

## 4 years of India GST: Key developments and the road ahead The Dbriefs Indirect Tax series

Nidhi Lukose / Madhava Yathigiri  
23 September 2021

# Agenda

- Introduction
- Key policy amendments
- Technological advancements
- Indirect tax landscape
- What lies ahead
- Questions and answers

# Introduction

# Four years of GST

## The journey so far

- GST implemented into the Indian indirect tax framework from 1 July 2017 through a special session convened by Parliament

### Primary objectives

One nation one tax

Ease of doing compliances

Seamless flow of Input tax credit

### Overview

One common portal for GST compliance vis-à-vis multiple portals in the pre- GST regime

Increased emphasis on technology (e-invoicing, e-way bill, QR code etc.)

Emphasis on reduction of tax evasion / frauds

Increase in tax base

Robust input tax credit reconciliation mechanism

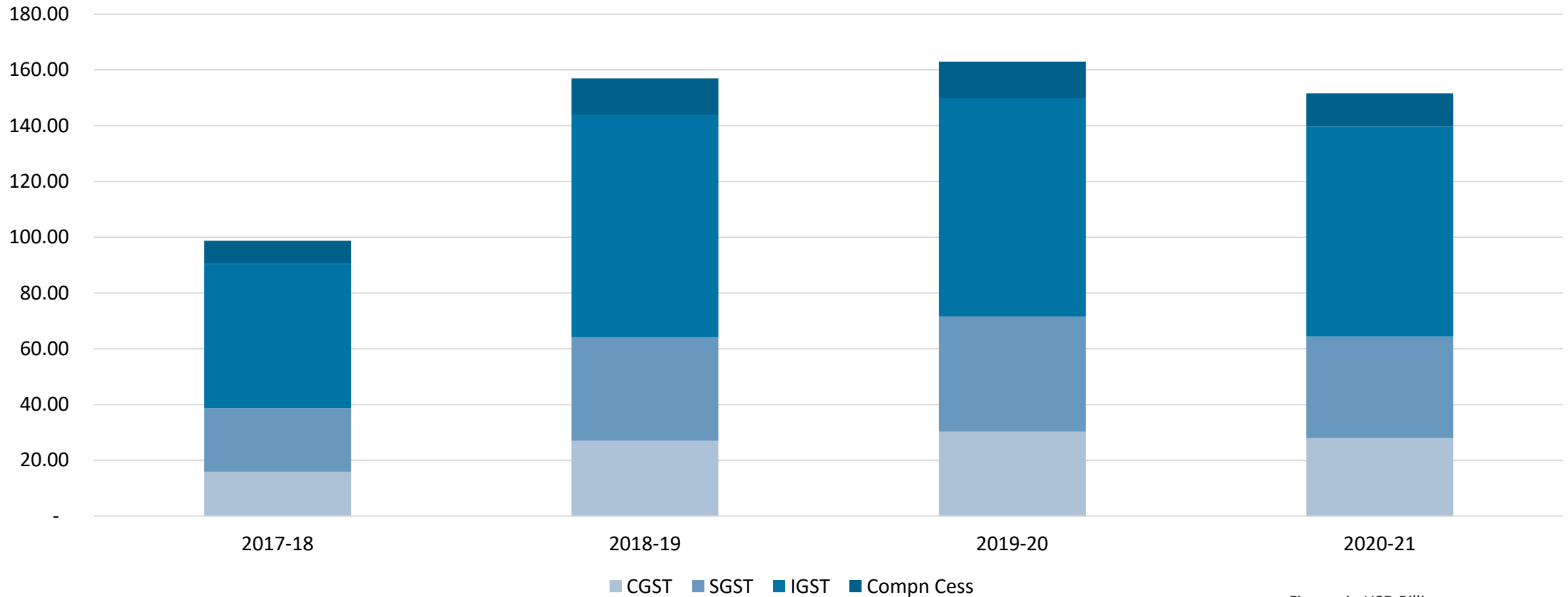
Decrease of overall cost of doing business

# Revenue collection trend

## Annual trend

FY	USD billion	Trend
2017-18	98.75	-
2018-19	156.98	↑
2019-20	162.95	↑
2020-21	151.57	↓
<b>Total</b>	<b>570.25</b>	

Annual GST Collection



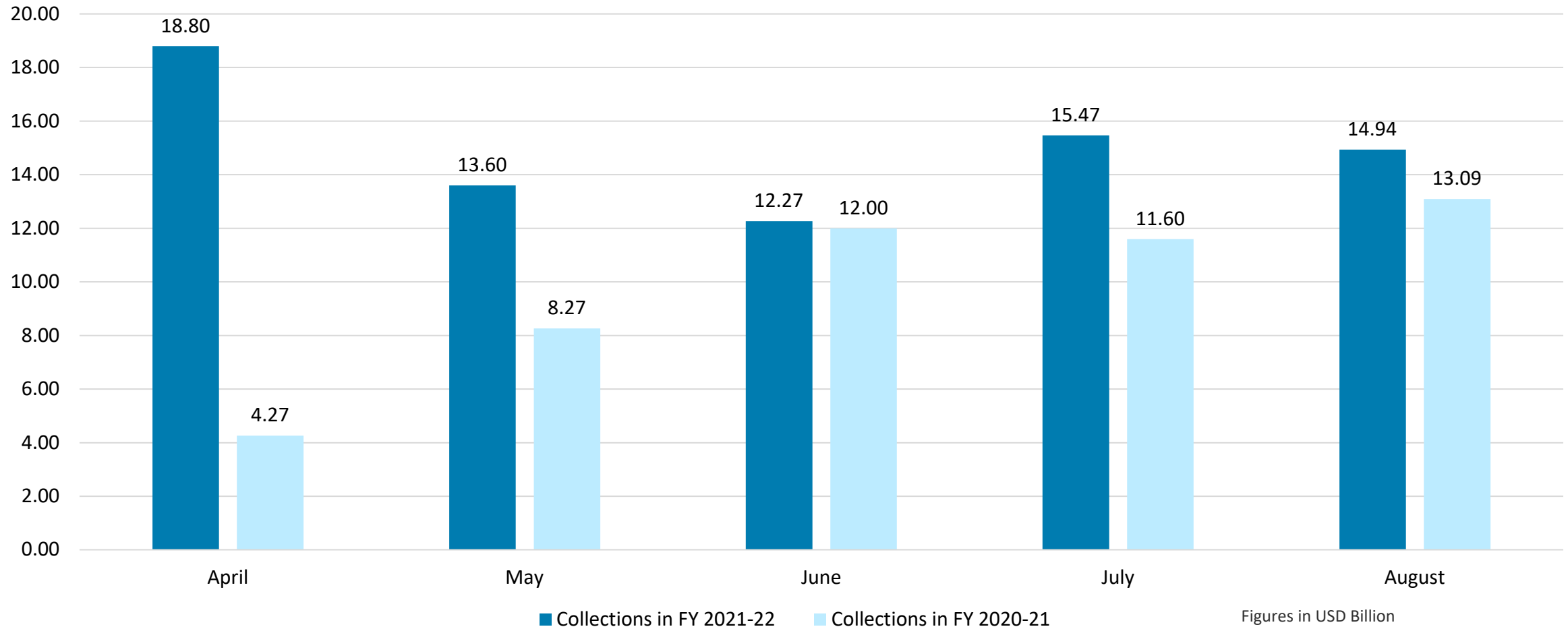
Figures in USD Billion

Source: PIB press release

© 2021. For information, contact Deloitte Touche Tohmatsu Limited.

# Revenue collection trend

## Impact of COVID-19 and subsequent recovery



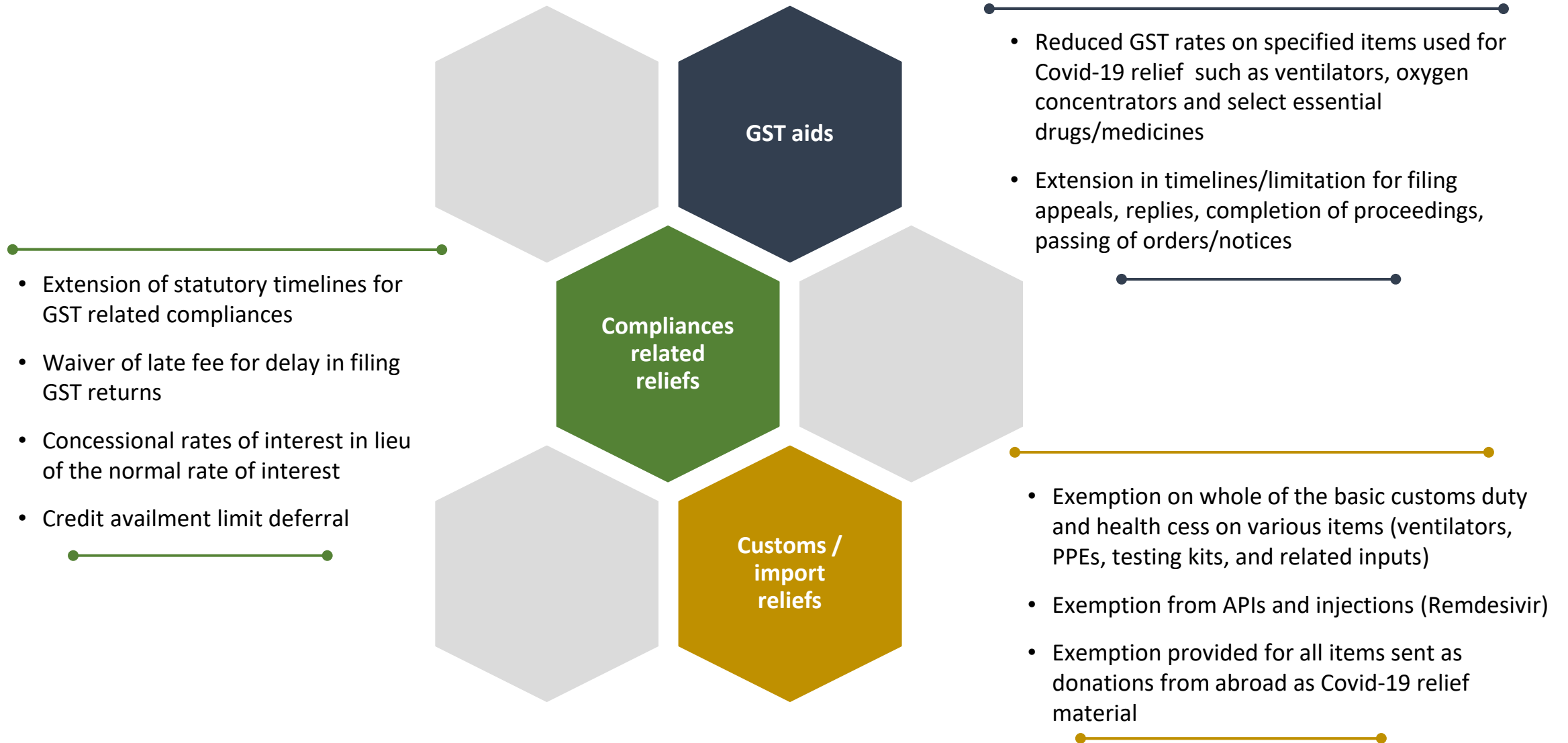
Source: PIB press release

© 2021. For information, contact Deloitte Touche Tohmatsu Limited.

# Key policy amendments

# Key policy amendments

## Covid-19 related reliefs





# Key policy amendments

## Other amendments

### Policy amendments – simplification of compliances/procedures

- External audit certification requirement relaxed
- Removal of annual return requirement for small taxpayers

Retrospective amendment made providing relief in the form of levy of interest on a net cash basis

Introduction of Quarterly Return Scheme for small taxpayers

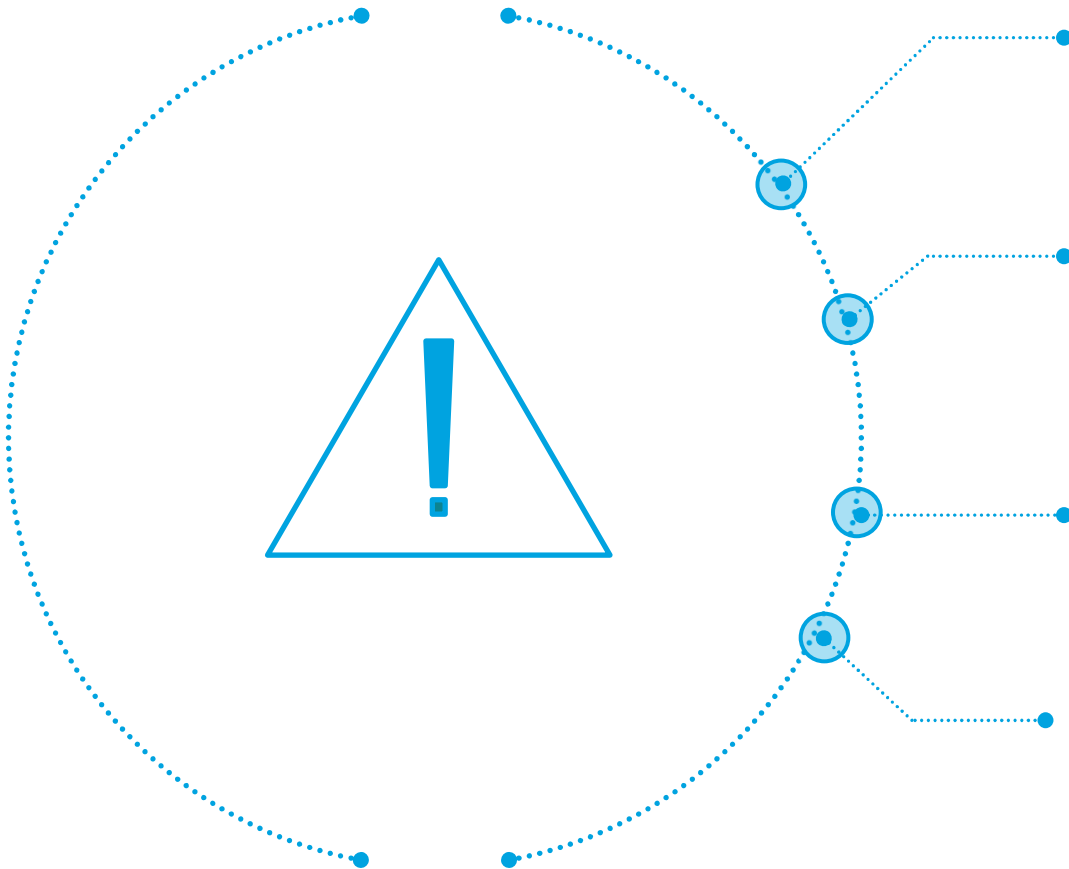
Upgradation of technology to allow auto-population of returns

Increased automation of refund procedure to reduce the processing time

# Technological advancements

# BIFA

## Business Intelligence and Fraud Analytics Tool



- **Objective**

- Detection of tax evasion
- Statistical insights for policymakers
- Revenue Assurance



- **Date source for the solution**

- Registrations, returns, payments, refunds
- Enforcement (raid/survey) and audits



- **Focus areas**

- Gap in data furnished by taxpayers – variance analysis
- Anomaly Detection – find outliers
- Mapping of risk score – registration, refund and overall risk
- Network detection – entire supply chain and related party analysis



- **Mitigation strategy**

- Robust and reconciled backup of the details furnished
- Time series analysis
- Periodic health-check required to monitor transactions and arrange suitable explanations to variance in customary data trends
- Regular oversight required on entire business ecosystem

## Polling question 1

Basis increased availability of tech tools and automated reconciliation options with tax departments, are you assessment/audit ready?

- Yes
- No
- Don't know/not applicable

# Technological advancements

## E-invoicing



- E-invoice scheme implemented from 01 October 2020. All taxpayers, currently above aggregate annual t/o > USD 6.7 Million in any of the past three financial years, within ambit
- E-invoicing system envisages transmission of document to a central portal i.e., Invoice Registration Portal (IRP) for authentication to render the invoice as a valid invoice
- IRP would generate a unique Invoice Reference Number (IRN), digitally signed e-invoice and generate a QR code for each uploaded record
- Documents covered under e-invoicing include - invoice, credit note, debit note, and any other document as required by law (including export invoice)

### Key features



Invoice compliant invoice is a valid document for availing credit by the recipient



Reporting of einvoice helps in reduction of Input Tax Credit (ITC) reconciliation effort



E-Invoices are pre-authentication of GSTINs and check for duplication of invoice(s)

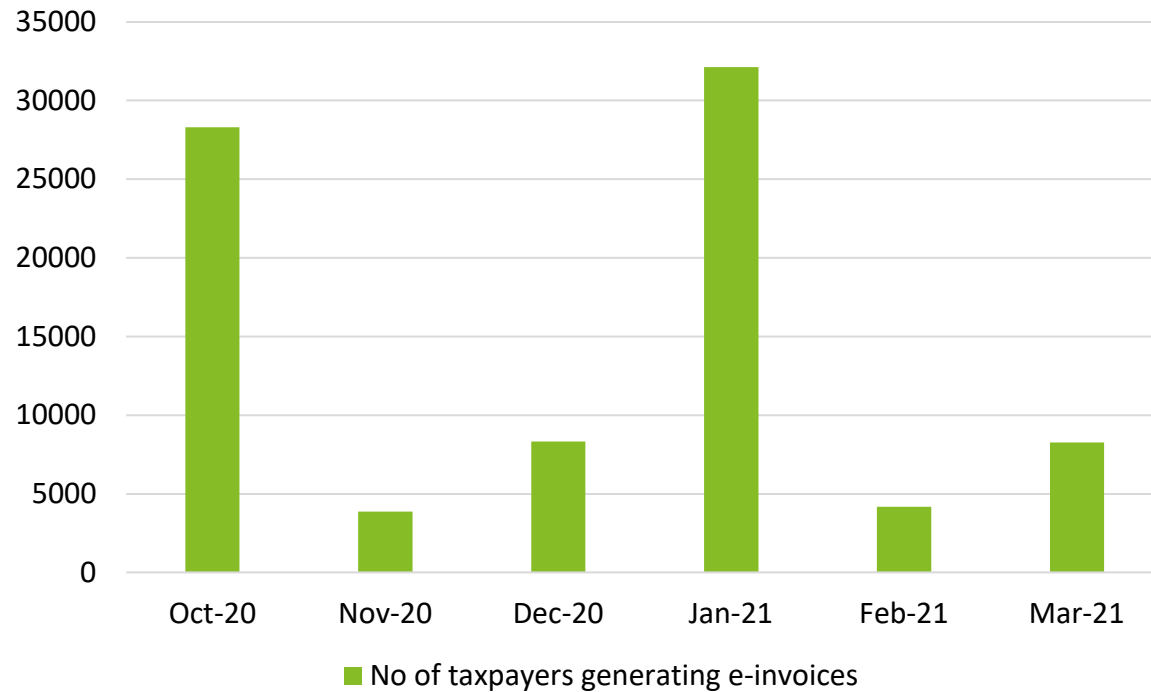


Reporting of einvoice ensures transparency of functioning of the business and reporting

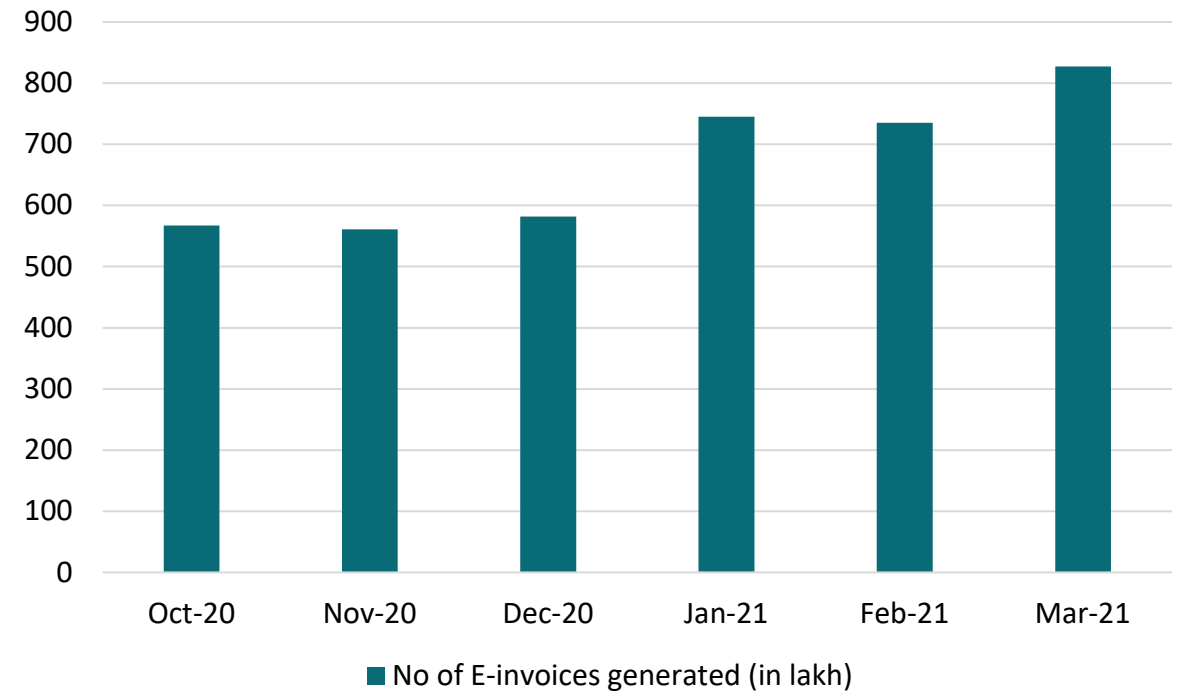
# Technological advancements

## E-invoicing

### MoM taxpayer enrolment



### MoM e-invoice generated

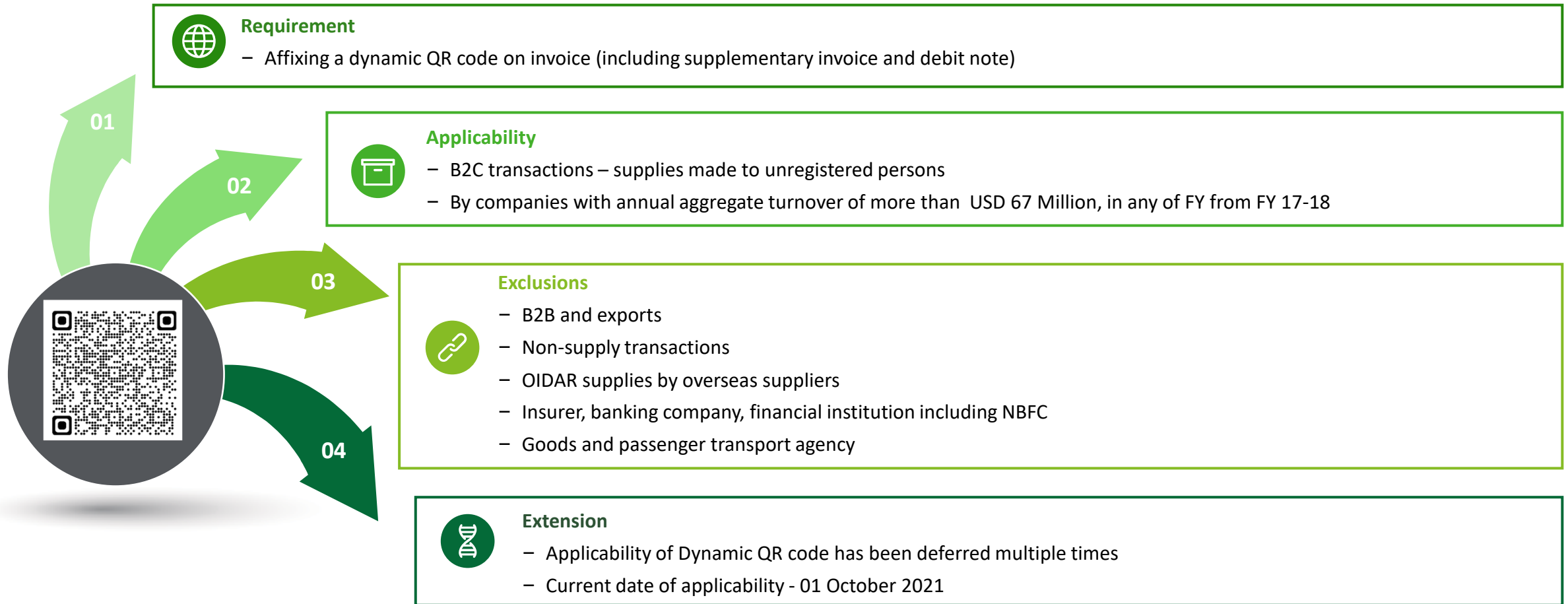


## Polling question 2

Have you analyzed and verified whether your vendors (with t/o> USD 6.7 million) are issuing e-invoice compliant invoices – to strengthen your AP process?

- Yes
- No
- Don't know/not applicable

# Dynamic QR code



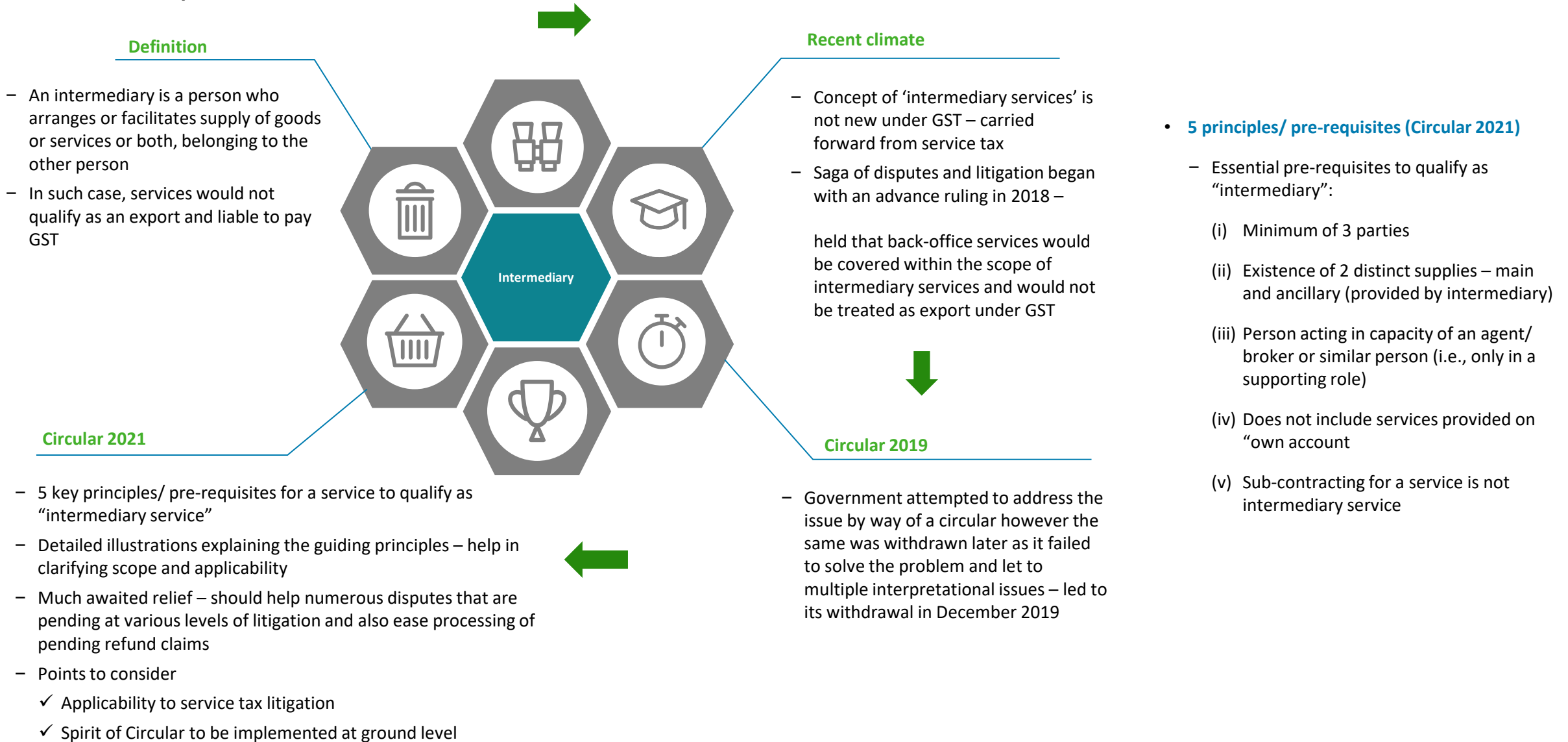
- **Contents** – (a) Supplier GSTIN (b) Supplier UPI ID (c) Payee’s bank a/c no. and UPI ID (d) Invoice number and invoice date (e) Total invoice value (f) GST amount along with break-up



# Indirect tax landscape




# Key topics

## Intermediary



## Key topics

### “Establishment of distinct person”

 Issue	 Recent climate	 Circular issued – matter settled
<ul style="list-style-type: none"><li>• Services such as accounting services, research and development services etc., (illustrative) are supplied by subsidiary in India to its overseas parent entity located outside India on a P2P basis</li><li>• To qualify as export, one of the conditions is that <b>supplier of services in India should not merely be an establishment of recipient</b> located overseas</li><li>• Branch office/liaison office/representational office of a foreign company in India is considered as an establishment - services provided by such offices in India to the foreign company are not considered as exports under GST</li></ul>	<ul style="list-style-type: none"><li>• CBIC in its FAQ release (question no. 32) had clarified that Indian subsidiary and foreign company are separate legal entities and not mere establishments</li><li>• Despite this clarification and judicial precedent, disputes continue at the ground level leading to denial of refund claims and demands being raised on the entire export turnover of companies operating in this space</li><li>• Trend of increased litigation in the last few months</li></ul>	<ul style="list-style-type: none"><li>• Clarified that a Company incorporated in India and a body corporate incorporated by or under the laws of a country outside India, are separate persons under CGST Act</li><li>• Two separate persons would not be considered as “<b>merely establishments of a distinct person</b>”</li><li>• Significant relief to taxpayers/exporters whose export positions have been challenged and benefits denied</li></ul>

# Key issues

## Treatment of Free of Cost (FOC) transactions

GST aspects



### Related party FOC supplies

- Under Service tax, activities undertaken between related parties without consideration – not taxable
- Under GST, FOC supplies between related parties are deemed to be ‘supply’ and GST is to be remitted on such transactions
- No conclusive material on what qualifies to be an “FOC supply” under either service tax or GST regime

### Types of FOCs

- Typically, overseas entities may provide following services to group entities in India for which, no consideration is charged
  - Software or IT services provided to Indian company for providing services back to overseas entities or to Indian customers
  - Legal services, tax service, cash flow management, accounting, auditing and budgetary control
  - Consolidation of reports/financials, audit of accounts of Indian affiliate
  - Guidance with respect to quality control, training to Indian affiliates either under cost plus arrangements or distribution arrangements

### Points to ponder

- To analyze whether the recipient is commercially exploiting such transactions received from the supplier of service
- If such activities qualify to be a “supply”, then assign a value for the said activity for discharging GST
- Interplay with tax positions under transfer pricing and corporate tax should be examined

## Polling question 3

Have you been facing valuation/taxability issues around FOC imports?

- Yes
- No
- Don't know/not applicable

# Changing landscape

## E-commerce sector



### Nascent stage under Indirect tax laws

- E-commerce, one of the fastest growing sectors in India
- E-commerce sector and related business models are relatively new for Indian indirect tax landscape



### Dedicated tax provisions and compliance requirements

- E-commerce aggregators required to collect and deposit TCS on supplies made through them
- Onus also on e-commerce operator regarding liability of payment of tax for certain supplies made through its portal
- Specific provisions/procedures for e-commerce operators with respect to registration, compliance and tax collection methodology



### Prevalent issues

- Instances of suspensions/cancellation of registrations
- Blocking of tax credits without any intimation and proceedings, and without valid reasons
- Increase in summons/investigations

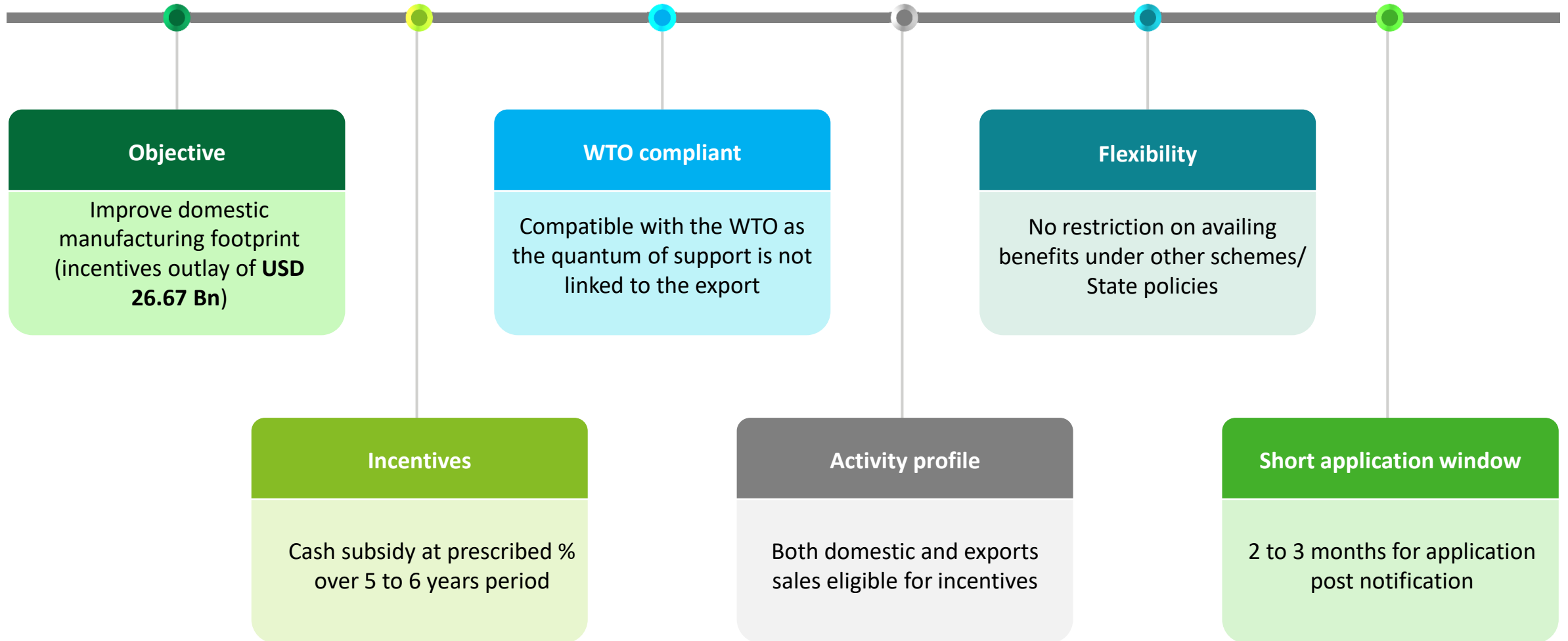


### Advocacy on issues

- Sharpened advocacy and representation on:
  - a) Doing away with mandatory registration for small sellers (or composition scheme for small sellers)
  - b) Issues relating to PPOB/ APOB;
  - c) Traditional set up requirements of officers
  - d) Cancellation/suspension of GSTIN, even for genuine taxpayers, without taking into account compliance status, quantum of taxes paid, scale of operations, etc.

# Changing landscape

Incentive schemes – impetus on manufacturing – Atmanirbhar (self-reliant) incentive – **PLI**



\*Incentives and modalities vary for each scheme

# Changing landscape

## RodTEP



### Refund of:

- Duties/taxes/levies, borne on the exported product including prior stage cumulative indirect taxes on goods and services used in production of the exported product; and
- Such indirect duties/taxes/levies in respect of distribution of exported products



The scheme is **effective for exports from 1 January 2021**. The guidelines and rates for RoDTEP scheme have been issued recently



Scheme would be implemented through **end-to-end digitization of issuance of rebate amount** in the form of transferable duty credit/electronic scrip (e-scrip) which will be maintained in an electronic ledger by CBIC; only for payment of BCD



Presently RoDTEP scheme is **not available on goods manufactured in Export Oriented Units, Customs Bonded Warehouses**, units in **Special Economic Zones**, export made under **Advance Authorization** etc., which will create issues in smooth functioning of these schemes



Prima facie rates under **RoDTEP appears to be lower in comparison to MEIS scheme**, i.e., where 2% MEIS benefit was available on certain product, has now RoDTEP benefit in the range of 0.3% to 1%.



# Changing landscape

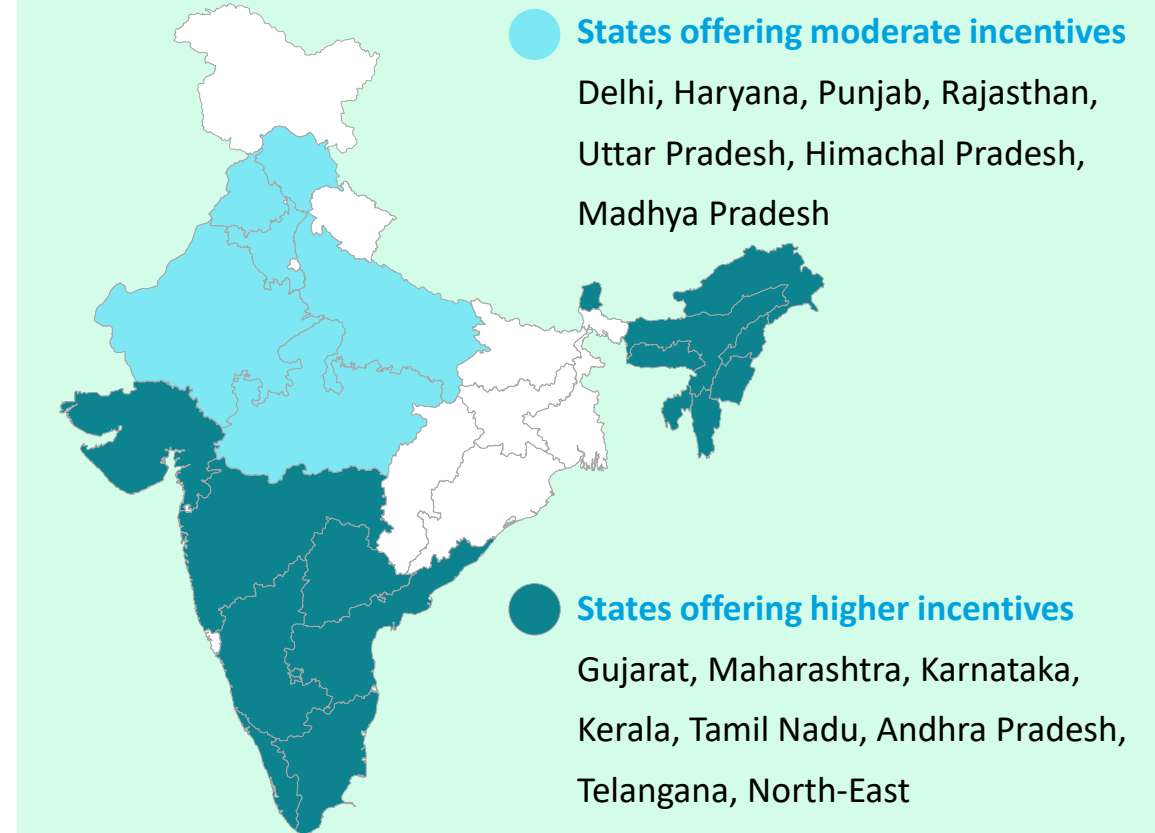
## Incentive Schemes – impetus on manufacturing – Atmanirbhar (self-reliant) incentive – **State incentives**

### Key benefits

- **Fiscal**
  - Capital subsidy linked to investment outlay
  - Gross or Net GST refund on supply of goods or services
  - Exemption or concession from stamp duty on transfer or lease of land
  - Concessional rates of power tariff
  - Concessional land
  - Interest free loans
  - Sector specific policies
- **Non-Fiscal**
  - Single window clearance for permits
  - Infrastructure benefits viz roads, water supply, IT infrastructure etc.

**Most of the above benefits open to negotiation by the government in large investment projects**

### Demographic overview



### Key drivers for incentives negotiation

- Economic activity
- Status of the project (MSME, large, mega, ultra mega, etc.)
- Quantum of investment
- Investment period
- Employment generation
- Location or district of proposed operations

# What lies ahead

# What lies ahead/key Initiatives

## NAAAR (National Appellate Authority for Advance Ruling)



- The provisions for setting up the NAAAR were introduced vide Finance Act 2019
- The NAAAR will act as an appellate forum for taxpayers to resolve conflicting rulings (on any issue) passed by various state advance ruling authorities.
- Expected that the NAAAR will be notified and set up next year to make the advance ruling mechanism more effective and consistent



## Commencement of GST audits

- With completion of 4 years and legacy matters on the brink of conclusion, notices are being issued to various taxpayers for commencement of audits
- GST audit being undertaken using data analytics and AI generated reports



## Expansion of GST scope to include petroleum products and electricity

- In the coming period, GST Council is also expected to consider the long-pending ask of the industry to bring petroleum products and electricity under the GST ambit
- Both the sectors are high-growth segments of the Indian economy
- GST Council is anticipated to consider their demands and issues in deciding upcoming GST policies
- Such measures not introduced in the recently concluded GST Council meeting

# Question and answers

Thanks for joining today's webcast.

You may watch the archive on PC or mobile devices via Apple Podcasts, RSS, YouTube.

Eligible viewers may now download CPE certificates. Click the CPE icon at the bottom of your screen.



Join us 5 October at 2:00 PM SGT (GMT+8) as our  
Corporate Income Tax series presents:

## **Compare and contrast software copyright treatment in Australia and India**

For more information, visit [www.deloitte.com/ap/dbriefs](http://www.deloitte.com/ap/dbriefs)

## Contact information



**Nidhi Lukose**

Tax Senior Director

Deloitte India

[nilukose@deloitte.com](mailto:nilukose@deloitte.com)



**Madhava Yathigiri**

Tax Partner

Deloitte India

[ymadhava@deloitte.com](mailto:ymadhava@deloitte.com)



#### **About Deloitte**

Deloitte refers to one or more of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms, and their related entities (collectively, the “Deloitte organization”). DTTL (also referred to as “Deloitte Global”) and each of its member firms and related entities are legally separate and independent entities, which cannot obligate or bind each other in respect of third parties. DTTL and each DTTL member firm and related entity is liable only for its own acts and omissions, and not those of each other. DTTL does not provide services to clients. Please see [www.deloitte.com/about](http://www.deloitte.com/about) to learn more.

This communication contains general information only, and none of Deloitte Touche Tohmatsu Limited (“DTTL”), its global network of member firms or their related entities (collectively, the “Deloitte organization”) is, by means of this communication, rendering professional advice or services. Before making any decision or taking any action that may affect your finances or your business, you should consult a qualified professional adviser.

No representations, warranties or undertakings (express or implied) are given as to the accuracy or completeness of the information in this communication, and none of DTTL, its member firms, related entities, employees or agents shall be liable or responsible for any loss or damage whatsoever arising directly or indirectly in connection with any person relying on this communication. DTTL and each of its member firms, and their related entities, are legally separate and independent entities.

© 2021. For information, contact Deloitte Touche Tohmatsu Limited.