GOODS AND SERVICES TAX (GST)

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For Dynamic Group

PRESENT INDIRECT TAX STRUCTURE

Indirect Tax - Current Structure in India

Present Indirect Tax Structure
(Four Major Constituents)

Tax	Excise Duty (CENVAT)	Service Tax	Sales Tax/VAT	Customs Duty
Levied By	Central Government	Central Government	State Government	Central Government
Relevant Entry in Constitution	Entry No. 84, List I, Schedule VII of the Constitution of India (COI)	Residuary Entry No. 97, List I, Schedule VII, of COI	Entry No. 54 of List II (State VAT) and 92A of List I (Central Sales Tax), Schedule VII of COI	Entry No. 83, List I, Schedule VII, (COI)
Taxable Event	Taxable Event is Manufacture	Taxable Event is Provision of Service	Taxable Event is Sale	Taxable Event is Import & Export
Rate of Taxation	Median Rate- 12.50%	Single Rate- 14%	Rates- 0%, 4%, 12.5% & 20%	Median Rate- 24% (plus cess)

Indirect Tax - Issues in Current Structure

- Multiplicity of Duties/ Taxes
- Lack of Uniformity of Provisions in State Vat Statutes
  - *Definition of goods, capital goods, thresholds, classification, exemptions, procedures etc.*
- Sale of Goods Vs Provision of Services
  - *Composite Contracts like Contract for construction of a Building, Works Contracts, Housekeeping contracts, software development contracts, software upgrades etc.*
- Inability of State to levy Tax on Services
- Distortion of Tax Base with Multitude of Exemptions -
  - *(a) Area based exemptions schemes (b) Sales tax/ Vat deferment or subsidy (c) End Use Based Exemptions*
- Cascading Effect of Taxes
  - *Due to Vat/ CST on Excise, CST, various Exemptions etc.*
- Complexities in Tax Administration
  - *Multiple Acts/levies leading to various procedures, returns, assessments, date of payment of taxes, dispute resolution etc.*
  - *Problem of Multi-locational corporates*

Road Map to GST

Road Map to GST in India

TIME	EVENTS
2004	Dr. Kelkar II Task force recommended need for National GST
Jan, 2007	First GST report by Dr. Shome
Feb, 2007	FM announced implementation of GST by April, 2010 and Set up EC
April, 2007	Phasing out process of CST Started
May, 2007	Joint Working Group (JWG) Constituted by Empowered Committee
Nov,2007	Report of JWG discussed by Empowered Committee
Nov,2007	13th Finance commission constituted by President
April, 2008	Recommendations report is sent by EC to Govt.
Dec, 2008	The Govt. submitted its comments on EC report
Nov, 2009	Release of First Discussion paper by EC
Dec, 2009	13th Finance Commission submitted its report
April 1, 2010	Introduction of GST missed its first deadline
March 22, 2011	The Constitution (One hundred and fifteenth Amendment) Bill, 2011 introduced (this lapsed due to dissolution of Lok Sabha)
August 2013	Submission of report by Standing committee on Constitution (115th Amendment) Bill, 2011
December 19, 2014	The Constitution (One Hundred and Twenty-Second Amendment) Bill, 2014 introduced
February 24, 2015	Fourteenth Finance Commission Report tabled before Parliament
May 6,2015	Constitution (122nd Amendment) Bill, 2014 passed in Lok Sabha
May 12,2015	Constitution (122nd Amendment) Bill, 2014 referred to Select Committee of Rajya Sabha
Nov 2015	**REPORT OF SUB-COMMITTEE-II ON MODEL GST LAW (available unofficial in a website)**
April 1, 2016	Implementation of GST [target date as per Budget 2015]

WHAT IS GOODS & SERVICE TAX ?

- Goods & Service Tax (GST) as the name suggests, is a tax on supply of goods or service.
- Any Person, providing or supplying goods or service will be liable to charge GST.
- The person Supplying the goods or service is allowed to take credit for taxes paid on purchases, consequent to which, GST becomes a tax on the value added by the supplier.

WHY GST???

CONCEPT OF GST

- World over in more than 150 countries there is GST or VAT, which means tax on goods and services.
- Under the GST scheme, no distinction is made between goods and services for levying of tax. In other words, goods and services attract the same rate of tax.
- GST is a consumption based tax where ultimate burden of tax fall on the consumer of goods/ services.
- Most of the countries follows single GST Structure.
- Canada and brazil have a dual VAT structure

Models of GST- An International Experience

GST at Union Govt Only	Australia	Best Model creates a Common market	Requires a Change in Federal Structure
GST at State Government Only	United States	Each state enjoys complete autonomy	Requires Constitutional Amendment
GST at Both Levels Union & State	Canada, Brazil	Aligned to the Federal structure of India	Inter-governmental co-ordination is an essential

India has opted for Concurrent Dual GST

WHAT IS DUAL GST?

- Dual GST signifies that GST will be levied by both, the Central Government and the State, on supply of goods or services.
- Under the Constitution, the taxing powers are presently split between the State and the Centre. In case of certain transactions, the power to tax is vested with the Centre and while in certain others, the power is vested with the State.
- Under GST, the power to tax on supply of all goods and services rendered will be vested in the hands of both, the State and the Centre.

WHAT IS DUAL GST?

- In certain cases, such as the interstate transactions, the power to tax will be vested with the Central Government, while the revenue will in some appropriate manner, get distributed to the States.
- Considering the dual taxation power to tax transactions under GST, the structure is referred to as Dual GST.
- Considering the basic framework of the constitution and keeping its structure intact, Dual GST appears to be implementable solution for India scenario.

Constitutional (122nd Amendment) Bill,2014

S.No	PROPOSED CLAUSE	ANALYSIS
1	246A (New)	Enabling clause rendering **Concurrent powers of levy of GST to both Centre and State.**
2	269A (New)	**Authories Centre to levy & collect IGST** on supplies in the course of inter-State trade or commerce including imports: ✓ Levy & collection by GOI ✓ **To be apportioned between Union & States** on recommendations of the GST Council (GSTC) ✓ **Parliament to** have powers to **formulate principles for** determining when a **supply** takes place in course of inter-state trade or commerce
3	271	This Clause **restricts the power of Central Govt.** , to unilaterally increase duty or taxes by levy of surcharge on GST

Constitutional (122nd Amendment) Bill,2014

S.No	PROPOSED CLAUSE	ANALYSIS
4	279A (New)	• **Constitution of GST Council within *60 days*** *from the date of commencement of Constitution amendment Bill, 2014.* • *GST council **<u>shall make recommendations</u>** on matters relating to GST to both Union and States to ensure harmonization* • *The GST Council shall make recommendations on the following:* ✓ *taxes to be subsumed in GST;* ✓ *the goods and services that may be subjected to GST;* ✓ *the goods and services that may be exempted from GST;* ✓ *model Goods and Services Tax Laws;* ✓ *the threshold limit;* ✓ *the rates including **floor rates with bands** of goods and services tax;* ✓ *any special rate or rates for a specified period, to raise additional resources during any natural calamity or disaster.*

Constitutional (122nd Amendment) Bill,2014

S.No	PROPOSED CLAUSE	ANALYSIS
4	279A (New)	• *The GST Council shall make recommendations on the following:* ✓ *special provision with respect to the States of Arunachal Pradesh, Assam, Jammu and Kashmir, Manipur; Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Himachal Pradesh and Uttarakhand and* ✓ *any other matter relating to the goods and services tax, as the Council may decide.* • ***GST Council shall also recommend the date on which the GST be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel.*** • ***Quorum is 50% of total members. Decisions by majority of 75% of weighted votes** of members present & voting. Weightage of votes:* ▪ *Centre – 1/3rd of total votes cast* ▪ *States (all taken together) – 2/3rd of total votes cast* • *There will not be any **GST Dispute Settlement Authority**. Council may decide the modalities to resolve disputes.*

Constitutional (122nd Amendment) Bill,2014

S.No	PROPOSED CLAUSE	ANALYSIS
5	366	***Definitions*** • ***Article 366(12A)-New-:*** **"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(26A)-New-*** *:* "***Services***" means anything other than goods.
6	368	• *Any* ***change in the Constitution*** *for change in provisions of GST council would have to be passed through Parliament and also State legislatures*

Constitutional (122nd Amendment) Bill,2014

S.No		ANALYSIS
7	**Other Provisions**	• *The Central government will levy an* ***additional tax on supply of <u>goods</u>****, not exceeding one percent in the course of inter-State trade or commerce.* • *This additional tax will be collected by the Government of India* ***for a period of two years or such other period as GST council recommend*** *and assigned to the States from where the supply originates.* • *It may be noted that as this additional tax is on* ***Inter-state Supply of goods,*** *the tax would also apply to stock / consignment transfers to another State.* • Parliament may, by law, on the recommendation of the GSTC, provide for **compensation to States for loss of revenue** arising on account of implementation of the GST for period which may extend to five years

GST- Key Features

- ✓ Destination based Multipoint levy
- ✓ Applicability of GST to all transactions ***<u>except</u>***
  - Exempted goods and Services
  - Goods which are outside the purview of GST and
  - Transactions which ate below the prescribed thresholds
- ✓ Taxable Event
  - Will be supply of goods or services or both
- ✓ Dual GST
  - Central GST will be levied and collected by the Centre
  - State GST will be levied and collected by the States
- ✓ Common & Identical Tax base

GST- Key Features

- Payment of GST
  - CGST and SGST are to be paid to the accounts of the Centre and the States separately
- Intra-State supplies of goods or services
  - Liable to CGST & SGST on identical tax base
- Inter-State supplies of goods or services
  - Liable to Integrated Goods & Service Tax (IGST) by the Centre
- IGST may be levied on Imports into India
- **Stock transfers** outside State will also liable to IGST
- **Additional Tax** of upto 1% on Inter State Taxable supply of Goods by State of Origin and non CENVATABLE

GST- Key Features

- ✓ Input Tax Credit Set off
- ✓ Cross Utilization of ITC
  - No Cross Set off of ITC between CGST & SGST
- ✓ Special Industrial Area Schemes
  - Will be converted into cash refund schemes, if at all needed so that continuous chain of set off is not disturbed.
- ✓ Registration & Tax Payer Registration Number
  - PAN Linked GST Registration
- ✓ Zero rating of Exports
- ✓ Maintenance of Books of Accounts
  - Taxpayer to maintain separate details in books of account for availment, utilization or refund of Input Tax credit of CGST, SGST and IGST

GST- Key Features

- ✓ Periodic Return
- ✓ Administration & Assessment of GST
  - CBEC responsible for Implementation, Administration , Assessment, Enforcement of CGST
  - State VAT Administrations are responsible for Implementation, Administration Assessment, Enforcement of SGST
- ✓ Threshold Limit under GST

Key Features of GST- GST Rates

- ✓ RNR : Ideally GST Rates should be such rates which would yield the same revenue as collected from various taxes which will be subsumed.
- ✓ Empowered Committee

  - GST rates to be based on RNR - Four rates
    - Merit rate for essential goods and goods of basic importance
    - Standard rate for goods in general
    - Special rate for precious metals
    - Exempted List
  - Single GST Rate for Services both for CGST and SGST
- ✓ Sub Penal of Empowered Committee : 26.70% (SGST 13.91% and CGST 12.77%)
- ✓ National Institute of Public Finance & Policy (NIPFP) : 20% ~ 23% (source : Business Standard)
- ✓ GST Council
  - the rates including floor rates with bands of goods and services tax

Taxes to be Subsumed in GST

Central Levies Subsumed under GST

- Central Excise Duty
- Additional Excise Duties
- The Excise Duty levied under the Medicinal and Toiletries Preparations (Excise Duties) Act 1955
- Service Tax
- Additional Customs Duty, commonly known as Countervailing Duty (CVD)
- Special Additional Duty of Customs - 4% (SAD)
- Surcharges and Cesses levied by Centre are also likely to be subsumed wherever they are in the nature of taxes on goods or services.
- Central Sales Tax to be phased out.

State Levies Subsumed under GST

- VAT / Sales tax
- Entertainment tax (unless it is levied by the local bodies)
- Luxury tax
- Taxes on lottery, betting and gambling
- State Cesses and Surcharges in so far as they relate to supply of goods and services
- Octroi and Entry Tax
- Purchase Tax

Taxes NOT to be Subsumed in GST

Taxes not to be Subsumed

- **Basic Customs Duty:** These are protective duties levied at the time of Import of goods into India.
- **Exports Duty:** This duty is imposed at the time of export of certain goods which are not available in India in abundance.
- **Road & Passenger Tax:** These are in the nature of fees and not in the nature of taxes on goods and services.
- **Toll Tax:** These are in the nature of user fees and not in the nature of taxes on goods and services.
- Property Tax
- Stamp Duty
- Electricity Duty.

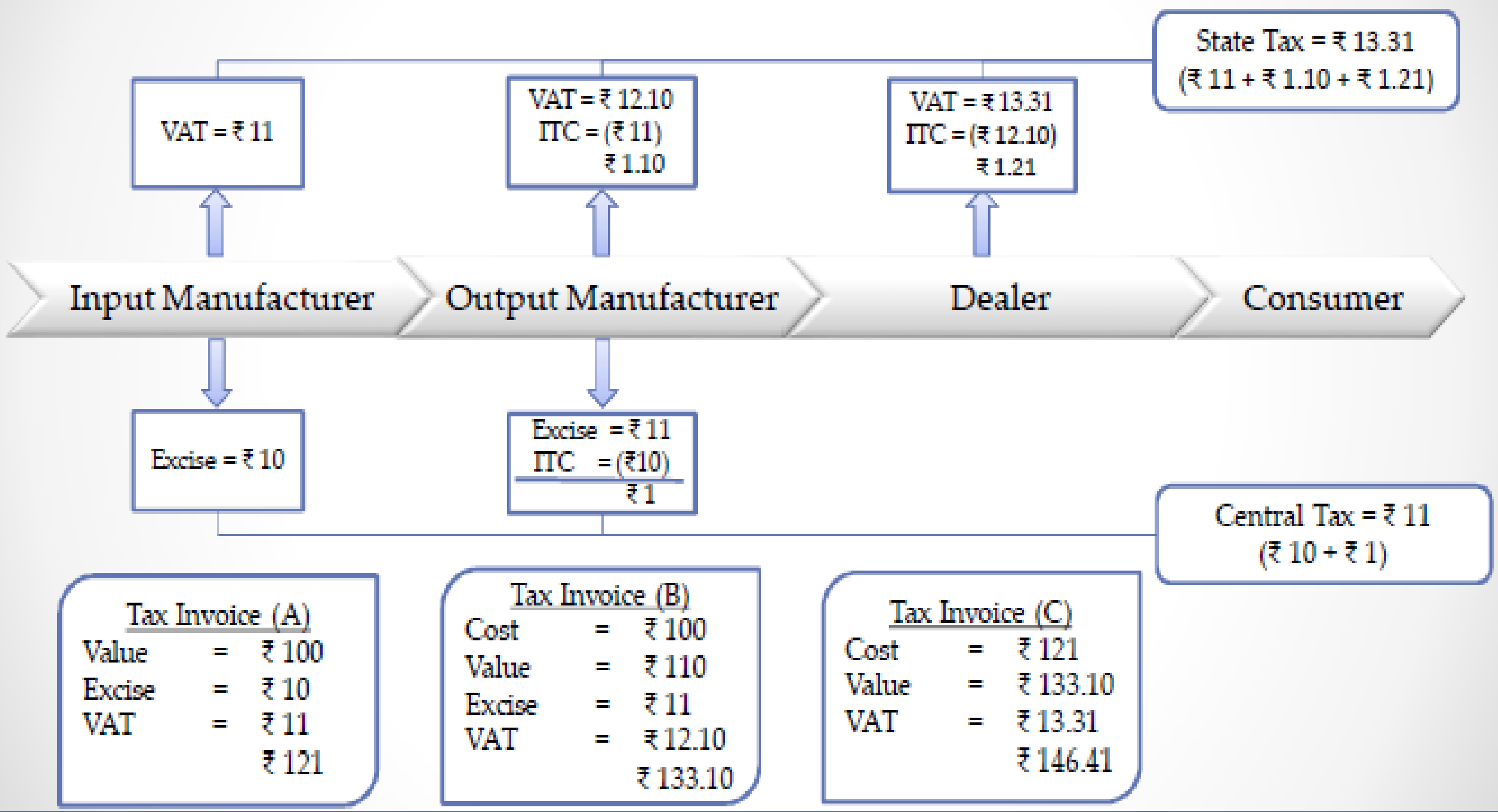
GST IMPACT ANALYSIS

GOODS & SERVICE TAX

- Subsumation of Multiple Levies
- No Difference Between Goods & Services
- Supply Chain Reengineering
- Seamless Flow of ITC
- Increased Working Capital Requirements
- Elimination of Area Based Exemptions
- Overall Reduction of Price in the Long run
- Lower Compliance Cost

Illustration to Showcase Tax Benefit under GST

Present Scenario (Intra-State Trade of Goods)



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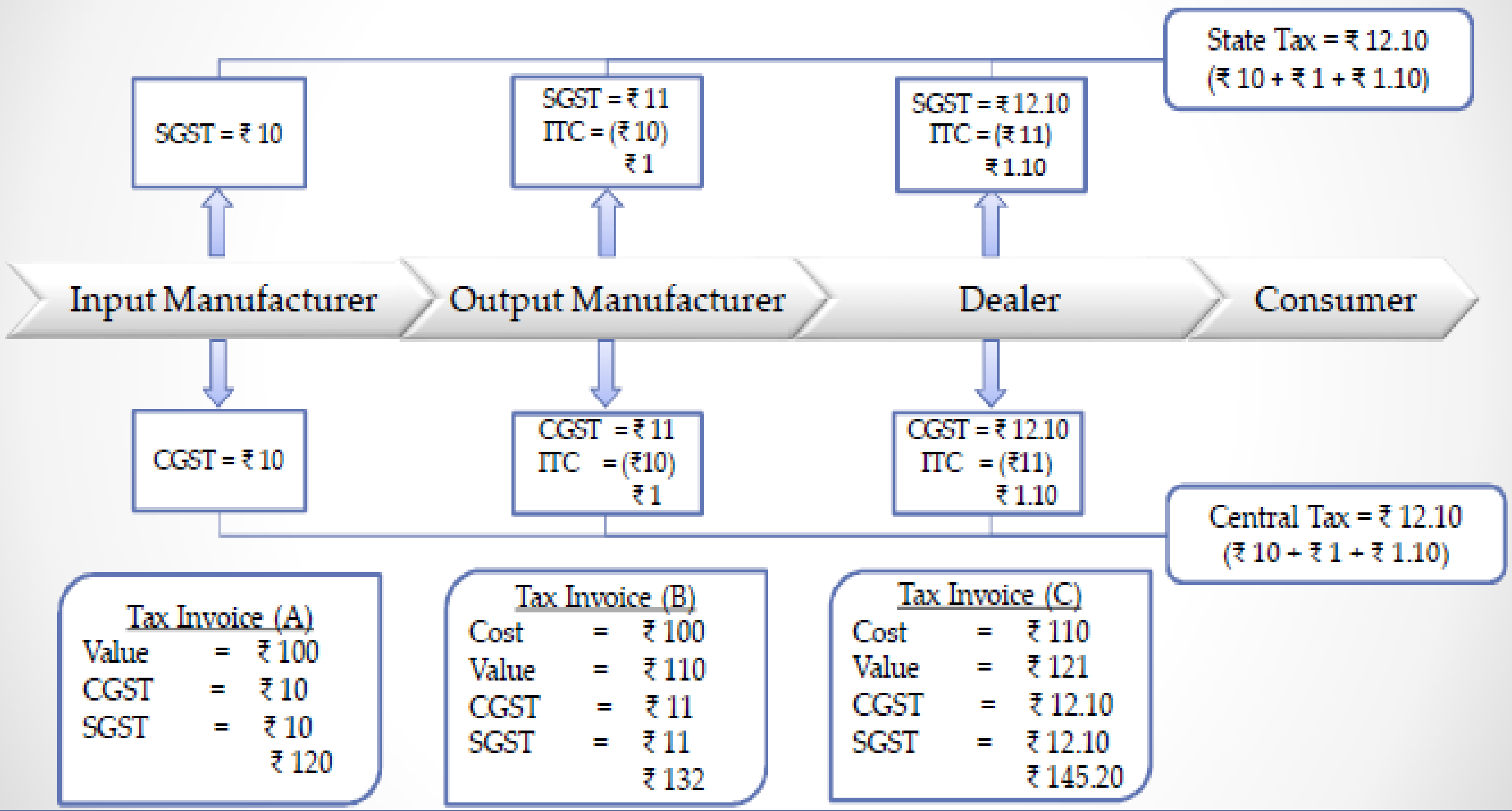

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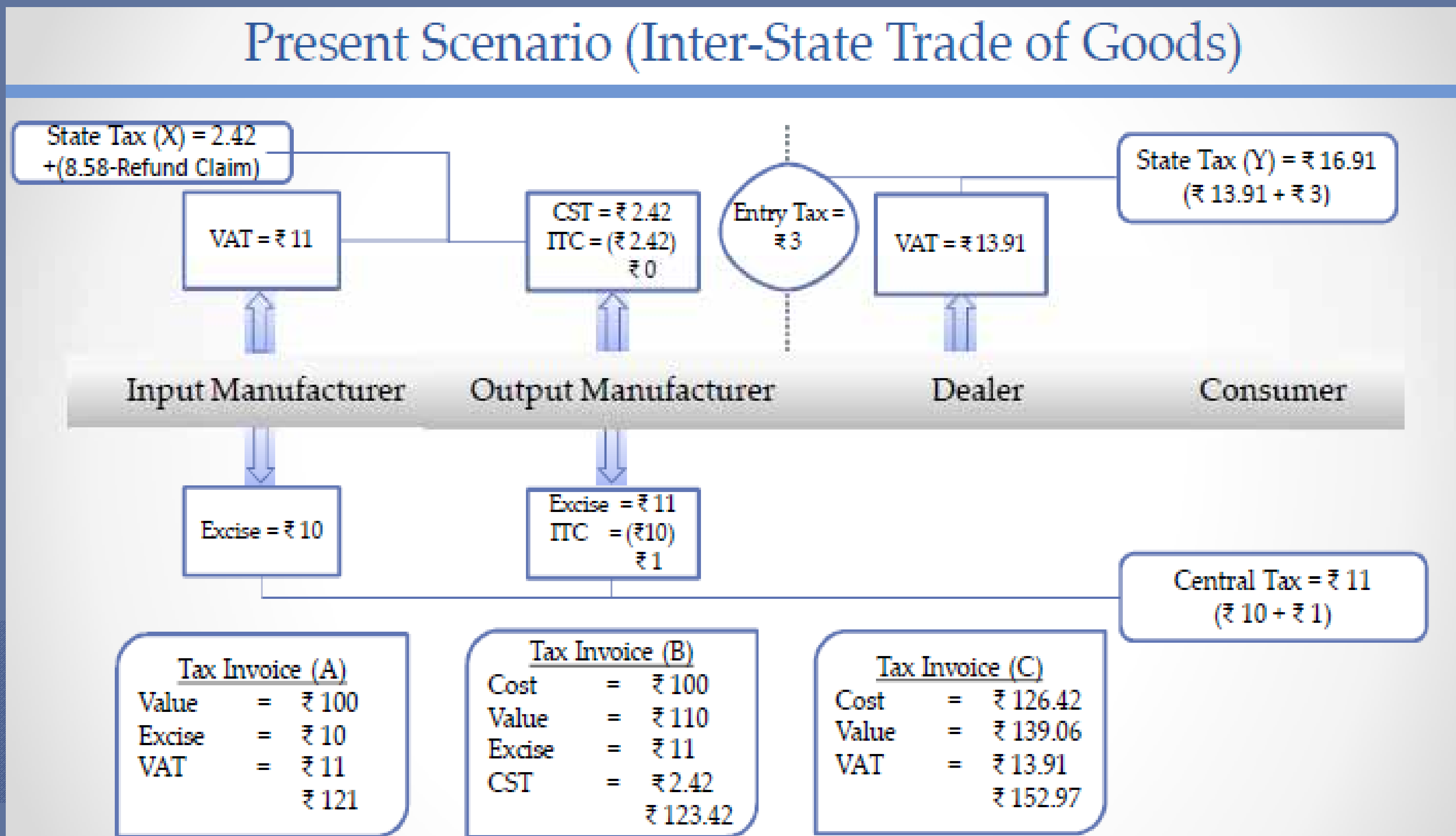

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GST Scenario (Inter-State Trade of Goods)

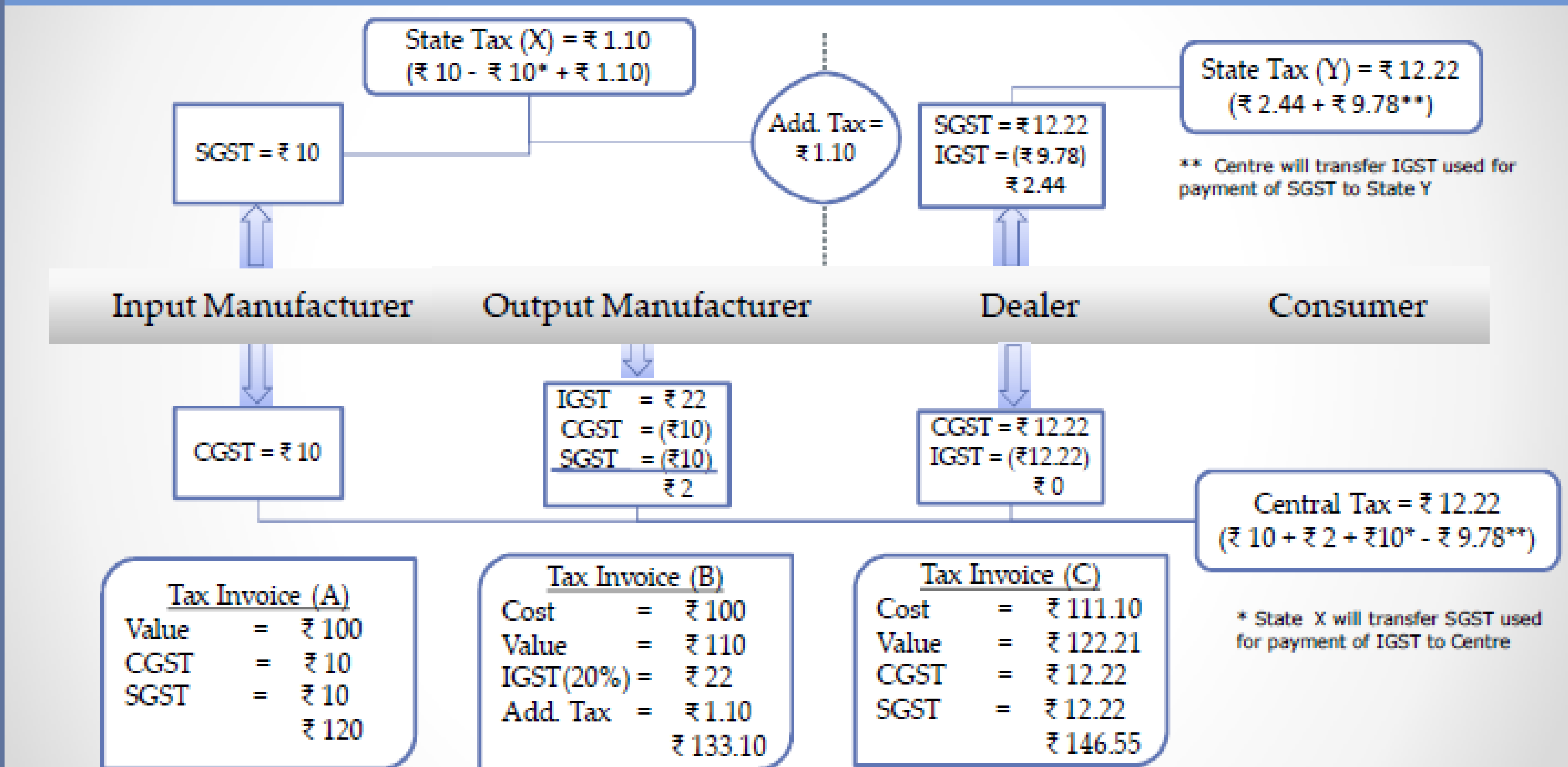


Illustration to Showcase Tax Benefit under GST

Comparison (Trade of Goods)

Sr. No.	Particular	Intra-State		Inter-State	
		Present	GST	Present	GST
1.	Initial Value	₹ 121.00	₹ 120.00	₹121.00	₹120.00
2.	Centre's Tax	₹ 11.00	₹ 12.10	₹ 11.00	₹ 12.22
3.	State (X)'s Tax	₹ 13.31	₹ 12.10	₹ 2.42	₹ 1.10
4.	State (Y)'s Tax	-	-	₹ 16.91	₹ 12.22
5.	State's Total	₹ 13.31	₹ 12.10	₹ 19.33	₹ 13.32
6.	Total Tax paid to Govt.	₹ 24.31	₹ 24.20	₹ 38.91- 8.58 (refund claim) = 30.33	₹ 25.54
7.	Non-Vatable Tax borne by Business & paid by the Consumer indirectly	₹ 11.00 } 24.31	₹ 0.00 } 24.20	₹ 16.42 } 30.33	₹ 1.10 } 25.54
8.	Tax paid by end Consumer	₹ 13.31	₹ 24.20	₹ 13.91	₹ 24.44
9.	Final value paid by Consumer	₹ 146.41	₹ 145.20	₹ 152.97	₹ 146.65

Illustration to Showcase Tax Benefit under GST

Present Scenario (Intra-State Trade of Service)

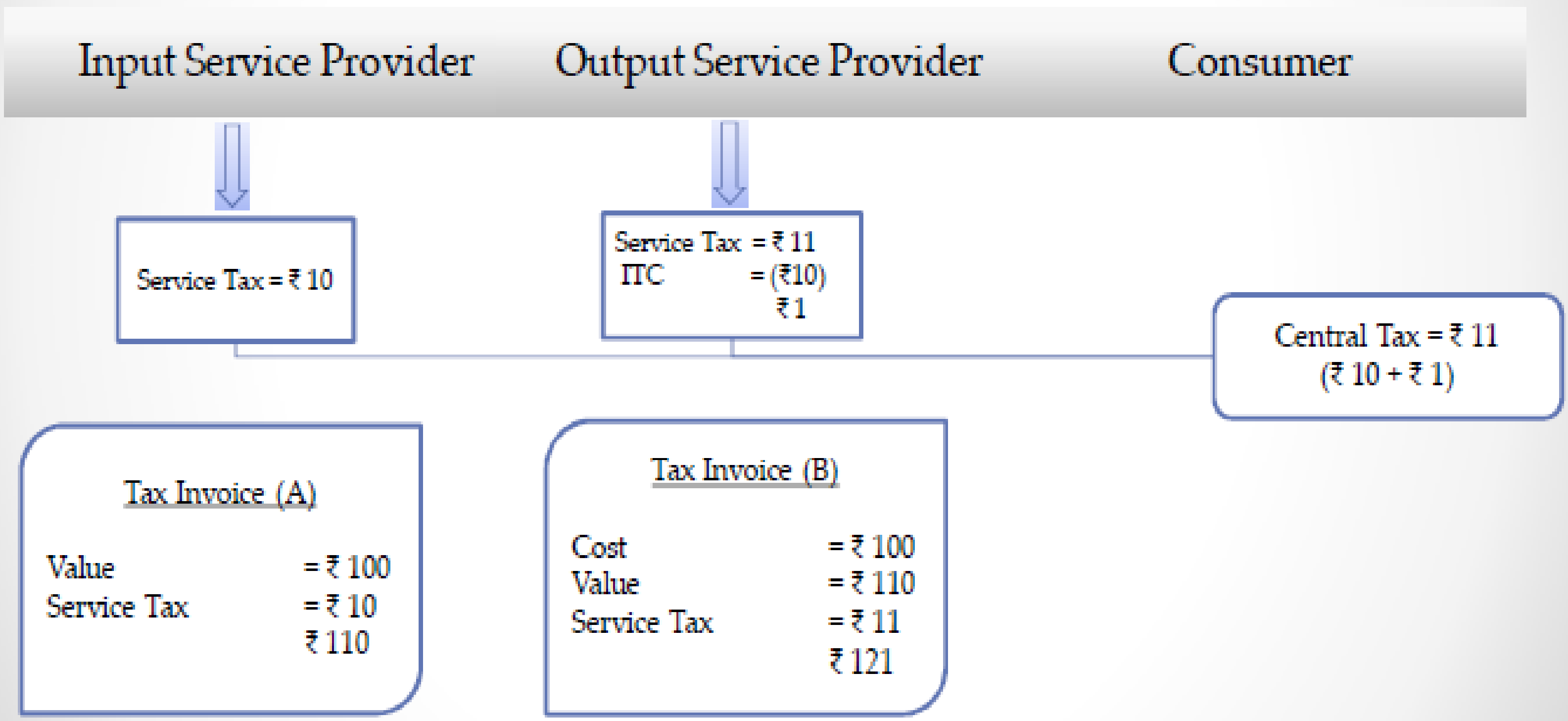
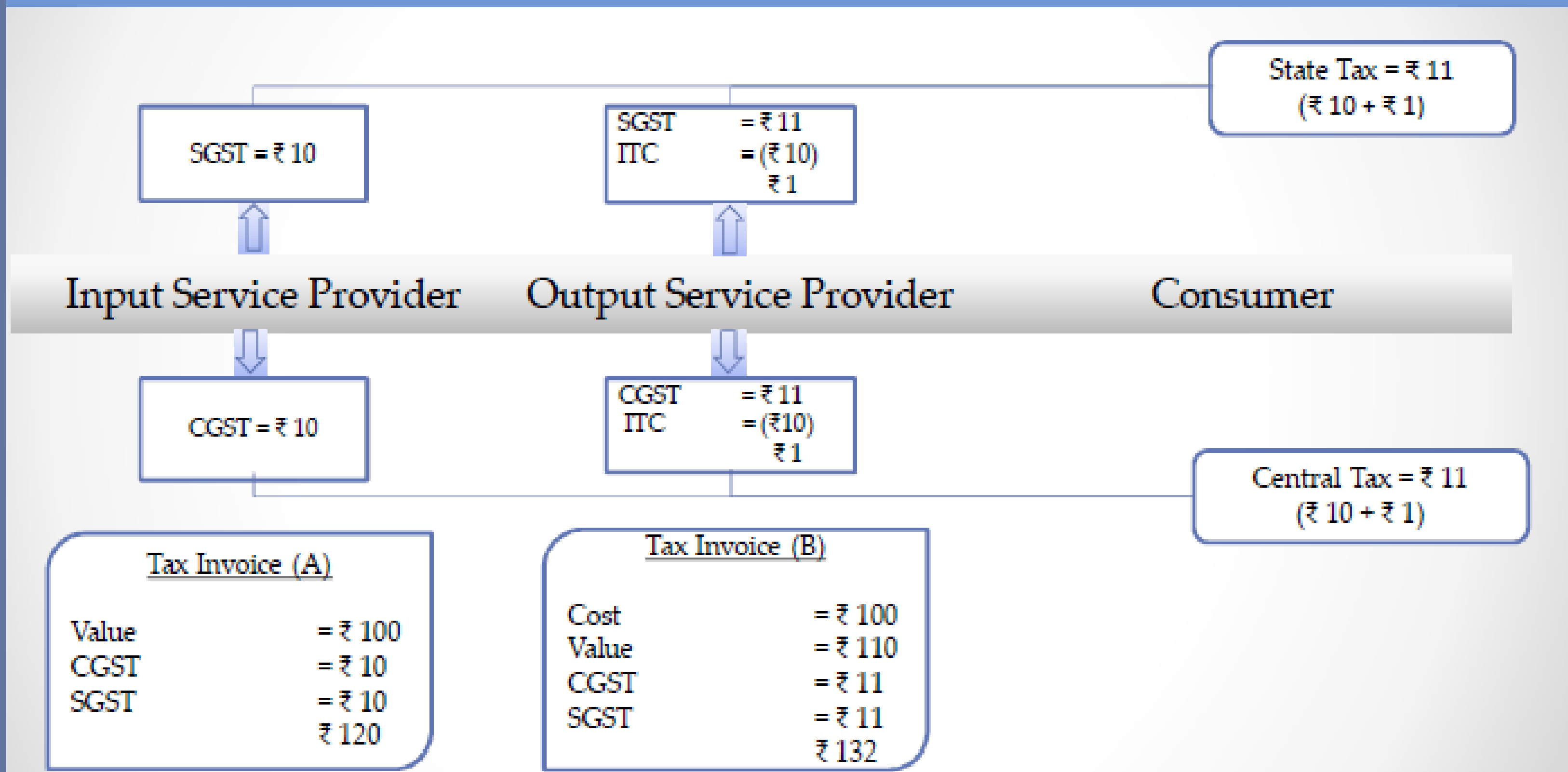


Illustration to Showcase Tax Benefit under GST

GST Scenario (Intra-State Trade of Service)



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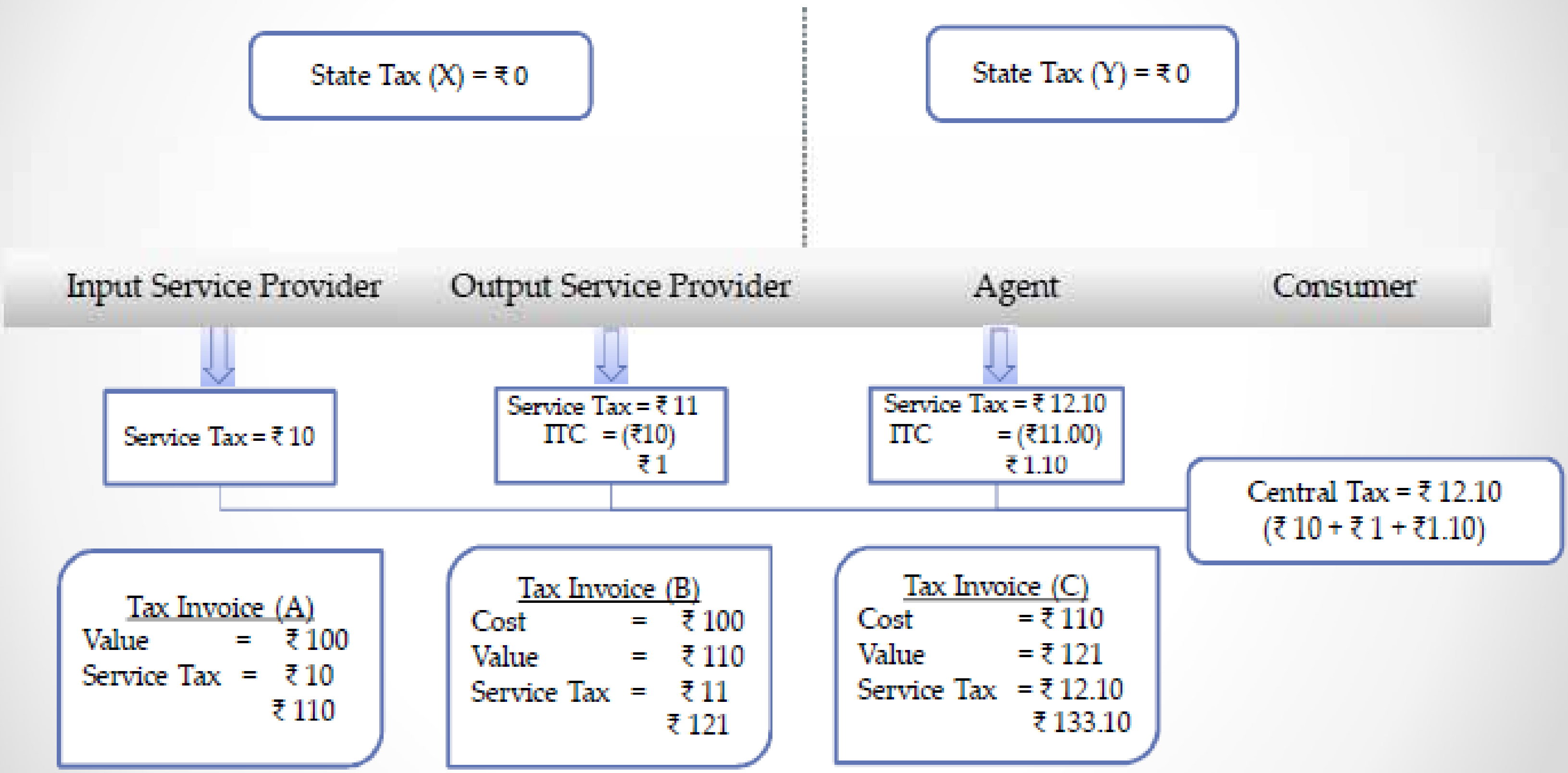
Present Scenario (Inter-State Trade of Service)



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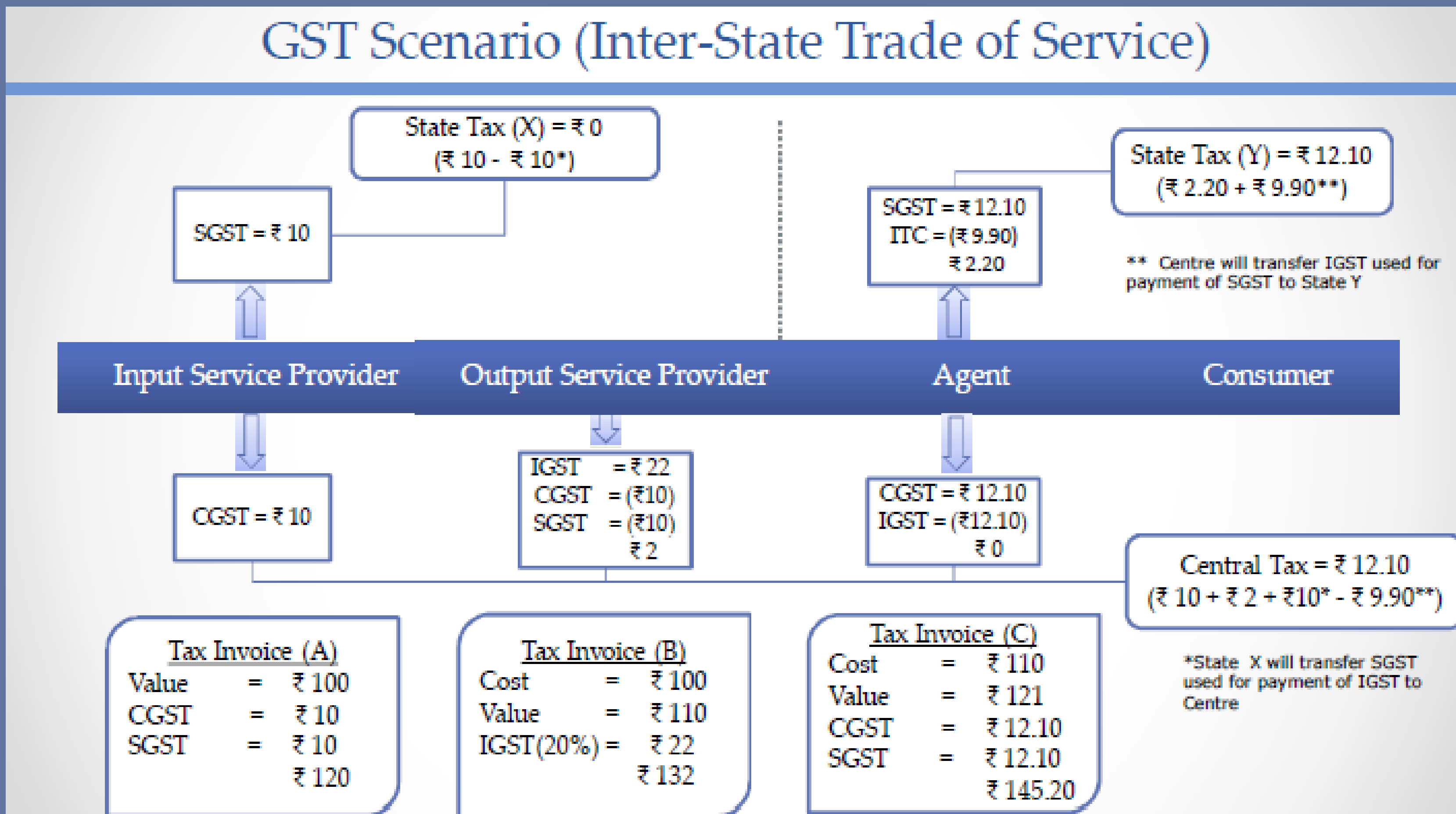

Illustration to Showcase Tax Benefit under GST

Comparison (Trade of Service)

Sr. No.	Particular	Intra-State		Inter-State	
		Present	GST	Present	GST
1.	Initial Value	₹ 110.00	₹ 120.00	₹110.00	₹120.00
2.	Centre's Tax	₹ 11.00	₹ 11.00	₹ 12.10	₹ 12.10
3.	State (X)'s Tax	₹ 0.00	₹ 11.00	₹ 0.00	₹ 0.00
4.	State (Y)'s Tax	-	-	₹ 0.00	₹ 12.10
5.	State's Total	₹ 0.00	₹ 11.00	₹ 0.00	₹ 12.10
6.	Total Tax paid to Govt.	₹ 11.00	₹ 22.00	₹ 12.10	₹ 24.20
7.	Non-Vatable Tax borne by Business	₹ 0.00	₹ 0.00	₹ 0.00	₹ 0.00
8.	Total Tax paid by Consumer	₹ 11.00	₹ 22.00	₹ 12.10	₹ 24.20
9.	Final value paid by Consumer	₹ 121.00	₹ 132.00	₹ 133.10	₹ 145.20

Conclusion

- The taxation of goods and services in India has, hitherto, been characterized as a cascading and distortionary tax on production resulting in mis-allocation of resources and lower productivity and economic growth. It also inhibits voluntary compliance. It is well recognized that this problem can be effectively addressed by shifting the tax burden from production and trade to final consumption. A well designed destination-based value added tax on all goods and services is the most elegant method of eliminating distortions and taxing consumption. Under this structure, all different stages of production and distribution can be interpreted as a mere tax pass-through, and the tax essentially 'sticks' on final consumption within the taxing jurisdiction.
- A 'flawless' GST in the context of the federal structure which would optimize efficiency, equity and effectiveness. The 'flawless' GST is designed as a consumption type destination VAT based on invoice-credit method.

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- *Purpose of this presentation is to give a highlights of the proposed GST regime in India .*
- *Prior professional advice is recommended before implementation of the aspects covered under this presentation*
- *The instant presentation is just sharing information based on compilation from different sources for benefit of readers.*
- *We are under no obligation to update this presentation for future changes.*