GOODS AND SERVICE TAX

SUBJECT CODE: DCM 31

UNIT – I

Meaning of Indirect Taxes:

An indirect tax is collected by one entity in the supply chain, such as a manufacturer or retailer, and paid to the government; however, the tax is passed onto the consumer by the manufacturer or retailer as part of the purchase price of a good or service. The consumer is ultimately paying the tax by paying more for the product."

Understanding an Indirect Tax

Indirect taxes are defined by contrasting them with direct taxes. Indirect taxes can be defined as taxation on an individual or entity, which is ultimately paid for by another person. The body that collects the tax will then remit it to the government. But in the case of direct taxes, the person immediately paying the tax is the person that the government is seeking to tax.1

Excise duties on fuel, liquor, and cigarettes are all considered examples of indirect taxes.2 By contrast, income tax is the clearest example of a direct tax, since the person earning the income is the one immediately paying the tax. Admission fees to a national park are another clear example of direct taxation.

Regressive Nature of an Indirect Tax

Indirect taxes are commonly used and imposed by the government in order to generate revenue. They are essentially fees that are levied equally upon taxpayers, no matter their income, so rich or poor, everyone has to pay them.

But many consider them to be regressive taxes as they can bear a heavy burden on people with lower incomes who end up paying the same amount of tax as those who make a higher income.3

For example, the import duty on a television from Japan will be the same amount, no matter the income of the consumer purchasing the television.4 And because this levy has nothing to do with a person's income, that means someone who earns $25,000 a year will have to pay the same duty on the same television as someone who earns $150,000; clearly, a bigger burden on the former.

There are also concerns that indirect taxes can be used to further a particular government policy by taxing certain industries and not others. For this reason, some economists argue that indirect taxes lead to an inefficient marketplace and alter market prices from their equilibrium price.5

Common Indirect Taxes

The most common example of an indirect tax is import duties. The duty is paid by the importer of a good at the time it enters the country. If the importer goes on to resell the good to a consumer, the cost of the duty, in effect, is hidden in the price that the consumer pays. The consumer is likely to be unaware of this, but they will nonetheless be indirectly paying the import duty.4

Essentially, any taxes or fees imposed by the government at the manufacturing or production level is an indirect tax.6 In recent years, many countries have imposed fees on carbon emissions to manufacturers. These are indirect taxes since their costs are passed along to consumers.7

Sales taxes can be direct or indirect. If they are imposed only on the final supply to a consumer, they are direct. If they are imposed as value-added taxes (VATs) along the production process, then they are indirect.2

What is Indirect Tax?

The indirect taxes are the levies made by Central and State government on the expenditure, consumption, services, rights and privileges yet not on the property or income. This includes duties of customs paid on imports, as well as excise duty paid on production and value added tax on certain stages of production and distribution of products etc.

All these comprise to make indirect taxes since they are not directly applicable on the consumer’s income. Considering that indirect taxes are less as compared to income tax due to invisibility on pay slip, various state agencies tend to raise these taxes so as to generate higher revenue. Indirect tax is often also known as the consumption tax, since they are a regressive measure in application, and not rooted in paying ability.

Types of Indirect Taxes

Goods and Services Tax:

The law on GST was brought to action in July 2017, with 17 indirect taxes under its purview. All major services and service tax has been subsumed under the GST-

On the state level:

- State excise duty
- Additional excise duty
- Service tax
- Countervailing duty
- Special additional custom duties

At the central level, it covers:

- Sales Tax
- Entertainment Tax
- Central sales Tax
- Octroi and entry Tax
- Purchase Tax
- Luxury Tax
- Taxes on lottery gambling and betting
- Levies on products outside GST purview:

Taxes on products that use alcohol and petroleum products.

Sales Tax:

The tax levied on the sales of goods. The Union Government imposes this sales tax on the Inter-State sale, while the sale tax on Intra-state sale is levied by the State Government. This tax has a three-segment bifurcation along

- Inter-State Sale
- Sale during import/export
- Intra-State Sale

Service Tax:

Service tax are indirect indices which taxpayers pay on various paid services. These paid services include-

- Telephone
- Tour operator
- Architect
- Interior decorator
- Advertising
- Health centre
- Banking and financial service
- Event management
- Maintenance service
- Consultancy service
- Service tax interest is 15%

Value Added Tax:

The state governments collect this category of taxes. For instance, when a person buys a product that it is important, we pay an additional tax known as Value Added Tax. Paid to the government, the VAT has a rate that is composed along nature of item and respective state of sale.

Custom Duty and Octroi Tax:

Levied upon goods imported into the country from abroad. The tax of custom duty is paid at the entry port of a country such as the airport. The rate of taxation is variable as per product's nature. Octroi is charged upon the goods entering a municipal zone.

Excise Duty:

Excise duty is an indirect tax form that is charged on the goods produced inside a country. This duty is different from the custom duty. This is also known as CVAT, or Central Value Added Tax.

Anti-Dumping Duty:

This is levied upon goods that are exported at a rate less than the standard rate by the nation to some other nation. This tax is levied upon by the Central government.

Newly Implemented Indirect Tax (GST)

GST is a highly regarded tax system for the country. It is amongst the latest indirect tax systems operating under the constitution of India. The importance of this taxation regime lies in the fact that it covers under itself various other indirect taxes operating inside the country. This tax regime has been brought in mark a change in the economy of the country and to lessen the cascading effects from tax duties that deliver overall market inflation.

Features of Indirect Taxes

- Payment and Tax Load - The service provider makes payment of indirect taxes and this is transferred to a final consumer.
- Liability of Tax – Here the seller or service provider makes payment on indirect taxes which are transferred to final consumer.
- Nature – Initially, indirect taxes used to have a regressive nature. Yet, now with the coming of GST, they have become quite progressive.
- Evasion - Indirect taxes are hard to evade due to direct implementation through goods and services.
- Investment and Saving - Most indirect taxes are largely growth-oriented since they de-motivate the consumer and encourage savings.
- Social Coverage - The indirect tax has a much larger coverage since their charge falls upon each individual buying products or services.

Advantages Of Indirect Taxes

- Contribution by the poor

Poor folk are outside the purview of direct taxes and this is the only way that this section of the society contributes. This goes along the basic principle of giving every person a share towards the growth of the country using state governments.

- Convenient

Taxpayers are saved from indirect taxes since they are paid while buying things. Also, it is easy for state authorities to gather this tax since they are direct upon collection from the factories / ports, saving effort and time.

- Easy collection

Gathering these taxes is an automatic function performed when purchasing and selling goods and services.

What Is a Constitutional Provision?

The Constitution of the United States is the law upon which all other American national laws are based, and for this reason, it’s considered a foundational law. Most nations have a constitution of some kind. Any law that has not been derived from statutory or common law, but instead is contained within the founding laws, is considered a constitutional provision.

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Constitutional Provisions Meaning

A constitutional provision is a specifically designated rule/law within a nation or state’s constitution. Provisions cannot be changed through court or common law, regardless of the circumstances that may arise. Instead, constitutional principles are a basic blueprint of how the country or state, governed by that constitution, will be run. If provisions are to be changed, they must undergo a specific process, which requires approval by both the U.S. Congress and ratification by the states.

Consider, for instance, the key provisions in the first article of the U.S. Constitution. These deal with legislative powers. Section 8, Clause 1, of the first article speaks to the right of Congress to collect taxes, duties, imports and excises. In addition, Congress is tasked with paying debts and providing for the common defense and the general welfare of the nation.

This is a key constitutional provision, and it cannot be changed or altered by a court of law unless the process outlined in the Constitution is followed. Regardless of which case law may arise that's tangential to this provision, the facts of the provision itself will never be altered. Congress will always have the right to collect taxes, pay debts and provide for the common defense.

Examples of Constitutional Provisions

The Constitution outlines specific provisions for a variety of areas, including the establishment of the three major branches of the United States government. Article I of the Constitution establishes Congress, as well as its main powers. For instance, this provision allows for a House of Representatives and a Senate, and it allows them to regulate commerce with other nations. In addition, Article I affords Congress the right to create legislation for the entire country.

The constitutional provisions outlined in Article II establish the presidency and the executive branch. The president is authorized to serve as the Commander in Chief and to direct the military, as well as to grant pardons. Article III sets up the Supreme Court and the remainder of the judicial branch.

Article V of the Constitution is very important among constitutional provisions, as it outlines the procedures that must be followed to amend the Constitution. This Article states that, whenever two-thirds of the Congressional members agree, an amendment to the Constitution may be proposed. Once this has been passed, the amendment must be ratified by three-quarters of the legislatures of all the states in the nation.

Amending Constitutional Provisions

In almost all situations, constitutional provisions cannot be amended, altered or removed. Some exceptions exist, however. According to this amendment process, specific rules must be followed as outlined in the Constitution itself.

For a constitutional provision to be amended, it must be approved (also known as ratified) by two-thirds of the Congress (in both the House and the Senate). Then, it needs to be ratified by the states. At least three-fourths of the states must agree to the amendment in a vote. The idea behind making the amendment process so difficult is to make it very difficult to change the foundational laws of the country.

The amendments to the Constitution, including the first 10, are collectively known as the Bill of Rights. These amendments cover issues like freedom of speech, freedom of the press and freedom of religion. Subsequent amendments to the Constitution deal with abolishing slavery, giving women the right to vote and the two-term limit for U.S. presidents. There are currently 27 amendments to the Constitution.

What are the advantages constitution?

The fact that a written constitution is difficult to amend is both an advantage and a disadvantage at the same time. Written constitution are mostly rigid, with cumbersome amendment procedure, which leads to the problem of how to easily amend it to make it suit changing needs and time.

The Constitution protects individual freedom, places power in the hands of citizens, limits the power of the government and establishes a system of checks and balances. It also allows to amend it, as the people like, through parliamentary process.

Advantages of a rigid constitution include:

1 It is a source of stability in administration

2 It maintains continuity in administration

3 It cannot become a tool in the hands of the party exercising the state’s power at a particular time.

4 It prevents the autocratic exercise of powers by the government

5 It is ideal for a federation

What are the disadvantages of the Indian constitution?

An uncodified constitution has the advantages of elasticity, adaptability and resilience. A significant disadvantage, however, is that controversies may arise due to different understandings of the usages and customs which form the fundamental provisions of the constitution.

- It does not include any specific rights to women. in both the Fundamental rights and the DPSPs.
- There is was no provision for reservation for women. in elected bodies till the 73rd amendment 1992.
- Women were underrepresented in free India from.
- There is no mention about other forms of gender.

So, our federalist form of government has several advantages, such as protecting us from tyranny, dispersing power, increasing citizen participation, and increasing effectiveness, and disadvantages, such as supposedly protecting slavery and segregation, increasing inequalities between states, states blocking national …

The major differences between direct tax and indirect tax are as follows −

Direct Tax	Indirect Tax
• It is the tax on income/profits. • Individuals, firms, companies pay direct taxes. • It is applicable to taxpayer. • It is burden on individual. • It can’t be transferred to others. • It covers an entity/individual. • It has high administrative cost.	• It is the tax on goods and services. • End consumer of service/goods taxpayers. • It is applicable at each stage production/distribution chain. • It is burden on consumer. • It can be transferred to others. • It has wide coverage.

• Tax evasion is possible. • It includes good allocative effects (less burden). • It may reduce inflation. • It results in lesser savings, investments demoralising. • The mode of progress is progressive. • It is difficult to collect taxes. • It includes income tax, wealth tax and corporate tax.	• It has less administrative cost. • Tax evasion is not possible. • It may cause increase in inflation. • It is growth oriented. • The mode of progress is regressive. • It is easy to collect taxes.

A Brief History of Indirect Taxation in India

When the British left India in 1947, they left India with a structure, especially that of revenue, which hasn't completely changed till now. Also there were reasons why they implemented this structure.

With the advent of Industrial Revolution in the early 1800's, European markets were inundated with machine-made material with clothing fabric being the most prominent. The inundation was so intense that selling manufactured items was becoming impossible due to market saturation. The British then came up with the idea of choosing India as their new market. But India was already self-sufficient in clothing. As the British introduced machine made clothes in India, prices became a major problem for them as their product were costlier than Indian products due to obvious reasons. This made them to come up with idea of imposing a tax known as "Excise Duty" on goods manufactured in India. This made the price of imported goods to come at par with Indian goods and as expected Indian Khadi industry suffered and incurred heavy losses. This led to widespread "Swadeshi Movement" led by Gandhiji in the early 1900's.

After India got independence in 1947, funds was a major problem for the government. The whole network of governing officers required their salaries for which funds were required. As a result "Excise Duty" was not abolished but an additional tax known as "Customs Duty" was imposed on imported goods to provide protection to Indian industries across various sectors. But gradually in the 1960-1970's it was observed that the Indian Technology had become obsolete as compared to their foreign competitors. The high customs duty had become a protective wall incentivizing low production, obsolete technology although there were other reasons too like license raj etc.

All the above scenarios led India ultimately to a scenario where India doesn't had Foreign Reserves even to support 3 weeks to imports. International Monetary Fund (IMF) imposed liberalization as a pre-requisite for providing a bail-out to India which was reflected in the Budget presented by the then finance Minister Mr. Man Mohan Singh. Liberalization measures also included reduction of import tariffs or customs duty in the coming years which led to development of technology within India. Currently the excise duty hovers around 12.5% and customs duty averages around 11.9% with minimum of 0% to a maximum of 150%. Ultimately this is seen to equalize for a highly competent economy.

Goods and Service Tax Act 2016:

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Goods and Service tax Act, 2016 is a very long awaited reform which will change the fundamental of Indian taxation. The state wise VAT, the central excise, the service tax, all will subsume into one legislation, which us popularly known as Goods and Service tax, act 2016.

- Background
- Goods and Service tax Act, 2016 is a very long awaited reform which will change the fundamental of Indian taxation. The state wise VAT, the central excise, the service tax, all will subsume into one legislation, which us popularly known as Goods and Service tax, act 2016
- Goods and Service tax, act 2016 has been first time made public by the Indian government. Indian government is planning to introduce this act w.e.f 1st April, 2017.In the upcoming monsoon session, government hopes to pass the 112nd Constitutional Amendment bill, 2014.
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- History

- Our previous finance Minister, Shri P Chidambaram, in his budget speech in 2007-2008 first time discussed about this comprehensive indirect tax reform, which he willing to introduce in the year 2010-11. He also created the team of experts to work comprehensively with state governments to plug all the loopholes so that the way should be clear in its implementation.

- The main hurdle to pass this act was the constitution amendment, which no government could do because of lack of consensus between the opposition and the government.

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- Salient features of Goods and Service tax

- The salient features about this legislation were first time discussed in its first discussion paper in year 2009. We will reproduce the features discussed here again to understand this act very well.

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- (i) The GST shall have two components: one levied by the Centre (hereinafter referred to as Central GST), and the other levied by the States (hereinafter referred to as State GST). Rates for Central GST and State GST would be prescribed appropriately, reflecting revenue considerations and acceptability. This dual GST model would be implemented through multiple statutes (one for CGST and SGST statute for every State).

- However, the basic features of law such as chargeability, definition of taxable event and taxable person, measure of levy including valuation provisions, basis of classification etc. would be uniform across these statutes as far as practicable.

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- (ii) The Central GST and the State GST would be applicable to all transactions of goods and services made for a consideration except the exempted goods and services, goods which are outside the purview of GST and the transactions which are below the prescribed threshold limits.

- (iii) The Central GST and State GST are to be paid to the accounts of the Centre and the States separately. It would have to be ensured that account-heads for all services and goods would have indication whether it relates to Central GST or State GST (with identification of the State to whom the tax is to be credited).

- (iv) Since the Central GST and State GST are to be treated separately, taxes paid against the Central GST shall be allowed to be taken as input tax credit (ITC) for the Central GST and could be utilized only against the payment of Central GST.

- (v) Cross utilization of ITC between the Central GST and the State GST would not be allowed except in the case of inter-State supply of goods and services under the IGST model which is explained later.

- (vi) Ideally, the problem related to credit accumulation on account of refund of GST should be avoided by both the Centre and the States except in the cases such as exports, purchase of capital goods, input tax at higher rate than output tax etc. where, again refund/adjustment should be completed in a time bound manner.

- (vii) To the extent feasible, uniform procedure for collection of both Central GST and State GST would be prescribed in the respective legislation for Central GST and State GST.

- (viii) The administration of the Central GST to the Centre and for State GST to the States would be given. This would imply that the Centre and the States would have concurrent jurisdiction for the entire value chain and for all taxpayers on the basis of thresholds for goods and services prescribed for the States and the Centre.

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- (ix) The present threshold prescribed in different State VAT Acts below which VAT is not applicable varies from State to State. A uniform State GST threshold across States is desirable and, therefore, it is considered that a threshold of gross annual turnover of Rs.10 lakh both for goods and services for all the States and Union Territories may be adopted with adequate compensation for the States (particularly, the States in North-Eastern Region and Special Category States) where lower threshold had prevailed in the VAT regime. Keeping in view the interest of small traders and small scale industries and to avoid dual control, the States also considered that the threshold for Central GST for goods may be kept at Rs.1.5 crore and the threshold for Central GST for services may also be appropriately high. It may be mentioned that even now there is a separate threshold of services (Rs. 10 lakh) and goods (Rs. 1.5 crore) in the Service Tax and CENVAT.

- (x) The States are also of the view that Composition/Compounding Scheme for the purpose of GST should have an upper ceiling on gross annual turnover and a floor tax rate with respect to gross annual turnover. In particular, there would be a compounding cut-off at Rs. 50 lakh of gross annual turn over and a floor rate of 0.5% across the States. The scheme would also allow option for GST registration for dealers with turnover below the compounding cut-off.
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- (xi) The taxpayer would need to submit periodical returns, in common format as far as possible, to both the Central GST authority and to the concerned State GST authorities.

- (xii) Each taxpayer would be allotted a PAN-linked taxpayer identification number with a total of 13/15 digits. This would bring the GST PAN-linked system in line with the prevailing PAN-based system for Income tax, facilitating data exchange and taxpayer compliance.

- (xiii) Keeping in mind the need of tax payer's convenience, functions such as assessment, enforcement, scrutiny and audit would be undertaken by the authority which is collecting the tax, with information sharing between the Centre and the States.

Indirect taxes merged under GST

Goods and Services Tax (GST), is an indirect tax that will replace the entire taxes levy at Central and State level and it will unified into one national market across India. If we see at present taxation system, it is more complex as, tax is being collected by central and state and on different basis and according to that businessmen has to maintain their accounts suitable to laws.

Following are the duties and taxes, which will merge under GST (at Central Level):-

1. Central Excise Duty (including Additional Excise Duty):- Central Excise Duty is basically imposed on manufacturing of goods in India and the collection for this duty is done by Central Board of Excise and Customs. The tax rate 12.5% with input tax credit is being imposed on Jewelers (except Silver ornaments).
2. Service Tax: – Service Tax is a tax that is levy by the government on the services provided and it actually bear by the customers. It is an indirect tax, wherein the service provider collects the tax from service receiver and pays to the Government. Currently, Service Tax rate is 15% of value of services provided, Education cess and Secondary Education cess is 2% of Swachh Bharat cess (i.e. 0.50%)
3. Additional Customs Duty: – Commonly referred to Countervailing Duty, equivalent to Central Excise Duty which is imposed on Manufacturing. It is calculated on value base of goods including landing charges and basic customs duty (excluding anti-dumping duty, safeguarding duty, etc).
4. Special Additional Duty of Customs: – it is payable 4% on good imported and this is in instead of VAT/ Sales Tax.

5. Central Surcharges and Cess: – Surcharge is a charge on tax and as a name suggest, it is an additional charge and it is basically on personal income tax (on high income slabs) and on corporate income tax. Cess is imposed by central government and is levied for specific purpose.

Following are the duties and taxes, which will merge under GST (at State Level):–

1. Value Added Tax (VAT):- VAT is an indirect tax on the goods and services that are provided at state level or domestic. It is imposed at each stage in the chain of distribution and production from the raw materials till the valuation of the product and it is borne by the end users (customers) in Distribution channel.
2. Central Sales Tax: – CST, is levy on sales, which is affected by inter-state trade. CST is an indirect tax on consumers. As it is centrally levy, so it is administered by the concerned state where the sales originated.
3. Octroi & Entry Tax: – Octroi is a tax which is charged by local authority say, Municipality and Entry Tax is charged by State.
4. Purchase Tax:– Purchase tax is a tax that is imposed on the purchase of goods by the state government, and it is applied to wide range of goods.
5. Luxury Tax:- A Luxury Tax is levy on articles that are either expensive or optional
6. Taxes on lottery, betting and gambling:- Tax which is imposed on Lottery winnings, Gambling and Betting calculated as Tax Deduction at Source and it is deducted from Income,

7. Entertainment Tax:– Entertainment Tax is a tax levied by the government on things related to entertainment like : movie tickets, commercial shows, etc.