply.*



Mixed Supply [Sec.2(74)]

means two or more individual supplies of goods or services, or any combination thereof,

made in conjunction with each other by a taxable person for a single price

where such supply does not constitute a composite supply

Illustration: A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.



Works contract [Sec.2(119)]

and includes contract for

building

construction

fabrication

completion

erection

installation

fitting out

improvement

modification

repair

maintenance

renovation

alteration

commissioning

of any immovable property

wherein transfer of property in goods
is involved in the execution of such contract

Identifying Composite/Mixed Supply

Description	Composite Supply	Mixed Supply
Naturally bundled	Yes	No
Supplied together	Yes	Yes
Can be supplied separately	No	Yes
One is predominant supply for recipient	Yes	No
Other supply is not 'aim in itself' of recipient	Yes	No
Each supply priced separately	No	No
All supplies are goods	Yes	Yes
All supplies are services	Yes	Yes
One supply is goods and other supply is services	Yes	Yes

While, the above tests could be guiding principles in determining as to whether a supply is composite or mixed supply the end user test could be adopted as one of the criteria: Every supply will have to be independently analysed.



Supply

■ Supply comprises:

- Included supplies
- Implied supplies (Sch I)
- Excluded supplies

■ Chargeability to tax:

- Forward charge on supplier
- Reverse charge on imports
- Reverse charge on URD Purchases
- Lateral charge (e-commerce)

■ Supply

characterization:

- Composite supply or
- Mixed supply

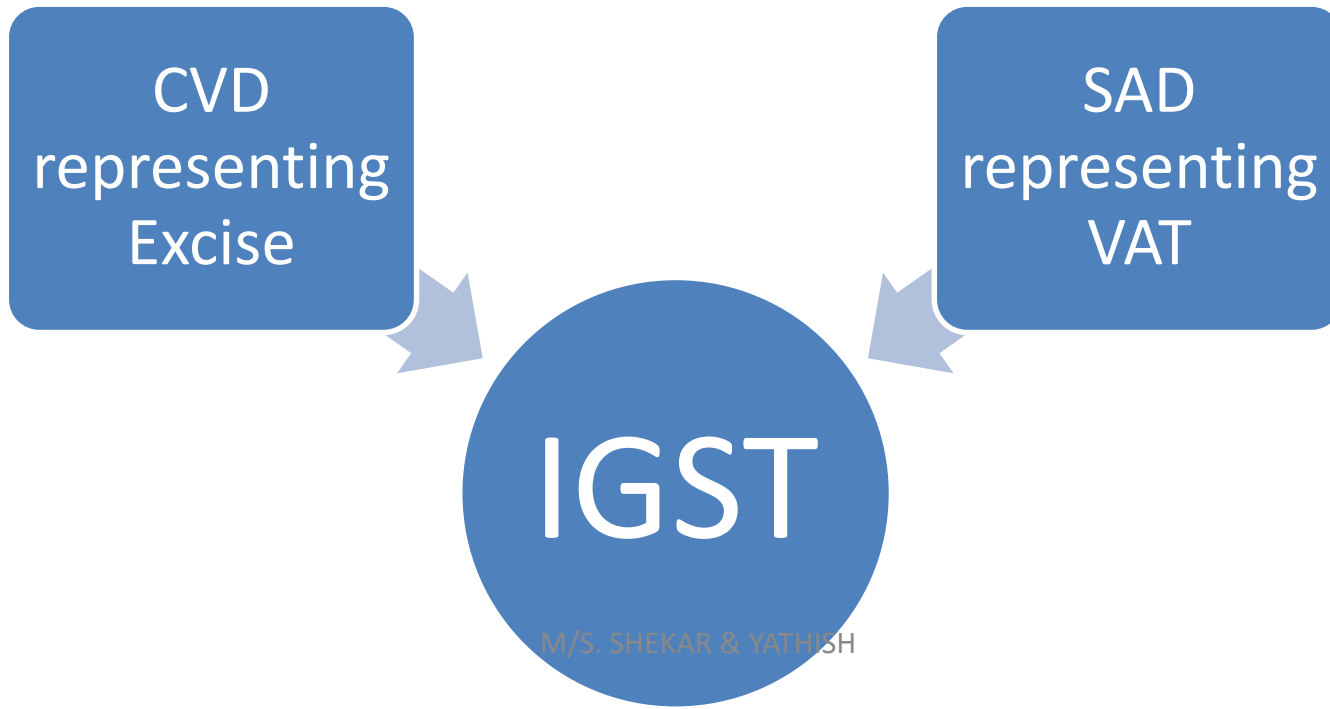
■ Cases to consider:

- *Purpose* of supply – business or not
- Same *forms of supply* apply to services
- Supply by casual taxable person
- ISD or inter-branch service transfer
- Intra-State stock transfer
- Free samples and warranty
- Material supplied for job-work
- Sch II not exhaustive but specific
- No supply, no tax but no credit too

Taxing Imports under GST Regime



- Basic Custom Duty & Other Custom Duties to continue as per Customs law
- States where imported goods are consumed will now gain their share from IGST.



Exports



- Export of Goods
 - Taking goods from India to a place outside India
- Export of Services
 - Supplier located in India
 - Recipient located outside India
 - Place of supply of service is outside India
- Zero Rated Supplies
 - Export of goods and/or services;
 - Supply of goods and/or services to a SEZ developer or an SEZ unit

Refund of Tax to Exporters



- Option – 1: Export Goods or Services under bond without payment and claim refund of unutilized input tax credit.
- Option – 2: Export G/S on payment of IGST and claim refund of IGST paid on goods and services exported.
- Refund to be subject to conditions, safeguards and procedure as may be notified.



Principles Determining Supply as inter-State or intra-State

Section 7 of IGST Act, 2016 – Principles to determine a supply as an inter-State Supply



Determination of supply of goods/services as Inter-State supply

CRITICAL factors:

➤ **Must be in DIFFERENT STATES/ UNION TERRITORY**

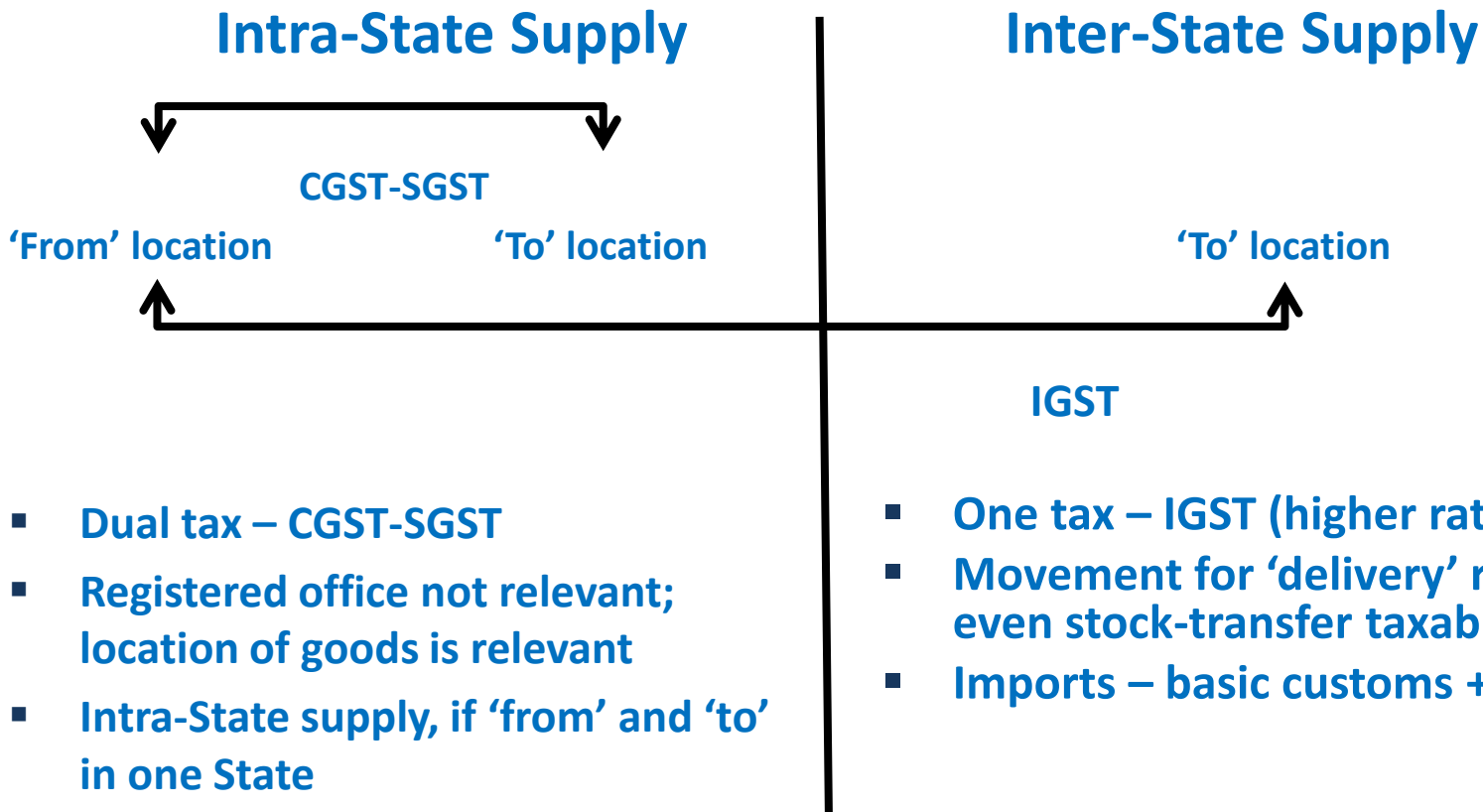
a) **Location of the supplier** and

b) **Place of supply** determined u/s 10 to 14 of IGST Act

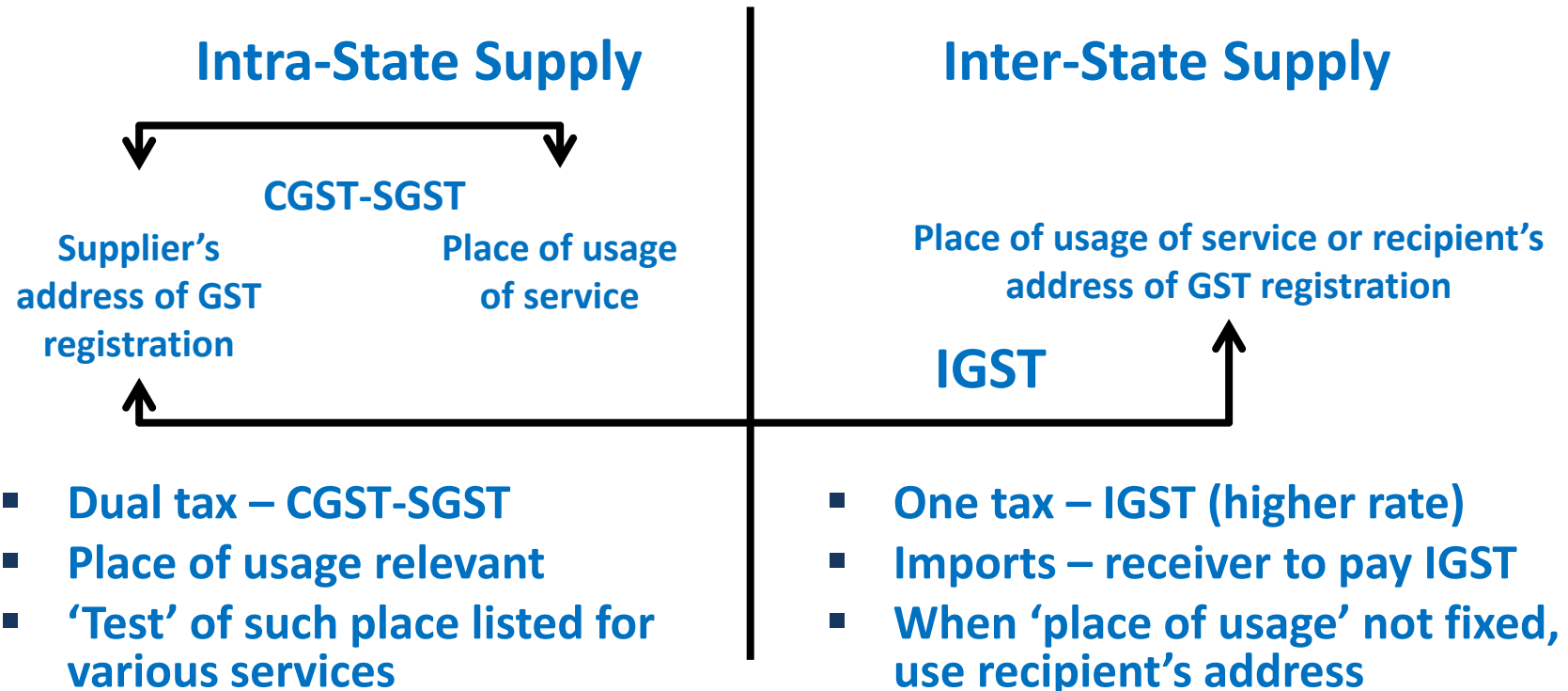
Specific INCLUSIONS:

- Supply of **goods in the course of import**, till they cross the customs frontiers of India
- Supply of **services into India – Supply to be treated Interstate**
- Supply when **place of supply is outside India** but supplier is in India
- Supply to or by a **SEZ** developer or an SEZ unit

GST on Goods



GST on Services





Section 8 of IGST Act, 2016 – Principles to determine a supply as an intra-State Supply

Determination of supply of goods and/ or services as Intra-State supply

➤ CRITICAL factors:

Where the below 2 are in the SAME STATE

- a) Location of the supplier and
- b) Place of supply determined u/s 10-14 of IGST Act

➤ Specific EXCLUSIONS:

- Supplies to or by a SEZ developer/ SEZ unit;
- Importation of goods till they cross the customs frontiers of India

IGST



- A tax on Interstate Supply of Goods & Services, levied by Central Government.
- IGST roughly equals be equal to CGST plus SGST
- IGST can be paid to the Central Government after adjusting credit of IGST, CGST and SGST on purchases (in that order).
- GST is a destination-based tax, all SGST on the final product will ordinarily accrue to the consuming State.

Composition Levy



Composition Levy – Sec 10

- Optional Scheme
- Pay an amount in lieu of tax; Rate on TO:
 - 1% - in case of manufacturer*;
 - 2.5% - in case of persons Sch-II – 6(b)
 - 0.5% - in case of other suppliers
- Option to be availed beginning of FY
- Option shall lapse once specified limit is exceeded
- Engaged in Sale of goods not liable to GST



Composition Levy – Sec 10

- No tax to be collected; No Input Tax Credit available
- Not engaged on O/W supply of goods
- Not engaged in making supply of goods not leviable to tax
- Not engaged in making supply thro' e-commerce operator
- He is not a Mfr of such goods as may be notified by the Govt..



Composition Levy – Sec 10

- Liable to
 - Taxes on Reverse charge
 - Taxes on URD purchase

- TO – LIMIT
 - 50 LAKHS
 - GOVT MAY increase LIMIT to 1 crore on recommendation of COUNCIL



Composition Levy

- ***Conditions / restrictions***
 - Neither casual taxable person nor NR taxable person
 - Goods held in stock by him should not be
 - Out of interstate trade
 - Imports purchases
 - URD purchases
 - Shall pay tax on Inward supplies from URD/RCM
 - Bill of supply to contain
 - “Composition taxable person, not eligible to collect tax on supplies”
 - Display on very notice / sign board
 - “Composition Taxable Person”
 - At Principal place of business
 - At Every Additional place of business



Composition Levy

- No composition option:
 - **Services supplied:**
 - Any/ all services (includes goods treated as *supply of services* by Sch II)
 - **Goods supplied:**
 - Non-taxable goods
 - Inter-State outward supplies
 - Through e-commerce operators
 - Notified goods manufactured by the supplier
- If aggregate turnover (all India basis) of preceding FY exceeds 50 Lakhs (*If during the FY, the aggregate turnover exceeds 50 Lakhs, no composition from the following day.*)



Composition Levy

- Conditions for Composition:

- Aggregate Turnover < Rs. 50 Lakhs (all-India basis for taxable persons having same PAN – *who shall also opt for composition*) but excludes Sch III & IV

- Aggregate turnover = Value of all supplies (taxable + non-taxable + exempt + exports) – Value of (RCM supplies* + inward supplies) – taxes under GST

* *RCM supplies refers to value of supplies on which tax is levied on reverse charge basis*



Composition - procedures

- Intimation
 - Provisional regn
 - File form GST CMP 01
 - Within 30 days or extended time by commissioner
 - Registered person opting
 - File intimation
 - Commencement of FY
 - File GST ITC – 3 within 60 days

Composition Scheme - Implication on transition to GST

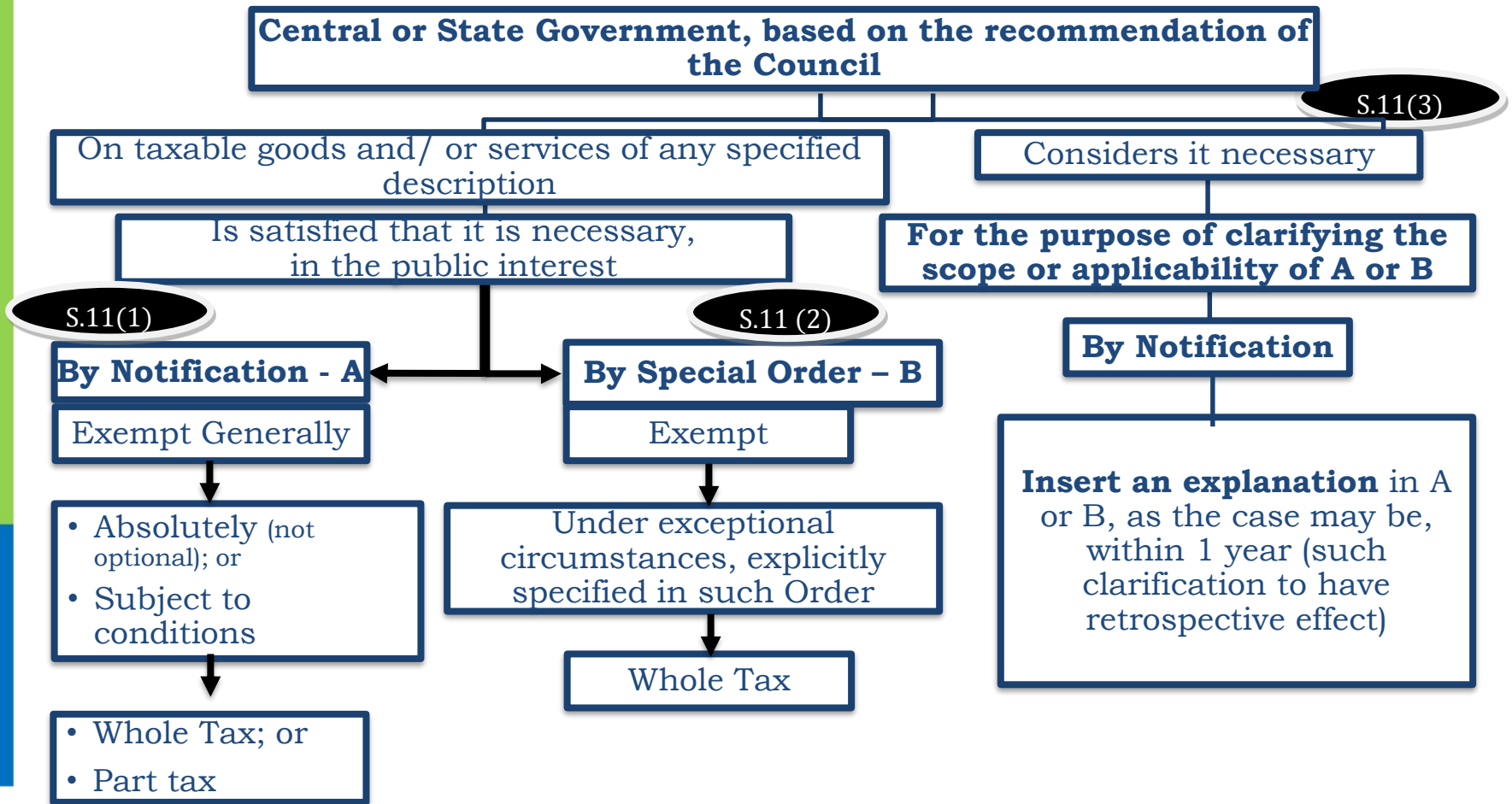


- Cenvat Credit of goods lying in stock as on day of transition?
- Works contractors/hoteliers currently working under Composition under state laws.
- Running contracts of construction?
- Who could opt for composition in a value chain?

Exemptions



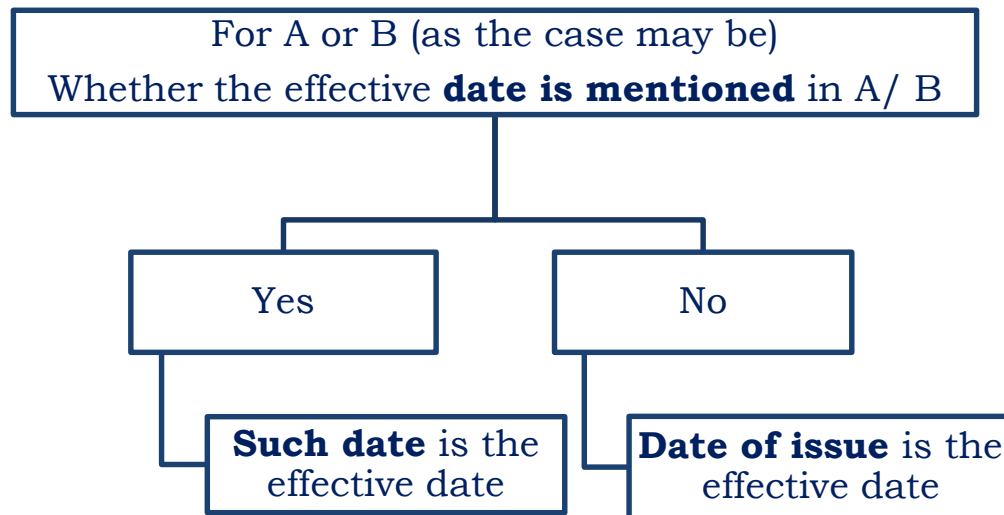
Power to grant exemptions: Sec.11 CGST ACT





Power to grant exemptions: Sec. 11 CGST ACT

Note: For the purpose Section 11, the effective date or date of issue of the Notification or Order, as the case may be, is determined as under:



INPUT CREDIT

SET OFF'S



CGST

- CGST
- IGST

SGST/UTGST

- SGST/UTGST
- IGST

IGST

- IGST
- CGST
- SGST/UTGST

INPUT TAX CREDIT

INPUT TAX CREDIT OF CGST

INPUT TAX CREDIT OF SGST

UTILIZATION FOR

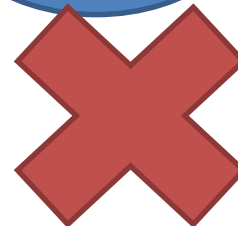
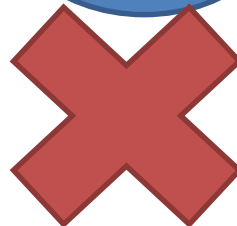
UTILIZATION FOR

OUTPUT TAX OF CGST

OUTPUT TAX OF SGST

OUTPUT TAX OF CGST

OUTPUT TAX OF SGST





Cross Utilization of Credits between Goods & Services

- Currently VAT Credit cannot be used for payment of Service Tax
- Service Tax Credit cannot be used for payment of VAT.
- GST doesn't differentiate Goods and Services for the purpose of claiming and setting off the credits.
- Credit on GST on Goods can be used for payment of GST on Services and vice-versa.

Key principles for Eligibility



Supplier should	Recipient Should	Goods/Services
Be registered under GST	Be registered under GST	Used/ intended for use in course of furtherance of business
Not to be under Composition	Not be under composition levy	Not be in the negative list
Should have deposited tax to Credit of Govt.,	Have paid tax to the Govt if on reverse charge	
File a valid tax return	Payment to supplier within 180 days	
	Goods/ services should have been actually received	

Availability of Credit



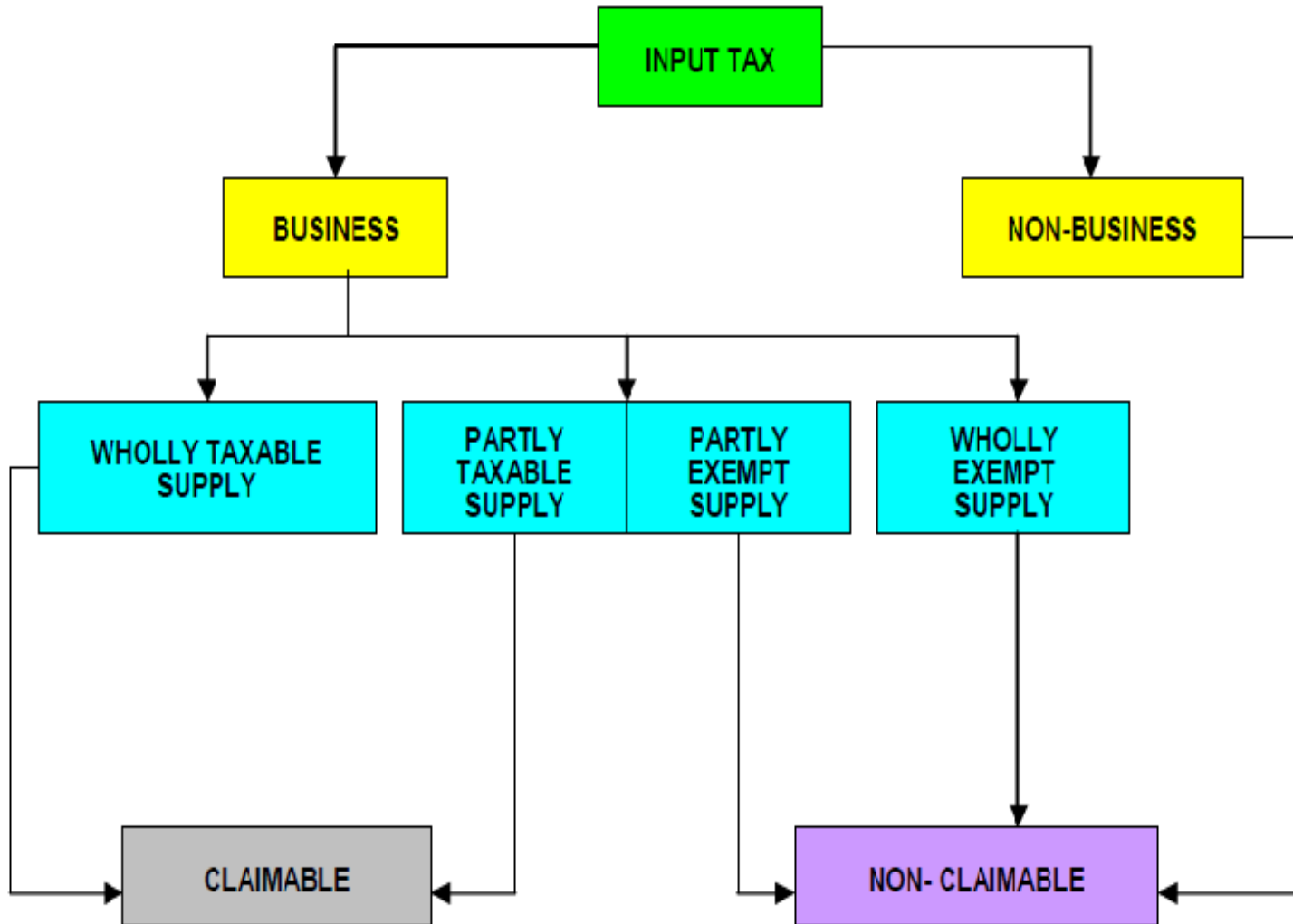
IF	THEN
Cement for Construction of Building	No credit available
Cement used for foundation of pillars supporting a boiler	Yes, Structure support for plant and machinery
WC provided by SC to a C	Yes, as in used in WC service
Car used for personal use	No, Car or conveyance is in negative list
Steel or other structural are used for setting up of telecommunication tower	No, Telecommunication towers have been specifically excluded fro P & m Defn

Time for availing credit



Situation	Credit
A Ltd received services of repair in Plant on July 16, 2017. Released payment on same day on Proforma Invoice. Invoice issued on 30 th July 2017.	Credit can be availed on or after July 30, 2017
Engineers visited the site between August 1 st – 10 th & carried work.	Credit can be availed on or after August 10 th , 2017
B Ltd placed order for 1000 bags of cement. Every day 100 bags. 1-10 the of August 17	Credit only last lost received.

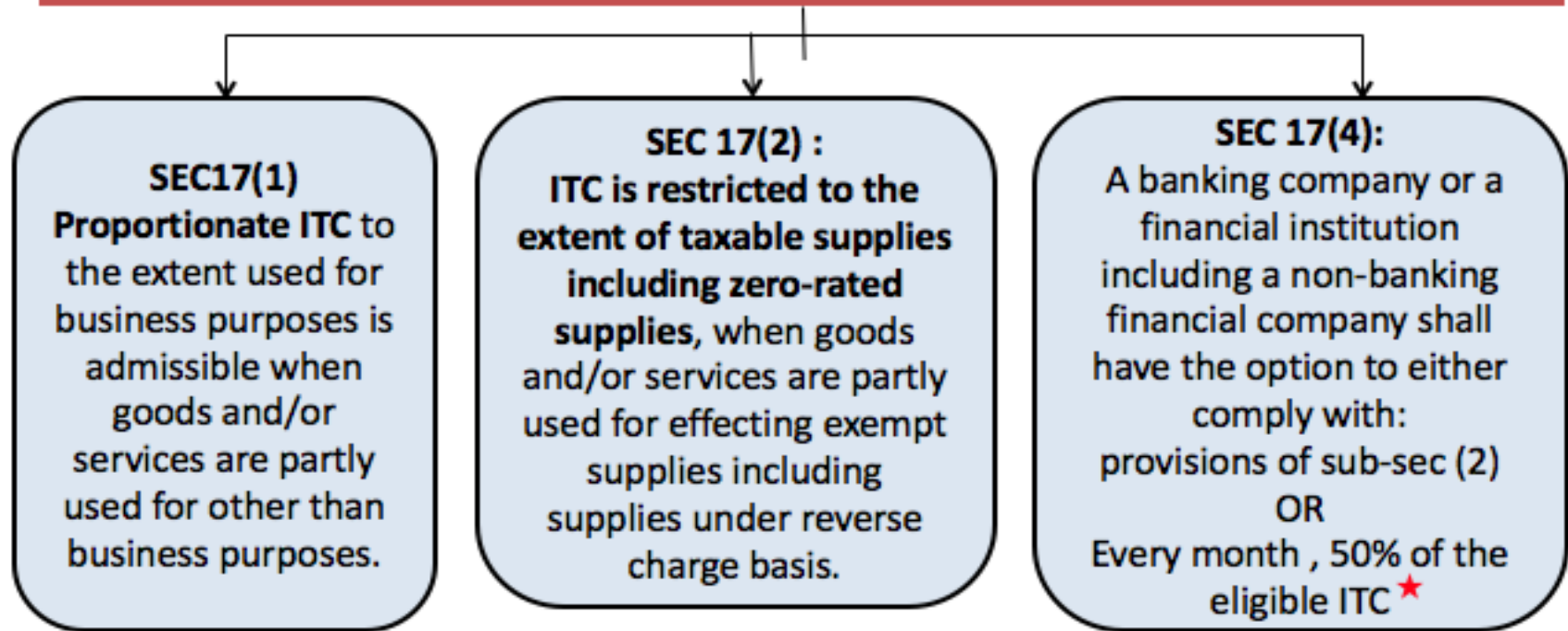
Input Credit





Section- 17

Apportionment of credit and blocked credits



Note:

1. ITC on inputs, capital goods and input services. ★
2. SEC 17(4) Shall not apply to the tax paid on supplies made by a registered person to another registered person having the same Permanent Account Number.



Input credits – Negative list – Sec 17(5)

GOODS	SERVICE
Meant for personal consumption	Meant for personal consumption
Motor Vehicles*	Outdoor Catering
Goods lost, stolen, destroyed, written off	Beauty Treatment, Health Services, Cosmetic Surgery*
Goods displayed off the way of gift or free samples	Membership of Club, health or fitness center
Goods received for construction of immovable property	Travel Benefits to employee's
	Rent a cab, Life insurance, Health Insurance*
	Works Contract for construction of immovable property other than P&M*
	Services recd for const of immovable property on own account

ITC – Situations



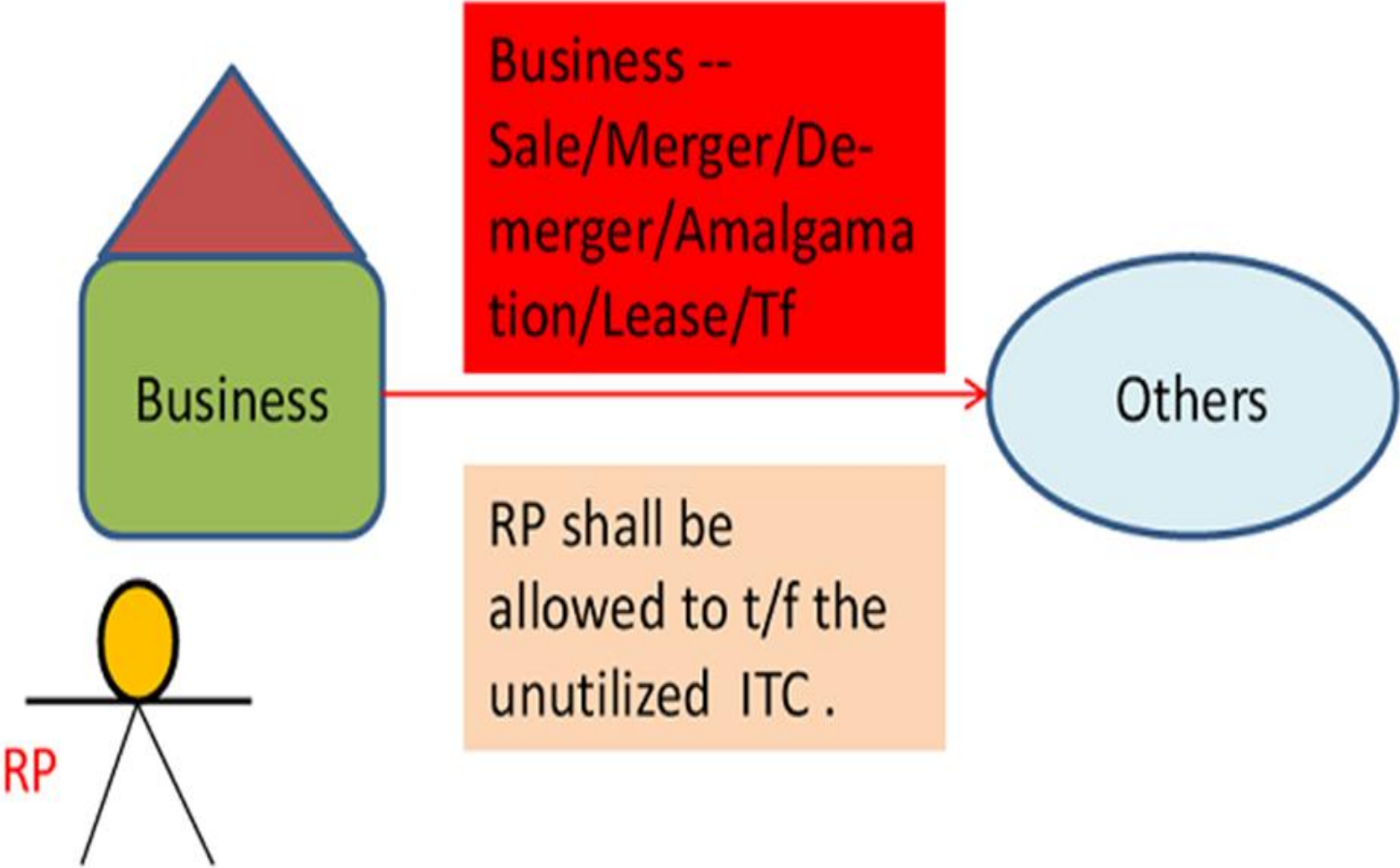
Situation	Action
Goods recd in LOTS	ITC after last lost is recd
Goods recd by 3 rd party	Deemed delivery <ul style="list-style-type: none">• Recipient or another person on direction• Agent If before, during movement either by transfer of documents of title of goods or otherwise
On capital goods	ITC shall not be allowed if depreciation is claimed on tax component
Time limit for availing credit	Earlier of 2 situation <ul style="list-style-type: none">• Within September month following the end of financial year to which such invoice or• furnishing of relevant annual return viz., December 31

Availability ITC-SPECIAL SITUATIONS



Situation	Action
Application for registration, on liable for GST with 30 days	ITC available from date of application filed
If applied Later then 30 days	From date of grant of registration
Voluntary registration within 30 days	ITC on inputs – semi-finished goods, finished goods held in stock on date preceding grant of registration
Where any registered person ceases to pay tax under sec 10 (Composition Scheme)	- do-
Where an exempt supply of goods &/ services	-do- * preceding day supply becomes taxable

Credit tfr as may be prescribed



Availability ITC-SPECIAL SITUATIONS

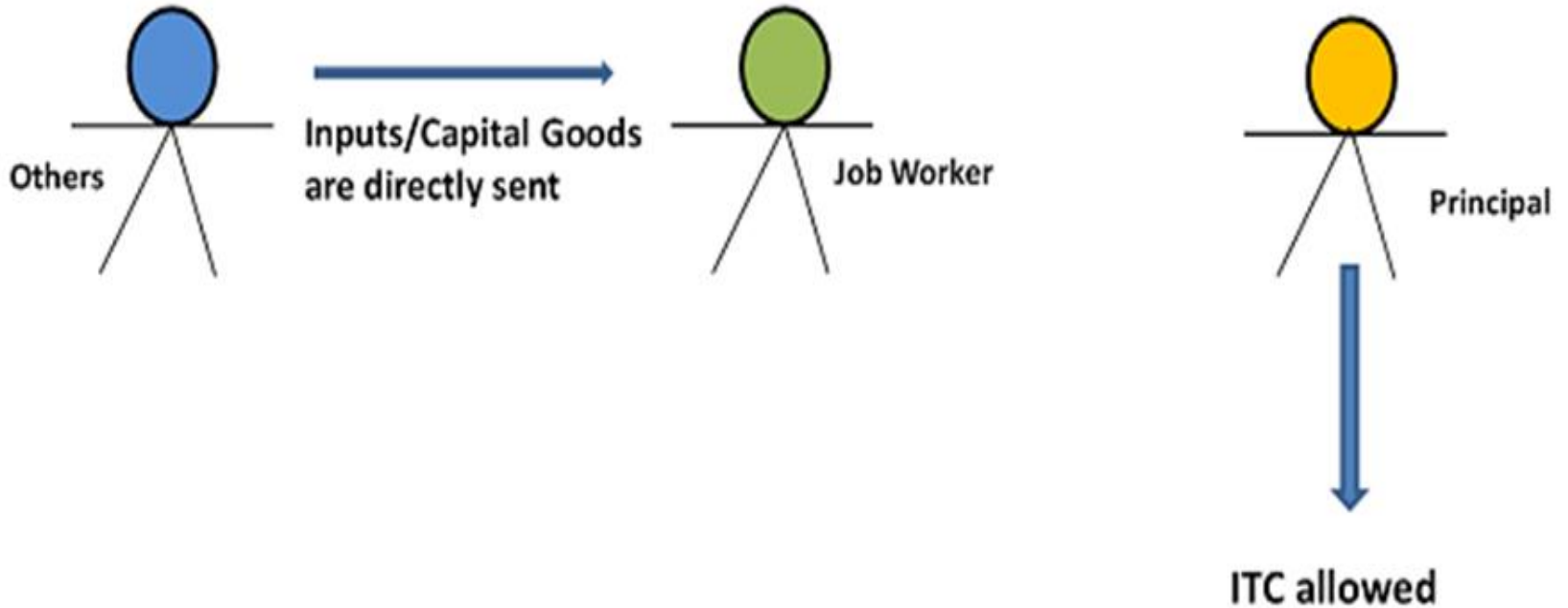


Situation	
Registered person who has availed input tax credit OPTS <ul style="list-style-type: none"> • to pay tax under Sec 10 or • supply of goods/ service is wholly exempt 	Reverse the credit of input tax on Stock of inputs contained in finished/semi finished goods and capital goods Balance of credit in electronic credit register shall lapse
Capital goods or P& M	Reduction 5% for every quarter or part thereof
	Higher of <ul style="list-style-type: none"> • ITC reduced by 5% • Tax on Transaction Value
Partly Taxable or Exempt	Formula under Rules

Material directly shipped to JW



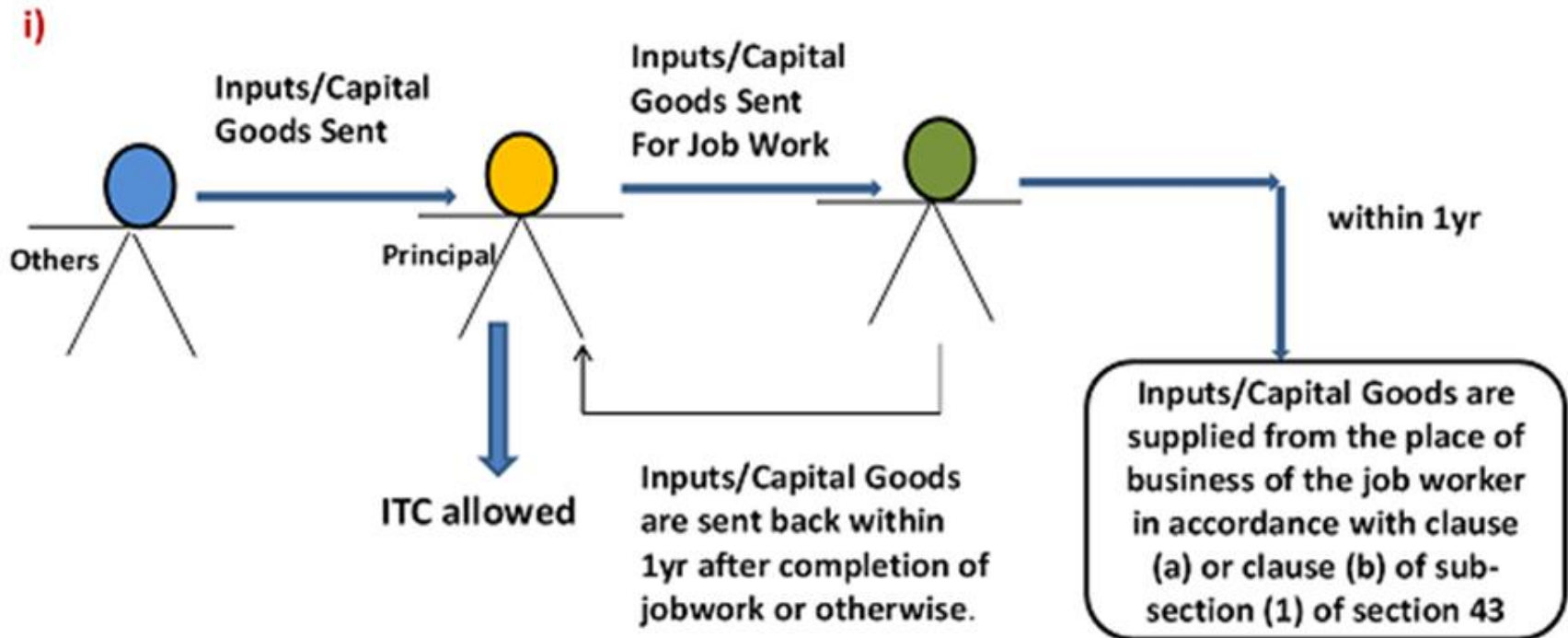
→ SEC 19(2) & 19(5)



Inputs / CG sent for J/w- Sit 1



SEC 19(3) & 19(6)

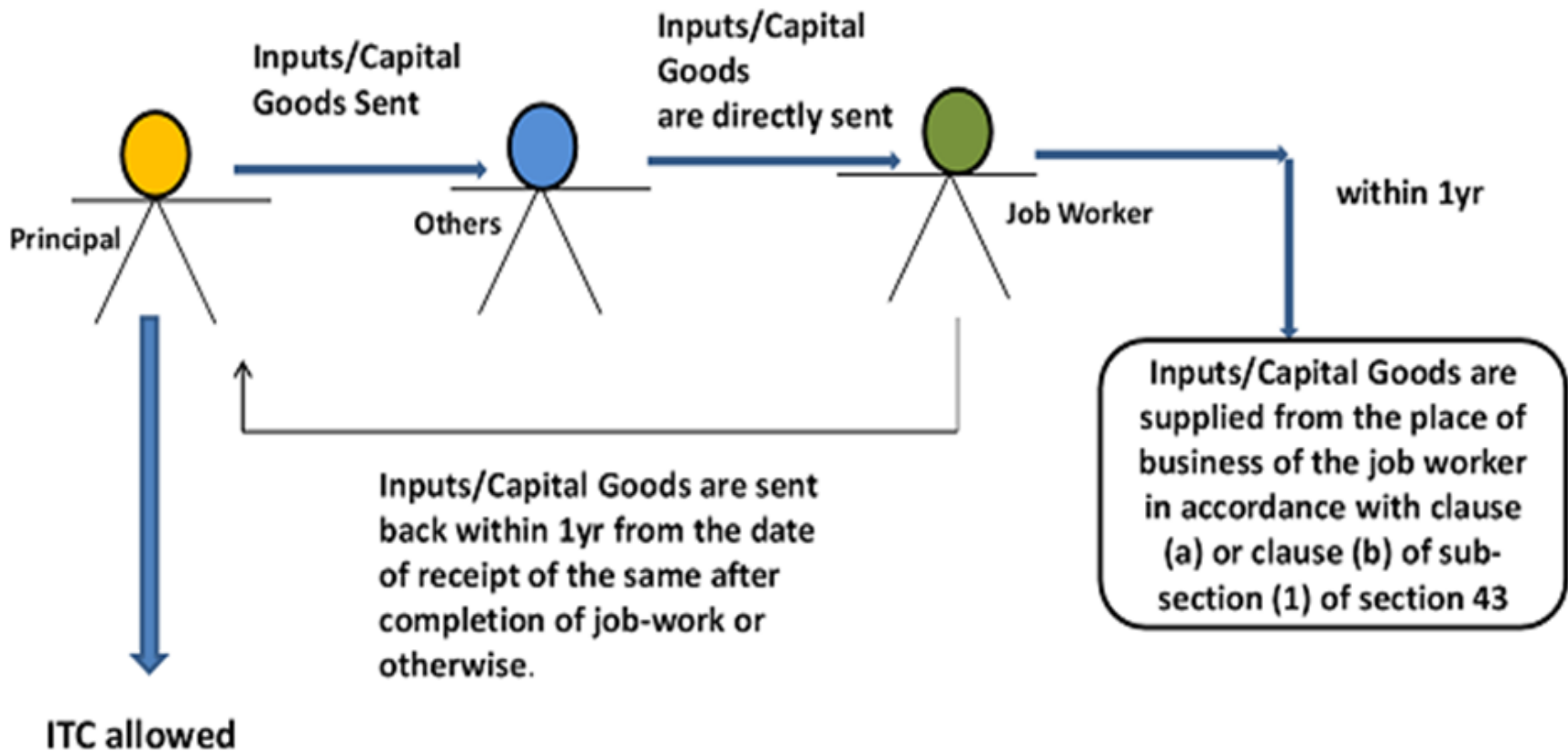


*For Inputs – 1 year & CG – 3 years

Inputs / CG sent for J/w- Sit 2



ii)



***For Inputs – 1 year & CG – 3 years**

ISD - Manner of distribution of credit



Credit of	ISD & Recipient	Distributed as....
IGST	Are in different States/ UT	IGST
CGST		IGST (CGST + SGST)
SGST/UTGST		
IGST	Are in same State/ UT	IGST
CGST		CGST
SGST/UTGST		SGST/UTGST
Compensation cess	Whether same state or different state	Compensation Cess

ISD – Conditions for distribution of credit



- ISD has to be registered separately
- Input service invoice should be in favour of ISD indicating ISD's GSTIN
- Credit availed on basis of Invoice
- ISD will issue Invoice
- Amount should comprise of IGST, CGST, SGST & UTGST
- All credits to be distributed in the same month of availment. Eligible/ineligible amount to be distributed separately

Filing of returns



- Uniform Cutoff date
- Uniform Formats for filing for CGST, SGST & IGST
- Returns shall be processed and credits shall be validated simultaneously
- Center and States shall have concurrent jurisdiction



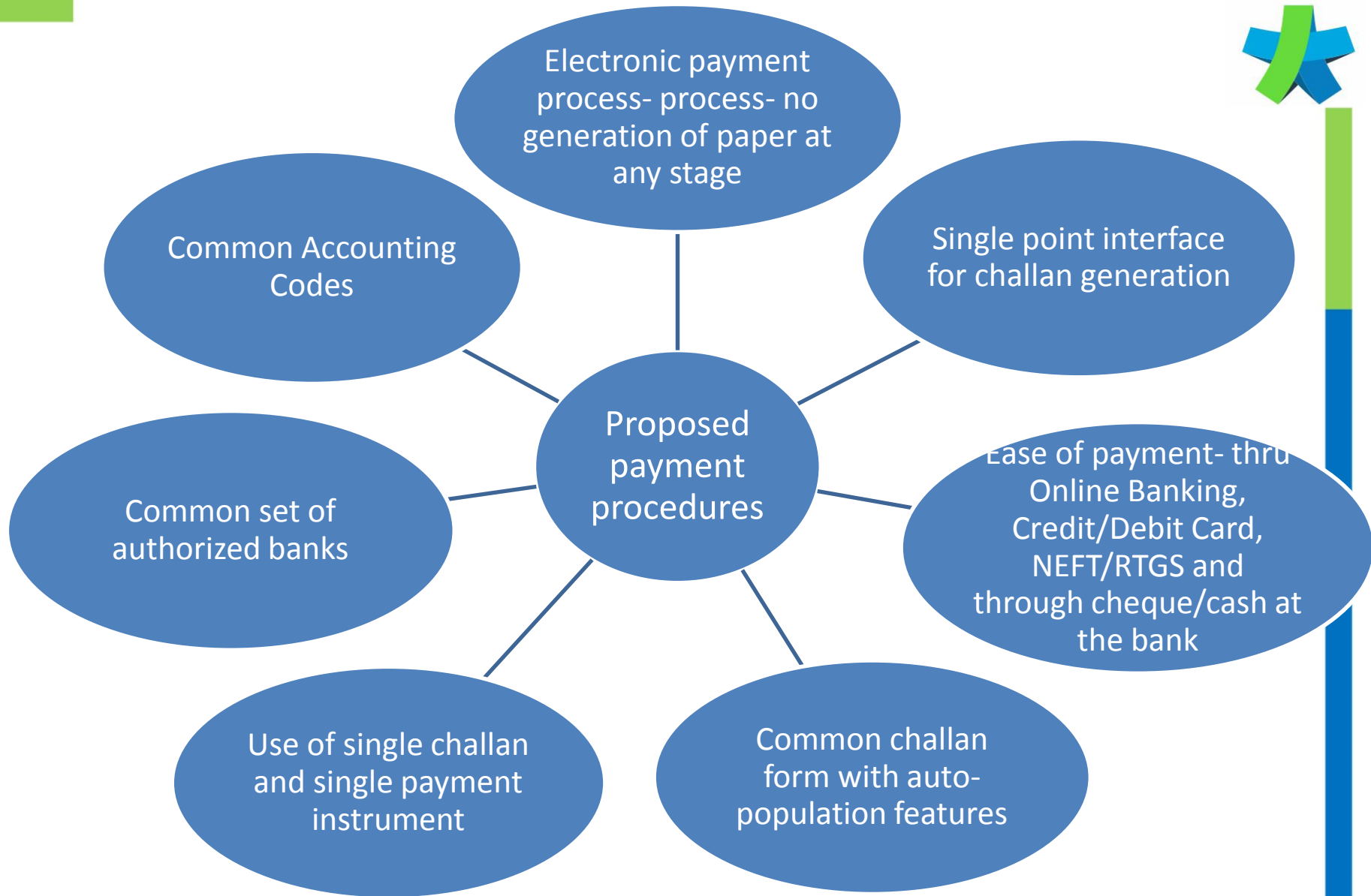
Common
return for
both CG &
SG.

Returns
provided.
Average Tax
payers generally
need to use 4
returns

Proposed
Return
procedures

Quarterly
Returns for
small tax payers

Return Filing
and Payment of
Taxes Online



THANK YOU



*For any clarification
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