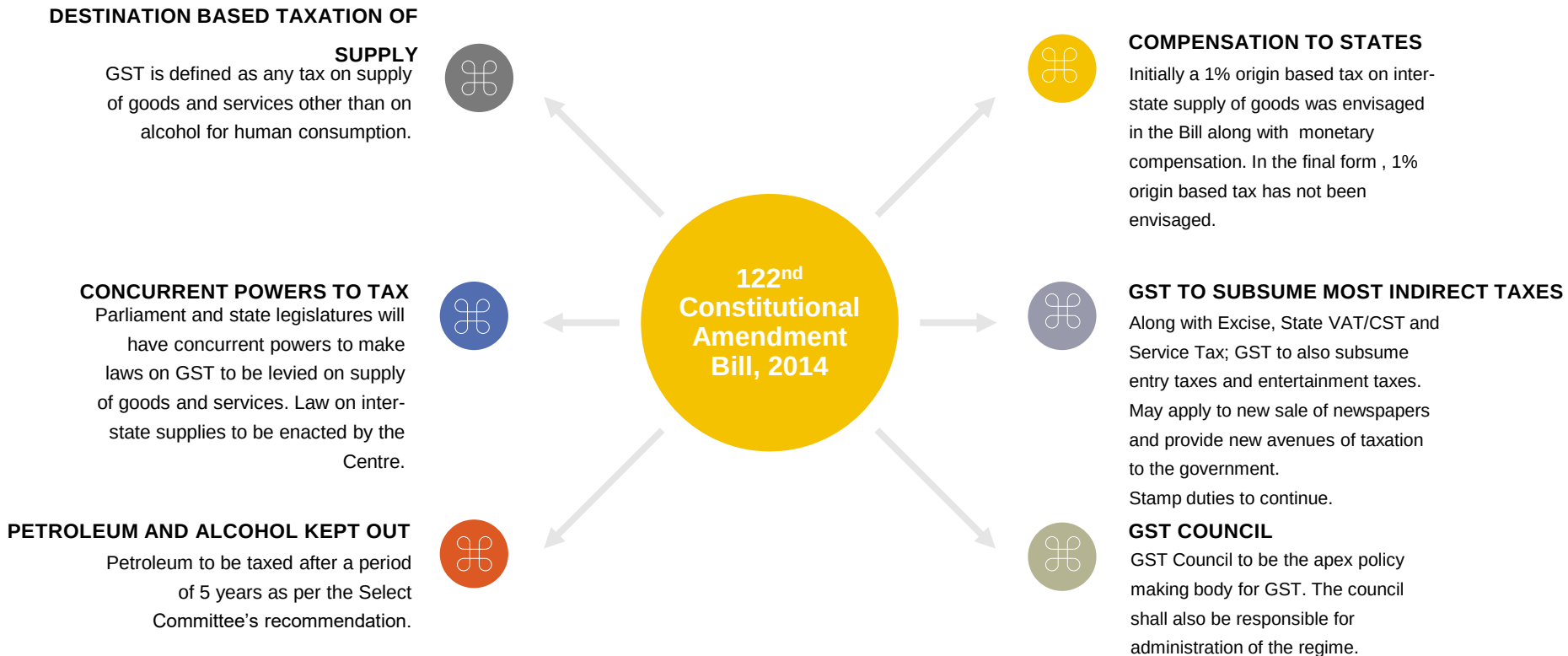
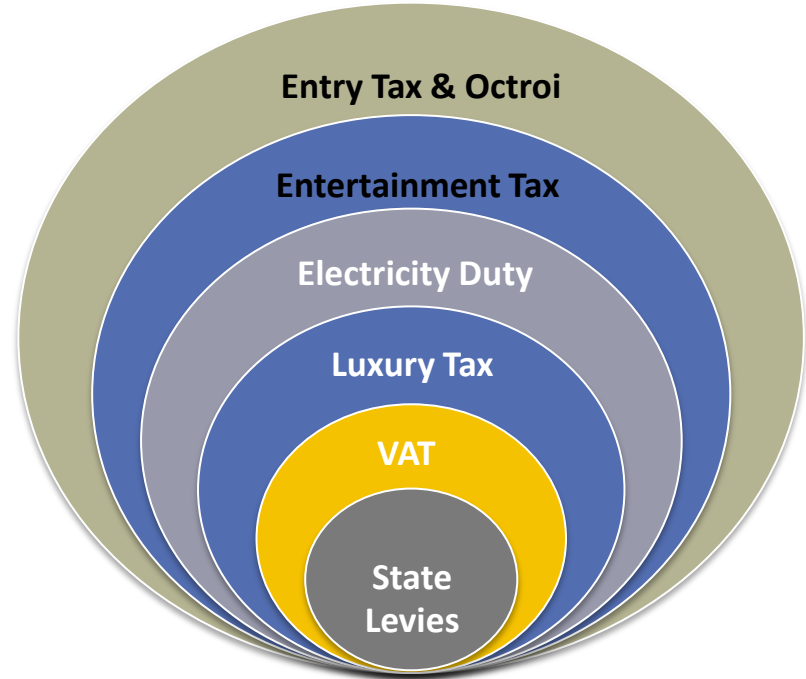
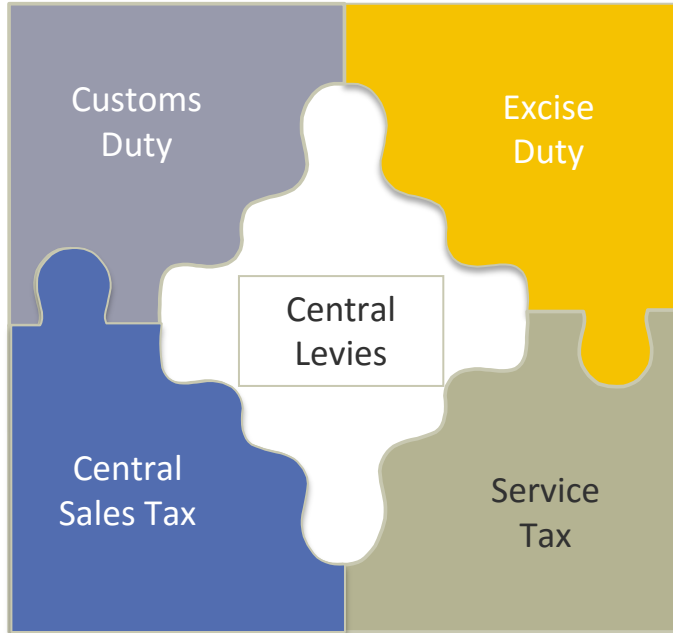


GST Constitutional Amendment Bill

Features of the GST Constitutional Amendment Bill



Taxes to be subsumed



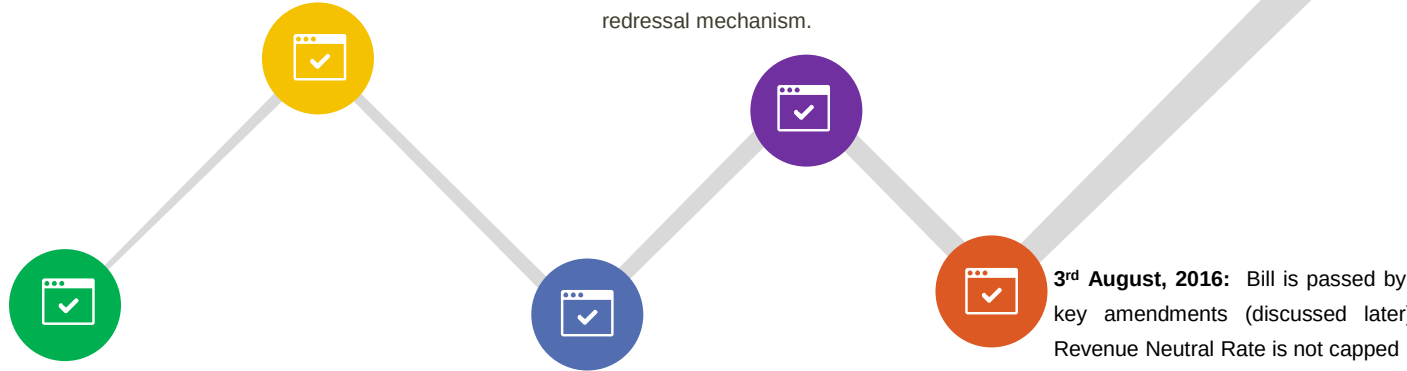
History of the GST Constitutional Amendment Bill



May, 2015: LS passes the GST Constitutional Amendment Bill. Petroleum is kept out of the purview.

August, 2015 – March, 2016: Government is unable to push the bill through RS. The opposition wants deletion of 1% origin based tax on inter-state supply, capping of Revenue Neutral Rate (preferably at 18%) and an independent dispute redressal mechanism.

Way Forward: Amended Bill needs to be passed by the LS, where the Government has clear majority. Following that, the Bill is required to be ratified by at least 15 state legislatures before the Presidential Assent.



3rd August, 2016: Bill is passed by the RS after four key amendments (discussed later). Notably, the Revenue Neutral Rate is not capped in the Bill.

March, 2011: Government introduces the first version of the Bill in the LS. The bill is sent to a parliamentary standing committee which approves the legislation with some amendments on the provision of tax structure and dispute resolution mechanism in August, 2013. The Bill lapses with dissolution of LS in May, 2014.

July, 2015: Rajya Sabha Select Committee clears the bill with few recommendations such as deletion of 1% origin based tax on inter-state supplies without consideration (such as branch transfer) and compensation to states for loss of revenue for 5 years instead of upto 5 years.

Key Changes in the 2016 Bill



Deletion of 1% Additional Levy

Origin Based Additional Levy on inter-state supply of goods not incorporated in the Final draft. Select Committee Report had suggested that the levy would have caused cascading effect.



Compensation to States

Monetary compensation to be provided for 5 years rather than up to 5 years as per Select Committee's report.



Dispute Resolution

GST Council shall establish a mechanism to adjudicate any dispute arising out of its recommendations. Disputes may be Centre vs. States or States vs. States.



Devolution of Taxes

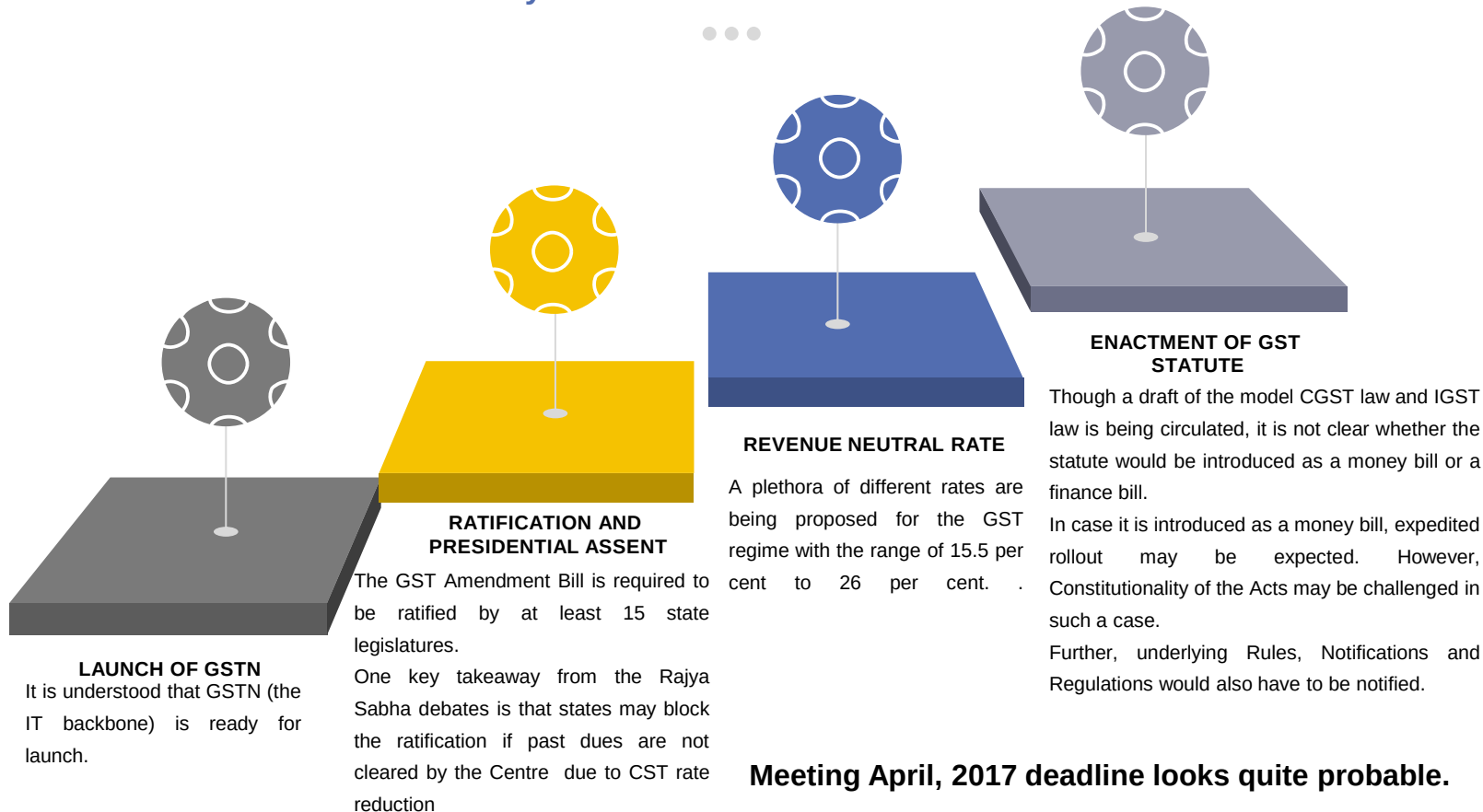
The amendments state that the CGST and the centre's share of IGST will be distributed between the centre and states. This is merely a restatement of the provisions in clearer terms.



Replacement of the term IGST

As IGST was not defined, it has been replaced by 'goods and services tax levied on supplies in the course of inter-state trade or commerce'. Further, a technical change has been made

Way Forward towards the Rollout



Preparing | for GST

Planning for GST: How VA can assist

Exercises needed to be undertaken



	Planning and Strategization	Execution
Marketing Teams	• Pricing and Margin Analysis • Revisit of promotional schemes, warranty and discounts	• GST Process Impact Analysis and Re-design • GST Integrity Analysis
Operations	• Supply Chain Network Design • Contract review • Make vs. Buy Decisions	
Finance	• Planning for transition • Tax representations • Working Capital Changes • GST Updates • Training and SOP	
IT and Systems	Tax procedures, Master data management, Process alignment, Cutover management and Business analytics	

VA provides an unique blend of knowledge of accounting and law. Our team size and attention of Leadership can be leveraged for transitional exercises with a competitive edge over other law firms and accounting firms. This can help extract value for the businesses.

Implications of GST on the Manufacturing Sector

Sr. No.	Issue	Present scenario	GST scenario
1	Inputs purchased inter-state	- Inputs are purchased inter-state at a concessional rate of 2% (CST) - No set-off is available of CST paid - CST becomes a cost	Set-off of IGST paid will be available
2	Capital goods purchased inter-state	- There are restrictions on availability of ITC on purchase of capital goods in various States - Manufacturers overcome ITC restrictions by carrying out inter-state purchase of capital goods at concessional rate of duty	ITC restrictions on purchase of capital goods may not continue
3	Distribution	Manufacturers / dealers align their supply chain to tax considerations and establish multiple stocking points in distribution network	- Retention for stock transfers being absent vs. working capital impact of IGST to be factored - The distribution framework would require a revisit – 2% CST vis-à-vis destination based GST levy
4	Valuation	MRP based valuation and Transaction value based regime majorly	- MRP valuation method done away with Valuation of advances, free supplies and related party transactions are poised to present complications. In the proposed regime, comparison and cost construction the only valuation methods proposed. This is an unnecessary complication which could have been avoided

Implications of GST on the Service Sector

Sr. No.	Issue	Present scenario	GST scenario
1	Goods vs. Service	- The distinction between goods and services becomes important as Centre can tax only services and States can tax only sale of goods - Taxation of works contract is very complex	Taxation of works contract is expected to become simpler provided goods and services carry same rate of tax
2	Taxation base	In case of certain works contracts (AMC contract), the aggregate of taxation base for the purpose of VAT and service tax exceeds 100 per cent	- The taxation base is expected to remain below or equal to 100% of transaction value - Valuation of free supplies and related party transactions are poised to present complications
3	Tax on Tax	- VAT on service tax is an issue - AMC, Software	CGST and SGST are to be levied only on the supply value of goods / services
4	Excise duty	Excise duty is levied if a new commodity comes into existence in the process of executing a works contract	The taxable event would change from “manufacture” to “supply” thereby eliminating the need of a separate incidence of tax

Implications of GST on Trading and E-commerce Sectors

Sr. No.	Issue	Present scenario	GST scenario
1	Loss of CENVAT credit/VAT for Traders	Cross utilization of CENVAT credit is not available	The traders can cross utilize the GST credits.
2	Determining the location for Warehousing	The location is determined based on the preferred location for sale	Unified taxation regime would make the warehousing less relevant
3	E-Commerce transactions	Only Commission is charged to tax. No liability on E-commerce operator/aggregator to pay/assess tax.	Separate ecosystem for e-commerce operators. Tax on B2C transactions between buyer and seller also to be deposited by the E-commerce operators.

OUR TEAM

Key People



Shammi Kapur

Partner

Delhi

shammi@vaishlaw.com



Shilpa Sharma

Head- Indirect Tax

Mumbai

shilpa@vaishlaw.com

Our Offices

NEW DELHI

1st & 11th Floors, Mohandev Building,
13 Tolstoy Marg, New Delhi -110001 INDIA
Phone: +91 11 49252525
Fax: +91 11 23320484
Email: delhi@vaishlaw.com

MUMBAI

106, Peninsula Centre,
Dr. S. S. Rao Road,
Parel, Mumbai - 400012 INDIA
Phone: +91 22 42134101
Fax: +91 22 42134102
Email: mumbai@vaishlaw.com

BENGALURU

305, 3rd Floor, Prestige Meridian-II,
Building No. 30, M.G. Road,
Bengaluru - 560001 INDIA
Phone: +91 80 40903588/89
Fax: +91 80 40903584
Email: bangalore@vaishlaw.com