

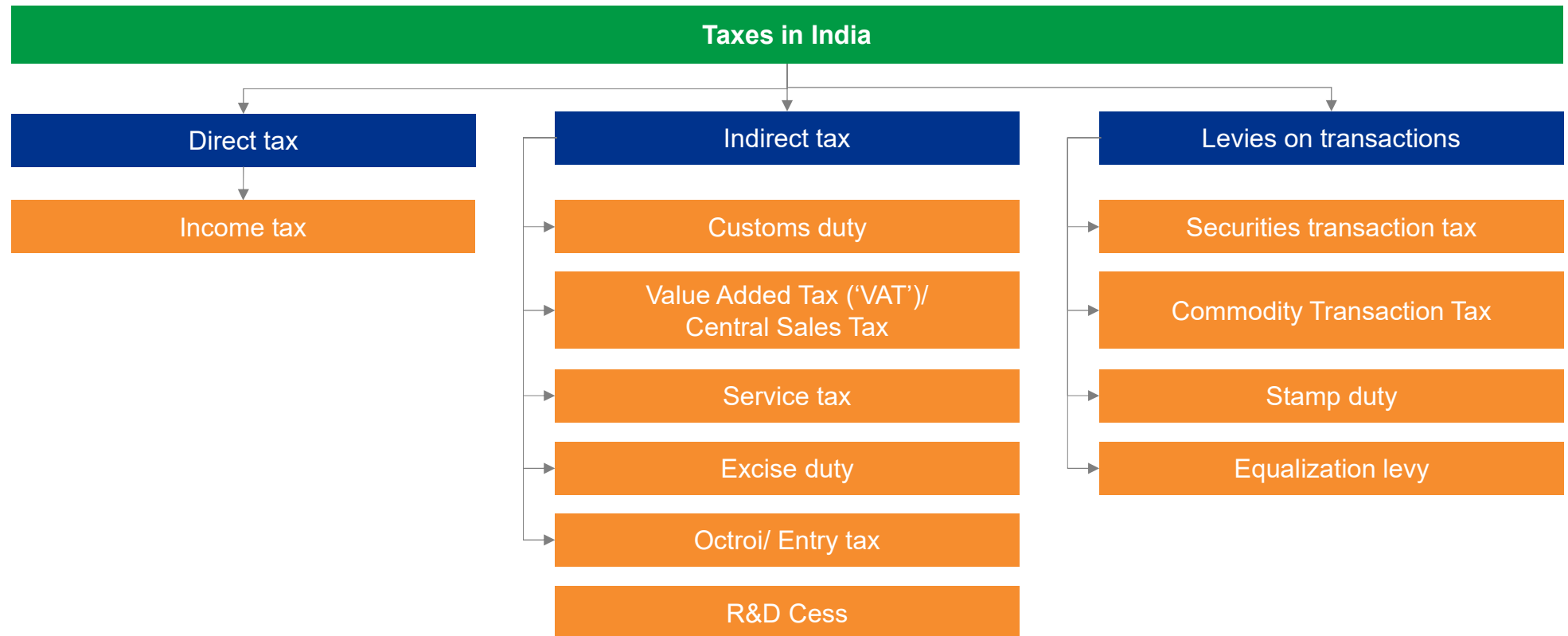


# Tax Environment in India

July 2016

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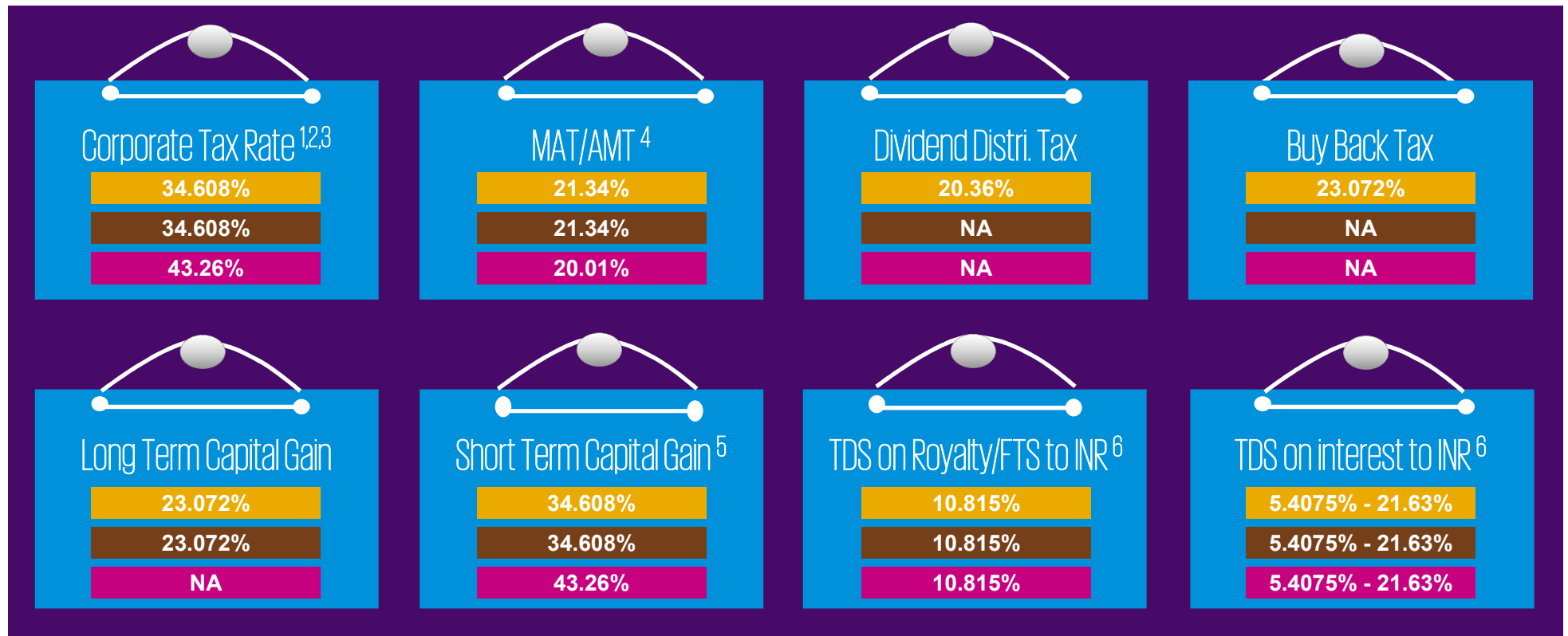
# Tax Environment in India



# Direct tax Regime

- snapshot of tax rates (1/2)

Domestic Company  
 LLP  
 PE of Foreign Company



# Direct tax Regime

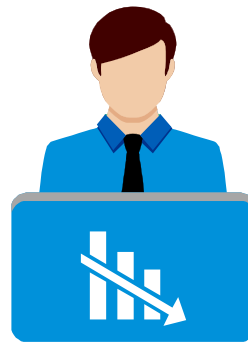
## - Notes forming part thereof (2/2)



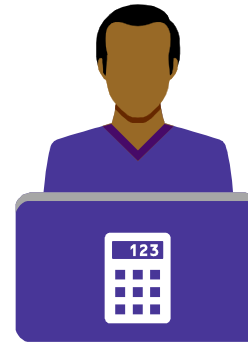
Rates inclusive of surcharge @12% in case of domestic companies and 5% in case of foreign companies, where taxable Income exceeds INR 100 million and 3% education cess. Surcharge @7% in case of domestic companies and 2% in case of foreign companies, where taxable Income between INR 10 million and 100 million. Further, in case of LLP, surcharge of 5% is applicable when the taxable income exceeds INR 10 million



Company set up after 1 March 2016 and engaged in manufacturing activity has option to choose lower tax rate of 25% plus applicable surcharge and education cess (subject to condition of not claiming specified tax incentives / deduction or set off of brought forward losses)



In case total turnover or gross receipt of domestic company does not exceed INR 5 Crores during previous year 2014-15, it is possible to claim lower tax rate of 29% instead of 30% during FY 2016-17. Further, there is a proposal to reduce basic corporate tax rate from 30% to 25% over the next four years starting from FY 2016-17



Minimum Alternative tax not applicable to foreign companies having no Permanent Establishment in India or having no registration requirement under any law in India



Long term capital gain is not taxable and Short term capital gain is taxable @15% (plus SC & EC) on transfer of equity shares or unit in equity oriented fund and if such transaction is chargeable to Security Transaction Tax. Further, Long term capital (LTC) gain is taxable at 10% (plus SC & EC) on transfer of shares in private companies and other specified assets held for long term. Separately, indexation benefit is available in LTC asset



Rate of withholding in case of Royalty / FTS and Interest may vary in case beneficial rates are available under DTAA between India and the country where the foreign recipient is resident

# Tax-related initiatives

- Measures to reduce litigation and provide certainty

Increasing digitization in Income-tax  
Pilot program for e-assessment is underway  
E-filing of appeal introduced

CBDT has rationalized guidance for selection and referral of transfer pricing cases for assessments

Mechanism introduced for computing Foreign Tax Credit

GAAR rules aligned with Income-tax Act to extend non-applicability till 1 April 2017

To encourage innovation, Budget 2016 introduced reduced rate of tax of 10% on income by way of royalty in respect of a patent developed and registered in India

CBDT notified rules for non-resident, not having permanent account number (PAN), the provisions of higher rate of tax shall not apply for certain payments if furnishes the specified documents / details

CBDT has clarified that dividend declared and paid by a foreign company outside India would not be taxable under the indirect transfer provisions of the Income-tax Act

Successful APA program in India. More than 60 APAs signed (55 APAs signed during FY 2015-16 only)

Government announces setting-up of 2 additional benches of AAR (Authority for Advanced Ruling) at NCR (National Capital region) and Mumbai.

Constitution of Bench of the Supreme Court to deal exclusively with tax matters

# Direct Tax regime

## Financial Year

- Uniform Year from April to March for all taxpayers
- The Government has constituted a committee to examine the desirability and feasibility of having 'a new financial year'

## Tax Incentives

- Location specific / Industry specific and Activity based tax incentives available – sun set date of 31 March 2017 / 31 March 2020

## Transfer Pricing

- Transfer Pricing Regulations in force, Safe harbor provisions in place
- Advance Pricing Agreements facilitate determining arms length price for transaction with AEs in advance, Roll back possible up to preceding four years

## Other Aspects

- No Consolidation Rule, No Thin Capitalization Rules and No Controlled Foreign Companies Rules under the current law - Anti-abuse provisions: GAAR provisions rules to be made to make it applicable to investments on or after 1 April 2017



## Tax Incidence

- Global income taxable for residents. Non resident taxable on all incomes received/sourced in India
- Beneficial corporate tax rates for small / new set-up and progressive rate for individuals
- Capital gains subject to special tax treatment under domestic tax laws

## Tax Withholding

- Tax withholding obligation exists on all payments chargeable to tax in India - Defaults in withholding impacts deductibility of expenses and attracts interest and penalties

## BEPS

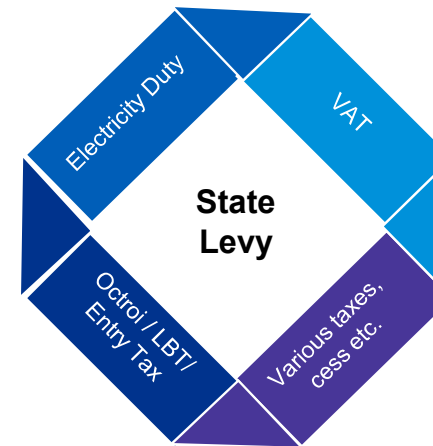
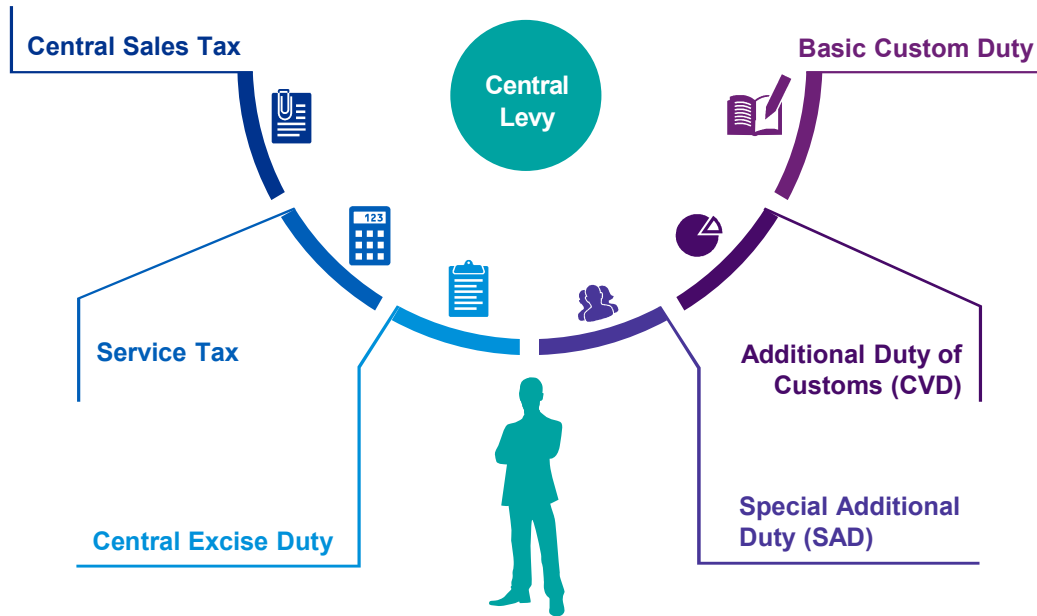
- The Indian Government introduced BEPS documentation norms through Finance Act 2016 to align with OECD BEPS guidelines which provides for Country by Country Report (CbCR), Master File (MF), Local File (LF)
- In order to tax e-commerce transactions of non-residents, an "Equalization Levy" in line with the recommendation of the OECD BEPS Action Plan 1 has been introduced by Finance Act 2016

## Treaty Network

- Double taxation avoidance agreements with over 85 countries of the world

# Indirect tax Regime

## - Snapshot of tax rates



Indirect Tax – Current Regime	
BCD	10%
CVD	12.50 %**
SAD	4%**
Excise Duty	12.50%**
Service Tax	15%*
Central Sales tax	2 % – 15 %
Value Added tax	5% – 15 %
Entry Tax/Octroi/LBT	1% – 15 % *** or fixed rate per unit

■ Cost
 ■ Pass through

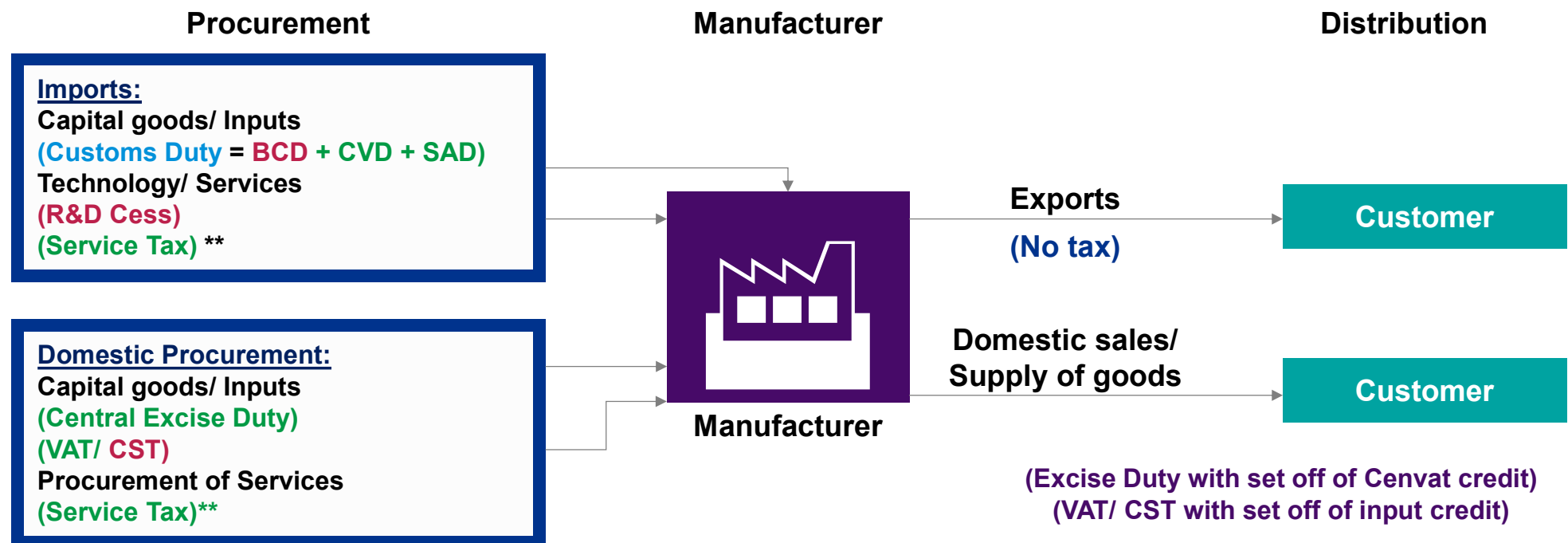
\* The credit of Swachh Bharat Cess (SBC) is not available and Krishi Kalyan Cess (KKC) is available to Service Providers only

\*\* Excise duty, CVD and SAD credit available to manufacturer, while SAD refund available only to trader

\*\*\* Rate depends on the State / Municipality where the goods are consigned

# Indirect Tax Regime - Present

## - Flow and credit mechanism for a manufacturer



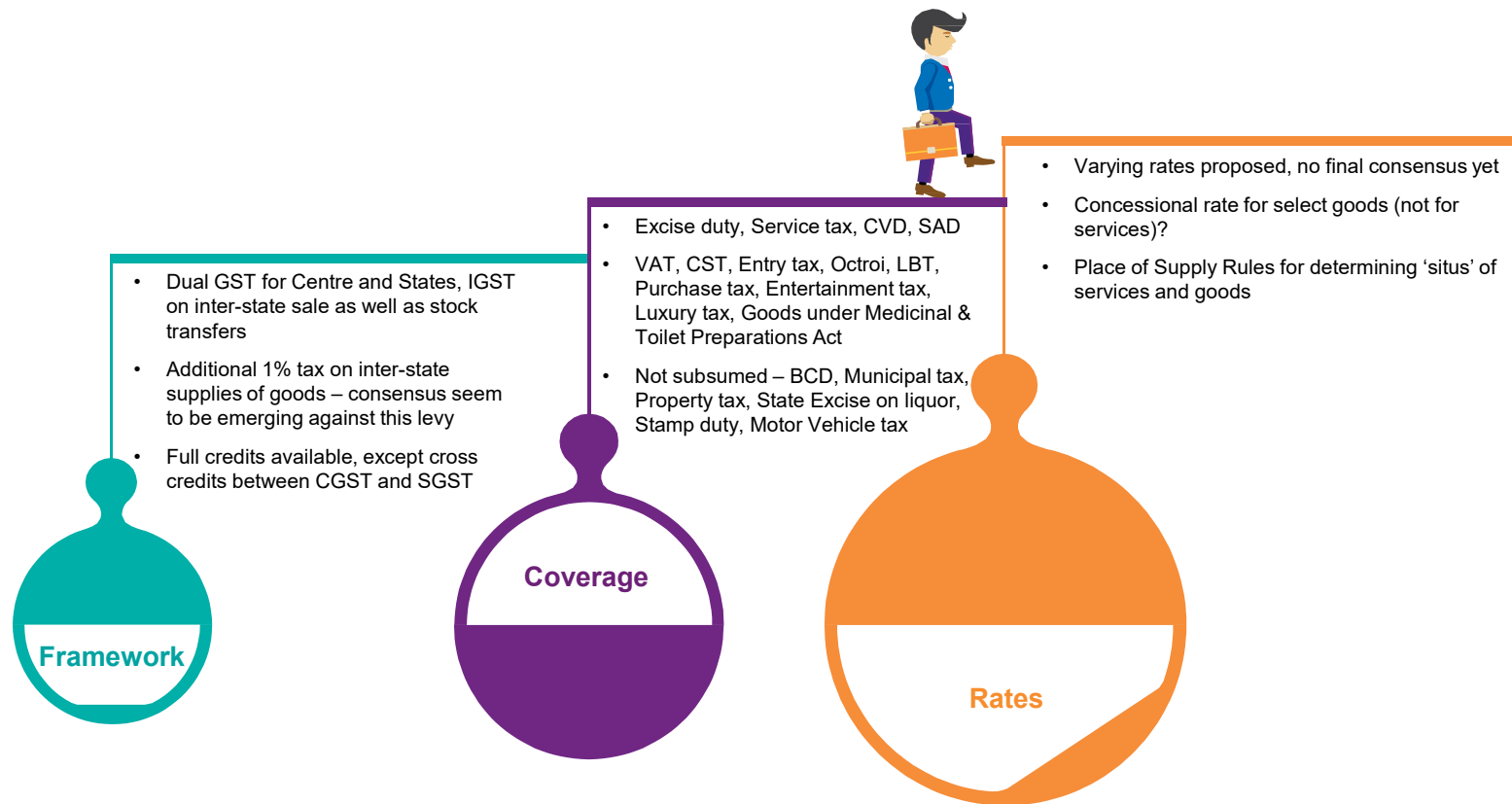
Taxes in green are creditable (available for set-off), Taxes in red are not creditable and a tax cost

\*\* Swachh Bharat Cess and Krishi Kalyan Cess not available for set-off

BCD - Basic Customs Duty, CVD - Countervailing Duty, SAD - Special Additional Duty, VAT- Value Added Tax, CST – Central Sales Tax



# Indirect Tax Regime - Proposed structure - GST





# Thank You

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