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JCCI Bangalore
税務労務委員会

Indirect Taxes (間接税)

India – 16th October 2013

PwC 日本国公認会計士
尻引善博

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Indirect Taxes – An Overview

- Indirect Taxes (間接税) – An amalgam of taxes where the burden of tax shifts to the consumer (顧客に税務負担が移転する際の税金)
- Major Contributor to the National Exchequer (主たる国家財源 70%-80%)
- Administered at Federal and State Level (連邦政府と州政府)
- Well developed set of laws with a history of over 50 years covering taxation of; (50年以上の歴史により成熟)
 - Goods: On Manufacture, On Sales, On Imports, On transfer of 'Rights to Use'
 - Services (introduced w.e.f 1994)
- Well developed judicial and legal systems (CESTAT, High Courts and Supreme Court) (裁判および法律により成熟)

Overview – Federal and State Levies

Federal Levies

Customs Duty (関 税) - on import/export of goods

Central Excise Duty (物 品 税) - on manufacture of goods

Service Tax (サ ー ビ ス 税) – on providing/availing taxable services

Central Sales Tax (中 央 販 売 税) – on inter-state sale of goods

State Levies

Value Added Tax (VAT) (付 加 価 値 税) - on sale, including deemed sale, of goods within the state

Entry Tax / Octroi (入 境 税 / オ ク ト ロ イ)
- on entry of goods in the state for use, consumption or sale

Overview – Rate of Tax

	Central Govt.		State Govt.		Local Govt. (municipalities)	
	Levy	Rate (%)	Levy	Rate (%)	Levy	Rate (%)
Basic Customs Duty	✓	10	X	-	X	-
CVD/CENVAT	✓	12.36	X	-	X	-
Additional Duty of Customs (ADC)	✓	4	X	-	X	-
Service Tax	✓	12.36	X	-	X	-
CST	✓	2.00	X	-	X	-
VAT	X	-	✓	5 / 12.5-15%	X	-
Entry Tax / Octroi Duty	X	-	✓	State specific	✓	Municipality specific

 Cost

 Pass through

Customs Duty



Overview – Customs Duty

- Customs Duty is levied on import/export of goods at the rates specified under the Customs Tariff Act (輸出入に課税)
- Types of Customs Duty (種類)
 - Basic Customs Duty (BCD) (基本関税)
 - Additional Duty of Customs/Countervailing Duty (CVD) (追加関税)
 - Special Additional Duty of Customs (SAD) (特別追加関税)
 - Education Cess / Secondary and Higher Education Cess (EC/SHEC) (教育税)
- BCD is levied as a percentage of the value of imports and the rates vary from product to product (各種製品により一定税率で課税)
- CVD is levied in lieu of the excise duty on local manufacturing (物品税の代替で課税)
- EC/SHEC operates as surcharge on the other types of duties (サーチャージとして課税)
- SAD is levied in lieu of the VAT on local sales (付加価値税の代替で課税)

Overview – Customs Duty

- Assessed value is calculated based on CIF + 1% (評価額はCIFプラス1%)
- CVD is calculated based on assessed value plus BCD or Maximum Retail Price (MRP) (追加関税は評価額に基本関税を加えた金額またはMRPに基づき計算される)
- Peak rate of customs duty is at 28.85% (effective rate) (通常の関税率は28.85%)
- Effective customs duty on some vehicles range from 42.99% to 50.06% (自動車の関税率は42.99%から50.06%)
- Special Valuation Branch (SVB) Order is required for related party transactions (関連当事者取引についてはSVBの承認が必要)
- Subject to 1% Extra Duty Deposit before completing SVB process (SVBの承認前は1%の追加デポジットが必要)
- Subject to 5% Extra Duty Deposit in case of delay in filing documents within 30 days (30日以内に提出しないと5%のデポジットが必要)

Types of Customs duties

Basic Customs Duties

- Rate to be applied on the landed value of goods (評価額に税率を乗じる)
- BCD is Cost for importer(輸入者のコスト)

Additional Customs Duty or Countervailing Duty (CVD)

- Equal to excise duty applicable on the like goods manufactured in India (物品税と同様)
- Applicable Rate is 12%(適用率は12%)

Education Cess(EC) and Secondary & Higher Education Cess(SHEC)

- EC at 2% and SHEC at 1%(教育税は3%)
- Both to be levied on the aggregate of BCD and CVD(基本関税と追加関税の合計額に課税)

Additional Duty of Customs

- Levied in lieu of sales tax, VAT on like goods on its sale, purchase or transportation in India (中央販売税と付加価値税と同様)
- Applied on the aggregate landed value of goods and custom duties (評価額と関税の合計額に課税)
- Applicable rate is 4% (適用率は4%)

Computation of Customs Duty

Sl. No.	Duty Component	Rate	Duty Amt.	Value
A	Assessable Value	-	-	100
B	Basic Customs Duty (BCD)	10%	10	110
C	Additional Duty in lieu of Central Excise Duty (CVD)	12%	13.20	123.20
	Total Duty	-	23.20	-
D	Education Cess	2%	0.46	123.66
E	Sec. & Higher Education Cess	1%	0.23	123.89
F	Additional Customs Duty in lieu of sales tax/VAT	4%	4.96	128.85
Effective Customs Duty			28.85	

- Protective duties such as anti dumping duties and safeguard duties are levied on imports from specific importers or countries (ダンピング防止関税や保護関税が特定の製商品に課税)
- Additional cess is levied on specified articles such as automobiles, tobacco, tea etc. (自動車、タバコ、お茶などには追加税が課税)

Computation of Customs Duty (MRP based)

Sl. No.	Duty Component	Rate	Duty Amt.	Value
A	Assessable Value	-	-	100
B	Basic Customs Duty (BCD)	10%	10	110
	MRP (assumed)			200
	Value post abatement @ 35%	-	-	130
C	Additional Duty in lieu of Central Excise Duty (CVD)	12%	15.60	
	Total			125.60
D	Education Cess	2%	0.51	126.11
E	Sec. & Higher Education Cess	1%	0.26	126.37
F	Additional Customs Duty in lieu of sales tax/VAT	Exempt*	-	126.37
Effective Customs Duty			26.37	

- Abatement is from 15% to 50% (減額率は製商品により15%から50%)

* Vide Customs notification no. 21/2012, dated 17th March, 2012

Exemption of Customs Duty

- The Central Government has notified various Export Promotion Schemes under the Foreign Trade Policy (FTP) to boost exports (様々な輸出促進スキーム)
- The schemes are collectively administered by the Directorate General of Foreign Trade (DGFT) and Customs authorities (外国貿易部と関税当局で運営)
- Types of Schemes (種類)
 - Export Oriented Unit (EOU)
 - Software Technology Park(STP)
 - Electronic Hardware Technology Park (EHTP)
 - Special Economic Zones (SEZ)
 - Duty Drawback (DD)
 - Export Promotion Capital Goods (EPCG)

Exemption of Customs Duty

- Types of Schemes (種類)-つづき
 - Advance Authorization (AA)
 - Incremental Export Incentive Scheme
 - Focus Product Scheme and Focus Market Scheme
- The objective of all the above schemes is to facilitate zero taxes and duties on export of goods and services (すべての免税措置の目的は関税をゼロにすること)

Exemption of Customs Duty

- EOU/SEZ/STP/EHTP engaged in export of goods and services can import duty free goods (対象輸出企業は関税がゼロ)
- DD scheme provides drawback/refund of customs duty incurred by exporters on inputs (対象輸出企業は関税の還付が可能)
- EPCG scheme provides for exemption from customs duty on import of Capital Goods for manufacture of goods for exports (対象企業は輸出のための製品製造のための資本財の関税が免除)
- AA scheme provides for duty free import of inputs based on export commitments with a positive value addition (対象企業は事前承認により関税が免除)
- Incremental Export Incentive Scheme is to promote incremental exports over last year – valid for limited period (対象企業は輸出増加分について優遇)
- Focus Product Scheme / Focus Market Scheme is to encourage exports of specified products or exports to specified geographies (特定製品、特定市場の優遇)

Excise Duty



Overview – Excise Duty

- Excise Duty levied on manufacture of excisable goods (製品の製造に課税)
- Excise Duty is payable on removal of manufactured goods from the factory (工場からの製品の移転に課税)
- Types of Excise Duty(種類)
 - Basic Excise Duty (BED) at 12%
 - Education Cess at 2%/Secondary and Higher Education Cess at 1% (EC/SHEC)
- BED is levied on all the excisable goods produced or manufactured in India at the rates specified under the Excise Tariff(インドで生産されるすべての製品に課税)
- EC/SHEC is administered as cess/surcharge on the BED(物品税のサーチャージとして課税)

Overview – Excise Duty

- Valuation of Excise Duty (物品税の評価額)
 - On the ‘Transaction Value’ (TV)
 - On the ‘Maximum Retail Price (MRP)’ minus the prescribed abatement.
- MRP based valuation is adopted for specified products listed under the Excise Act (MRPベースの評価額は製品ごとに規定)
- Abatements on MRP are fixed and specified (減額率は製商品ごとに固定)
- Cenvat credit on inputs, input services and capital goods allowed to the manufacturer of goods for setoff against the output duty (インプットの間接税はアウトプットの間接税と相殺可能)
- Differential excise duty (output minus input) has to be paid by manufacturer (相殺後の金額は生産者により支払)
- Peak rate of excise duty is 12.36% (通常の適用率は12.36%)
- Excise duty on some vehicles range from 24.72% to 30.90% (自動車の適用率は24.72%から30.90%)

Incentives – Excise Duty

- The Central Government has notified various incentives to boost manufacturing sector(製造業促進のため様々なインセンティブ)
- Incentive schemes are administered by the excise authorities(インセンティブは物品税当局により運営)
- Types of incentives(種類)
 - Location Specific Incentive
 - Product Specific Incentive
 - Turnover Specific Incentive
- Location Specific Incentive – Manufacturers setting up new facilities for manufacture at specified locations are exempt from output excise duties (Himachal, Uttaranchal)(ヒマチャルやウッタランチャルなど特定地域の物品税の免除)

Incentives – Excise Duty

- Product Incentive – Manufacturers of certain specific categories or class of products are exempt (either fully or partly) from payment of excise duties (特定のカテゴリーの製品の物品税の免除)
- Turnover Incentive – Manufacturers below a certain threshold of turnover are exempt from the purview of excise duty (4千万ルピー未満の物品税の免除)

Compliance –Excise Duty

- Registration under Central Excise tax (物品税の登録)
- Payment of Central Excise duty on monthly basis within 6th of the next month (翌月6日以内に月次で納付)
 - In March, the duty has to be paid by 31st March (3月分は当月31日までに納付)
- Monthly returns to be filed by 10th of the next month (翌月10日までに月次申告)
- Other periodic statements also to be filed, as prescribed (その他の年次申告が必要)
- Records to be maintained. For e.g. : CENVAT Credit account, Personal Ledger Account, Daily Stock Account, etc. (規定の記録が必要)

Service Tax



Overview – Service Tax

- Service Tax is levied on provision of taxable service in India (サービス税はインドで提供されたサービスに課税)
- Service Tax levy was introduced in 1994 on three services (1994年に初めて適用)
- W.e.f. July 2012, service tax all services taxable other than Negative List and specifically exempted (2012年7月からネガティブリストと免税対象を除くすべてのサービスに課税)
- Services provided outside India considered as Export of Services on satisfaction of conditions laid down in Place of Provisions of Services Rules and is exempt from service tax (インド国外へのサービスの提供は輸出として一定の要件を満たして免税)
- Procurement of taxable services from outside India i.e. Import of Services is subject to service tax in the hands of the service recipient (インド国外からのサービスの提供はサービス受領者にサービス税が課税)

Overview – Service Tax

- In certain cases, service tax is payable by corporate service receiver, where service provider is a non-corporate entity, such as rent-a-cab, legal, security, GTA, sponsorship services, etc. (一定のケースではサービス受領者が納税)
- Current rate of service tax is at 12.36% (サービス税の適用率は12.36%)
- The gross amount charged by the service provider is considered as the value for levy of service tax (サービス税の課税対象は総額)
- Service Tax Valuation Rules contains provisions in relation to valuation of services and treatment of reimbursements (サービスと精算の取扱の評価額のルール)

Taxation of cross-border services

- Place of Provision of Services Rules, 2012 (PoPS) define the criteria to determine whether a service is considered to be provided in India or outside India (インド国内または国外で提供されたサービスのルール)
- The Central Government has introduced various incentive schemes for exporters of services (サービス輸出者の様々なインセンティブ)
- Exporter of services is eligible for refund of the service tax paid on inputs and input services used in relation to export of taxable services, subject to fulfillment of other stipulated conditions (サービス輸出者は一定の条件の達成によりインプットのサービス税の還付が可能)

Compliances – Service Tax

- Registration under Service tax (サービス税の登録)
 - Person liable to pay service tax to obtain registration (登録によりサービス税の納付が可能)
 - Local registration - Registration under service tax is separately provided in respect of each premises of service provider (それぞれの地域で登録)
 - Where the service provider provides taxable service from more than one premises or offices and has centralised accounting or centralised billing system locates in one or more premises, the service provider may at his option, obtain centralised registration in respect of such premises returns (一定の場合は一箇所で登録)

Compliances – Service Tax

- Payment of service tax (納付)
 - Companies required to pay service tax monthly by the 5th of the next month (翌月5日までに納付)
 - From the month of March, service tax to be paid by March 31 (3月分は当月31日までに納付)
- Filing of returns (申告)
 - Companies to file half yearly service tax return in Form ST 3 within 25 days from the end of the relevant half year (半期ごとに25日以内に申告)
 - Returns can be revised within 90 days from date of filing the original returns (90日以内は修正申告可能)

CENVAT Credit



Overview – CENVAT Credit

- The CENVAT Credit Rules, 2004 (CCR) governs the availment and utilization of input tax credits (インプット間接税のルールを規定)
- CCR covers tax credits and utilization on both goods & services (製品とサービスの両方を規定)
- Tax credit on inputs is available immediately on receipt of the inputs in the factory premises of the manufacturer (インプット間接税は製造者の受領後直ちに利用可能)
- Tax credit on capital goods is available @ 50% in the first year and balance in the subsequent year, provided the capital goods remains in possession (資本財のインプット間接税は初年度50%、次年度に残額を利用可能)

Overview – CENVAT Credit

- CENVAT credit on input services is available after the day on which the invoice, bill or challan is received, subject to payment for such services within 90 days (インプットサービス税は請求書の受領日に利用可能、但し90日以内に支払う必要)
- Issue of invoice and meeting the prescribed conditions must for availing input tax credit (インプット間接税の利用には請求書の発行と一定の条件が必要)
- No time limit for availment of eligible input tax credit (インプット間接税の利用は無期限)
- No input tax credit if the finished goods or the output services is exempt from payment of output tax (物品税やサービス税のアウトプットが免税の場合はインプット間接税は利用不可)

Overview – CENVAT Credit

- Input tax credit proportionately available if used for provision of exempt services or manufacture of exempt goods and provision of taxable service or manufacture of dutiable goods (一定の免税措置を適用している場合インプット間接税は比例的に利用可能)
- Cross utilization of tax credit allowed i.e. between Central Excise and Service Tax (インプット物品税とサービス税の相殺が可能)

Value Added Tax / Central Sales Tax (State Levy)



Overview – Value Added Tax (VAT)/ Central Sales Tax (CST)

- VAT is levied on sale of goods (VAT/CST) は製商品の販売に課税)
- VAT is governed by State VAT legislation and administered by the local VAT authorities in each State (VATは州で規定され州によって運営)
- CST is governed by the Central legislation and administered by the local VAT authorities in each State (CSTは国で規定され州によって運営)
- Types of Sale: (種類)
 - VAT is applicable for intra-State sale (within State) (VAT－州の内部の販売)
 - CST is applicable for inter-State sale (between States) (CST－州から州への販売)
 - Transfer of Property under execution of a composite contract (複合契約の固定資産移転)
 - Transfer of 'right to use' (leasing transaction) (使用権の移転)
- VAT rates are standardized at 5.5% and 14.5% (VATは5.5%から14.5%)

Overview – Value Added Tax (VAT)/ Central Sales Tax (CST)

- Inter-State sale, subject to issuance of statutory form, attracts CST @ 2%
(CSTは一定の法定書式により2%)
- Transfer of ‘right to use’ of goods is a ‘deemed sale’ and attracts VAT/CST
(製商品の利用権の移転はみなし販売として課税)
- VAT/CST is levied at each point of sale (VAT/CSTは販売時に課税)
- Input tax credit of VAT allowed at each point of sale (インプットVATは販売時に相殺可能)
- CST is not allowed as credit (CSTは相殺不能)

Overview – Value Added Tax (VAT)/ Central Sales Tax (CST)

- VAT credit not available in case of: (VATの相殺は以下のケースで不可)
 - Inputs used in the manufacture of exempted goods (免税製品 ex Agricultural and salt etc)
 - Purchases for other than manufacture/re-sale (製造業/販売業以外の業種)
 - Purchases of goods stated in the negative list (ネガティブリスト記載の製品 ex furniture and food etc)
- Sale in the course of import and export is exempt from payment of VAT/CST (輸出入の販売はVAT/CSTは免税)
- Sale of business as a going concern (slump sale) is exempt from VAT/CST (営業譲渡はVAT/CSTは免税)
- State specific incentives of exemption/refunds are available based on the State Policy on export of goods, including sales to EOU (州の免税および還付の特別インセンティブ)

Compliance – VAT/CST

- Compliance under VAT/CST depends on the State VAT laws in each of the States (州ごとの法律によるコンプライアンス)
- VAT/CST is payable and return is filed on a monthly / quarterly basis (月次または四半期ごとの納付と申告)
- Certain States would require filing of annual return (一定の州は年次申告が必要)
- Form required to be procured for stock transfer of goods (Form F) and concessional rate of CST i.e. 2% (Form C)
- In Karnataka: (カルナタカの場合)
 - VAT/CST return to be filed and payment of tax within 20th of next month (翌月20日以内に納税および申告)
 - VAT audit applicable on turnover exceeding INR 10 million (1千万ルピーを超える売上のVAT監査)

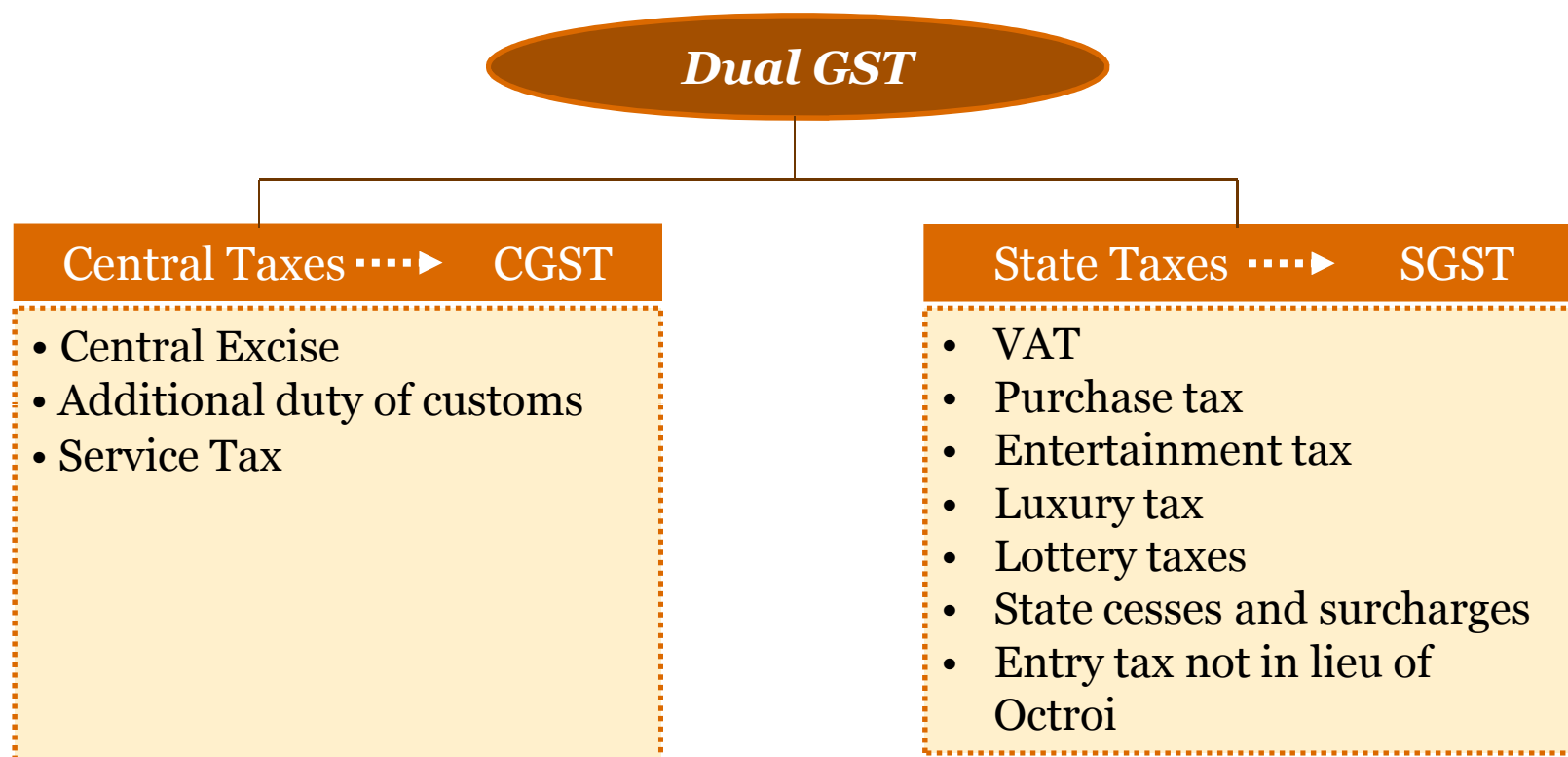
Goods & Service Tax (GST)



GST – Current state of play

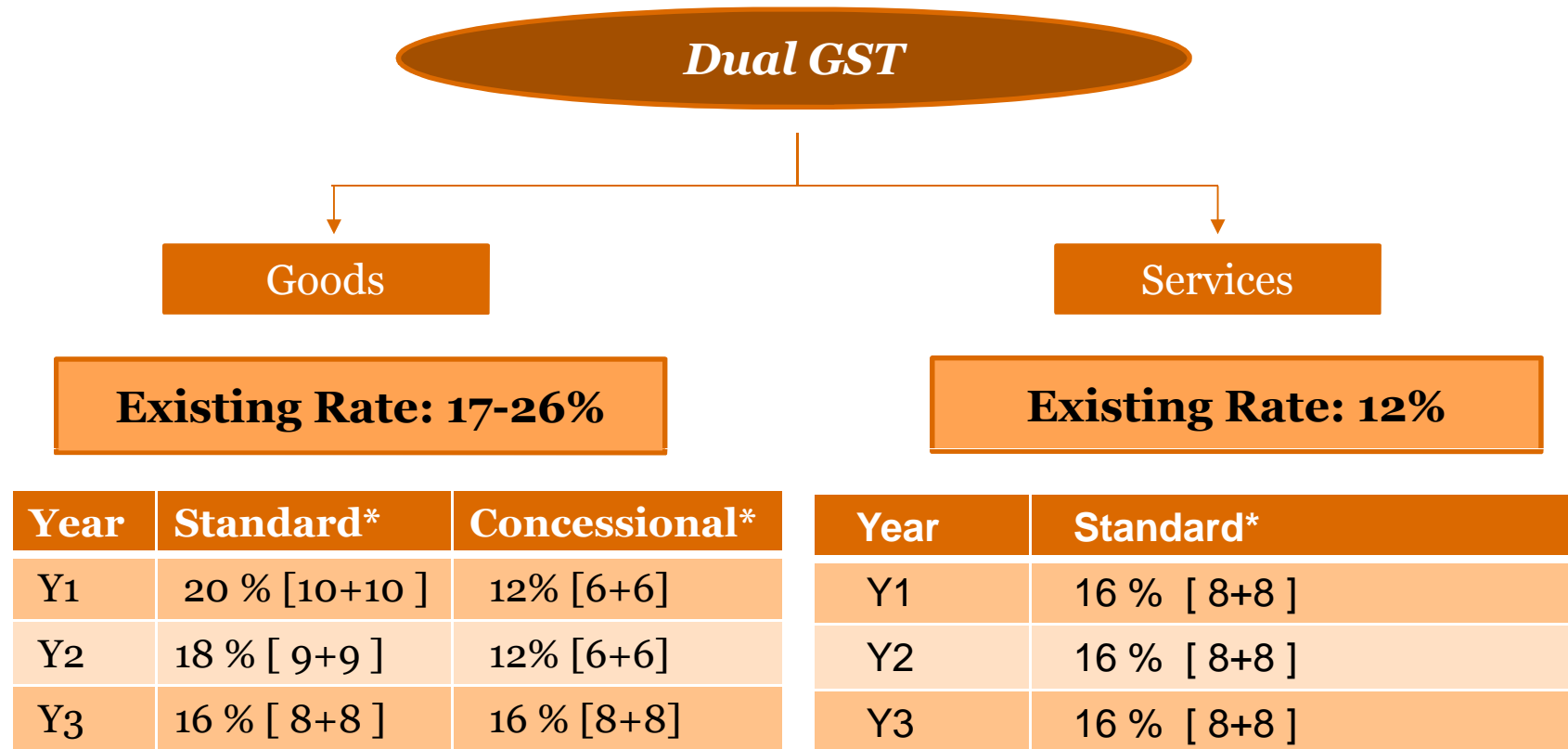
- Constitutional Amendment Bill (法律改正)
 - Fourth draft cleared by the Cabinet and tabled in Parliament
- Ongoing meetings between the Centre and the States (中央政府と州政府との検討会合)
- Compensation mechanisms and procedures being discussed (補償制度と手続の議論)
- Empowered Committee (EC) meetings scheduled every month (月次の会合)

Taxes proposed to be subsumed in dual GST



CST will be phased out (CST は段階的に導入)

Proposed GST rates



- Proposed by the Central Finance Minister on 21 July 2010, yet to be agreed by the States
- (2010年7月に提案され州に未承認)

Rate convergence @16 % across goods and services in Y3
(導入3年目に製商品とサービスの税率は16%に収斂)

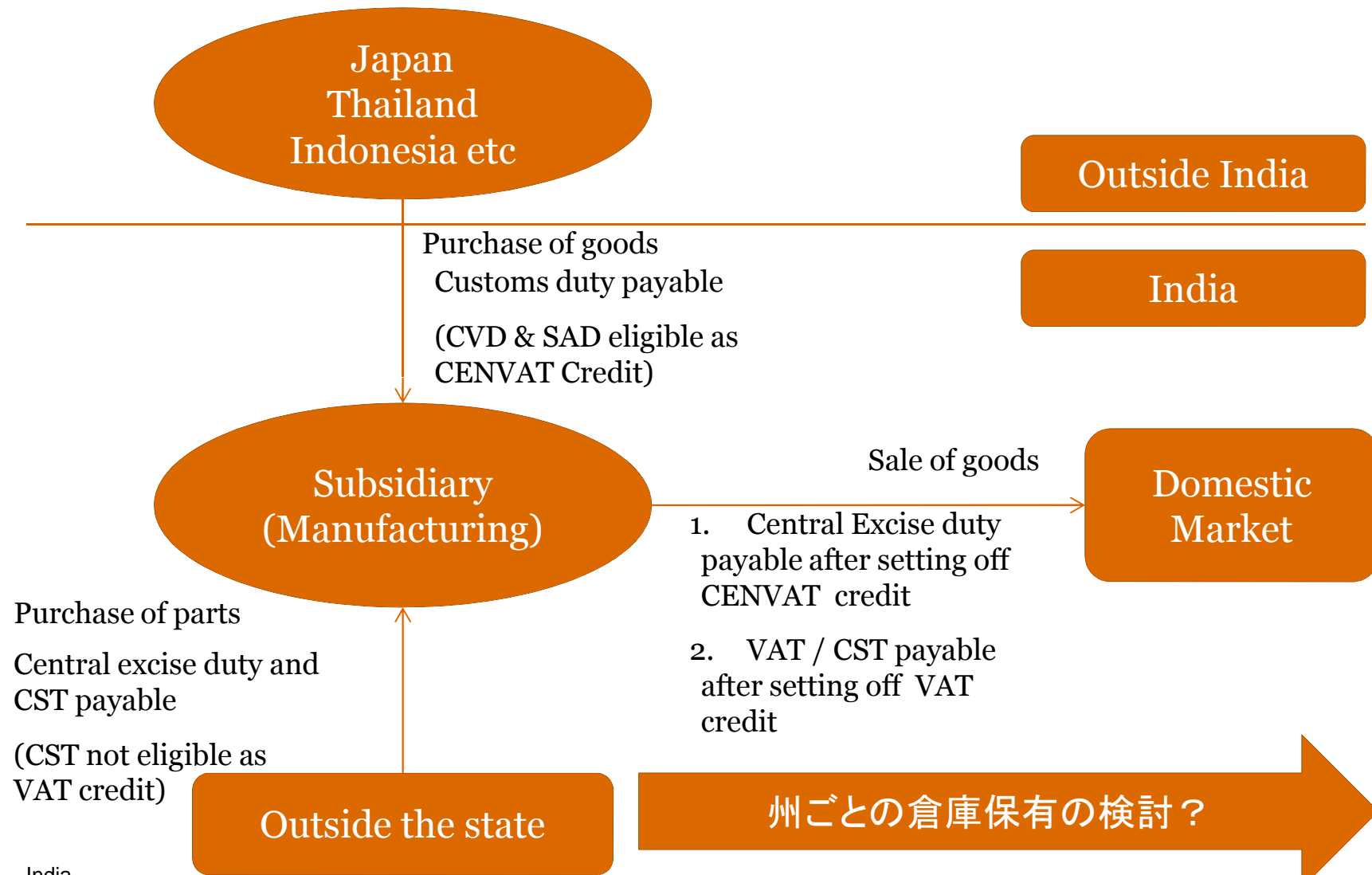
Conclusions

- Form a cross functional team and undertake **GST impact assessment study** (GST導入の影響の検討が必要)
- Identify areas in **business models**/supply chains/processes which need to be re-engineered(再構築すべきビジネスモデル、サプライチェーン、プロセスの識別)
- Identify requirements of **reconfiguration of IT systems**, modification in documentation, MIS and accounting(情報システム、文書修正、会計処理などの要求事項の識別)
- Identify **training** needs both internal as well as external (関係者の教育)
- Get ready for a **smooth transition** to the new tax regime(スムーズな移行)

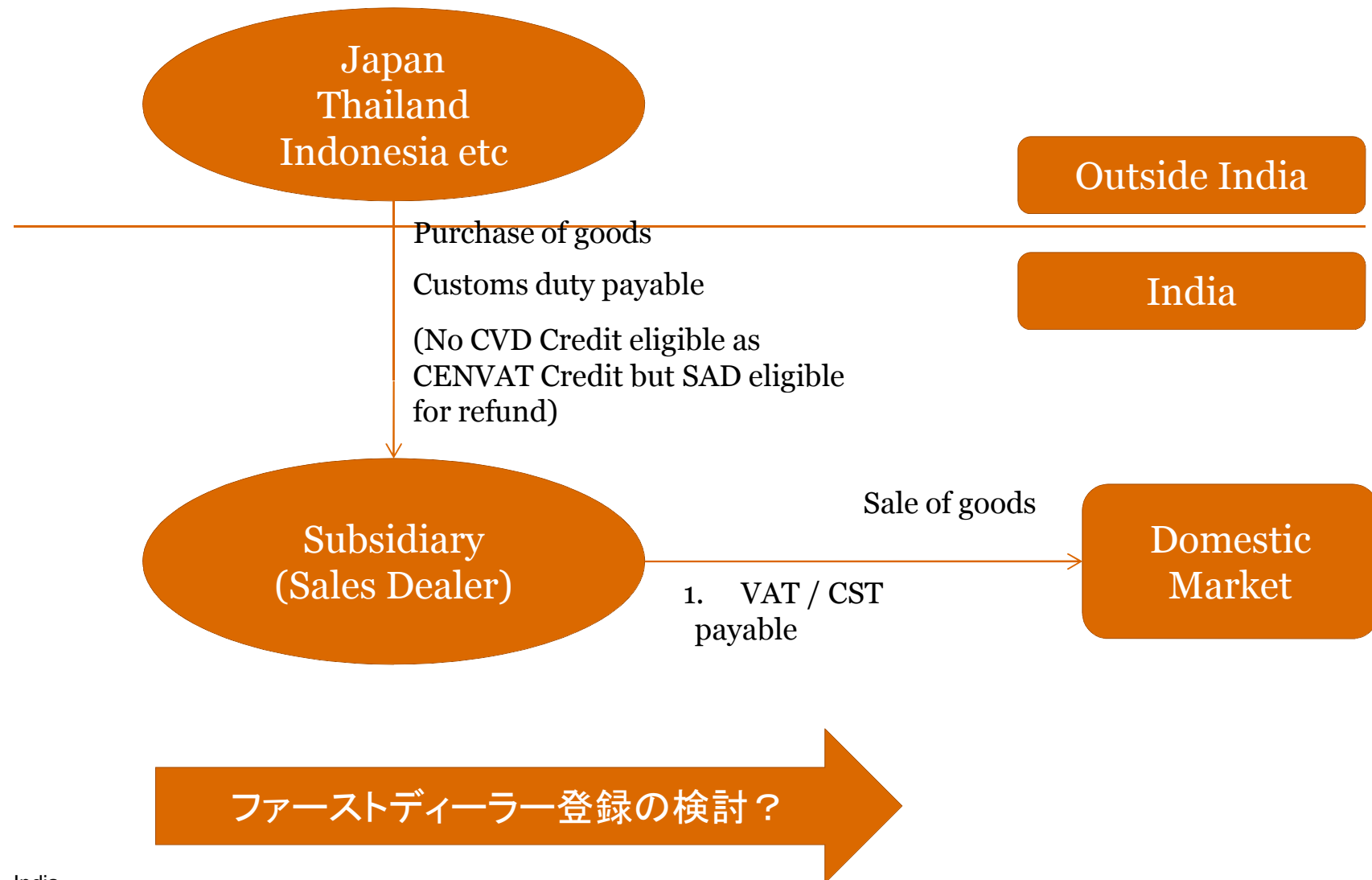
Case Studies



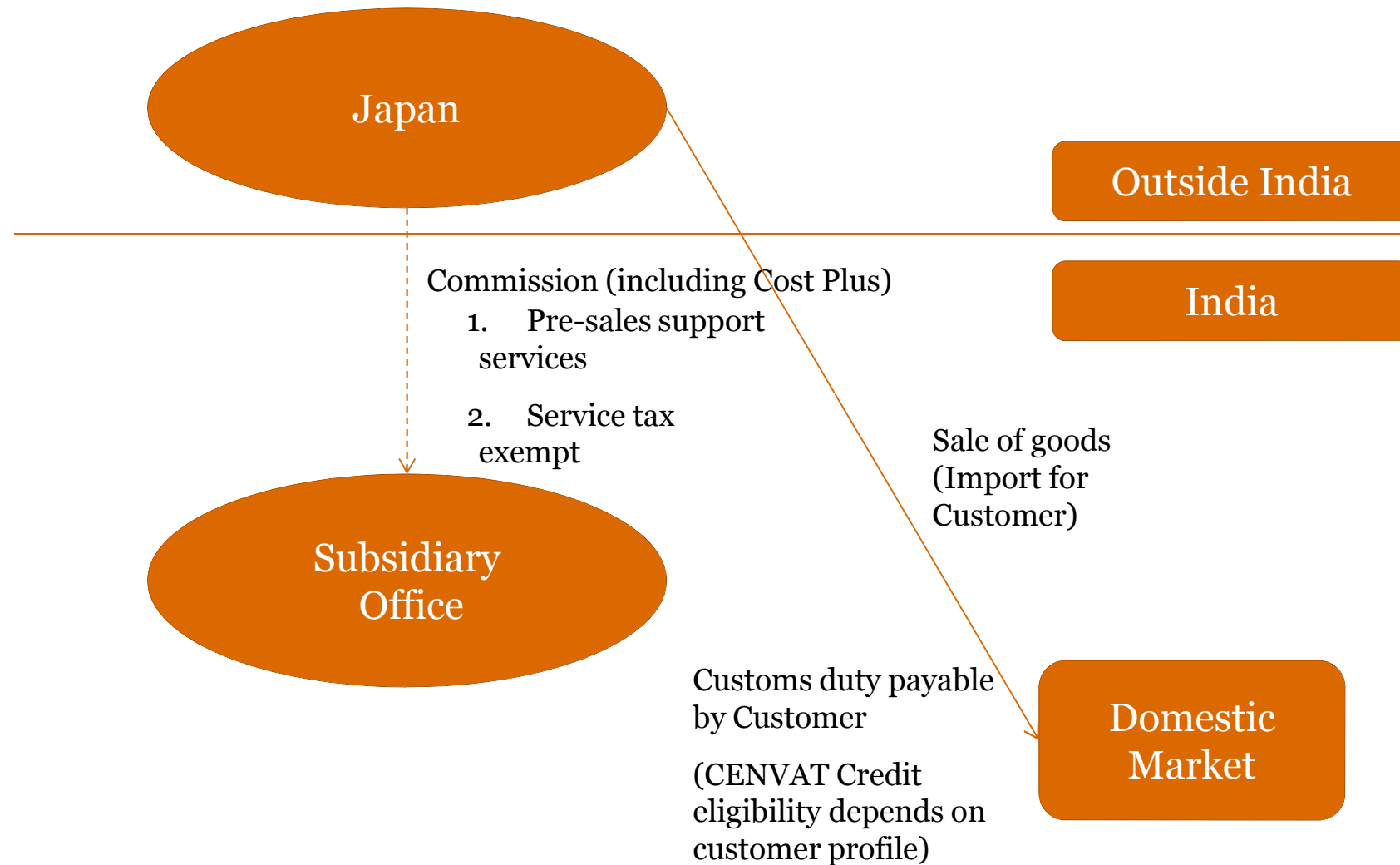
Case 1: Subsidiary Manufacturing Company



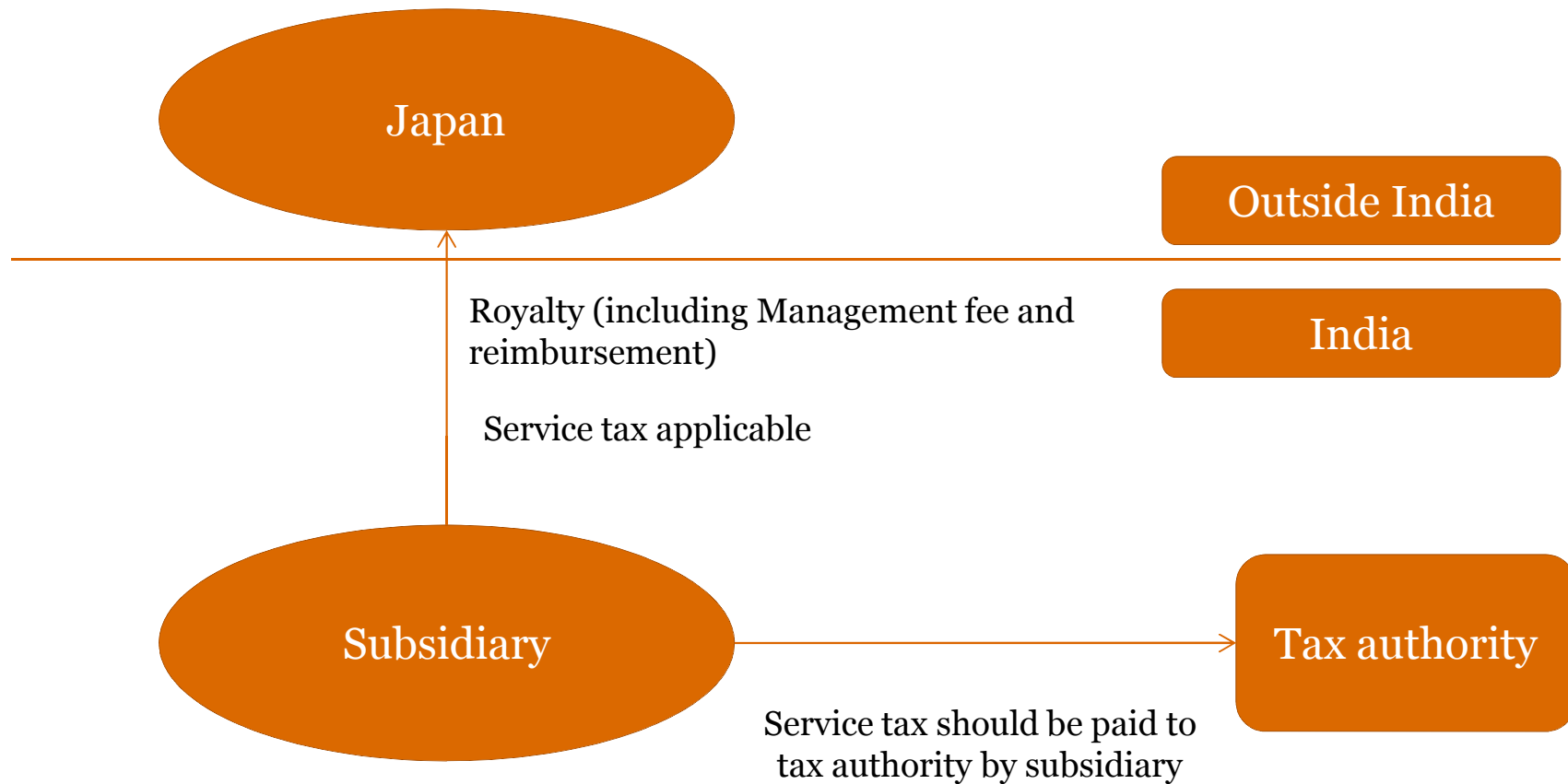
Case 2: Subsidiary Sales Dealer



Case 3: Subsidiary Office



Case 4: Royalty transaction



Thank You