

Composition Levy [Section 10 of CGST Act r/w Rules] [1/2]

Composition scheme is designed for small taxpayers to reduce their compliance burden. In GST once threshold u/s 22 is crossed, there comes 2 options for registration, normal or composition. In Normal scheme tax rate is higher, however ITC is allowed (subject to cond.). However, in composition scheme tax rate is lower but ITC cannot be availed. Most importantly, tax cannot be collected from recipient

1. ELIGIBILITY FOR COMPOSITION LEVY

Eligible if aggregate turnover in preceding financial year is

| UPTO Rs. 75 Lakhs TSUNAM ³ | UPTO Rs. 1.5 crore |
|--|--|
| Arunachal Pradesh | All other states & Union Territories & Himachal Pradesh, Assam & Jammu Kashmir |
| Manipur | |
| Meghalaya | |
| Mizoram | |
| Nagaland | |
| Sikkim | |
| Tripura | |
| Uttarakhand | |

2. AGGREGATE TURNOVER

| Description |
|---|
| INCLUSIONS |
| (+) Value of all taxable supplies (excluding Inward RCM) |
| (+) Exempt Supplies (Non-GST, Nil Rated & Wholly exempted supplies) |
| (+) Exports of goods or services or both |
| (+) Inter-State to distinct person |
| (+) First Supplies i.e., T/O from 1 st April to date of becoming liable |
| (-) GST & Cess |
| (-) Interest or discount |
| To be computed on all India PAN Basis |

INTERLINKING: If composition person takes security services from other than body corporate, then reverse charge would not apply (Refer – Charge of GST Chapter)

3. PERSONS INELIGIBLE TO OPT [SECTION 10(2) OF CGST ACT]

- Supplier of **Non-Taxable Goods** or Services
- Inter-state** supplier of goods or Services
 - Supply to SEZ, Export of goods/services are inter-state supplies, thus, cannot be done by composition person
 - Composition person can purchase from different state (sale is restricted)
- Supplier of **Services through Electronic Commerce Operator** who is required to collect tax u/s 52.
- Ineligible Manufacturers (not traders) – **Tobacco, Ice-cream & PAN Masala, Aerated Waters, (TIPA), Fly ash bricks; Fly ash aggregates; Fly ash blocks, building bricks, earthen and roof tile, bricks of fossil meals or similar siliceous earths.**
- Exclusive Supplier of Service** other than restaurant service provider (he may opt for presumptive scheme but not Composition Scheme)
 - Nominal Services are allowed** [Proviso 2 to Section 10(1) r/w Explanation to Section 10]: Composition person may supply services (other than restaurant & outdoor catering services), of value not exceeding
 - 10% of Turnover (excl. interest & Disc.) in a State or Union territory in the preceding financial year or,**
 - Rs. 5,00,000.**
 - whichever is higher [Proviso 2 to Section 10(1)].
- Casual Taxable person & Non-resident taxable person**

Composition person cannot supply specified actionable claims i.e., betting; casinos; gambling; horse racing; lottery; online money gaming.

4. COMPOSITION TAX RATES IN LIEU OF 9(1) OF CGST ACT, 2017: - (AS AMENDED BY CGST AMENDMENT ACT, 2018 W.E.F. 01.02.2019) [Section 10(1) r/w Rule 7]

| Type of person | CGST Rate | SGST Rate |
|---|--|--|
| (a) Manufacturer (other than notified mfgs) | 0.5% of Total Turnover in State or Union Territory | 0.5% of Total Turnover in State or Union Territory |
| (b) Restaurant & outdoor catering services | 2.5% of Total Turnover in State or Union Territory | 2.5% of Total Turnover in State or Union Territory |
| (c) Other Suppliers (E.g. – Traders) | 0.5% of Taxable supplies of goods and services in State or Union Territory | 0.5% of Taxable supplies of goods and services in State or Union Territory |

ON RCM SERVICES TAKEN – NORMAL RATE WOULD BE APPLICABLE

Summary: Total Turnover in State = All Taxable Supplies made within State/UT + Exempt Supplies* (except interest & discount turnover) (-) RCM inward supplies (-) First Supplies

5. MEANING & ANALYSIS OF FIRST SUPPLIES

Meaning of First Supplies: -

Value of supplies made by a person **from the 1st day of April of a financial year up to the date when he becomes liable** for registration is called as First Supplies.

For determining eligibility to register – TO BE INCLUDED

For determining payment of tax – TO BE EXCLUDED

Example: If a Business is started on 1st April 2023, by 30th September turnover reached Rs. 20 lakhs & person obtains composition registration; he can do turnover of Rs. 1.3 crore till 31st March, 2024. Tax shall be payable on 1.3 crores.

6. SCHEME FOR SERVICE SUPPLIERS

INTRODUCTION

1. Eligibility:

- Aggregate Turnover in preceding Financial shall **not exceed Rs. 50,00,000/-** [Exclude exempt interest and discount turnover]
- The person should **not be eligible for composition scheme** u/s 10(1), (2)

2. Mutually Exclusive Schemes: If any person is eligible (even if not opted) for composition scheme u/s 10(1) then such person cannot take Section 10(2A).

3. Rate of Tax: As per Amended Rule 7 of CGST Rules, **GST shall be paid @ 6% of turnover in State or Union Territory** [CGST 3%, SGST 3%]

4. Person in this scheme can supply goods. However, his primary business shall be of services i.e., hair salon can opt for this scheme and can supply beauty products.

INELIGIBLE CRITERIA

- Not to be engaged in selling **non-taxable goods or services**
- Not to be engaged in **Inter-state supply** of goods or services.
- Not to be engaged in supplying through **Electronic Commerce Operator** liable to collect tax at source u/s 52 of CGST Act
- Not to be **engaged in supply of Tobacco, Ice-cream & Pan-masala, Aerated Waters (TIPA), Fly ash bricks; Fly ash aggregates; Fly ash blocks, Building bricks, earthen tiles, roof tiles bricks of fossil meals or similar siliceous earths (Not even trading)**
- Such person shall not be a **Casual Taxable person or Non-resident taxable person**

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Other provisions of Section 10

[1] **Option of Composition / Presumptive Scheme Lapses** if Aggregate **Turnover exceeds** Rs. 1.5 crore, 75 lakhs or 50 lakhs (as the case may be) in current financial year **[S. 10(3)]**

[2] **Tax cannot be collected** from a recipient, by person opting to pay tax under section 10 **[S.10(4)]**

[3] If a taxable person **opts for scheme despite of being ineligible**, the person would be liable to pay **penalty and provisions of sec 73 / 74, 74A** of CGST Act shall be applicable for determination of tax and penalty. **[Section 10(5)]**

One PAN – One type of registration, a regd. person cannot be in normal scheme and Composition scheme on single PAN.

Note 1: ECO has to fulfil certain conditions in order to allow goods (composition scheme) supplier to sell from his platform: -

- (i) Enrolment number has been allotted
- (ii) Not allow any inter-State supply
- (iii) Collect tax at source under section 52(1) of CGST Act and pay to the Government
- (iv) Furnish statement in FORM GSTR-8 electronically on the common portal.

Rule 6

| Rule 6 | Decoded provision |
|--------|---|
| (1) | Composition scheme valid until conditions are satisfied |
| (2) | Person is required to pay tax under regular scheme from the day he ceases to fulfil the conditions prescribed for composition levy. |
| (3) | Person to file application in form GST CMP 04 before withdrawing |
| (4) | Officer will issue notice in Form GST CMP 05 |
| (5) | SCN to be replied in GST CMP 06 within 15 days of receipt |
| (6) | Furnish stock details in GST ITC 01 w/i 30 days of withdrawal of option [Person is required to pay tax under regular scheme from the day he ceases to fulfil the conditions prescribed for composition levy. Further, he shall intimate for withdrawal from scheme within 7 days of occurrence of such event.] |
| (7) | Intimation of withdrawal to be deemed Intimation of all Place of business |
| (8) | Cancellation of composition scheme by officer, Differential tax and interest be payable with penalty u/s 73/74 |

Departmental Clarification: In case of denial of option to opt for composition scheme, it has been clarified that effective date of such denial shall be from a date including any retrospective date. However, such effective date shall not be prior to date of contravention of provisions of CGST Act/Rules [Circular 77/51/2018 – GST dated 31st December, 2019]

Important Rules in regards to Composition Scheme:

| Rules | Description |
|-------|--|
| 3 | Intimation to pay tax under composition scheme, shall be filed prior to the commencement of the Financial Year (No need to file fresh intimation every year) |
| 3 | <ul style="list-style-type: none"> ❖ ITC shall be reversed if regd. person switches from Normal scheme to composition / presumptive scheme. ❖ GST ITC-03 shall be filed within a period of 60 days from the commencement of the relevant financial year. ❖ Details of Stock to be furnished within 90 days from availing option |
| 3 | Single Application deemed to be application for all POB under same PAN |
| 5 | <ol style="list-style-type: none"> (a) No CTP no NRTP (b) Normal rate of tax for supplies taxable under RCM (c) No manufacturing of notified products during PFY (d) Mention the words “Composition taxable person, not eligible to collect tax on supplies at the top of the bill of supply” and (e) Mention the words “composition taxable person” on every notice or signboard |

RETURN FILING AND OTHER COMPLIANCES

| Sr. No. | Compliance | Form No. | Due date |
|---------|---|----------|--|
| 1 | Payment of Tax (Quarterly) | CMP 08 | 18 th Day of month succeeding quarter |
| 2 | Filing of return (Annually) | GSTR 4 | 30 th June of next financial year [e.g., For FY 2024-25, it would be 30 th June, 2025] <i>Consolidated details of sales & Invoice wise details of purchases</i> |
| 3 | Annual Return (after finalisation of Books of Accounts) | GSTR 9A | 31 st December of next financial year |