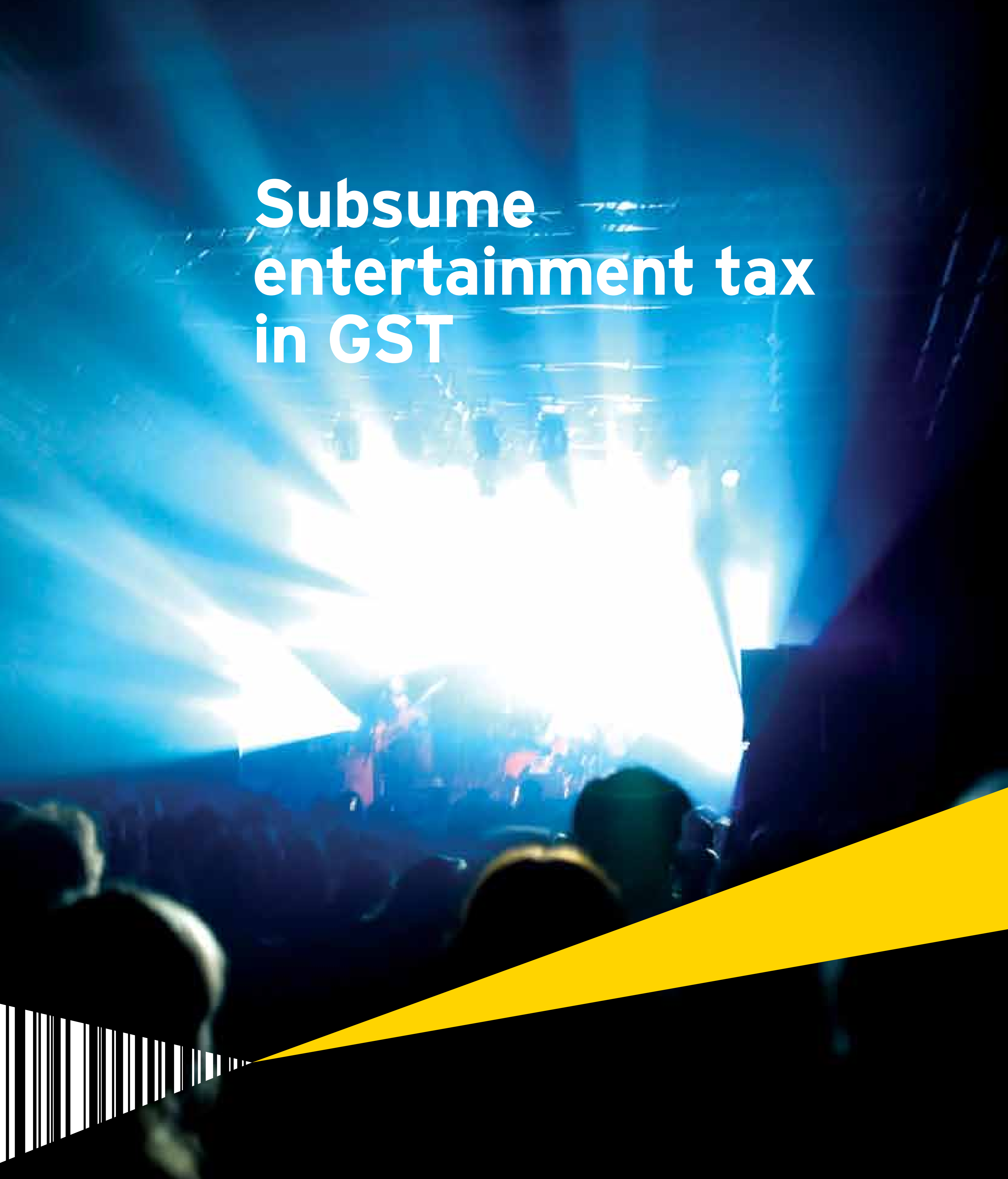
Subsume entertainment tax in GST



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1. Introducion

India is at the threshold of introducing the Goods and Services Tax (GST), a landmark reform in the indirect taxation arena. A good GST regime would promote India as a single common market, ease tax compliance and foster equity Cannons of taxation to be considered in the Constitution related to admission of the levy[1].

The GST is expected to replace almost all indirect taxes, minimise exemptions and do away with the multiple layers of taxation. The greatest virtue of GST is that it makes the supply chain tax neutral. The smooth flow of input tax credit makes it tax neutral.

The GST rate structure suggested by the Central Government comprises a standard rate of 20% for goods, 12% for essential commodities, and a separate 16% for services. In the third year of GST implementation, all rates are expected to converge to a single uniform rate of 16%.

The GST design envisages that virtually all levies would be subsumed within the GST. In keeping with this, the first draft of the Constitutional (Amendment) Bill required for the introduction of GST proposed to delete, among other entries, Entry 62 (entertainment, betting and gambling) from the State List under the Seventh Schedule to the Constitution. It was expected that entertainment transactions, being in the nature of a service, would be subjected to a 16% GST levy, with no separate or additional imposition of entertainment tax.

However, contrary to the proposal in the first Constitutional draft, the Constitutional (Amendment) Bill, 2011 (22 of 2011) proposed to substitute Entry 62, whereby it would read as "Taxes on the entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council", thereby retaining the power of local bodies to levy entertainment taxes.

Continuing with the entertainment tax in the present form under GST would be akin to subjecting entertainment to a supplementary, punitive tax, which is otherwise levied only on sin goods and goods with negative externalities. The move would be contrary to the basic philosophy and objectives of the GST reform.

The objective of this report is to highlight the indirect tax structure applicable to the film industry, the proposed treatment of entertainment tax under the GST regime and the need for subsuming entertainment tax in the GST regime.

Sections 2 and 3 of the report bring out the current scheme of the indirect tax structure relevant to the entertainment sector and the cascading impact of taxes on the film industry.

Section 4 estimates the potential GST collections from the film and television industry if the entertainment tax is subsumed in GST. The Centre and state governments would likely see a sharp rise in their revenues under the GST regime.

Section 5 provides an overview of taxation on the film industry in international jurisdictions. The jurisdictions reviewed show no example of a supplementary tax being imposed on the entertainment sector. In fact, many countries tax entertainment transactions at a rate lower than the standard rate of VAT or GST and provide tax incentives or grants to promote the Industry.

Section 6 outlines the policy options in India for taxing entertainment transactions under the GST regime. Given the changing dimensions that entertainment is assuming in the wake of technological developments, subsuming all entertainment taxes in GST levy would be critical to putting in place an efficient tax mechanism and avoiding classification disputes.

Finally, the report summarises our suggestions and concludes that the objectives of GST would be best achieved if entertainment tax is subsumed under GST.

1 Cannons of taxation to be considered in the Constitution related to admission of the levy

2. Indirect taxes on the film industry

The entertainment industry broadly comprises the television and film sectors. Under the existing Indian indirect tax structure, the entertainment industry is subject to numerous taxes. These taxes are levied by the Centre, States, as well as local bodies.

2.1 The existing constitutional arrangement

Under the Constitution of India, the Centre is empowered to levy the following taxes on the entertainment sector (Schedule VII, List I):

- Tax on the sale or purchase of newspapers and advertisements therein (entry 91)
- Tax on services (entry 92C)
- Any other matter not enumerated in List II and List III (entry 97) – service tax levied under this entry

States are empowered to levy tax on the entertainment sector under the following entries of the Constitution (Schedule VII, List II):

- Tax on luxuries, including tax on entertainment, amusement, betting and gambling (entry 62)
- Tax on the sale or purchase of goods other than newspapers, subject to the provision of entry 92A of List I – interstate and international transactions (entry 54)
- Taxes on advertisements, other than those published in newspapers and broadcast by radio or television (entry 55)
- Taxes on the entry of goods into a local area for consumption, use or sale therein (entry 52)

For the entertainment sector, state levies include entertainment tax and Value Added Tax (VAT) on the sale or purchase of goods, advertisement tax and entry tax. One tax cannot be offset against another at the state level, which leads to additional costs, even in the case of business-to-business transactions.

Furthermore, as per entry 5 of List II of Schedule VII of Constitution of India, states have the power to constitute and empower local bodies to levy and collect taxes. Accordingly, in some states, local bodies levy certain taxes such as entertainment tax, entry tax, advertisement tax and octroi duty.

2.2 Forms and levels of entertainment tax

The entertainment industry is subject to a number of taxes levied by the Centre, states and local bodies. Summarised below are the taxes levied at various levels on the film industry.

Taxes levied by the Centre

Currently, service tax is levied at 12.36% on taxable services in India. Some of the services that pertain to the entertainment sector are:

- Temporary transfer of copyrights in cinematograph film (for non-theatrical exhibition)
- Video tape production services (levied on post production activities)
- Sound recording services
- Broadcasting service (tax on television/ radio advertisement sales and subscriptions)
- Sale of space or time for advertisement service (for online/ mobile/out-of-home/bill boards/conveyance/theatre, etc.) [with effect from 1 October 2014]
- Cable operators' services
- Advertising agency services
- Actor fees
- Program production services (for television program production)

Taxes levied by states

Various taxes are levied on the film industry at the state level, including entertainment tax, advertisement tax, VAT and entry tax. Not only is the level of taxes unreasonably high in many states, tax rates vary both within the state (depending on the nature of entertainment) and across the states. Thus, entertainment tax legislation provides a complex structure of rates, as shown below.

Table 1: Entertainment tax rates on certain activities in Maharashtra, Tamil Nadu, Uttar Pradesh and Karnataka

Entertainment	Maharashtra	Tamil Nadu	Uttar Pradesh	Karnataka
Film	45% of admission charge [For tickets of value up to INR250]	30% of total collection	67% of net collection	30% plus additional tax based on admission charge
Cable/TV antenna	INR45/- per month per subscriber	Nil	25% of each aggregate payment	Rs 20/- per month per connection
DTH	INR45/- per month per subscriber	30% of revenue	25% of each aggregate payment	6% of revenue
Amusement park	Based on location, exemption for 5, 7 or 10 years	10% of admission charge	25% of each aggregate payment	5% of the revenue (exceeding 50/- per head)

Source: State legislations and websites

Entertainment tax on the sale of film tickets in various states of India ranges between 20% and 67% [of value excluding entertainment tax].

Besides, preferences are given to select regional films, whereby states such as Gujarat provide entertainment tax exemption to Gujarati films, Tamil Nadu provides entertainment tax exemption to films named in Tamil, Punjab provides 5% rebate of entertainment tax to Punjabi film makers (if 75% of dialogues are in Punjabi) and Andhra Pradesh charges a reduced rate of entertainment tax on Telugu Films.

New multiplexes also enjoy entertainment tax exemptions and subsidies in various states.

Besides entertainment tax, advertisement tax is levied in some states on movie theatres displaying advertisements on the movie screen.

States also levy tax on the transfer of copyright on films under VAT, leading to double taxation. Nevertheless, many states provide exemption or waiver on the collection of VAT on the transfer of copyright in films for theatrical exhibition.

Taxes levied by local bodies

As per entry 5 of List II of Schedule VII of the Constitution of India, states have the power to constitute and empower local bodies to levy and collect taxes. Several states have empowered municipal/local bodies to levy entertainment tax under the provision. However, the arrangements for levy, accounting, collection and appropriation of entertainment tax may vary across states. These arrangements have been explained in the table below.

	Levied by	Accounted by	Collected by	Appropriated to
Model 1	State government	State government	State government	State government
Model 2	State government	State government	State government	Local bodies
Model 3	State government	State government	Local bodies	-
Model 4	State government	Local bodies	Local bodies	-
Model 5	Local bodies	Local bodies	Local bodies	-

2.3 Tax cascading and multiple taxation

The film industry is subject to multiple taxes at various points in its supply chain, with no input tax credit being made available in most instances. Such multiple taxes are unjustified for an industry that is a primary source of entertainment to the masses and a reflection of Indian art and culture, not just in India but globally. The following describes the impact of indirect taxes on the film industry's supply chain:

Amounts earned by producers from the licensing of movie rights

Film producers grant various rights such as airline rights, music rights and satellite rights to movies as part of the exploitation of movie rights. Grant of rights in intangibles is covered under VAT legislations and is liable to VAT at a lower rate of 4% to 5% across the country. Certain states such as Kerala, Tamil Nadu and Maharashtra provide specific exemption from the payment of VAT on the transfer of certain film exploitation rights. In addition to the VAT levied on the grant of film rights, service tax at 12.36% is levied on the grant of temporary rights in cinematograph films for non-theatrical exhibition.

Tax on movie tickets

Entertainment tax at varied rates is levied by states and local bodies on revenue earned by exhibitors from the sale of movie tickets.

Summarised below is the applicability of these taxes and the corresponding availability of input tax credit, if any.

Table 2: Impact of indirect tax on the film industry's supply chain

Players in the supply chain	Taxes applicable on expenses (input taxes)	Tax applicable on revenue earned (output taxes)	Remarks
Film Producers	Fees paid to actors and all artists attract service tax. In addition to this, services such as post production services, sound recording, visual effects are liable to service tax. Furthermore, costs incurred on the procurement of goods and services for producing and marketing of film attract VAT and service tax.	Revenue earned from the licensing of non-theatrical rights in films is liable to service tax, as well as VAT.	Most state governments restrict the availability of VAT credit on goods used in the licensing of intangibles and, hence, VAT paid on goods procured is generally an additional cost in the supply chain of the film industry. With a major part of the revenue earned by producers being exempt from service tax (theatrical revenue), input credits will be available only in the proportion of taxable revenue. The remaining expenses will be a cost.
Film Distributors	Amounts paid to producers for procuring film rights attributable to non-theatrical rights (temporary) are liable to service tax. Furthermore, costs incurred for marketing and promoting films attract VAT or service tax.	Revenue attributable to non-theatrical rights attracts VAT and service tax.	Most state governments restrict the availability of VAT credit on goods used in the licensing of intangibles. Hence, VAT paid on goods procured is generally an additional cost in the supply chain for the film industry. With a major part of the revenue earned by distributors being exempt from service tax (theatrical revenue), input credits will be available only in the proportion of taxable revenue. The remaining expenses will be a cost.
Exhibitors	Exhibitors incur huge cost in setting up and maintaining infrastructure, where customs duty, VAT and service taxes are paid as applicable.	Exhibitor pays entertainment tax to state or local governments on ticket sales.	Taxes paid on the procurement of capital goods, consumables and services result in a cascading impact and are additional costs in the supply chain for the film industry.

2.4 Size of the entertainment sector

The size of the Indian entertainment industry for 2012–13 was estimated at INR918 billion.

Table 3: Revenues of the entertainment sector in India — 2011–12 and 2012–13

Sector	2011-12	*(Rs in billions)* 2012-13
Television:		
- Subscription revenues	245	281
- Advertisement sales	125	136
Newspapers	224	243
Films	112	125
Radio	13	15
Music	11	10
Others (Including outdoor, internet, mobile and magazine advertising)	91	108
Total	821	918

Source: FICCI-KPMG Indian Media and Entertainment Industry Report 2014

2.5 Tax revenues from the entertainment sector

- Tax revenues — Centre

As discussed in para 2.2, the Centre levies service tax on various services relating to the entertainment sector. Data on tax revenues actually collected by the Centre is not available; nevertheless, we have estimated service tax collections on the basis of total subscription revenues earned by the industry, as follows:

Table 4: Estimated service tax collections from TV subscriptions, year 2012–13 [basis size of the sector in Table 3]

Particulars	(Rs in billion)
Television subscription revenues	281
Service tax at 12.36% (levied by Centre)	34.73

Source: FICCI-KPMG Indian Media and Entertainment Industry Report 2014

In addition, the Centre also collects revenues on input to movie theatres. However, no data is available for these revenues.

Tax revenues — States

States collect entertainment tax on admissions to cinemas, cable or DTH connections, entertainment events, circus, video games, etc. The total entertainment tax collected by states in 2012–13 is estimated a INR1704.02 crores[2], as against total indirect tax collection of INR5,55,081 crores. Entertainment tax collection forms a miniscule proportion (0.31%) of the total indirect tax revenue of states.

Entertainment tax poses significant burden on the entertainment industry. However, for individual states, entertainment tax represents a small fraction, generally less than 0.5%, of their total indirect tax revenue.

Tax revenues — local bodies

As noted earlier, in several states, a part of the revenue collected by states from entertainment tax is allocated to municipal/local bodies. The following table describes these arrangements in select states.

2 As per data derived from RBI's 'Handbook of statistics on State Government Finances' issued in January 2014

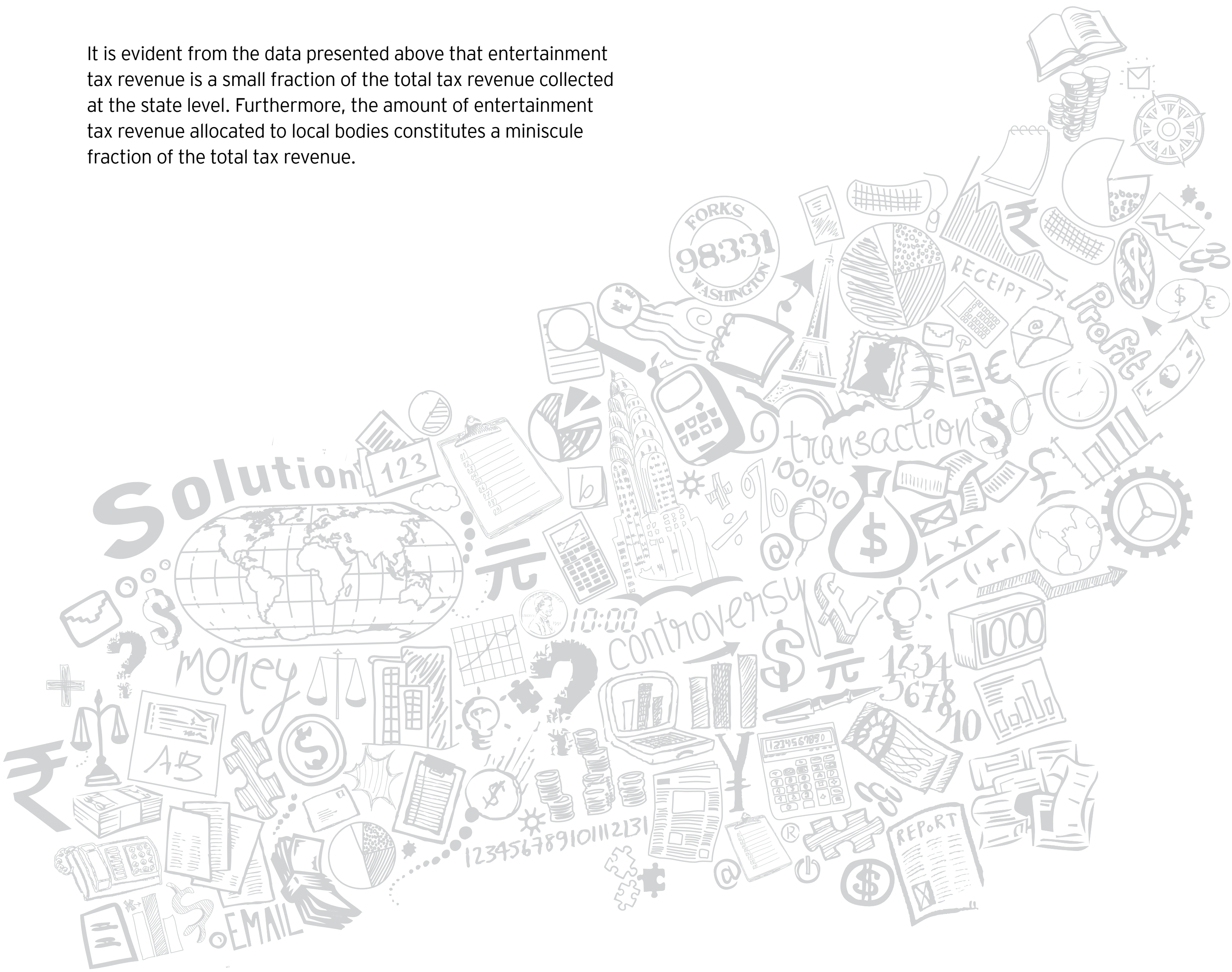
Table 5: Entertainment tax collections distributed to municipal bodies

	Revenue earned by states from Entertainment taxes		Amounts allocated to Municipal/Local Bodies		*(Rs in Lakhs)* Percentage allocation	
State	2011-12	2012-13	2011-12	2012-13	2011-12	2012-13
Andhra Pradesh	10,120	11,555	-*	-*		
Gujarat	7,643	12,575	-*	200	0	1.59
Maharashtra	59,498	68,441	2,647	1,381	4.45	2.02
Haryana	3,996	4,986	-*	-*		

Source: The above figures have been derived from the CAG website

*In the above mentioned data, states which do not reflect the details of revenue allocated to local bodies, the CAG reports do not specifically mention allocation of Entertainment tax revenue to local bodies.

It is evident from the data presented above that entertainment tax revenue is a small fraction of the total tax revenue collected at the state level. Furthermore, the amount of entertainment tax revenue allocated to local bodies constitutes a miniscule fraction of the total tax revenue.



3. Concerns about the existing entertainment tax regime in India

It is well acknowledged that Indian films are not only a powerful medium of entertainment, but also one of the finest expressions of our art and culture and a window to Indian societal development. The film industry has been instrumental in showcasing Indian art and culture across geographical boundaries.

However, the film industry has not been given a fair tax treatment. It is burdened with double or multiple taxation (in the form of entertainment tax, service tax and VAT), with plenty of disputes leading to widespread litigation. A separate levy of entertainment tax, in addition to GST levy of 16%, could sound the death knell for smaller players, while affecting larger ones seriously. This impact would ultimately flow down to the end consumer, the audience. The Government must take into consideration the following factors:

3.1 High tax rates

In India, the film industry is subject to entertainment tax of as high as 67%. The levy is abnormally high when compared to the tax levied on goods and services that are close substitutes of entertainment. For instance, MP3 players, wrist watches and video games are subjected to an indirect tax of 5.5% to 15.5%, while non-essential/luxury services such as beauty salons and spas are subject to a service tax of 12.36%.

Internationally, the film industry is treated as a priority sector and is taxed at either reduced or standard GST or VAT rates with no supplementary taxes. Furthermore, the production of films is granted various fiscal incentives to promote film making. Supplementary levies are warranted only in the case of products that are harmful to health such as tobacco and alcohol or products that are harmful to environment. There are no negative externalities associated with entertainment and, hence, it should not be given a differential tax treatment.

3.2 Cascading and multiple taxation

Television subscription collected by cable operators or DTH companies attracts service tax in addition to the entertainment tax, which amounts to double taxation. Furthermore, the option of setting off VAT and other taxes is not available, leading to the cascading of taxes.

The following table illustrates, with the help of estimated numbers, the cascading burden embedded in the film industry's supply chain.

Table 6: Cascading impact/additional cost of indirect taxes in the film industry's supply chain

Players in the supply chain	Expenses			Revenue			Cascading burden
		Value	Tax		Value	Tax	
Artists	Procurement of goods	10.00	1.25	Professional Fees charged	40.00	4.94	**1.25**
	Procurement of services	10.00	1.23				
	Profit element	20.00	-				
		40.00	**2.48**		**40.00**	**4.94**	
Producers	Artist costs	40.00	4.94	Licensing of theatrical distribution rights	72.00		**6.71**
	Post Production and other service costs	10.00	1.23				
	Marketing Expenses	18.00	2.22	Licensing of non-theatrical distribution rights	18.00	2.22	
	Procurement of goods	9.00	1.12				
	Profit element	13.00	-				
		90.00	**9.51**		**90.00**	**2.22**	
Players in the supply chain	Expenses			Revenue			Cascading burden
		Value	Tax		Value	Tax	
Distributors	Amount paid to Producer/s for procurement of distribution rights	72.00	-	Licensing of theatrical exhibition rights	100.00	-	**2.24**
	Procurement of services	9.00	1.11				
	Procurement of goods	9.00	1.13				
	Profit element	10.00	-				
		100.00	**2.24**		**100.00**	**0.00**	
Exhibitors	Amount paid to Distributors	100.00	-	Amount earned from ticket sales	200.00	State wise rates ranging from 20%-67%	**8.04**
	Procurement of services	60.00	7.41				
	Procurement of goods	5.00	0.63				
	Depreciation	5.00					
	Profit	20.00	-				
		200.00	**8.04**		**200.00**	**-**	
					Total Indirect tax cost		**18.24**
Indirect tax (as a percentage of ticket price net of entertainment tax)							**9%**

For the purpose of the above computation, we have assumed the following:

1. VAT rates are assumed to be 12.5% and service tax rate is assumed to be 12.36%;
2. The proportion of revenue to total expenses and profit is in the proportion as mentioned below;
3. Expenses incurred by each player in the industry is in the proportion mentioned below;
4. Producers and exhibitors do not charge and pay VAT on revenue earned from the licensing of theatrical distribution rights.

Entertainment tax rates and the tax rates (after considering the cascading of taxes computed above) for states in India range from 29% to 76%.

3.3 Significant economic distortions and inequities

The details and statistics mentioned above clearly indicate that the existing entertainment tax structure is highly distortionary and inequitable. Firstly, entertainment activities are inter-se not treated at par, and each activity attracts a different tax rate. Secondly, there is variation in tax rates applicable to the same entertainment source. For instance, admission to movie theatres is taxed at varied rates ranging up to 76% across states. Thirdly, most states grant exemption or apply a subsidised rate of entertainment tax on movies produced in regional or state languages. Fourthly, states grant staggered exemption to new theatres/multiplexes, thus creating inequities in taxing multiplexes located in the same area. Such variation in tax rates and exemptions create inequities in the tax structure.

4. Potential GST revenues from entertainment

State governments are expected to reap greater tax revenues from the film and television industry as a result of GST, as shown in Table 7.

Table 7: Entertainment sector: GST base and potential collection

(Fiscal year 2012-13)

GST Base	
Movie admissions	93
Television subscription	281
Total GST base	**374**
Tax Revenues	**States**
GST on movie admissions and television subscriptions	29.92
Less Current revenues	
▸ Entertainment tax on box office and TV subscription	17.04
Incremental revenues from GST	**12.88**
% increase in revenues	**75.59 %**

Source: RBI's 'Handbook of statistics on State Government Finances' issued in January 2014 and FICCI-KPMG Indian Media and Entertainment Industry Report 2014

Impact on Government revenues

The tax base for domestic box office earnings and television subscriptions during 2012–13 was INR374 billion. Entertainment tax collections by states from these two sources were estimated at INR17.04 billion.

Under the GST regime, tax revenue collected from box office and television subscriptions would likely be much higher than the current level. Assuming that states would levy GST at 8% on the estimated tax base of INR374 billion, GST revenue collection would work up to INR29.92 billion. This means an increase of 75.59% in the revenue collections of governments.

This provides more than enough room for states to subsume entertainment tax in GST, making redundant the need to retain it as a supplementary tax.

Need for protecting the revenue of local bodies

States have emphasised the need to protect the revenues of local urban bodies. At present, the arrangements for levy, accounting, collection and appropriation of entertainment tax vary across states. In certain states, the Government levies and collects tax and appropriates a part of it to local bodies. In others, local bodies are empowered by States to levy and collect entertainment tax.

As mentioned earlier, for individual states, the proportion of entertainment tax to the total indirect tax revenue is generally less than 0.5%. The revenue apportioned to/collected by local bodies is an even smaller proportion. The miniscule fraction of the total indirect tax income [as highlighted in Table 5 above] could be easily accommodated through other existing and better sources of taxation. Furthermore, as brought out in this report, the revenues of State governments would increase under the GST regime. In this light, states would have enough scope to provide funds to local/municipal bodies. In addition, state governments could come up with adequate rules to provide compensation to local or municipal bodies.

Hence, there is no need to retain entertainment tax in the GST regime to safeguard the revenue of local bodies from the allocation of such taxes, which comprise a miniscule amount.

5. International practices in the film industry

This section provides an overview of taxation on the film industry in international jurisdictions, particularly in countries that have broad-based consumption tax such as VAT or GST. Across the world, the film industry is recognised as a priority sector.

In the jurisdictions reviewed, entertainment is included in the VAT or GST base and is taxable on the lines of any other good or service, with no examples of a supplementary tax. In fact, many countries tax entertainment transactions at a rate lower than the standard rate of VAT or GST. In addition, they provide tax incentives to promote the industry.

5.1 VAT or GST tax rates applicable to the film Industry in key countries

The table below enumerates entertainment tax rates in countries where the VAT or GST regime is adopted. We have categorised them into (a) countries charging super reduced rate (less than 50% of standard rate) on the sale of film tickets (b) countries charging reduced rate (50% of standard rate or higher) and (c) countries charging standard rate.

Table 8: Rate of VAT applied to film tickets

Category A: Countries charging super reduced VAT/GST rates (more than 50% of standard rates)	Standard	VAT rate (%) film tickets (%)
Belgium	21	6
Cyprus	19	5
Finland	24	10
Germany	19	7
Luxembourg	15	3
The Netherlands	21	6
Category B: Countries charging reduced VAT/GST rates (up to 50% of standard rates)	**Standard**	**VAT rate (%) film tickets (%)**
Austria	20	10
Italy	22	10
Category C: Countries charging standard VAT/GST rates	**Standard**	**VAT rate (%) film tickets (%)**
Australia	10	10
Bulgaria	20	20
Denmark	25	25
Estonia	20	20
Hungary	27	27
Latvia	21	21
The UK	20	20

Source: Ernst & Young research, European Commission publication dated 1 July 2014

5.2 Fiscal incentives for film productions

Several countries provide various tax incentives to boost the film industry and promote art and culture in their respective society. Such incentives include tax offsets/refunds to producers, exemption from income tax, and from VAT and various other incentives.

5.3 Observations and conclusion

None of the countries reviewed above levy a supplementary tax over and above GST or VAT. In most of the countries, the sale of movie tickets is incentivised by charging a reduced or super-reduced rate. Furthermore, many of the countries provide significant fiscal incentives to film productions that substantially offset the burden of GST or VAT.

6. Policy options for India

The introduction of GST would be a bold step in the indirect tax reforms space in India. GST aims to provide a simplified and rational tax regime. However, the exclusion of entertainment tax from GST would be contrary to the basic objectives of the reform. It would significantly undermine its benefits and perpetuate complexity and anomalies.

The first draft of the Constitution (Amendment) Bill for the introduction of GST proposed the deletion of entry 62 (entertainment, betting and gambling) from the state list under Schedule VII of the Constitution. Accordingly, it proposed the subsumation of entertainment tax, including entertainment tax levied by local bodies, in GST.

However, contrary to the proposal in the first Constitutional draft, the Constitutional (Amendment) Bill, 2011 (22 of 2011) proposed to substitute Entry 62, whereby it would read as "Taxes on the entertainments and amusements to the extent levied and collected by a Panchayat or a Municipality or a Regional Council or a District Council". It would, thus, retain local bodies' power to levy entertainment taxes. This is a matter of deep concern to the film sector, as it would perpetuate existing complexities and give rise to significant distortions that would have a deleterious impact on the growth of the entertainment industry.

This proposal is against the basic design of GST.

Entertainment is not a sin

Supplementary levies in addition to GST are warranted only for products that are harmful to health such as tobacco and alcohol or those that are detrimental for the environment (petroleum). There are no negative externalities associated with entertainment. It must be considered at par with other goods and services and should be given a fair tax treatment.

Internationally, the film industry is considered a priority sector and is given preferential treatment by imposing taxes at reduced or standard GST or VAT rates with no supplementary taxes. Furthermore, film producers are granted various fiscal incentives to promote film making.

A separate tax will be a nightmare

Entertainment includes a large variety of activities, including art exhibitions, performance, amusement, game, sport or race, cinematographic exhibitions, amusement parks, video game parlours, bowling alleys and billiards/pool joints. With the advent of modern technology, entertainment has taken more diverse forms and has become highly mobile. Given this diversity, it is difficult to apply a separate tax on entertainment in a fair and equitable manner.

Entertainment tax is outdated and not a good base for local bodies

For local governments, the most suitable tax base is considered to be real property, which is immobile and can readily be identified within the boundaries of a given jurisdiction. Entertainment, being mobile and available in diverse forms, is not a suitable base for municipal/local taxation.

The situs of entertainment is important for municipal/local bodies that collect tax if the source of entertainment is within the boundaries of their jurisdiction. With the advent of modern technology, movies and films can be watched not just in cinema halls or through cable or DTH connections, but also on computers, laptops and media players. Entertainment signals could be beamed from a satellite and received/consumed anywhere within the footprint of the signals, which could be the whole of the country or the continent. At any given time, it would be difficult to determine whether the film is being watched within the limits of the municipal/local body.

Moreover, increasingly, entertainment services are being offered as goods or are being bundled with non-entertainment services. Movies can be watched at home from a DVD, which is a good. Mobile phones can be loaded with movies. It is precisely such practical difficulties that GST seeks to address. Subsuming entertainment tax in GST would be a step in the right direction, as it would enable governments to deal with rising complexities and avoid potential disputes.

Revenue impact

A number of states levy entertainment tax directly and apportion a part of the revenue to local bodies. State revenues from GST on the entertainment sector are expected to substantially increase (as discussed in Section 4), and governments would have enough room to use GST revenue to provide the necessary financial support to municipal bodies.

7. Conclusion

Rationale to subsume entertainment tax in GST

One of the basic objectives of GST is to usher in a simple, efficient and equitable tax structure. This objective would be best achieved if entertainment tax is subsumed in GST. The continuation of entertainment tax in any form outside GST would be a hurdle in attaining the simplicity that GST seeks to achieve.

The existing entertainment tax structure is seriously flawed. It is a patchwork of many taxes, and entertainment rates are abnormally high. The impact of cascading taxes on the industry is significant. In the current context, entertainment tax has become outdated. It is becoming increasingly difficult to ensure proper monitoring and compliance. GST provides the opportunity to address such practical problems.

Moreover, there is no policy justification for maintaining entertainment tax outside GST. Entertainment is not a sin and to be meted out treatment to this sector that is akin to that for sin products, such as alcohol and tobacco or polluting products, is not justified.

The Indian film and entertainment industry is one of the finest expressions of our art and culture and a window to our society. The industry has been instrumental in showcasing Indian art and culture across geographical boundaries. It needs to be nurtured and encouraged. Internationally, the film industry is recognised as a priority industry and enjoys reduced GST/ VAT rates. In addition, significant fiscal incentives are granted to the industry.

While recommending a tax rate of 16%, the Government has already taken into account the miniscule revenue of states from entertainment taxes. Overall state collections under GST are likely to come in more than double, leaving enough room for subsuming entertainment tax levied at any level.

In light of the above, it is strongly recommended that entertainment tax be fully subsumed in GST without the need to create a window for its application at the local level, as proposed in the first draft of Constitutional amendments.

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5th Floor, Block B-2
Nirlon Knowledge Park
Off. Western Express Highway
Goregaon (E)
Mumbai - 400 063
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Fax: + 91 22 6192 3000

NCR
Golf View Corporate Tower B
Near DLF Golf Course
Sector 42
Gurgaon - 122002
Tel: + 91 124 464 4000
Fax: + 91 124 464 4050

10th Floor, Tower D&E
Cyber Green, DLF Phase-3,
Gurgaon 12202 Haryana
Tel: + 91 124 671 4400

6th floor, HT House
18-20 Kasturba Gandhi Marg
New Delhi - 110 001
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