



Goods and Services Tax

Technology, Media, Telecom and Financial Services

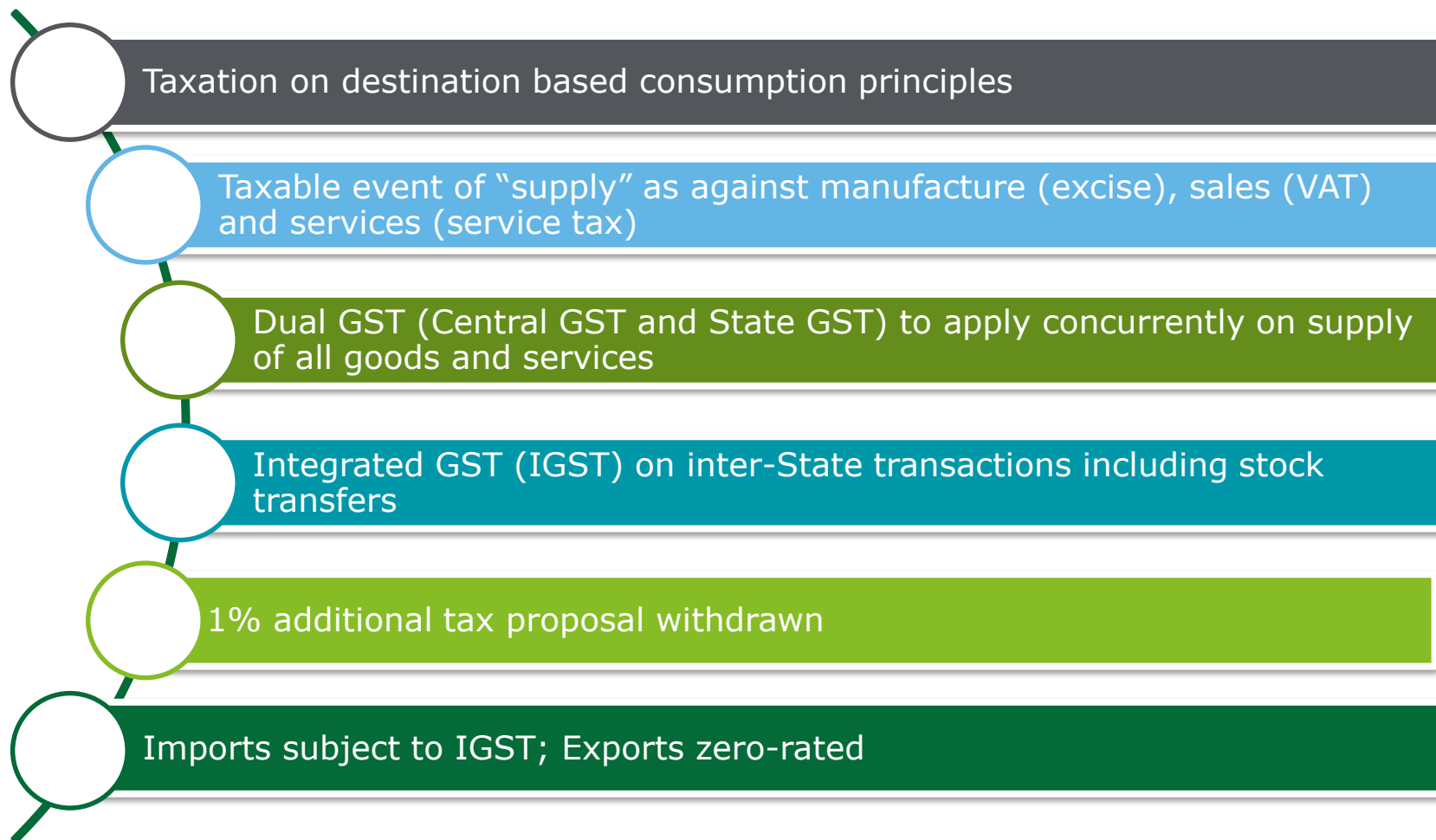
August 2016

Agenda

- GST framework
- Valuation
- Place of supply rules
- Impact on TMT
- Impact on FS
- Transitional provisions
- Challenges in GST implementation
- Process & Technology alignment
- Ready, Get Set, Go: what should you do next?
- Questions and Answers

GST framework

GST framework in India



- Expected to neutralize tax driven decision making
- Offers opportunities to address new markets and access supply bases which were earlier constrained
- GSTN – a common portal to be set-up for GST implementation and compliance

Existing indirect tax structure versus Model GST Law

Key differences

Existing indirect tax structure	Versus	Model GST Law
Multiple levies based on various activities – Central Excise on manufacture, Service Tax on provision of service, VAT on sale, etc.		Levy on “Supply” of goods and services; Subsume most of current indirect taxes into a Single GST levy
Place of Provision of Services Rules, 2012 to determine place of provision of services		Place of Supply Rules prescribed for both goods and services
Valuation Rules differ across legislations both at Center and State levels including MRP based valuation		Transaction value to be adopted; Model Law silent on MRP based valuation
Different rate of tax on goods and services		Uniform rate of tax on goods and services
Restriction on cross utilization of credits		Seamless cross-utilization of credits allowed
Separate registration under each law		PAN based all-India registration
Cap on number of times a return can be revised as well as comparatively lesser time limit		No cap on number of times a return can be revised and a substantial broader time limit prescribed for filing revised forms / returns
Reverse charge provisions for services		Reverse charge provisions for both goods and services

Valuation

Valuation

- **Transaction value**

- Supplier and recipient are not related
- Price is the sole consideration

- **Transaction value will include**

- Expenses incurred by service receiver for which provider was liable
- Free supplies
- Royalty and license fees
- **Any tax, duties, fees** and charges other than SGST, CGST, and IGST
- Incidental expenses such as commission, packing
- **Subsidies** linked to supply
- Reimbursable expenditure
- **Discount** after the supply has been affected

Place of supply rules

Place of supply of goods and services

- In present Indirect Tax regime, there is no concept called place of supply of goods and the place of supply rules pertain to service tax
- However, in case of VAT / CST, the principles determining situs of sale is prescribed in Chapter II of Central Sales Tax Act, 1956
- The major principle for determining situs of sale is the location of sale that occasions the movement of goods
- In case of Service Tax, the principles determining the place of provision of service is prescribed in Place of Provision of Service Rules, 2012
- The residual or general principle is that the location of recipient of service is contemplated as place of provision of service
- Whereas separate rules have been prescribed for separate services wherein different places of provision of service are defined

Technology, Media and Telecom (TMT)

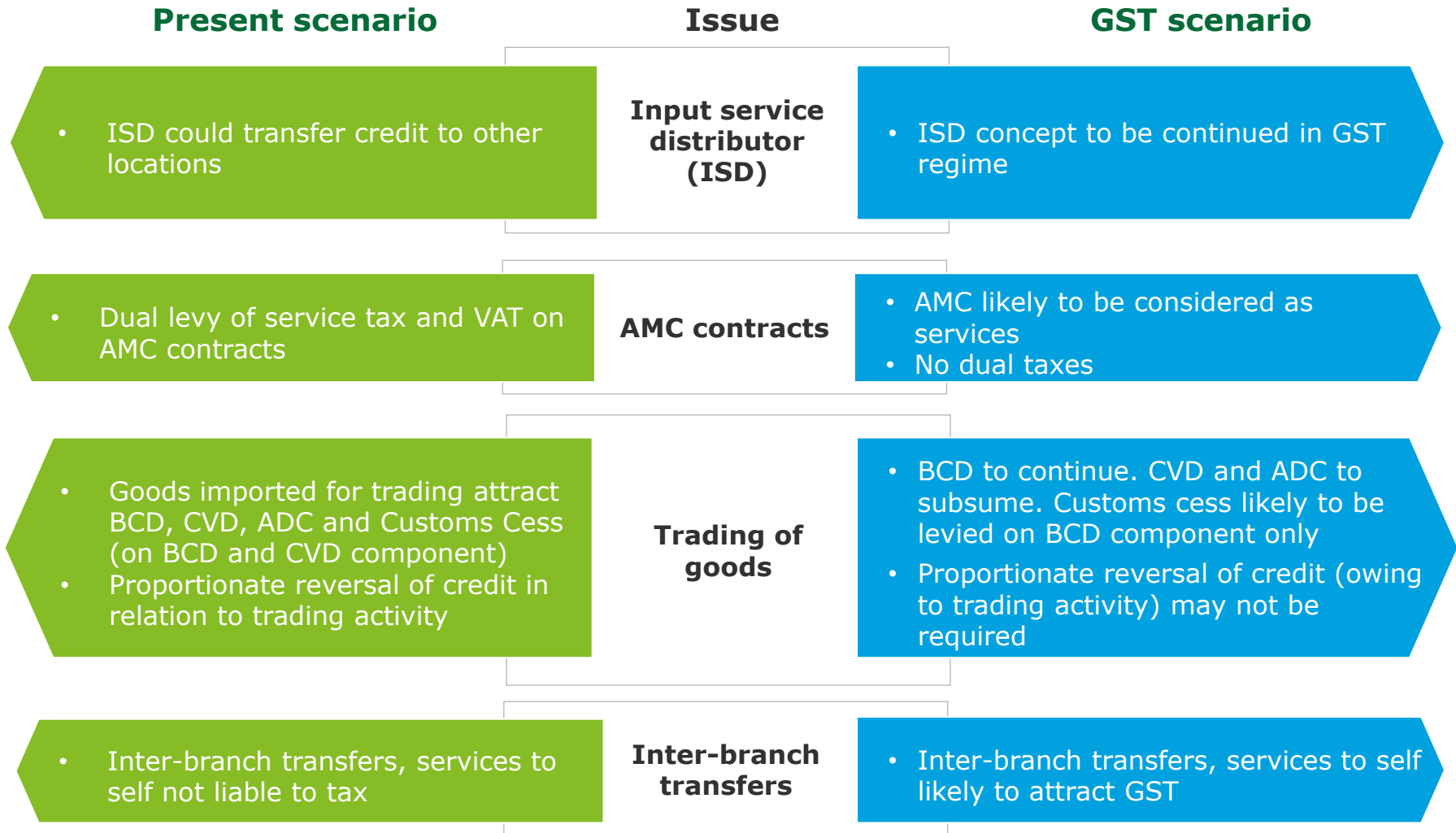
Common potential implications in TMT sector

Present regime and draft GST legislation

Present scenario	Issue	GST scenario
<ul style="list-style-type: none"> Centralised registration facility available under service tax laws 	Registration	<ul style="list-style-type: none"> Multiple registrations - to be obtained in each state of operation
<ul style="list-style-type: none"> Service providers file 2 half yearly and 2 annual returns 	Compliances	<ul style="list-style-type: none"> Multiple returns - separate return for outward and inward supplies for each state – on a monthly basis
<ul style="list-style-type: none"> Service tax rate of 15% 	Rate of Tax	<ul style="list-style-type: none"> GST rate is expected around 18%
<ul style="list-style-type: none"> Refund of unutilised CENVAT credit available on exports Time limit for filing of refund is 1 year 	Export and refund	<ul style="list-style-type: none"> Exports to be zero rated Mechanism for refund of unutilized credit to continue Time limit for filing of refund - 2 years
<ul style="list-style-type: none"> Various restrictions on credit of inputs and input services ADC credit not allowed to service providers 	Input Tax Credit	<ul style="list-style-type: none"> Credit of IGST on import of goods available to service provider Credit of IGST available on inter-state procurement of goods Credit of GST on input services eligible to traders

Common potential implications in TMT sector

Present regime and draft GST legislation



Potential implications in telecom sector

Issue	Present scenario	GST scenario
Sim Cards / Recharge Coupons	<ul style="list-style-type: none"> • SIM cards/ recharge coupons taxable in the hands of telecom service provider • Distributors and selling agents exempt 	<ul style="list-style-type: none"> • Point of taxation likely to trigger at every point of supply • Exemptions to be pruned
Place of supply	<ul style="list-style-type: none"> • Default rule – location of service recipient 	<ul style="list-style-type: none"> • Fixed lines/ antennae – location of installation • Postpaid telecom & internet – billing address of receiver • Prepaid telecom & internet - location where pre-payment is received or pre-paid vouchers are sold or location of receiver on records in case of electronic payments
Services rendered to J&K	<ul style="list-style-type: none"> • Services provided in J&K are exempt & credit reversal is required 	<ul style="list-style-type: none"> • GST council to recommend on special provisions for taxation in J&K
Input tax credit	<ul style="list-style-type: none"> • Restrictions on credit of inputs and input services used in towers / sheds 	<ul style="list-style-type: none"> • Specific restriction on input tax credit of goods/ services used for construction of immovable property
Value Added Service (VAS)	<ul style="list-style-type: none"> • Dual levy of service tax and entertainment tax on VAS 	<ul style="list-style-type: none"> • Dual levy on VAS replaced by GST

Potential implications in media, entertainment and technology

Issue	Present scenario	GST scenario
Media and Entertainment		
Entertainment tax	<ul style="list-style-type: none"> Applicable on film tickets, cable operators, DTH operators, multiplex 	<ul style="list-style-type: none"> Entertainment tax to be subsumed
Copyright	<ul style="list-style-type: none"> Dual levy of service tax and VAT 	<ul style="list-style-type: none"> Dual levy replaced by GST
Advertisement service	<ul style="list-style-type: none"> Service tax paid on advertisement services provided across India available as credit at central level 	<ul style="list-style-type: none"> Payment of taxes as per Place of supply Rules Credit eligibility to be analysed on a state-wise basis
Print Media	<ul style="list-style-type: none"> No tax on sale of newspaper Service tax exemption to advertisement services in print media i.e. newspapers and books 	<ul style="list-style-type: none"> No clarity on continuity of exemption on sale of newspapers and advertisement services in print media i.e. newspapers and books under GST
Technology		
Taxability of software	<ul style="list-style-type: none"> License to use software suffers double taxation i.e. VAT and service tax 	<ul style="list-style-type: none"> Software being intangibles to qualify as services However, likely to qualify as goods, if sold on a media, such as CD, USB etc.
Intermediary, online database	<ul style="list-style-type: none"> Place of provision of services - location of service provider 	<ul style="list-style-type: none"> No separate provision in Place of supply rules Likely to fall under default rule
R&D cess on import of technology	<ul style="list-style-type: none"> R&D cess payable on import of technology Credit available as set off 	<ul style="list-style-type: none"> Adjustment of R&D cess ought to continue under GST regime in case R&D cess continues to be applicable

Electronic commerce

- Electronic commerce shall mean
 - Supply or receipt of goods and / or services
 - Transmitting of funds or data
 - Over an electronic network by using any of the applications that rely on internet
 - Whether or not payment is conducted online and whether or not the ultimate delivery of the goods / services is done by the operator
- Electronic commerce operator shall include
 - Every person who, directly or indirectly, owns, operates or manages an electronic platform
 - Engaged in facilitating the supply of any goods and/or services or in providing any information or any other services incidental to or in connection there with
 - But shall not include persons engaged in supply of such goods and/or services on their own behalf

E-commerce operator to collect tax from the amount paid or payable to supplier at the rate to be notified

Issue – Whether aggregators would qualify as electronic commerce operators?

Model GST Law and relevance for financial services

Model GST Law and relevance for FS

Provision	Relevance for FS
Input Tax Credit	<ul style="list-style-type: none">• No specific provisions for FS industry• Similar to existing provisions –• Credit of tax charged by supplier can be availed only when it has been actually paid to the credit of the appropriate government
Returns	<ul style="list-style-type: none">• Monthly returns by 20th of following month• Details of outward supplies to be furnished by 10th of following month• Details of inward supplies to be furnished by 15th of following month• TDS Return by 10th of following month• Annual Return by 31 December of following year
Transitional provisions	<ul style="list-style-type: none">• Provisional registration• Carry forward of eligible credit balances• Progressive/ periodic supply of goods and services not taxable under GST Law• Proceedings of appeal, revision, under the earlier law shall be disposed of in accordance with the earlier law
Other relevant provisions	<ul style="list-style-type: none">• Input Service Distributor concept to continue• GST Compliance Rating

Impact areas

Banking

- Place of Supply – B-to-B and B-to-C (usual place of residence of Account holder)
- Time of Supply
- Service tax implications on digitization and commoditization of services
- Sale of repossessed assets and used/obsolete fixed assets
- Input tax credit restrictions and cascading effect of taxes
- Valuation of services (e.g. free supplies, assets used for non-business purpose, etc.)
- Registrations and compliances

Insurance

- Place of Supply (location of the insured)
- Time of Supply
- Sharing of the Tax burden between Insurance Companies and Agents
- Taxability of reimbursement of the training or travel expenditures (commission to agents)
- Availability of input tax credit on re-insurance services
- Taxability of re-imburement of expense under Co-insurance
- Service provided in the state of Jammu and Kashmir
- Registrations and compliances

Real Estate

- Construction regarded as deemed supply of service under GST
- Reduction in multiple levies and double taxation
- Long term contracts
- Restriction on availment of input tax credit could continue
- Valuation of supplies – presently divergent State Laws
- Taxation of Transferable Development Rights
- Time of supply of services (generally being continuous supply)
- Increased compliances in terms of registrations and returns

Transitional provisions

Transitional provisions

Carry forward of tax credits

- Eligible to carry forward tax credits available as per tax returns

Unavailed credit including those on capital goods

- Eligible but unavailed credit including those on Capital Goods will be allowed subject to certain conditions

Amount payable in the event of a taxable person switching over to composition scheme

- As on cut off date, switching over to the composition scheme in GST legislation, taxable person would be required to pay an amount equivalent to credit in respect of inputs. The balance credit, if any, shall lapse

Treatment of long term construction / works contract

- The goods and/or services supplied on or after the appointed day in pursuance of long term contract will be liable to proposed GST

Challenges in GST implementation

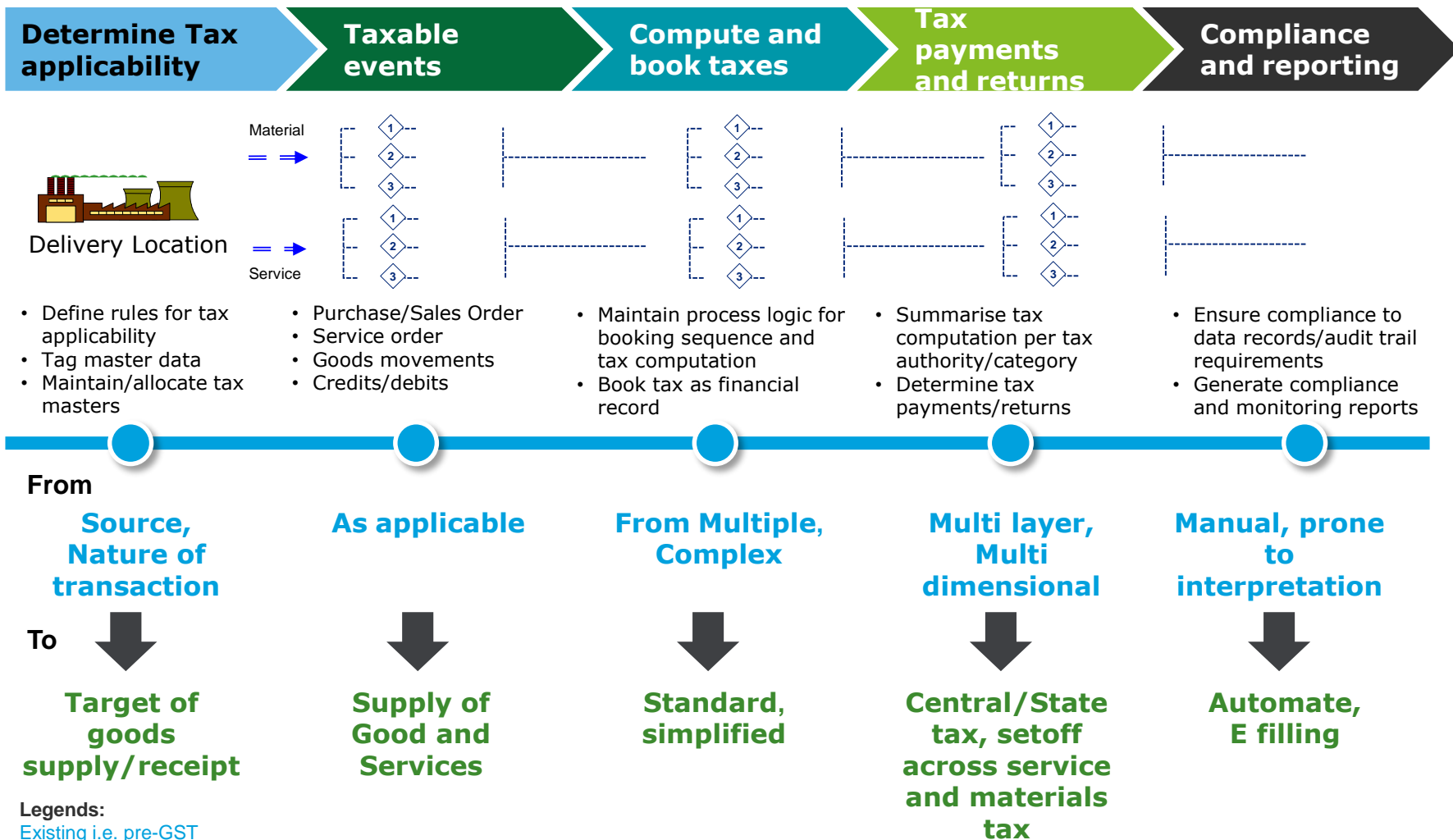
Challenges in GST implementation

- Time constraint
- Transitioning of existing policies to GST
- Obtaining state wise registration and compliance thereof
- IT system configurations
- Transfer of Credits
- Long term Vendor contracts
- In-house team composition and manpower limitations
- Repricing of supplies considering seamless credits

Process & Technology Alignment

What may change

Considerations for Business Processes / IT applications application changes



Legends:

Existing i.e. pre-GST

Proposed i.e. GST

Systems Impact

Compliance & Migration perspectives

Forms / Layouts

- Tax Invoice
- Bill of Supply
- Invoice by Input Service Distributor
- Sales Order Form
- Purchase Order Form
- Debit Notes and credit notes

Books of Accounts for each place of business

- Production or manufacture of goods
- Inward supply of goods / services
- Outward supply of goods / services
- Stock statements
- Details of input tax credit
- Details of output tax payable

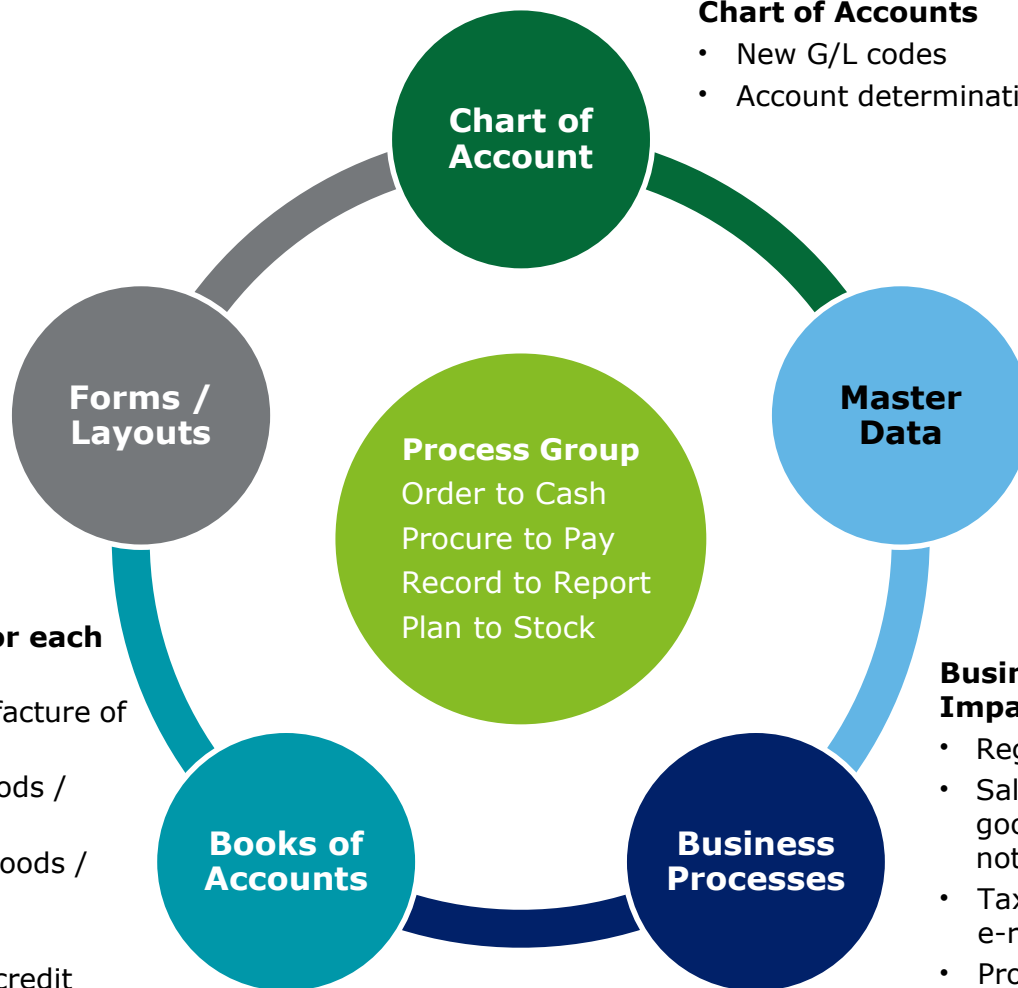


Chart of Accounts

- New G/L codes
- Account determination

Master Data

- Registration details and place of business
- Tax categories, Tax codes
- Access Sequences

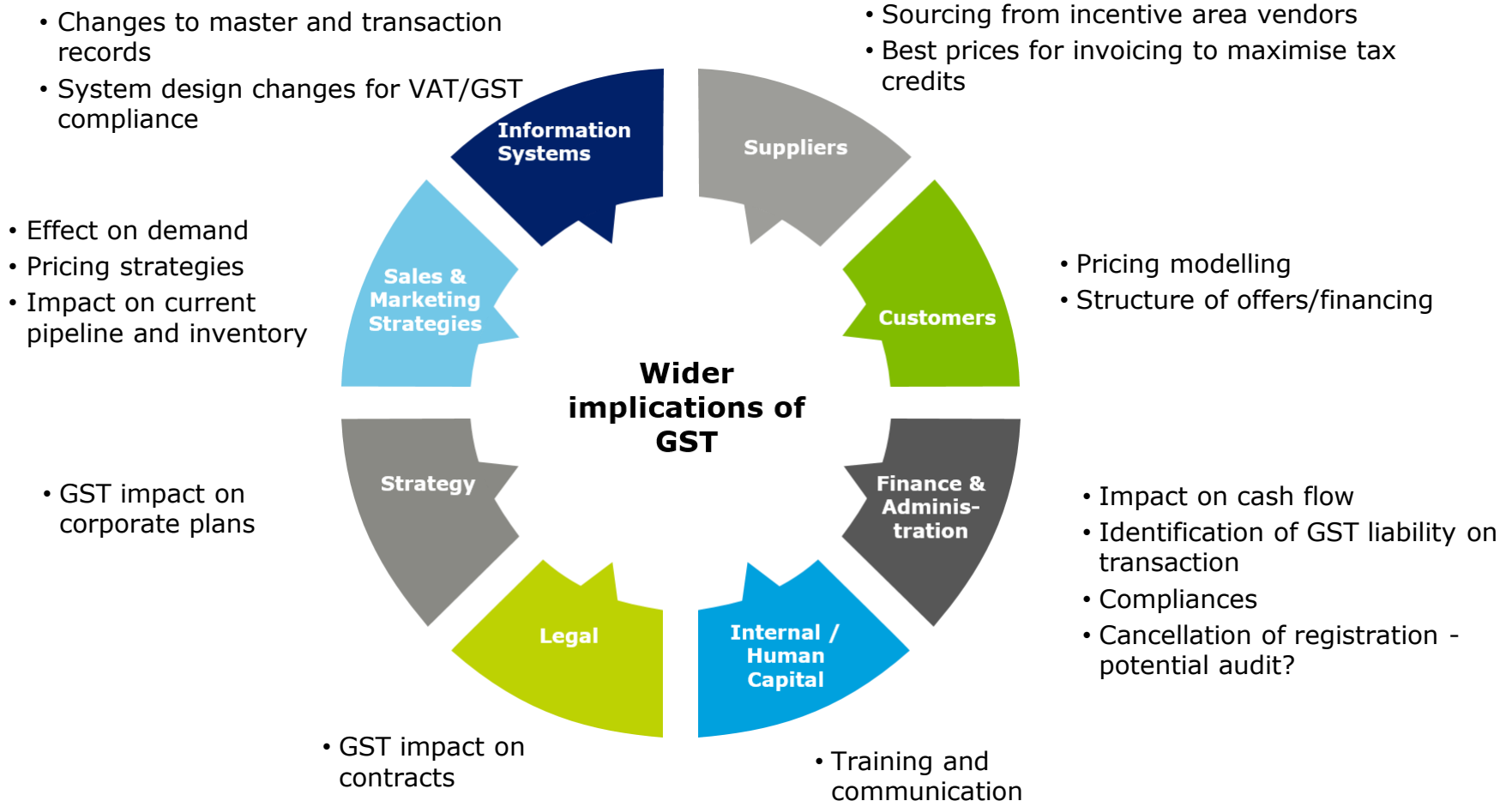
Business Processes Impacted

- Registrations
- Sales and purchases of goods and services, Debit notes, credit notes, etc.
- Tax payments, Filing of e-returns
- Processes handled in peripheral systems (CRM, SRM, Dealers Management etc.)

Ready, Get Set, Go: What to do Next?

GST implementation essentials

Completeness key – GST touches everything!



Proactive approach

Impact analysis - Fine tuning operations & implementation support – Post implementation support

Key messages

- Get started now if you have not already
- Do not dive in but assess where your business is, and plan accordingly
- Plan should be SMART – remember the end game is sustainable compliance in the longer term
- Transition planning – what do you need to do? What is key in each business or division?
- Systems changes and updates – always take time
- Many projects, few resources – planning for the GST implementation in your business, drawing experienced resources from Malaysia, China, across Asia Pacific and Europe / the Americas
- Final Point: how to protect your position and ensuring neutrality in the new GST? A core principle under the OECD VAT/GST International Guidelines

Questions

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For more details visit -

<http://www2.deloitte.com/in/en/pages/tax/articles/goods-and-services-tax.html>





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