



CHAPTER - 5

IMPORTANT DEFINITIONS & COMPOSITION Levy

Important Definitions

| Aggregate Turnover | |
|--------------------|---|
| Section 2(6) | <p>means the aggregate value of</p> <ul style="list-style-type: none">➔ all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis),➔ exempt supplies,➔ exports of goods or services or both and➔ inter-State supplies of persons having the same Permanent Account Number, <p>to be computed on all India basis</p> <p>but excludes central tax, State tax, Union territory tax, integrated tax and cess</p> |

Important Comments :

Q. What does “Aggregate” means?

◆ It covers all the supplies effected by a person having same PAN all over India basis.

Q. Why Inward Supplies under RCM is excluded from aggregate turnover?

- ◆ As per Sec 9(3) & 9(4) for liability under RCM all provision of this act are applicable to recipient as a supplier & taxable in the hands of recipient as a supplier & taxable in the hands of recipient.
- ◆ It can be misunderstood that the value of inward supply under RCM to be included in aggregate Turnover of recipient.
- ◆ Definition specifically excluded value of inward Supplies subject RCM.

Q. What is the Role of Aggregate Turnover in CGST Act, 2017?

- ◆ It is relevant for determining threshold limit of 20L (10L in special category of state to obtain registration.
- ◆ It is relevant for deciding eligibility of composition Scheme.
- ◆ Certain Supplies are excluded for calculation of aggregate turnover of Job worker.



Example 1 : XYZ Ltd is a manufacturing company located in Bangalore. During the financial year 2018-19 total value of supplies including inward supplies taxed under reverse charge basis are as follows :

- i) Intra state supplies of goods chargeable to Nil rate of GST - ₹ 15,00,000
- ii) Intra state supplies made under forward charge - ₹ 88,50,000 (including GST@18%)
- iii) Intra state supplies of goods exempted under section 11 of CGST act - ₹ 9,00,000
- iv) Inward supplies of goods on which tax is payable under RCM - ₹ 5,00,000
- v) Inter-State supply to various buyers ₹ 16,80,000 (including IGST @ 12%)
- vi) Inter-State supply to own establishment under same PAN ₹ 11,20,000 (including IGST @ 12%)

Calculate aggregate turnover.

Example 2 : M/s X Ltd. being a manufacturer of Audio Systems has three factories in Maharashtra, Delhi, Gujarat, and two service Center in Jodhpur and Karnataka.

| Place | Turnover ₹ including Taxes @ 18%) |
|-------------|--------------------------------------|
| Maharashtra | 5,90,000 |
| Delhi | 9,44,000 |
| Gujarat | 10,62,000 |
| Jodhpur | 3,54,000 |
| Karnataka | 2,36,000 |

Calculate aggregate turnover.



Example 3 : Mr. Jolly LLB an Advocate has supplied following goods and services in F.Y. 18-19

i) Intra state supplies of legal services to business entity - ₹ 15,00,000

ii) Renting of immovable property - ₹ 5,00,000

iii) Trading of Goods - ₹ 9,00,000

Calculate aggregate turnover.

Turnover in State” or “Turnover in Union Territory

Section 2(112)

“turnover in State” or “turnover in Union territory” **means** the aggregate value of

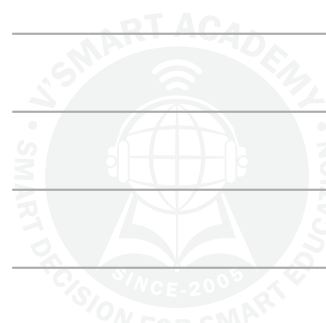
- ➔ all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis) and
- ➔ exempt supplies made within a State or Union territory by a taxable person,
- ➔ exports of goods or services or both and
- ➔ inter-State supplies of goods or services or both made from the State or Union territory by the said taxable person

but excludes central tax, State tax, Union territory tax, integrated tax & cess.



Tutorial Notes

Turnover is same as aggregate turnover, but only state wise :- The expression ‘turnover in a state (or UT) is a exactly same to with definition ‘aggregate turnover’ but for the fact that ‘turnover in state’ is restricted to the turnover of a taxable person, as opposed to aggregate turnover which is PAN based (i.e. aggregate of turnover of all person registered with same PAN) refer discussion with sec 2(6) of CGST Act





| | |
|-----------------------------------|---|
| 2(108) : Taxable Supply | means a supply of goods or services or both which is leviable to tax under this Act |
| 2(78) : Non-Taxable Supply | means a supply of goods or services or both which is not leviable to tax under this Act (i.e. CGST Act) or under the Integrated Goods and Services Tax Act |
| 2(47) : Exempt Supply | means a supply of any goods or services or both ➔ which attracts nil rate of tax or ➔ which may be wholly exempt from tax under section 11, or under section 6 of the integrated Goods and Services Tax Act, and includes non-taxable supply |

Example 4 : On the basis of following , determine Total value of exempt supply

| Particulars | Value of Supply | Exempt supply or not |
|---|-----------------|----------------------|
| a) Supply of goods @12% but fully exempted by notification | 1,50,000 | |
| b) Supply of goods/services where rate in GST tariff is NIL | 56,000 | |
| c) Supply of goods/services for exports where rate is zero rate | 1,75,000 | |
| d) Supply of petrol & diesel | 95,000 | |
| e) Supply of goods @ 18% but partly exempted by notification | 48,000 | |
| f) Supply of goods/Services @ 5% where ITC is not available | 86,000 | |
| g) Supply of goods under composition scheme 1% | 20,000 | |
| Total value of supply | 6,30,000 | |
| Value of exempt supply | | |

| | |
|----------------------------|---|
| 2(72) : Manufacture | means processing or raw material or inputs in any manner that results in emergence of a new product having a distinct name, character and use and the term “manufacturer” shall be construed accordingly [Section 2(72) of CGST Act] |
|----------------------------|---|



COMPOSITION LEVY

(Section 10)

Introduction : Composition Levy

The word 'Composition' comes from the latin componere, meaning 'Put together'.

Composition scheme is an alternative method to tax small taxpayers while simplifying compliances and reducing their compliance costs. Such schemes have existed in the previous regime of VAT laws, service tax laws and excise laws as well. Even the income tax law has Section 44AD, 44ADA and 44AE to provide for a flat rate of taxation in case of small assessee. (name given to such scheme under Income tax is Presumptive scheme of taxation).

The very purpose of introduction of these schemes is to ensure proper tax collection to the government without having to trouble the small taxpayers with additional compliances as in case of normal taxpayers.

Composition scheme under GST law has been given under Section 10 of the CGST Act

The objective of composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers. Small taxpayers with an aggregate turnover in a preceding financial year up to ₹ 1.5 Cr. shall be eligible for composition levy. Suppliers opting for composition levy need not worry about the classification of their goods or services or both, the rate of GST applicable on the same, etc. They are not required to raise any tax invoice, but simply need to issue a Bill of Supply. At the end of a quarter, the registered person opting for composition levy would pay a certain specified percentage of his turnover of the quarter as tax, without availing the benefit of input tax credit.

INDEX

| CGST Act, 2017 Sec-10 | | Pg. No |
|-----------------------|---|--------|
| 10(1) | Eligibility for Composition Levy | 98 |
| 10(2) | Other Conditions for eligibility | 102 |
| 10(2A) | Eligibility for Composition Levy for supply of service (Newly Inserted) | 110 |
| 10(3) | Composition Levy will lapse once Aggregate Turn Over exceeds the specified limits of 1.5 Crore/75 lakhs/ 50 lakhs | 110 |
| 10(4) | Composition tax liability shall not be collected from recipient No ITC admissible to composition supplier | 110A |
| 10(5) | Penalty in case of Contravention | 110A |

| CGST Rules, 2017 | | Pg. No |
|------------------|--|--------|
| Rule 3 | Intimation of Composition Levy | 110C |
| Rule 4 | Effective date of Composition Levy | 110C |
| Rule 5 | Conditions and Restriction for availing Composition Scheme | 107 |
| Rule 6 | Validity of Composition Levy | 110C |

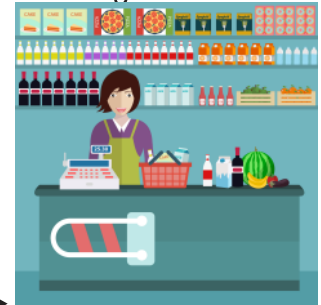
Very Small Dealer



Small Dealer



Big Dealer



Aggregate
Turnover
10 L/20 L/40 L

Aggregate
Turnover
1.5 Cr./75 L/50 L

Threshold

Composition

Normal

| Assessee | Mfg | Trader | SP | | | | Mfg | Trader | SP | | | |
|----------|-----|--------|----|--|--|--|-----|--------|----|--|--|--|
| | | | | | | | | | | | | |

| Tax benefits | | | |
|--------------|--|--|--|
|--------------|--|--|--|

| procedure benefit | | | |
|-------------------|--|--|--|
| Registration | | | |
| GST Invoice | | | |
| GST Records | | | |
| ITC | | | |
| GST Return | | | |

Section 10 Eligibility Criteria for Composition Levy

- (1) **Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9,**
- a **registered person**, whose **aggregate turnover** in the preceding financial year did not exceed **₹ 1.5Cr.** (75 lacs for Special category State except state of **Assam, Himachal Pradesh and Jammu & Kashmir**,) **may opt to pay**, in lieu of the tax payable by him **u/s 9(1)**, an amount calculated at such rate as may be prescribed, but **not exceeding,—**

- (a) **Half Per cent** of the **turnover in State** or **turnover in Union territory** in case of a **manufacturer**,
- (b) **two and a half per cent** of the turnover in State or turnover in Union territory in case of persons engaged in **making supplies referred to in clause (b) of paragraph 6 of Schedule II, and**
- (c) **half per cent** of the turnover of taxable supply of goods & services in State or turnover in Union territory in case of **other suppliers**.

Actual Rate of Tax under Composition Scheme notified in Rule 7 of CGST Rules, 2017
[following rates to be remember by students] Amended by N/N 50/2020 CT dt 24/06/2020

| Sr. No | Sec under which composition levy is opted | Categories of registered person | Central Rate | State/UT GST Rate | Total Rate | Basis of Calculation |
|--------|---|--|--------------|-------------------|------------|---|
| 1 | | Manufacturers other than manufacturers of such goods as may be notified by the government | 0.5% | 0.5% | 1% | Turnover in State or UT |
| 2 | Sub-sec (1) and (2) of sec10 | Suppliers making supplies referred to in Clause (b) of para 6 of schedule II Example - Restaurant, Catering, Mess or any other service contract where goods as food or drink is supplied for human consumption | 2.50% | 2.50% | 5% | Turnover in State or UT |
| 3 | | Other Suppliers (Normally Traders not involved in manufacture) Note:- Section 10(2)(a) provides that a person who is a service provider is not eligible for option composition scheme under section 10(1). This is the reason that the term "other eligible suppliers" as mentioned in Rule 7 has been interpreted as "Traders". | 0.50% | 0.50% | 1% | Turnover of taxable supplies of goods & services in State or UT |
| 4 | Sub-sec (2A) of sec10 | Registered persons not eligible under the composition levy under subsections (1) and (2), but eligible to opt to pay tax under section 10(2A) | 3% | 3% | 6% | turnover of supplies of goods and services in the State or UT |

Important Comment

- a) Please note that the **scheme is optional** i.e. one may not pay tax under the composition scheme even if he is otherwise eligible to do so.
- b) The tax payable u/s 10 is in lieu of tax payable u/s 9(1). Therefore, he is relieved of his tax liability as a normal taxpayer. (This insertion was just clarificatory in nature).
- c) Special category state eligible for composition scheme having aggregate turnover of ₹ 75 lakhs. (**Special Category State as follows:- Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura, Uttarakhand**)
- d) For Three Special category of states **Assam, Himachal Pradesh and Jammu & Kashmir** (now it is treated at UT) applicable limit is **1.5 Cr (for Ladakh (UT) clarification yet to come)**

Proviso 1 Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding **one crore & fifty lakh rupees**, as may be recommended by the Council.

The limit as per bare Act was initially ₹50 Lakh. However as per notification it was increased to ₹ 1 Cr & now after the recent notification no 14/2019-CT dt 07/03/2019 the limit has been increased to ₹1.5 Cr.

Proviso 2 *Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding 10% of turnover in a State or Union territory in the preceding financial year or 5 lakh rupees, whichever is higher.*

(Detailed discussion on explanation is done on subsequent pages)

"Explanation.—For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory."

Newly Inserted by F.A. 2019

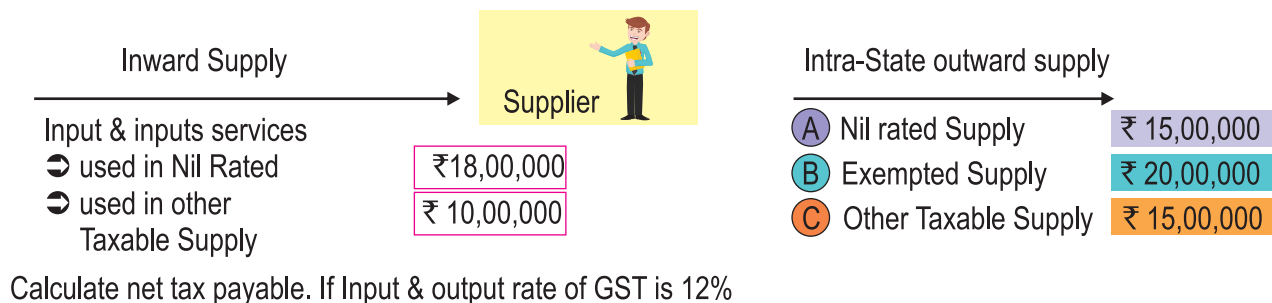
(Detailed discussion on explanation is done on subsequent pages)

Diagram

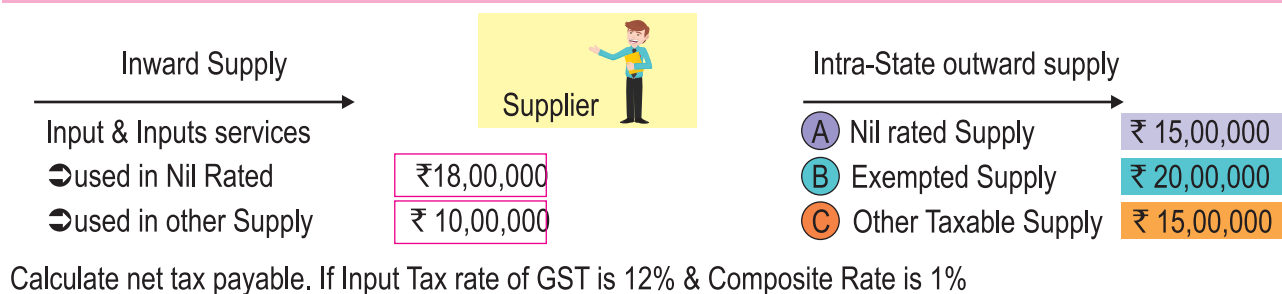


Following Examples assume that aggregate turnover of PFY does not exceeds ₹ 1.5 Cr.

Example 1 : If supplier does not opt for composition

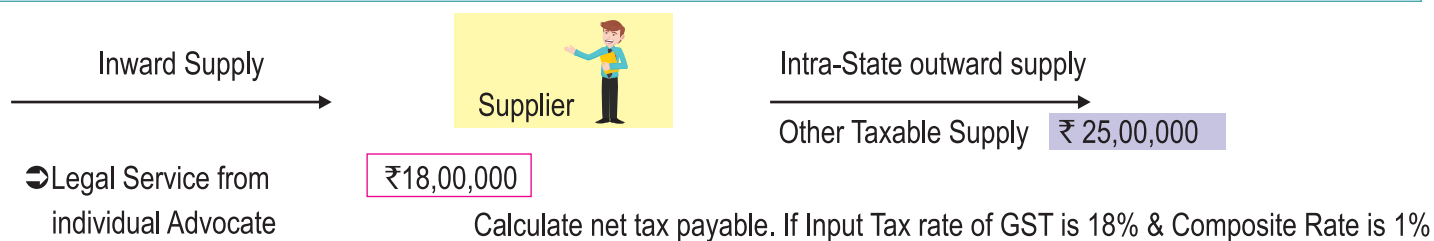


Example 2 : If supplier opt for composition



Whether GST is payable at normal rate under RCM if the taxable person is opting for composition scheme ?

Answer:- Section begins with a non-obstante clause i.e. it overrides other provisions of the act but is subject to sub-section (3) and (4) of Section 9 i.e. he shall pay tax under Reverse Charge Mechanism on inward supplies (meaning thereby that the benefit of a flat rate of tax is only on outward supplies and not on inward supplies liable to reverse charge)



Section 10 (2) - Conditions for Composition Scheme

| | |
|-----|---|
| (a) | <p>Save as provided in subsection (1), <i>he is not engaged in the supply of services</i></p> <p>Comment:- Thus the person who is opting for composition levy u/s 10(1) (i.e. Manufacturer, restaurant/ caterers, Trader) cannot supply any service (Taxable or Exempt) except as allowed in proviso 2 of sec 10(1)</p> <p>As we have seen in proviso to sec 10(1), that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding 10% of turnover in a State or Union territory in the preceding financial year or 5 lakh rupees, whichever is higher. (Detail analysis is done on next page)</p> <p>Examples : Finolex Ltd (MH branch), sells electrical cables, motor and wire & also undertakes repair of switches, motor sets .The Aggregate Turnover during preceding financial 2019-20 year from supply of goods & services was ₹ 70 lakhs. The T/O of 1st Quarter of C.F.Y. 20-21 for supply of goods is ₹30 lakhs and repairing service 3 lakhs.</p> <p>Whether Finolex Ltd., is eligible for composition scheme & supply of services in C.F.Y.. Advice.</p> <p>Answer : Yes. As per proviso to sec 10(1) inserted via CGST amendment act 2018, Finolex Ltd., can make supply of services upto 10% of turnover in state in previous fin.yr. i.e. ₹ 7 lakhs or ₹ 5 lakhs whichever is higher. Therefore, the benefit of composition scheme will be available to Finolex Ltd. as the turnover from services has not exceeded the limit of ₹ 5 lakhs as computed above .Also the aggregate turnover in previous fin.yr. is below 1.5 Cr. thus eligible for composition scheme.</p> |
| | Inserted by F.A. 2020 |
| (b) | <p>He is not engaged in making any supply of goods or Services which are not leviable to tax under this Act;</p> <p>Comment :- a person who is engaged in the supply of alcoholic liquor for human consumption or any of the 5 petroleum products mention in section 9 (petroleum crude, high speed diesel, motor-spirit, natural gas and aviation turbine fuel) cannot opt for composition scheme for any of his other GST supplies.</p> <p>Examples : Mr. Jay is dealer who is selling taxable goods, exempted goods and non-taxable goods (i.e. Liquor). His turnover in the preceding financial year is ₹ 35 lakh, ₹ 10 lakh, ₹ 15 lakh goods which are leviable to GST exempted and non-taxable respectively. Whether Mr. Jay is eligible for composition Scheme?</p> <p>Answer : If a person is selling the goods, which are not leviable to tax under GST, then he is not eligible to opt for composition Scheme.</p> <p>In this case aggregate turnover not exceeds ₹ 1.5 Cr even though, Mr. Jay is not eligible for composition Scheme.</p> |
| (c) | <p>He is not engaged in making any inter-State outward supplies of goods or Services Inserted by F.A. 2020</p> <p>Comment :- 1) Cannot make inter-state outward supplies of goods including stock transfers to own branches outside of the state as it is also a supply as per the GST law. However, there is no restriction on inter-state inward supplies.</p> <p>2) Author's opinion : This restriction is only applicable for interstate supply of goods and not for interstate supply of services. This, it seems that composite dealer u/s 10(1) can make interstate supply of services within permissible limit as mentioned in proviso 2 of sec 10(1).</p> <p>Examples : Mr. C of Maharashtra is a retailer dealing with cell phones. He supplies goods to the person located in Maharashtra and Goa. Aggregate turnover in the preceding financial year is ₹ 45 lakhs. Mr. C wants to opt for composition scheme in the current financial year.</p> <p>Answer : No. When the person makes inter-State supply of goods benefit of composition scheme is prohibited. Therefore, Mr. C will not be entitled to the benefit of composition scheme.</p> |
| | Inserted by F.A. 2020 |
| (d) | <p>He is not engaged in making any supply of goods or Services through an electronic commerce operator who is required to collect tax at source under section 52; and omitted by F.A. 2019</p> <p>Comment :- Please note that he is still allowed to make supplies through an E-Commerce operator. He has only been barred from making supplies through an E-Commerce operator who is liable to collect tax at source u/s 52.</p> |

| | <p>Examples : Mufti is a trader who sells his ready-made clothes online on Amazon India (an Electronic Commerce Operator). He received an order for ₹ 14,00,000 in the previous year. Mufti also supplied goods from there out lets. Aggregate turnover of the Company in the previous year was ₹21,00,000.</p> <p>Peter England is eligible for composition scheme.</p> <p>Answer : No. Mufti engaged in making supply of goods through an electronic commerce operator who is required to collect tax at source under section 52 of CGST Act, 2017. Hence, Mufti is not eligible for composition scheme.</p> | | | | | | | | | | |
|--|--|--|-------------|------------|---|------------|------------|------------|---------------|----|--|
| (e) | <p>He is not a manufacturer of such goods as may be notified(as notified in table given below) by the Government on the recommendations of the Council and</p> <table border="1"> <thead> <tr> <th>Tariff item, subheading, heading or Chapter*</th><th>Description</th></tr> </thead> <tbody> <tr> <td>2105 00 00</td><td>Ice cream and other edible ice, whether or not containing cocoa</td></tr> <tr> <td>2106 90 20</td><td>Pan Masala</td></tr> <tr> <td>2202 10 10</td><td>Aerated Water</td></tr> <tr> <td>24</td><td>All goods, i.e. Tobacco and manufactured tobacco substitutes</td></tr> </tbody> </table> <p>Comment :- Please note that the restriction is only for “manufacturers of notified goods”. Therefore, a person who is trading in such goods will still be allowed to opt for composition scheme.</p> | Tariff item, subheading, heading or Chapter* | Description | 2105 00 00 | Ice cream and other edible ice, whether or not containing cocoa | 2106 90 20 | Pan Masala | 2202 10 10 | Aerated Water | 24 | All goods, i.e. Tobacco and manufactured tobacco substitutes |
| Tariff item, subheading, heading or Chapter* | Description | | | | | | | | | | |
| 2105 00 00 | Ice cream and other edible ice, whether or not containing cocoa | | | | | | | | | | |
| 2106 90 20 | Pan Masala | | | | | | | | | | |
| 2202 10 10 | Aerated Water | | | | | | | | | | |
| 24 | All goods, i.e. Tobacco and manufactured tobacco substitutes | | | | | | | | | | |
| (f) | <p>he is neither a casual taxable person nor a non-resident taxable person Newly Inserted by F.A. 2019</p> <p>Comment :- If a composition taxable person registered in the state of Madhya Pradesh wants to set up an exhibition of his goods in Maharashtra, then normally he would have registered himself as a casual taxable person in Maharashtra for the duration of exhibition, discharge his liabilities there and got himself deregistered post the expiry of his registration as a casual taxable person. But in this case, if he wishes to opt for this option, then he will have to opt out of his composition taxable registration in the state of Madhya Pradesh and pay tax as a regular tax payer.</p> | | | | | | | | | | |

Proviso to Sec 10(2) : Scheme applies to all registered persons with same PAN

| | |
|---------|--|
| Proviso | <p>Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961),</p> <p style="color: red; text-align: center;">the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.</p> |
|---------|--|

Example : If a taxable person has multiple business vertical in same and different state and if he has opted for separate registrations for each such vertical, composition scheme would become applicable for all the business vertical and it cannot be applied for select vertical only e.g. : if a taxable person has the following businesses separately registered :

➡ Sale of footwear (Registered in Maharashtra) ➡ Sale of mobiles (Registered in Maharashtra) ➡ Franchisee of McDonalds (Registered in Goa)

In the above scenario, the composition scheme would be applicable for all the 3 units. Taxable person will not be eligible to opt for composition scheme say for sale of footwear and sale of mobiles and opt to pay taxes under the regular scheme for franchisee of McDonalds.

How to Compute Aggregate Turnover for determining eligibility of composition scheme if person having his one of the establishment in special categories of state?

Ans:- One may have a doubt in case where a person who has business established in one of the special category states and other states, say in Manipur and Maharashtra, what would be the Aggregate Turnover threshold for composition levy. Whether it would be ₹ 75L or 150L? In such cases, harmonious interpretation shall be done to ensure that both the conditions are satisfied. Therefore, in such cases the Aggregate Turnover threshold limit will be ₹ 75L.

Special discussion on Supply of Service by Manufacturer/Trader/Restaurant [Proviso -2 of Sec 10(1) read with Sec 10(2)(a)]

| | |
|----------------------------------|---|
| Sec 10(1) Proviso 2 | <p>Provided further that a person who opts to pay tax under clause (a) (Manufacturer) or clause (b) (Restaurant & Outdoor Catering) or clause (c) (Other Supplier i.e. Trader)</p> <p>may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), (i.e. Restaurant & Outdoor Catering)</p> <p>of value not exceeding</p> <p>➤ 10% of turnover in a State or Union territory in the preceding financial year</p> <p>or</p> <p>➤ 5 lakh rupees, whichever is higher.</p> |
| Condition of Sec 10(2)(a) | Save as provided in subsection (1), he is not engaged in the supply of services |

Object of Proviso 2 to Sec 10(1)

Proviso 2 is inserted by CGST Amendment Act, 2018

Applicable law before insertion of Proviso -2

Earlier as per Sec 10(2)(a) Manufacturer, Restaurant/Catering or Trader was completely ineligible for composition Scheme u/s 10(1) if they supply any service (taxable or exempt) along with supply of goods.

Restriction of Sec 10(2)(a) leads to following problem

1. As there is a general practice in the Indian society of investing surplus amount with banks, there rose a problem of ineligibility being attracted as advancing money where consideration is received as interest/discount is considered as a supply of service, thereby covering a majority of persons under the ineligibility criteria who were otherwise eligible to opt for the scheme.
2. There are certain manufacturers/traders who have to provide certain services which are necessary and incidental for their main supply. Even those persons were coming under the ineligibility criteria as they were providing services.

Why Proviso 2 is introduced ?

Therefore, for providing relaxation with respect to the above two problems, a proviso and an explanation was inserted wherein it was stated that a person may supply services (other than restaurant/caterer services as these are already allowed for composition scheme) up to 10% of turnover in the state or UT in the preceding FY or ₹ 5,00,000 whichever is higher.

Analysis of Proviso 2

Therefore, a manufacturer/trader may provide services up to the following limits:

| Turnover in the state/UT in the preceding FY (in Rs.) | 10% of such turnover (in Rs.) | 5 Lakh Rupees | Maximum amount of services which may be supplied by the manufacturer/trader during the current FY (in Rs.) |
|---|-------------------------------|---------------|--|
| 10,00,000 | 1,00,000 | 5,00,000 | 5,00,000 |
| 20,00,000 | 2,00,000 | 5,00,000 | 5,00,000 |
| 60,00,000 | 6,00,000 | 5,00,000 | 6,00,000 |

Limit is available statewise

They leave it under proviso 2 in given on Statewise. Just try to understand with following example.

Example:- Aggregate turnover of Mr. A during the PFY was ₹ 90,00,000. (₹ 30,00,000 in M.P. and ₹ 60,00,000 in Maharashtra). If the 10% threshold was considered on the basis of Aggregate turnover then he would be eligible to provide services to the maximum of Rs. 9,00,000 (higher of 10% or 5,00,000).

However, if turnover in the state/UT is considered, then he will be allowed to provide services amounting to ₹5,00,000 (higher of 10% or 5,00,000) in the state of M.P. and ₹6,00,000 (higher of 10% or 5,00,000) in the state of Maharashtra.

Therefore, in totality, he will be allowed to provide services amounting to ₹ 11,00,000 which is ₹ 2,00,000 more than what he would've been allowed to provide if Aggregate turnover was considered.

Due care must be taken in this regard while calculating the threshold amount.

Meaning of ("other than those referred in clause (b) of para 6 of Schedule II") in Proviso 2

This exceptional clause in proviso 2 mean that supplier of service providing restaurant or catering or etc. already have the limit of 1.5 cr in clause (b) Sec 10 (1) in addition to that they are eligible to provide supply of service up to 10% of turnover in the state or UT in the preceding FY or ₹ 5,00,000 whichever is higher.

Let's try to understand with the help of following example.

Example: Assume T/O in state of P.F.Y. is ₹40Lakhs

| Supplier | Supply of Goods | Supply of Service | | Remark |
|-----------------------|--------------------|-----------------------|---|--|
| | | Restaurant & Catering | As per proviso 2 10% T/o in state of PFY or 5Lakh whichever is higher | |
| Manufacturer | 30 Lakh | 8 Lakh | Max 5 Lakh (10% of 40 L i.e. 4 lakh or 5 Lakh whichever is higher) | 1. Aggregate T/o of all supply of goods & Services below 1.5cr i.e. 43 lakhs 2. For calculation of proviso 2 limit T/o of restaurant & Catering shall not be considered |
| Trader | 40 Lakh | 20 Lakh | Max 5 Lakh (10% of 40 L i.e. 4 lakh or 5 Lakh whichever is higher) | 1. Aggregate T/o of all supply of goods & Services below 1.5cr i.e. 65 lakhs 2. For calculation of proviso 2 limit T/o of restaurant & Catering shall not be considered |
| Restaurant / Catering | 5 Lakh (ancillary) | 60 Lakh Dominancy | Max 5 Lakh (10% of 40 L i.e. 4 lakh or 5 Lakh whichever is higher) | 1. Aggregate T/o of all supply of goods & Services below 1.5cr i.e. 70 lakhs 2. For calculation of proviso 2 limit T/o of restaurant & Catering shall not be considered |

*Restaurant / Catering can take benefit of this extra limit of proviso - 2

Restrictive limit of Proviso 2 read with Sec 10 (2)(a) also applicable for calculate Aggregate turnover of P.F.Y. (to decide eligibility of composition levy in C.F.Y.)

Composition levy can be withdrawn in C.F.Y. if supply of service exceed the limit as mentioned in proviso 2

For calculation of limit under proviso 2 (10% or 5lakhs) Turnover of exempt supply of service also to be consider

Special Discussion on Explanation to Section 10 (1)

“Explanation.—For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory.”

As per this explanation it was clarified that while determining the amount of turnover in state for the purpose of determining the amount of services which can be supplied, the amount of interest/discount earned on account of extending deposits earned shall not be considered. This can be understood with the following example:

| Turnover in the state/UT in the preceding FY (in Rs.) | 10% of such turnover (in Rs.) | ₹ 5 Lakh | Maximum amount of services which may be supplied by the manufacturer/trader during the current FY (in Rs.) |
|--|--|----------|--|
| 60,00,000 (including interest on deposits earned amounting to Rs. 12,00,000) | Normally, turnover in the state would be Rs. 60,00,000. However, as per the explanation, turnover in state would be Rs. 48,00,000 in such case and therefore, 10% of such amount will be Rs. 4,80,000. | 5,00,000 | Eligible limit is ₹ 5,00,000 |

CGST Rules, 2017

Rule 5: Conditions and restrictions for compositions levy

(1) Further Conditions for eligibility : The person exercising the option to pay tax under section 10 shall comply with the following conditions, namely:-

| | | |
|-----|--|--|
| (a) | He is not CTP or NRTP : | He is neither a casual taxable person nor a non-resident taxable person (already discussed u/s 10(2)) |
| (b) | Payment of RCM on purchases from unregistered person | the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under sub-section (4) of section 9 (already discussed u/s 10(2)) |
| (c) | Payment of RCM on purchases : | <p>he shall pay tax under sub-section (3) or sub-section (4) of section 9 on inward supply of goods or services or both</p> <div style="border: 1px solid red; padding: 5px;"> <p>Comment :- On the date of opting in the scheme, he shall not have any goods in stock which were purchased from an unregistered supplier and where he has such goods, then he shall pay tax under sub-section (4) of section 9 i.e. RCM on inward supplies from an unregistered dealer.</p> <p>However, it must be noted that now section 9(4) has been amended to provide that RCM shall be applicable only in case of notified inward supplies from unregistered suppliers, therefore in view of such amendment in that section, this rule has become inapplicable until such inward supplies on which 9(4) will be applicable is notified. If the goods held in stock are one of those notified goods, then he will have to pay tax under RCM u/s 9(4)</p> </div> |
| (d) | Ice-cream, pan Masala & tobacco manufacturers barred for whole year | he was not engaged in the manufacture of goods as notified under clause (e) of sub-section (2) of section 10, during the preceding financial year (already discussed u/s 10(2)) |
| (e) | Title on Bill of Supply | he shall mention the words “composition taxable person, not eligible to collect tax on supplies” at the top of the bill of supply issued by him; and |
| (f) | Display at business premises | he shall mention the words “Composition taxable person” on every notice or signboard displayed at a prominent place at his principal place of business and at every additional place or places of business. |

Problem for Practice :-

Mr. Roshan, a trader registered under GST Act & has opted for composition scheme engaged in supply of goods & services. The details of transactions carried out by him in the preceding financial year (PFY) i.e. 2018-19 and current financial year 2019-20 are given as follows. Determine the aggregate turnover and GST liability of 1st quarter of current financial year (CFY) i.e. 2019-20 from the given information.

| PFY 2018-19 | | | | |
|-------------|----------------|--|-------------------------------|----------------------|
| S. No. | State | Goods (Taxable+ Exempt+ Nil rated) | Service (Taxable+ Exempt)* | Turnover in State |
| 1. | Maharashtra | ₹ 10 lakhs | ₹ 2 lakhs | ₹12 lakhs |
| 2. | Goa | ₹ 15 lakhs | ₹ 3 lakhs | ₹18 lakhs |
| 3. | Madhya Pradesh | ₹ 110 lakhs | ₹ 10 lakhs | ₹ 120 lakhs |
| | Total | ₹ 135 lakhs | ₹ 15 lakhs | ₹ 150 lakhs |
| | | Total Aggregate Turnover | | ₹ 150 lakhs |

* The service provided is within the limit of 10 % of turnover in state or ₹ 5 lakhs, whichever is higher.

| CFY 2019-20 | | | |
|-------------|---|--|------------------------------|
| S. No. | State | Goods (Taxable+ Exempt+ Nil rated) | Service (Taxable+ Exempt) |
| 1. | Maharashtra -Taxable supply - Exempt supply | ₹ 20 lakhs ₹ 10 lakhs | ₹2 lakhs ₹ 1 lakh |
| 2. | Goa -Taxable supply - Exempt supply | ₹40 lakhs ₹ 15 lakhs | ₹ 3 lakhs ₹ 0.5 lakh |
| 3. | Madhya Pradesh -Taxable supply - Exempt supply | ₹ 40 lakhs ₹ 5 lakhs | ₹ 10 lakhs ₹ 2 lakh |
| | Total | ₹ 130 lakhs | ₹ 18.5 lakhs |

Answer: Determination of aggregate turnover and tax liability of Mr. Roshan for the 1st quarter of CFY 2019-20

| CFY 2019-20 – April to June 2019 | | | | | | |
|----------------------------------|---------------------|--|---|-------------|----------------------------|------------------------|
| S. No. | State | Goods (Taxable+ Exempt+ Nil rated) | Service (Taxable+ Exempt) | | Tax payable (₹) | Refer Note below |
| | | | Allowed Limit * | Actual | | |
| 1. | Maharashtra: | | | | | |
| | -Taxable Supply | ₹ 20 lakhs | 5 Lakhs (Higher of 5 lakhs or 10% of 12 lakh i.e. ₹ 1.2 lac) | ₹ 2 lakhs | CGST=11,000 SGST=11,000 | i. |
| | - Exempt Supply | ₹ 10 lakhs | | ₹ 1 lakh | | |
| | Total | ₹ 30 lakhs | | ₹ 3 lakhs | ₹ 22,000 | |
| 2. | Goa: | | | | | |
| | -Taxable Supply | ₹ 40 lakhs | 5 Lakhs (Higher of 5 lakhs or 10% of 18 lakh i.e. ₹ 1.8 lac) | ₹ 3 lakhs | CGST=21,500 SGST=21,500 | ii. |
| | - Exempt Supply | ₹ 15 lakhs | | ₹0.5 lakh | | |
| | Total | ₹ 55 lakhs | | ₹ 3.5 lakhs | ₹ 43,000 | |

| | | | | | | |
|----|------------------------|------------|---|------------|----------------------------|------|
| 3. | Madhya Pradesh: | | | | | |
| | -Taxable Supply | ₹ 40 lakhs | 12 Lakhs (Higher of 5 lakhs or 10% of 120 lakh i.e. ₹12 lac) | ₹ 10 lakhs | CGST=25,000 SGST=25,000 | iii. |
| | - Exempt Supply | ₹ 5 lakhs | | ₹ 2 lakhs | | |
| | Total | ₹ 45 lakhs | | ₹ 12 lakhs | ₹ 50,000 | |

* The Allowed limit for service is 10% of turnover in State in PFY or ₹ 5 lakhs whichever is higher.

Note:- As per section 10(1), tax will be leviable at the rate of half percent of the turnover of taxable supply of goods & services in State or in Union Territory in case of other suppliers i.e. traders

Hence, CGST and SGST @ 0.5% each will be leviable on taxable supply of goods or services supplied in a State which are as follows:

| S. No. | State | Calculation of CGST | Calculation of SGST |
|--------|----------------|---|---|
| i. | Maharashtra: | 0.5% on 22 lakhs [20 lakhs + 2 lakhs]= ₹11,000 | 0.5% on 22 lakhs [20 lakhs + 2 lakhs]= ₹11,000 |
| ii. | Goa | 0.5% on 43 lakhs [40 lakhs + 3 lakhs] = ₹21,500 | 0.5% on 43 lakhs [40 lakhs + 3 lakhs] = ₹21,500 |
| iii. | Madhya Pradesh | 0.5% on 50 lakhs [40 lakhs + 10 lakhs] = ₹25,000 | 0.5% on 50 lakhs [40 lakhs + 10 lakhs] = ₹25,000 |

Composition Levy under Sec 10(2A)

Sec 10(2A) :Eligibility Criteria and Condition for those who are not eligible for composition Scheme under Sec 10 (1)[predominantly for supplier of service] ◀ Newly Inserted by F.A. 2019

Notwithstanding anything to the contrary contained in this Act,

but subject to the provisions of sub-sections (3) and (4) of section 9,

a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2),

whose **aggregate turnover** in the preceding financial year did not exceed **₹50 lakh** ,

may opt to pay, in lieu of the tax payable by him under section 9(1), an amount of tax calculated at such rate as may be prescribed, but not exceeding-

three per cent (CGST 3% and SGST 3%) of the turnover in State or turnover in Union territory,

Comment :- Section 10(2A) is applicable to those persons who are ineligible for opting composition scheme u/s 10(1) and 10(2). Thus composition scheme of Sec 10(2A) is available to following taxable person.

1) Predominant for service providers

2) Those persons who are ineligible u/s 10(1) and 10(2) i.e. manufacturers/traders/restaurant etc. providing services in excess limit as mentioned in proviso 2

Section 10 (3) - Eligibility Criteria for Composition Scheme

◀ Newly Inserted by F.A. 2019

The option availed of by a registered person under sub-section (1) **or as the case may be Sub-section (2A)** shall lapse with effect from the day on which his **aggregate turnover** during **a financial year** exceeds the limit specified under sub-section (1). (i.e. 1.5 Cr.) **or as the case may be Sub-section (2A) (i.e. ₹50 lakh)** ◀ Newly Inserted by F.A. 2019

CONDITION FOR COMPOSITION SCHEME UNDER SECTION 10(2A)

| a) | He is not engaged in making any supply of goods or services which are not leviable to tax under this Act | | | | | | | | | | |
|--|--|--|-------------|------------|---|------------|------------|------------|---------------|----|--|
| b) | He is not engaged in making any inter-State outward supplies of goods or services; | | | | | | | | | | |
| c) | He is not engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52; | | | | | | | | | | |
| d) | He is not a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and <table border="1" data-bbox="220 1857 1219 2103"> <thead> <tr> <th>Tariff item, subheading, heading or Chapter*</th><th>Description</th></tr> </thead> <tbody> <tr> <td>2105 00 00</td><td>Ice cream and other edible ice, whether or not containing cocoa</td></tr> <tr> <td>2106 90 20</td><td>Pan Masala</td></tr> <tr> <td>2202 10 10</td><td>Aerated Water</td></tr> <tr> <td>24</td><td>All goods, i.e. Tobacco and manufactured tobacco substitutes</td></tr> </tbody> </table> | Tariff item, subheading, heading or Chapter* | Description | 2105 00 00 | Ice cream and other edible ice, whether or not containing cocoa | 2106 90 20 | Pan Masala | 2202 10 10 | Aerated Water | 24 | All goods, i.e. Tobacco and manufactured tobacco substitutes |
| Tariff item, subheading, heading or Chapter* | Description | | | | | | | | | | |
| 2105 00 00 | Ice cream and other edible ice, whether or not containing cocoa | | | | | | | | | | |
| 2106 90 20 | Pan Masala | | | | | | | | | | |
| 2202 10 10 | Aerated Water | | | | | | | | | | |
| 24 | All goods, i.e. Tobacco and manufactured tobacco substitutes | | | | | | | | | | |
| e) | He is not a casual taxable person or a non-resident taxable person : | | | | | | | | | | |

| | |
|----------------|--|
| Proviso | <i>Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the scheme under sub-section (2A) unless all such registered persons opt to pay tax under this sub-section."</i> |
|----------------|--|

Common Conditions for Composition Levy u/s 10(1) & 10(2A)

Sec 10(4) : Cannot collect the Tax as well as no ITC is available

A taxable person to whom the provisions of sub-section (1) **or as the case may be Sub-section (2A)** apply

➡ **shall not collect any tax from the recipient on supplies made by him**

Newly Inserted by F.A. 2019

➡ **nor shall he be entitled to any credit of input tax.**

Comment :- Composition taxpayers u/s 10(1) or 10(2A) shall not collect composition tax from their customers i.e. they have to pay tax from their own pocket and therefore cannot collect any amount in the name of tax from its customers. Because of this reason, they cannot issue a tax invoice and have to issue a Bill of supply instead.

Sec10(5) : Recovery and Penalty

If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) **or Sub-section (2A) as the case may be** despite not being eligible, such person shall,

Newly Inserted by F.A. 2019

➡ in addition to any tax that may be payable by him under any other provisions of this Act,

➡ be liable to a penalty

and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.

'Explanation 1.—For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression **"aggregate turnover"** shall include the value of supplies made by such person from the 1st day of April of a financial year up to the date when he becomes liable for registration under this Act,

but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

Explanation 2.—For the purposes of determining the tax payable by a person under this section, the expression **"turnover in State or turnover in Union territory"** shall not include the value of following supplies, namely:—

- supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and
- exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.'

Special discussion on Explanation 1 and Explanation 2

Difference between ATO and T/O in the state/UT:

Aggregate Turnover:-

- ➔ Aggregate Turnover shall be determined for the PFY and CFY as well.
- ➔ Aggregate Turnover for PFY is for determining eligibility of opting for the scheme in the CFY.
- ➔ Aggregate Turnover for CFY is for determining up to which date can a person pay tax under this scheme.

Turnover in State / Union Territory :-

Turnover in the state/UT is only relevant for determining the amount of tax which has to be paid by the composition taxpayer. Also, this is important to determine the amount up to which services can be rendered by a manufacturer/trader opting u/s 10(1).

Therefore, Aggregate Turnover shall include the supplies made from 01/04 of the FY up to the date till which such person becomes liable for registration.

Once, he becomes liable for registration or has voluntarily registered, then the role of T/O in the state/UT comes into the picture. T/O in the state/UT shall not include the amount of supplies from 01/04 till the date of him becoming liable to registration as tax has to be paid only on the amount of supplies made after becoming liable to registration/voluntary registration.

This can be understood with the help of following example for a manufacturer/trader (in Maharashtra) opting for the scheme u/s 10(1):

| Aggregate Turnover in PFY (in Rs.) | Aggregate Turnover in CFY (in Rs.) | | | Eligibility | Option Lapse | T/O in state (in Rs.) | Tax payable (in Rs.) |
|---|---|----------------|------------|--|------------------|--|----------------------|
| 15,00,000 | 25,00,000 (Regn. Done in CFY as threshold crossed in CFY) | | | Yes | No | 5,00,000 | 5000 |
| 15,00,000 | 25,00,000 (Voluntary Registration done when Aggregate Turnover in CFY was 3,00,000) | | | Yes | No | 22,00,000 | 22,000 |
| 25,00,000 | 25,00,000 (Regn. Done in PFY as threshold crossed) | | | Yes | No | 25,00,000 | 25,000 |
| 1,51,00,000 | N/A | | | N/A | N/A | N/A | N/A |
| 15,00,000 | 01/04/to 20/08 | 21/08 to 13/01 | From 14/01 | | | | |
| | 20 lakh | 1.30 Crore | 11 lakh | Yes | Yes (from 14/01) | 1,30,00,000 | 1,30,000 |
| 15100000 (including interest earned on deposits amounting to ₹ 1100000) | 1,40,00,000 (including interest on deposits amounting to Rs. 16,00,000) | | | Yes, as Aggregate turnover in PFY is ₹ 1,40,00,000 | No | 1,24,00,000 (excl, interest on deposits) | 1,24,000 |

Procedure under CGST Rules, 2017

| Intimation of opting for composition levy & Effective Date [Rules 3 & 4] | | | | | |
|--|--|---|--|---|---|
| Rule 3 | <p>(i) Intimation by person applying for registration: Any person who is not registered and applies for registration may give an option to pay tax under composition levy in Part B of the registration form, viz., FORM GST REG-01.</p> <p>The same shall be considered as an intimation to pay tax under Composition Levy. Such intimation shall be considered only after the grant of registration to the applicant and his option to pay tax under composition levy.</p> <p>(ii) Intimation by a registered person: A registered person who opts to pay tax under composition levy scheme shall electronically file an intimation in prescribed form (CMP-02) on the Common Portal [www.gst.gov.in], prior to the commencement of the FY for which said option is exercised.</p> <p>He shall also furnish the statement Form GST ITC-3 for details of ITC relating to inputs lying in stock, inputs contained in semi-finished or finished goods within 60 days of commencement of the relevant financial year in accordance with the provisions of rule 44(4) of CGST Rules, 2017.</p> <p><i>Any intimation in respect of any place of business in a State/UT shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.</i></p> | | | | |
| Rule 4 | <p>Effective date for composition levy:</p> <p>Intimation in case of person opting to shift to composition scheme i.e. u/r 3(3): Effective date shall be 01/04 of the FY for which such option is exercised.</p> <p>In case of fresh registration i.e. u/r 3(2): Effective date shall be the <i>effective date of grant of registration</i>.</p> <p>The effective date of grant of registration shall depend on when was the application for registration filed.</p> <p>a) Where the application for registration is filed within 30 days of becoming liable to register: In such case effective date of registration and therefore composition levy shall be the date of becoming liable for registration.</p> <p>E.g.: Liability to register: 01/02/2020 Date of filing for registration: 20/02/2020 Date of grant of registration: 22/02/2020</p> <p>In this case, date of registration shall be 01/02/2020 and therefore, effective date of composition levy shall be 01/02/2020 as well.</p> <p>b) Where the application for registration is filed after 30 days: In such case effective date of registration shall be the date of grant of registration.</p> <p>E.g.: Liability to register: 01/02/2020 Date of filing for registration: 03/03/2020 Date of grant of registration: 06/03/2020</p> <p>In this case, date of registration shall be 06/03/2020 and therefore, effective date of composition levy shall be 06/03/2020.</p> | | | | |
| Rule 6 | <p>Validity of composition levy:</p> <table border="1"> <tr> <td>1</td><td>Validity of composition levy will be till he continues to fulfill the conditions and restrictions required as have been discussed in sec 10 (2), 10(2A) and Rule 5</td></tr> <tr> <td>2</td><td>Where a person ceases to fulfill the conditions and restrictions as are required to be adhered to by a composition taxpayer, say his ATO exceeds the threshold limit or he makes an inter-state supply etc. he shall file an intimation of opting out of the scheme in FORM GST CMP-04 within 7 days from such date and shall issue tax invoice with respect to each supply made after he ceases to fulfill the said conditions and restrictions.</td></tr> </table> <p>For example: ATO of a composition taxpayer u/s 10(2A) exceeds Rs. 50L on 20/02/2020. He shall issue a tax invoice for each supply from thereon and also file a CMP-04 within 7 days i.e. 27/02/2020 to intimate the department that he has opted out of the scheme.</p> | 1 | Validity of composition levy will be till he continues to fulfill the conditions and restrictions required as have been discussed in sec 10 (2), 10(2A) and Rule 5 | 2 | Where a person ceases to fulfill the conditions and restrictions as are required to be adhered to by a composition taxpayer, say his ATO exceeds the threshold limit or he makes an inter-state supply etc. he shall file an intimation of opting out of the scheme in FORM GST CMP-04 within 7 days from such date and shall issue tax invoice with respect to each supply made after he ceases to fulfill the said conditions and restrictions. |
| 1 | Validity of composition levy will be till he continues to fulfill the conditions and restrictions required as have been discussed in sec 10 (2), 10(2A) and Rule 5 | | | | |
| 2 | Where a person ceases to fulfill the conditions and restrictions as are required to be adhered to by a composition taxpayer, say his ATO exceeds the threshold limit or he makes an inter-state supply etc. he shall file an intimation of opting out of the scheme in FORM GST CMP-04 within 7 days from such date and shall issue tax invoice with respect to each supply made after he ceases to fulfill the said conditions and restrictions. | | | | |

| | |
|--|--|
| 3 | Where a person who wants to opt out of the scheme voluntarily i.e., he has not violated any conditions/restrictions, he shall file an intimation in FORM GST CMP-04 before such withdrawal. |
| For example: | <p>Where a person wants to opt out of the scheme from 10/04/2020, then he has to file a CMP-04 on or before 09/04/2020. He can then proceed to issue tax invoices and pay tax as a regular taxpayer.</p> <p>As per Circular No. 77/51/2018 – GST dated 31-12-2018, it has been clarified that such option can be from any date but shall not be before the beginning of the FY in which such option to opt out has been exercised.</p> <p>Continuing with the above example, the date in CMP-04 can be any date but not prior to 01/04/2020.</p> |
| 6(4) and 6(5): Option to pay tax u/s 10 denied upon action by proper officer: | |
| i) | Proper officer is of the view that such person was not eligible for composition scheme or has contravened the provisions after being eligible, then the officer may issue a SCN (Show Cause Notice) in FORM GST CMP-05 as to why option to pay tax u/s 10 shall not be denied. |
| ii) | Within 15 days of receipt of such notice, the composition taxpayer has to reply in FORM GST CMP-06. |
| iii) | <p>Within 30 days of receipt of reply in CMP-06, the officer shall pass his order in FORM GST CMP-07 either accepting the contention or denying the option u/s 10.</p> <p>Where, he denies the option to pay tax u/s 10, such denial may be from the initial date (where the person was ineligible from the very beginning) or from such date when he contravenes the conditions or restrictions (where contravention is at a date after opting for section 10).</p> |
| 6(6): Requirement after opting out/denial of Section 10: | |
| <p>As we discussed earlier, where a person who opted for the scheme had to furnish a statement in FORM GST ITC-03 to declare the ITC with respect to stock lying with such person as on date of opting for the scheme. This was done with an intent to remove all the ITC from the credit of such person as he would not be entitled to claim ITC once he started to pay tax as a composition tax payer.</p> <p>On similar grounds, once a person is out of the composition scheme, he will pay tax as a regular taxpayer and shall be liable to collect tax on his outward supplies and claim ITC on inward supplies. Therefore, he shall be allowed the benefit of ITC on the stock lying with him as on date he starts paying tax as a regular taxpayer.</p> <p>Therefore, rule 6(6) gives an option to all such persons who have opted out or being denied to pay tax u/s 10 that they can file a FORM GST ITC-01 to avail the benefit of ITC on the stock lying with them as on date of opting out/denial to pay tax u/s 10. This form shall be filed within 30 days of filing CMP-04 or passing of order in form CMP-07 as the case maybe.</p> | |
| 6(7): Intimation in CMP-04 for any place of business or order in CMP-07 for any place of business shall be construed as opting out or denial of the option to pay tax u/s 10 for all the place of business registered on the same PAN. | |

Note :- Student need not remember the forms as mention above. They can write “Prescribed From”

OTHER RULES APPLICABLE TO A COMPOSITION TAXPAYER

Regn. **Rule 11(1)(b):** A person can register himself to pay tax either u/s 10 or as per section 9. He cannot opt for both for different place of businesses.

Return Rule 62

62(1)(i) All composition taxpayers shall file a **statement in FORM GST CMP – 08** on a **quarterly basis** till 18th of the month following the quarter.
Therefore, the default due dates for CMP – 08 are as follows:
 Apr-Jun: 18th July
 Jul-Sep: 18th Oct
 Oct-Dec: 18th Jan
 Jan-Mar: 18th Apr

62(1)(ii) All composition taxpayers shall file a **Return (annual basis)** in **FORM GSTR-4 till 30th April of the following year**. Earlier GSTR-4 was required to be filed on a quarterly basis but to ease the compliance, this requirement has been shifted from quarterly to annual basis.

62(2) CMP-08 (quarterly statement) shall be a simple form wherein the composition taxpayer can declare his turnover in the state/UT and discharge his tax liabilities (including tax on reverse charge) along with interest by debiting the electronic cash ledger. (As he cannot have any balance in the electronic credit ledger).

62(3) GSTR-4 (which is to be filed on an annual basis now) shall contain the following details:

| Inwards supplies | | | Outward supplies |
|---------------------------|----------------|---------------|--|
| | Intra-state | Inter-state | |
| From Registered persons | invoice - wise | Invoice -wise | Consolidated details i.e. he does not have to show the break up of his sales invoice wise as no ITC can be claimed on his sales by the buyer |
| From Unregistered persons | invoice - wise | Invoice -wise | |

Thus, a composition taxpayer has to maintain details of his purchases invoice wise and supplier wise so that he can furnish his return in FORM GSTR-4. However, only the total amount of supplies made by him have to be declared in GSTR-4.

62(4) Fulfil the compliances required of regular tax payer where a person has opted to pay tax under the composition scheme from the beginning of a financial year: A person who has shifted from being a regular tax payer to a composition taxpayer from the beginning of FY, then he has to furnish all the details u/r 59,60,61 (i.e. relating to outward supplies, inward supplies and monthly return) till the due date of filing return for the month of September or actual date of filing annual return, whichever is earlier.

For example: Mr. A was a composition tax payer for the FY 2019-20. He filed a CMP-04 on 28/03/2020 intimating that he wishes to pay tax as a regular taxpayer from FY 2020-21 onwards. He shall file all his pending returns for the FY 19-20 till 20th October or date of actual filing of annual return (whichever is earlier).

62(5) **Where a person who opts out of the scheme voluntarily or upon ceasing to fulfill the conditions/ denied the benefit upon action of officer, he still has to furnish CMP-08 and GSTR-4 for the period for which he was a composition taxpayer till the due dates as discussed above.**

For example: Mr. A is a composition taxpayer till 17/08/2019 after which he filed a CMP-04 intimating the department of opting out of the scheme. In this case he has to file CMP-08 for the quarters Apr-Jun (till 18th July) and Jul-17th August (till 18th October) and has to file GSTR-4 for this period till 30/04/2020.

62(6) This rule is applicable for persons who have opted to pay tax by taking benefit under notification 2/2019 – CT. Therefore, this rule is irrelevant for the reasons as discussed previously in this article.

Rule 80 **Annual Return:**
 The annual return for a composition taxpayer has to be furnished in **FORM GSTR-9A**

Relevant Forms to be filed under Composition scheme

| Sr. No. | Form No. | Due Date | Details to be furnished |
|---------|----------------------|---|--|
| 1 | GST CMP-01 | Before appointed date or within 30 days from appointed date or such further period as may be extended by commissioner | Application for opting Composition Scheme by the migrated taxable person. |
| 2 | Part-B of GST REG-01 | Till date notified by CBEC | Application for opting Composition Scheme by the new Registrant in the GST Regime |
| 3 | GST CMP-02 | Prior to the commencement of the financial year | Application for opting Composition Scheme by the Registered Taxable Person in the GST Regime |
| 4 | GST CMP-03 | 90 days from the date of Composition Levy or period as extended by commissioner | Details of Stock |
| 5 | GST ITC-03 | 60 days from the date of Commencement of F.Y. | Details of Input claim in stock held on the date of opting composition scheme for deposit of tax on the stock in hand |
| 6 | GST CMP-04 | Within 7 days of occurrence of such event | Intimation for withdrawal of Composition Scheme either due to turnover exceed quantum limit or voluntarily withdrawal |
| 7 | GST CMP-05 | Within 15 days of receipt of such notice | Show cause notice by proper officer on receipt of application in GST CMP-04 or has reason to believe that dealer has contravene the provision of Act & Rules |
| 8 | GST CMP-06 | Within 15 days receipt of such notice | Reply by composition dealer in response to notice in GST CMP-05 |
| 9 | GST CMP-07 | Within 30 days from date of receipt of such reply from above or date of event concerning such contravention. | Proper officer shall issue an Order either accepting the reply or denying the option to pay tax under composition Scheme |
| 10 | GST CMP-08 | Quarterly Statement within 18 days after the end of quarter | Quarterly Statement |

Content of Bill of Supply

| Particulars | Check |
|--|-------|
| Name, Address & GSTIN of the supplier | Y |
| A consecutive serial number, can be in one or more multiple series but unique for a FY (NOT EXCEEDING SIXTEEN CHARACTER) | Y |
| Date of its issue | Y |
| Name, Address & GSTIN/UIN of the recipient | Y |
| HSN Code or SAC | Y |
| Description of goods or service | Y |
| Total Value | Y |
| Discount or Abatement | Y |
| Taxable Value | Y |
| Signature or digital signature of supplier or his authorized representatives - | Y |

General Questions and Answer :-

Question 1 : Who should opt for the composition scheme?

Answer: Whether one should opt for composition scheme or not depends on various factors and the answer would differ depending upon the facts of each case. The factors being:

- Whether a person would like to give up the benefit of Input Tax Credit on inward supplies in order to relieve himself of the additional compliance which are required in case of a normal taxpayer or;
- Whether a person would like to have himself restricted to the market within his state (as he cannot make an inter-state supply) or;
- Whether a person is content with making offline sales and not being able to sell over the E-commerce platforms.
- Whether the sales to registered persons will be affected post opting for composition scheme.

It all comes down to personal choices where monetary benefit may be lucrative to some and mental relaxation of compliance with the law may seem attractive to some. Therefore, there is no clear answer to this question and shall be seen in light of the facts of each case.

Question 2 : Whether composition scheme is beneficial to Restaurant/ catering or other service provider under clause (d) of para 6 of schedule II ?

Answer: In case of Restaurant/ catering or other service provider under clause (d) of para 6 of schedule II etc. there is no point of opting for the composition scheme as normal rate of tax applicable otherwise is 5% too without ITC. Also, under normal scheme he can pass burden of tax to recipient.

The only benefit of composition scheme is that tax is payable on quarterly basis & return in GSTR -4 is to be filed an Annual return without maintenance of record in detailed.

Regarding applicability of composition scheme to a registered person supplying services upto a limit (Removal of Difficulties Order no 1/2019 - CT dt 01/02/2019 supersedes Removal of Difficulties Order No. 1/2017 - Central Tax dated 13.10.2017)

Clarification – As per the above stated provisions, it is hereby clarified that the value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account –

- for determining the eligibility for composition scheme under second proviso to sub-section (1) of section 10;
- in computing aggregate turnover in order to determine eligibility for composition scheme.

Implication of Interest or Discounting on loan/Adv./Deposits [Applicable for 10(1) & 10(2A)]

| Situation | Example |
|---|--|
| Agg. T/O of P.F.Y. [for deciding eligibility of composition levy] | <p>Aggregate T/O of XYZ Ltd. in P.F.Y. is ₹152 Lakhs which includes interest on Loan/Adv./Deposits ₹ 3 lakhs. Whether composition levy is available in C.F.Y?</p> <p>Ans :- Agg.T/O - 152L - 3L = 149 L</p> <p>Hence, XYZ Ltd. is eligible for composition Levy.</p> <p>Note :- As per explanation 1 to sec 10, Agg. T/O <i>shall not include</i> the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.</p> |

| | |
|--|--|
| <p>Agg. T/O of C.F.Y. [for deciding withdrawal of composition Levy in C.F.Y.]</p> | <p>XYZ Ltd. has opted composition levy in C.F.Y. [as T/O of P.F.Y. is less than 150L/75L/50L]. Till September of C.F.Y. Agg. T/O of XYZ Ltd. is ₹155 Lakhs which includes ₹10 lakhs for interest on loan /adv./deposits, state whether composition levy of XYZ Ltd. has lapsed in month of September or still it can pay tax under composition Levy?</p> <p>Ans:- Agg. T/O - 155 L - 10 L = ₹145 Lakhs</p> <p>Hence, XYZ Ltd. can still continue composition levy upto 5 lakhs after September.</p> <p>Note :- As per explanation 1 to sec 10, Agg. T/O shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.</p> |
| <p>T/O in State/UT [for calculation of composition Tax 1%, 5%, 6% under composition levy]</p> | <p>Manufacturer PQR Ltd. has opted for composition levy in C.F.Y. Its T/O of state in Maharashtra is 1st quarter (April-June) is includes</p> <p>a) Taxable supply of goods ₹20 Lakhs</p> <p>b) Taxable supply of service ₹2 Lakhs</p> <p>c) Exempt supply of service ₹1 Lakh</p> <p>d) Interest on Loan/Adv./Deposit ₹0.5 Lakhs</p> <p>Calculate Gst payable in 1st Quarter under composition levy</p> <p>Note :- Whatever service provided in 1st quarter is within marginal limit as per proviso 2</p> <p>Ans:- GST payable = 1% [20+2+1L] = ₹23 lakhs</p> <p>Note:- Interest excluded</p> <p>Note :- As per explanation 2 to sec 10, T/O in state/UT shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.</p> |
| <p>T/O of State/UT of P.F.Y for calculation of marginal limit of service under proviso 2 to 10(1) i.e. 10% of T/O in state or ₹ 5 lakhs</p> | <p>ABC Ltd. has turnover in state of Maharashtra in P.F.Y. is ₹80 lakhs. Turnover includes ₹ 7 lakhs for interest on loan/Adv./deposits. Whether ABC Ltd. is eligible for C.L. in C.F.Y. ? Also, what is the amount of marginal limit of service available in C.F.Y?</p> <p>Ans:- 1) Agg. T/O = 80 Lakhs - 7 lakhs = 73 lakhs T/O in state only 1 branch]</p> <p>ABC Ltd. is eligible for composition levy in C.F.Y.</p> <p>2) Marginal limit of service = 73L X 10% or ₹ 5Lakhs = ₹ 7.3 Lakhs</p> <p>Note :- As per Explanation to sec 10(1), for the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory."</p> |
| <p>For calculation of Marginal limit of service [10% of T/O in state of P.F.Y. or 5 lakhs, Which ever is higher]</p> | <p>Continuing the above Example of ABC Ltd. where marginal limit of C.F.Y for Supply of service = ₹ 7.3 lakhs</p> <p>In C.F.Y., till September ABC Ltd. made supply of goods of ₹ 75lakhs and supply of service ₹ 9 lakhs (includes interest ₹ 2 lakhs)</p> <p>Whether Composition Levy stands withdrawn in C.F.Y. or it will be continued?</p> <p>Ans :- 1) Agg. T/O till Sep = 75L + (9L - 2L) = 82 Lakhs</p> <p>2) Use of marginal limit of service = 9 L - 2L = 7 Lakhs</p> <p>Therefore ABC Ltd. can still continued composition Levy</p> <p>Note :- As per CBIC order No. 2/2019, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account for determining the eligibility for composition scheme under second proviso to sub-section (1) of section 10;</p> |