

## CHARGE OF GST



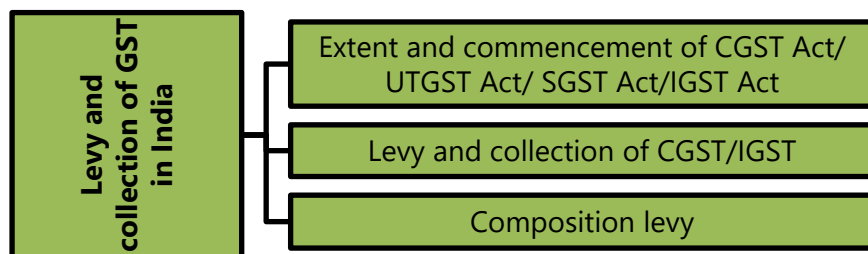
*Examples/illustrations/Questions and Answers given in the Chapter are based on the position of GST law existing as on 31.10.2020*

### LEARNING OUTCOMES

**After studying this Chapter, you will be able to –**

- ❑ explain the extent and commencement of CGST Act, IGST Act, SGST Act & UTGST Act.
- ❑ describe the provisions pertaining to levy and collection of CGST & IGST.
- ❑ identify and analyse the services on which tax is payable under reverse charge mechanism.
- ❑ understand and analyse the composition levy- eligibility for the same and conditions to be fulfilled.

## CHAPTER OVERVIEW



### 1. INTRODUCTION

Power to levy tax is drawn from the Constitution of India. To pave way for the introduction of Goods and Services Tax ("**GST**"), 101<sup>st</sup> Constitutional Amendment Act, 2016 was passed. By virtue of this Act, enabling provision was made to levy GST on supply of goods or services or both in India. Central excise duty, State VAT and certain State specific taxes and service tax were subsumed into a comprehensive GST [Discussed in detail in Chapter-1: GST in India – An Introduction].

The very basis for the charge of tax in any taxing statute is the taxable event i.e the occurrence of the event which triggers levy of tax. As discussed earlier, the taxable event under GST is **SUPPLY**. **CGST and SGST/UTGST** are levied on all **intra-State supplies** of goods and/or services while **IGST** is levied on all **inter-State supplies** of goods and/ or services.

The provisions relating to levy and collection of CGST and IGST are contained in section 9 of the CGST Act, 2017 and section 5 of the IGST Act, 2017, respectively. Let us now have a fundamental idea of intra-State supply and inter-State supply.



### Intra-State supply

As a general rule, where the **location of the supplier** and the **place of supply** of goods or services are **in the same State/Union territory**, it is treated as **intra-State supply** of goods or services respectively.



## Inter-State supply

Similarly, where the location of the supplier and the place of supply of goods or services are in (i) two different States or (ii) two different Union Territories or (iii) a State and a Union territory, it is treated as **inter-State supply** of goods or services respectively.



## 2. RELEVANT DEFINITIONS



- ✔ **Central tax:** means the central goods and services tax levied under section 9 of the CGST Act [Section 2(21) of the CGST Act].
- ✔ **Integrated tax:** means the integrated goods and services tax levied under the Integrated Goods and Services Tax Act [Section 2(58) of the CGST Act].
- ✔ **State tax:** means the tax levied under any State Goods and Services Tax Act [Section 2(104) of the CGST Act].
- ✔ **Goods:** means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply. [Sec. 2(52) of CGST Act].
- ✔ **Exempt supply:** means 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 [Section 2(47) of CGST Act].
- ✔ **Aggregate turnover:** 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), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess [Section 2(6) of CGST Act].



**Business:** includes –

- (a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;
- (b) any activity or transaction in connection with or incidental or ancillary to (a) above;
- (c) any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;
- (d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;
- (e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;
- (f) admission, for a consideration, of persons to any premises; and
- (g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;
- (h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club;
- (i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities

[Section 2(17) of CGST Act].



**Consideration:** in relation to the supply of goods or services or both includes:

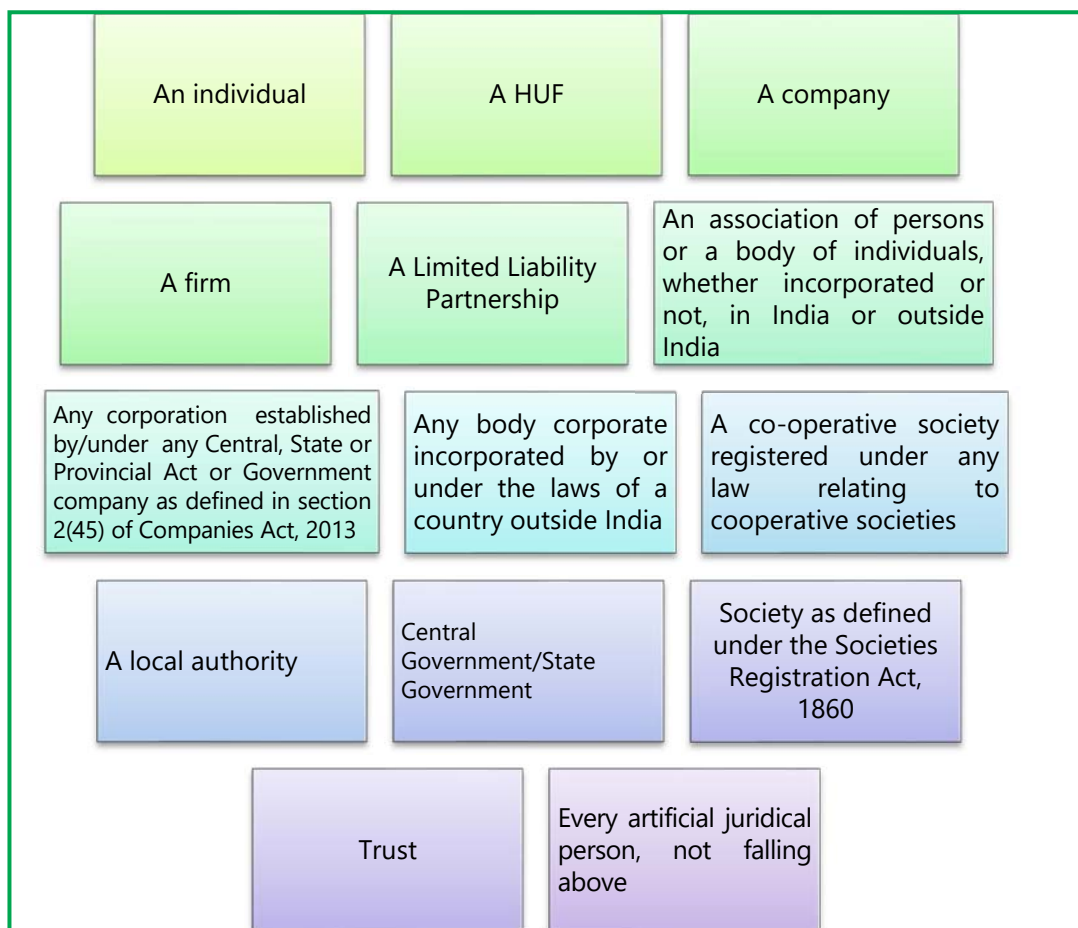
- ✓ any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government,
- ✓ the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person

but shall not include any subsidy given by the Central Government or a State Government.

However, a deposit given in respect of the supply of goods or services or both shall not be considered as payment made for such supply unless the supplier applies such deposit as consideration for the said supply. [Section 2(31) of CGST Act].



**Person:** includes [Section 2(84) of CGST Act]-



**Recipient:** of supply of goods and/or services means-

- (a) where a consideration is payable for the supply of goods or services or both, the person who is liable to pay that consideration,

- (b) where no consideration is payable for the supply of goods, the person to whom the goods are delivered or made available, or to whom possession or use of the goods is given or made available, and
- (c) where no consideration is payable for the supply of a service, the person to whom the service is rendered,

and any reference to a person to whom a supply is made shall be construed as a reference to the recipient of the supply and shall include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied. [Section 2(93) of CGST Act]

❖ **Reverse charge:** means the liability to pay tax by the recipient of supply of goods or services or both instead of the supplier of such goods or services or both under section 9(3)/9(4), or under section 5(3)/5(4) of the IGST Act [Section 2(98) of CGST Act].

❖ **Services:** means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged [Section 2(102) of CGST Act].

Explanation.—For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities.

❖ **Supplier:** in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied. [Section 2(105) of CGST Act]

❖ **Taxable supply:** means a supply of goods and/or services which is leviable to tax under CGST Act. [Section 2(108) of CGST Act]

❖ **Non-taxable supply:** means a supply of goods or services or both which is not leviable to tax under CGST Act or under IGST Act. [Section 2(78) of CGST Act]

❖ **Taxable person:** means a person who is registered or liable to be registered under section 22 or section 24 of the CGST Act. [Section 2(107) of CGST Act]

It is important to note that a person who is liable to be registered but does not take a registration and remains an unregistered person shall be construed as a taxable person. Similarly, a person not liable to be registered, but has taken voluntary registration and got himself registered is also a taxable person.

*Section 22 enumerates the persons liable to be registered under CGST Act and section 24 lists the persons liable to be registered compulsorily under the GST law. The said sections and the concept of taxable person thereto has been discussed in detail in Chapter 7 – Registration.*



### 3. EXTENT & COMMENCEMENT OF GST LAW

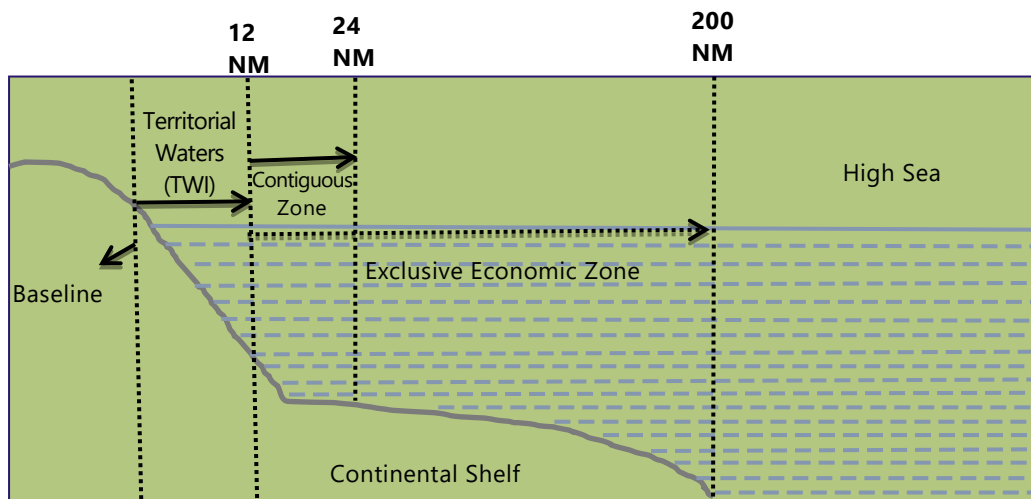
- (i) **Central Goods and Services Tax Act, 2017** extends to the whole of India [Section 1 of the CGST Act].



**India:** "India" means-

	territory of India as referred to in article 1 of the Constitution
	its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976
	the air space above its territory and territorial waters

[Section 2(56) of CGST Act].



- (ii) **State GST law** of the respective State/Union Territory with Legislature [Delhi, Puducherry and Jammu & Kashmir]\* extends to whole of that State/Union Territory.



(1) Maharashtra GST Act, 2017 extends to whole of the State of the Maharashtra.

**\*State:** includes a Union territory with Legislature [Section 2(103) of the CGST Act].

- (iii) **Integrated Goods and Services Tax Act, 2017** extends to the whole of India [Section 1 of the IGST Act].
- (iv) **Union Territory Goods and Services Tax Act, 2017** extends to the Union territories\*\* of the Andaman and Nicobar Islands, Lakshadweep, **Dadra and Nagar Haveli and Daman and Diu, Ladakh**<sup>1</sup>, Chandigarh and other

<sup>1</sup> Students may note that the erstwhile State of Jammu and Kashmir has been reorganised into the Union territory of Jammu and Kashmir (with Legislature) and Union territory of Ladakh vide the Jammu and Kashmir Reorganisation Act, 2019. Further, the erstwhile Union territories of Dadra and Nagar Haveli and Daman and Diu have been merged into a new Union territory of Dadra and Nagar Haveli and Daman and Diu vide the Dadra and Nagar Haveli and Daman and Diu (Merger of Union Territories) Act, 2019.



territory, i.e. the Union Territories without Legislature [Section 1 of the UTGST Act].

**\*\*Union territory:** means the territory of—


- (a) the Andaman and Nicobar Islands;
- (b) Lakshadweep;
- (c) ***Dadra and Nagar Haveli and Daman and Diu;***
- (d) ***Ladakh***
- (e) Chandigarh; and
- (f) other territory.

Explanation—For the purposes of this Act, each of the territories specified in sub-clauses (a) to (f) shall be considered to be a separate Union territory [Section 2(114) of CGST Act].

**Our discussion in this Study Material will principally be confined to the provisions of CGST and IGST laws as the specific State GST laws are outside the scope of syllabus.**



#### 4. LEVY & COLLECTION OF CGST & IGST [SECTION 9 OF THE CGST ACT & SECTION 5 OF THE IGST ACT]

	<b>STATUTORY PROVISIONS</b>
<b>Section 9 of the CGST Act</b>	<b>Levy and collection</b>
<b>Sub-section</b>	<b>Particulars</b>
<b>(1)</b>	<p>Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 and at such rates, not exceeding twenty per cent., as may be notified by the Government on the</p>

	<i>recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</i>
<b>(2)</b>	<i>The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.</i>
<b>(3)</b>	<i>The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</i>
<b>(4)</b>	<i>The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.</i>
<b>(5)</b>	<p><i>The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.</i></p> <p><i>Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for</i></p>

*any purpose in the taxable territory shall be liable to pay tax: Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.*



## ANALYSIS

Central Goods and Services Tax (CGST) shall be levied on all intra-State supplies of goods or services or both.

The tax shall be collected in such manner as may be prescribed and shall be paid by the taxable person. However, intra-State supply of alcoholic liquor for human consumption is outside the purview of CGST.

**Value for levy:** Transaction value under section 15 of the CGST Act – *Discussed in detail in Chapter 5 – Time and Value of supply.*

**Rates of CGST:** Rates for CGST are rates as may be notified by the Government on the recommendations of the GST Council [Rates presently notified are 0%, 0.125%, 1.5%, 2.5%, 6%, 9% and 14%]. Maximum rate of CGST can be 20%.

💡 On inter-State supplies of goods and/or services, Integrated Goods and Services Tax (IGST) is levied on the transaction value under section 15 of the CGST Act<sup>2</sup>. Since alcoholic liquor for human consumption is outside the purview of GST law, IGST is also not leviable on the same. IGST is the sum total of CGST and SGST/UTGST. Maximum rate of IGST can be 40%.

However, CGST/IGST on supply of the following items has not yet been levied. It shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council:

<sup>2</sup> Goods imported into India: For the goods imported into India, the IGST shall be levied and collected as per the section 3 of the Custom Tariff Act, 1975 i.e. the additional duty shall be as per the Custom Tariff Act, 1975 and the value shall also be determined as per the said Act. This aspect will be discussed in detail at the Final Level.

- petroleum crude
- high speed diesel
- motor spirit (commonly known as petrol)
- natural gas and
- aviation turbine fuel

### Tax payable on supply of goods or services or both under Reverse charge

CGST/IGST shall be paid by the recipient of goods or services or both, on reverse charge basis, in the following cases:

- Supply of such goods or services or both, as notified by the Government on the recommendations of the GST Council.
- Supply of specified categories of goods or services or both by an unregistered supplier to specified class of registered persons, as notified by the Government on recommendation of GST Council.

All the provisions of the CGST/IGST Act shall apply to the recipient in the aforesaid cases as if he is the person liable for paying the tax in relation to the supply of such goods or services or both. **Let us first understand the concept of reverse charge mechanism:**

### Reverse charge mechanism

Generally, the supplier of goods or services is liable to pay GST. However, under the reverse charge mechanism, the liability to pay GST is cast on the recipient of the goods or services.

**Reverse charge** means the liability to pay tax is on the recipient of supply of goods or services instead of the supplier of such goods or services in respect of notified categories of supply.

It may be noted that the underlying principle of an indirect tax is that burden of tax has to be ultimately passed on to the recipient. GST being an indirect tax, this principle holds good for GST. Under normal circumstances, the statutory liability to deposit GST and undertake compliances [i.e. to obtain registration under GST, deposit the tax with the Government, filing returns, etc.] is on the supplier while he may recover the same from its recipient. However, under reverse charge mechanism, the statutory liability to deposit GST and undertaking compliance requirements,

[i.e. to obtain registration under GST, deposit the tax with the Government, filing returns, etc.] shifts from supplier to recipient.

There are **two type of reverse charge scenarios** provided in law.

- (i) First scenario occurs in case of supply of specified categories of goods or services, covered by section 9(3) of the CGST/ SGST (UTGST) Act. *Similar provisions are contained under section 5(3) of the IGST Act.*
- (ii) Second scenario occurs in case of supply of specified categories of goods or services made by an unregistered supplier to specified class of registered recipients, covered by section 9(4) of the CGST Act. *Similar provisions are contained under section 5(4) of the IGST Act. Goods and services notified under this case have been elaborated subsequently in this chapter.*

**Goods and services notified under reverse charge mechanism** under section 9(3) of the CGST Act/ section 5(3) of the IGST Act are as follows:

- A. Supplies of goods taxable under reverse charge, i.e. supply of the goods where tax is payable by the recipient:** Goods like cashewnuts [not shelled/peeled], bidi wrapper leaves, tobacco leaves, raw cotton (when supplied by an agriculturist to any registered person), supply of lottery (when supplied by State Government, Union Territory or any local authority to lottery distributor or selling agent), silk yarn (when supplied by manufacturer of silk yarn to any registered person), used vehicles, seized and confiscated goods, old and used goods, waste and scrap (when supplied by Central Government, State Government, Union Territory or any local authority to any registered person), etc. are taxable under reverse charge<sup>3</sup>.
- B. Supply of services taxable under reverse charge under section 9(3) of the CGST Act, i.e. the services where tax is payable by the recipient:** Notification No. 13/2017 CT (R) dated 28.06.2017 as amended has notified the following categories of supply of services wherein whole of the tax shall be paid on reverse charge basis by the recipient of services:

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<sup>3</sup> Examples of goods on which tax is payable by the recipient under reverse charge have been given hereunder only for the knowledge of the students. These are not relevant for examination purposes.

S. No.	Category of supply of service	Supplier of service	Recipient of Service
1.	Supply of services by a <b>Goods Transport Agency (GTA)</b> in respect of transportation of goods by road <b>to-</b> (a) any factory registered under or governed by the Factories Act, 1948; or (b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including association of persons; or (g) any casual taxable person.	Goods Transport Agency (GTA) <b>who has not paid CGST @ 6%</b> [Please refer the analysis given subsequently.]	(a) Any factory registered under or governed by the Factories Act, 1948; or (b) any society registered under the Societies Registration Act, 1860 or under any other law for the time being in force in any part of India; or (c) any co-operative society established by or under any law; or (d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or (e) any body corporate established, by or under any law; or (f) any partnership firm whether registered or not under any law including

			<p>association of persons; or (g) any casual taxable person; located in the taxable territory. [Hereinafter referred as <b>Specified recipients</b>]</p>
	<p>However, reverse charge mechanism (RCM) shall not apply to services provided by a GTA, by way of transport of goods in a goods carriage by road to-</p> <p>(a) a Department/ establishment of the Central Government/ State Government/ Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies, which has taken registration under the CGST Act only for the purpose of deducting tax under section 51<sup>4</sup> and not for making a taxable supply of goods or services<sup>5</sup>.</p>		
<b>2.</b>	<p>Services provided by an <b>individual advocate including a senior advocate or firm of advocates</b> by way of legal services, directly or indirectly.</p> <p><b>"Legal service"</b> means any service provided in relation to advice,</p>	<p>An individual advocate including a senior advocate or firm of advocates.</p>	<p>Any business entity located in the taxable territory.</p>

<sup>4</sup> Provisions relating to tax deducted at source contained in section 51 shall be discussed at the Final Level.

<sup>5</sup> These services have been simultaneously exempted from payment of GST. Thus, there will be no tax liability in this case. [Refer Chapter 4: Exemptions from GST for discussion on this exemption]

	consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.		
3.	<b>Services supplied by an arbitral tribunal</b> to a business entity.	An arbitral tribunal.	Any business entity located in taxable territory.
4.	Services provided by way of <b>sponsorship</b> to any body corporate or partnership firm.	Any person	Any body corporate or partnership firm located in the taxable territory.
5.	<b>Services supplied by the Central Government, State Government, Union territory or local authority to a business entity</b> excluding, - (1) renting of immovable property, and (2) services specified below- (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Central Government, State	Central Government, State Government, Union territory or local authority	Any business entity located in the taxable territory.



	Government or Union territory or local authority; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers.		
<b>5A.</b>	Services supplied by Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under CGST Act, 2017	Central Government, State Government, Union territory or local authority	Any person registered under the CGST Act, 2017
<b>5B.</b>	Services supplied by any person by way of transfer of development rights (TDR) or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter
<b>5C.</b>	Long term lease of land (30 years or more) by any person against consideration in form of upfront amount (called as premium, salami, cost, price, development	Any person	Promoter

	charges or by any other name) and/or periodic rent for construction of a project by a promoter <sup>6</sup>		
6.	<b>Services supplied by a director</b> of a company/body corporate to the said company/body corporate.	A director of a company or a body corporate	Company or a body corporate located in the taxable territory.
7.	<b>Services supplied by an insurance agent</b> to any person carrying on insurance business.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8.	<b>Services supplied by a recovery agent</b> to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company/financial institution or a non-banking financial company, located in the taxable territory.
9.	<b>Supply of services by a music composer,</b>	<b>Music composer,</b>	<b>Music company,</b>
	<b>music composer,</b>	<b>photographer,</b>	<b>producer or the</b>

<sup>6</sup> Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer are exempt subject to the condition that the constructed flats are sold before issuance of completion certificate and tax is paid on them.

Exemption of TDR, FSI, long term lease (premium) is withdrawn in case of flats sold after issue of completion certificate, but such withdrawal shall be limited to 1% of value in case of affordable houses and 5% of value in case of other than affordable houses. In such cases, the liability to pay tax on TDR, FSI, long term lease (premium) has been shifted from land owner to builder under the reverse charge mechanism (RCM) – as illustrated in table above.

	<i>photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original dramatic, musical or artistic works to a music company, producer or the like.</i>	<i>artist, or the like</i>	<i>like, located in the taxable territory.</i>
<b>9A.</b>	<i>Supply of services by an author by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary works to a publisher.</i>	<b>Author</b>	<b>Publisher located in the taxable territory.</b>
<p><i>However, an author can choose to pay tax under forward charge if-</i></p> <ul style="list-style-type: none"> <li><i>(i) he has taken registration under the CGST Act and filed a declaration, in the prescribed form, that he exercises the option to pay CGST on the said service under forward charge in accordance with section 9(1) of the CGST Act and to comply with all the provisions as they apply to a person liable for paying the tax in relation to the supply of any goods and/or services and that he shall not withdraw the said option within a period of 1 year from the date of exercising such option;</i></li> <li><i>(ii) he makes a declaration on the invoice issued by him in prescribed form to the publisher.</i></li> </ul>			

10.	Supply of services by the members of Overseeing Committee to Reserve Bank of India (RBI)	Members of Overseeing Committee constituted by the RBI	RBI
11.	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership (LLP) firm to bank or non-banking financial company (NBFCs).	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or LLP firm	A banking company or a NBFC, located in the taxable territory
12.	Services provided by business facilitator to a banking company.	Business facilitator	A banking company, located in taxable territory
13.	Services provided by an agent of business correspondent to business correspondent.	An agent of business correspondent	A business correspondent, located in the taxable territory.
14.	Security services (services provided by way of supply of security personnel) provided to a registered person. However, nothing contained in this entry shall apply to: (i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or	Any person other than a body corporate	A registered person, located in the taxable territory.

	<p>(b) local authority; or</p> <p>(c) Governmental agencies; which has taken registration under the CGST Act, 2017 only for the purpose of deducting tax under section 51 of the said Act and not for making a taxable supply of goods or services; or</p> <p>(ii) a registered person paying tax under composition scheme.</p>		
15.	<b><i>Services provided by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient, provided to a body corporate.</i></b>	<b><i>Any person, other than a body corporate who supplies service to a body corporate &amp; doesn't issue an invoice charging CGST @6% to service recipient.</i></b>	<b><i>Any body corporate located in the taxable territory.</i></b>
16.	<b><i>Services of lending of securities under Securities Lending Scheme, 1997 ("Scheme") of Securities and Exchange Board of India, as amended</i></b>	<b><i>Lender i.e., a person who deposits securities registered in his name/in the name of any other person duly authorised on his</i></b>	<b><i>Borrower i.e., a person who borrows the securities under the Scheme through an approved intermediary of SEBI.</i></b>

		<b><i>behalf with an approved intermediary for the purpose of lending under Scheme of SEBI</i></b>	
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**🔔** All the above services have also been notified for reverse charge under IGST Act. In addition to them, two additional services are also notified for reverse charge under IGST law. These services will be discussed at the Final level.

**For purpose of this above services, following explanations shall apply-**

- (a) The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.
- (b) **Body Corporate:** has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.  
As per section 2(11) of the Companies Act, 2013, body corporate or corporation includes a company incorporated outside India, but does not include—
  - (i) a co-operative society registered under any law relating to co-operative societies; and
  - (ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf.
- (c) the business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the person who receives the legal services for the purpose of this notification.
- (d) the words and expressions used and not defined in this notification but defined in the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act, and the Union Territory Goods and Services Tax Act shall have the same meanings as assigned to them in those Acts.
- (e) Limited Liability Partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.
- (f) Insurance agent means an insurance agent licensed under section 42 of the Insurance Act, 1938 who receives agrees to receive payment by way

of commission or other remuneration in consideration of his soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance [Section 2(10) of the Insurance Act, 1938].

- (g) Renting of immovable property means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.
- (h) the provisions of this notification, in so far as they apply to the Central Government, State Government, shall also apply to the Parliament and State Legislature.

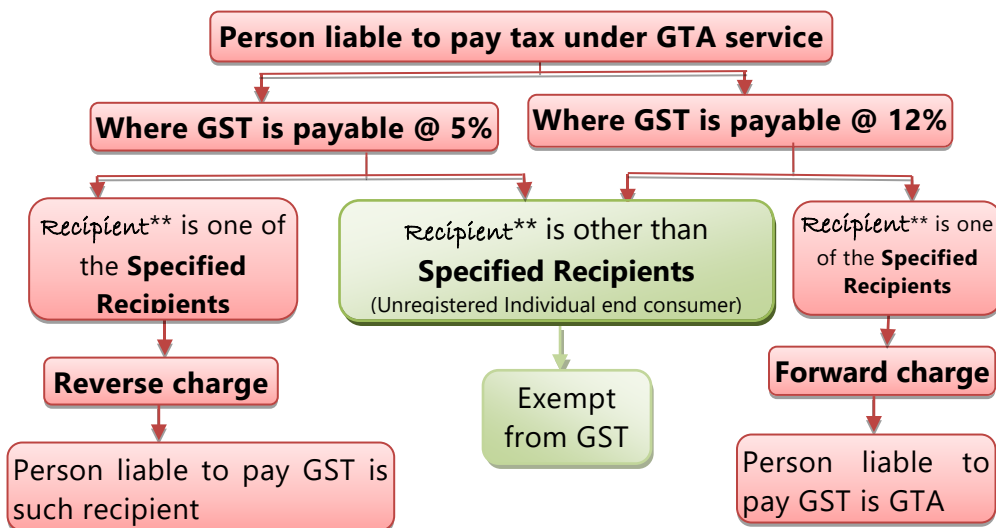
### Person liable to pay GST on GTA service

GTA services are taxable at the following two rates:

- (i) **@ 5%** (2.5% CGST+2.5% SGST/UTGST or 5% IGST) provided GTA has not taken the Input Tax Credit (ITC) on goods or services used in supplying GTA service or
- (ii) **@ 12%** (6% CGST+6% SGST/UTGST or 12% IGST) where GTA opts to pay GST at said rate on all the services of GTA supplied by it. In this case, there is no restriction on availing ITC on goods or services used in supplying GTA service by GTA.



In the following paras, we have explained as to who is the person liable to pay tax in case of each of the above two rates:



**\*\* Recipient of GTA service** is the person who pays/is liable to pay freight for transportation of goods by road in goods carriage, located in the taxable territory.

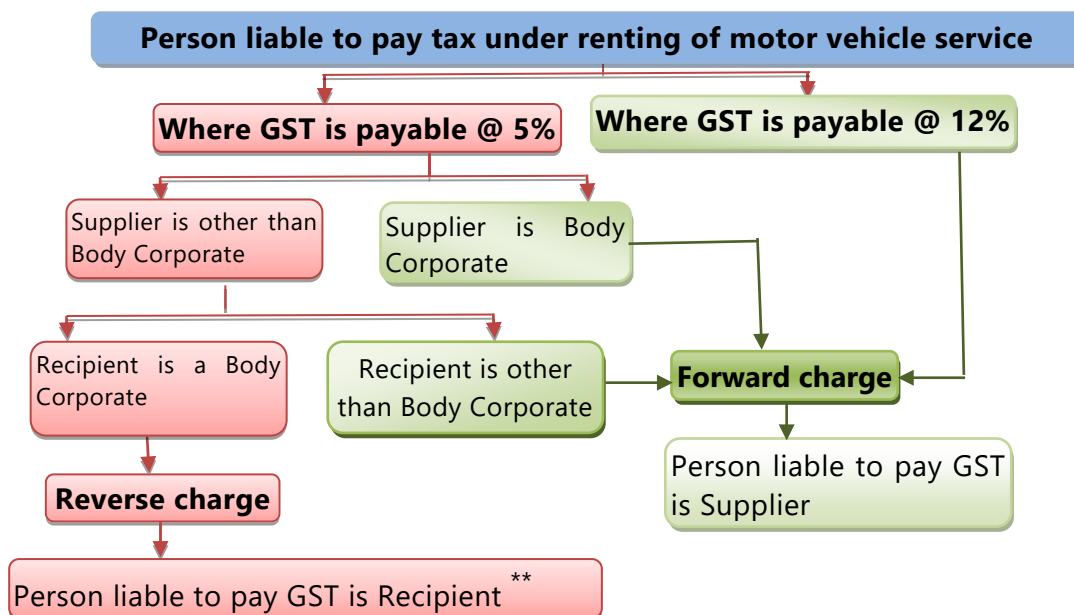
### Person liable to pay GST on renting of motor vehicles service

**Service by way of renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient are taxable at the following two rates:**



- (i) **@ 5%** (2.5% CGST+2.5% SGST/UTGST or 5% IGST) **provided supplier of services has taken only the limited ITC (of input services in the same line of business) or**
- (ii) **@ 12%** (6% CGST+6% SGST/UTGST or 12% IGST) **where supplier of services opts to pay GST at said rate. In this case, there is no restriction on availing ITC on goods or services used in supplying renting of motor vehicles service by the supplier of service.**

**In the following paras, we have explained as to who is the person liable to pay tax in case of each of the above two rates<sup>7</sup>:**



<sup>7</sup> Entry 15 of Notification No. 13/2017 CT (R) dated 28.06.2017 read with Circular No. 130/49/2019 GST dated 31.12.2019



**\*\* It is important to note here that when any service is placed under RCM, the supplier shall not charge any tax from the service recipient as this is the settled procedure under RCM. RCM shall be applicable here only when the supplier does not issue an invoice charging GST @12% (6% CGST+6% SGST/UTGST or 12% IGST) from the service recipient.**

### **Taxability of remuneration paid to the director**

**In order to determine the leviability of tax on the remuneration paid to the directors, we first need to ascertain whether the director is an employee of the company or not. Following two situations are possible:**

- (i) Services provided by the independent directors<sup>8</sup>/those directors (by whatever name called) who are not employees of the said company to such company, in lieu of remuneration as the consideration for the said services, are clearly outside the scope of Schedule III of the CGST Act<sup>9</sup> and are therefore taxable. As seen in the table given above illustrating the reverse charge services (S. No. 6), such remuneration paid to the directors is taxable in hands of the company, on reverse charge basis.**
- (ii) In case where it is ascertained that a director, irrespective of name and designation, is an employee, next step would be to examine whether all the activities performed by the director are in the course of employer-employee relation (i.e. a "contract of service") or is there any element of "contract for service".**

**The part of director's remuneration which are declared as Salaries in the books of a company and subjected to TDS under section 192 of the Income-tax Act (IT Act), are not taxable being consideration for services by an employee to the employer in the course of or in relation to his employment in terms of Schedule III.**

<sup>8</sup> The definition of "independent directors" under section 149(6) of the Companies Act, 2013 read with rule 12 of Companies (Share Capital and Debentures) Rules, 2014 makes it amply clear that the independent director should not have been an employee of the company.

<sup>9</sup> As per Para I. of Schedule III of the CGST Act, services by an employee to the employer in the course of or in relation to his employment are non-supplies, i.e. they are neither supply of goods nor supply of services. The provisions of Schedule III of the CGST Act have been discussed in detail in Chapter 2 – Supply under GST.

**Further, the part of employee director's remuneration which is declared separately other than salaries in the company's accounts and subjected to TDS under section 194J of the IT Act as fees for professional or technical services are treated as consideration for providing services which are outside the scope of Schedule III and is therefore, taxable. Besides, as already discussed, the recipient of the said services i.e. the company, is liable to discharge the applicable GST on it on reverse charge basis<sup>10</sup>.**

### Tax payable by the ECO on notified services

**Electronic Commerce Operator (ECO)** <sup>11</sup> is any person who owns/operates/manages an electronic platform for supply of goods or services or both.

Sometimes, ECO itself supplies the goods or services through its electronic portal. However, many a times, the products/services displayed on the electronic portal are actually supplied by some other person to the consumer. When a consumer places an order for a particular product/ service on this electronic portal, the actual supplier supplies the selected product/ service to the consumer. The price/ consideration for the product/ service is collected by the ECO from the consumer and passed on to the actual supplier after the deduction of commission by the ECO.



The Government may, on the recommendations of the GST Council, notify specific categories of services the tax [CGST/SGST/IGST] on supplies of which shall be paid by the **electronic commerce operator (ECO)** if such services are supplied through it. Few services have been so notified. For instance, service by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle, etc.

### GST Rates prescribed for various goods

Broadly, six rates of CGST have been notified in six Schedules of rate notification for goods, viz., 0.125%, 1.5%, 2.5%, 6%, 9% and 14%. SGST/ UTGST at the equivalent rate is also leviable. With regard to IGST, broadly six rates have been

**GST rates  
for goods**

<sup>10</sup> as clarified vide Circular No: 140/10/2020 GST dated 10.06.2020

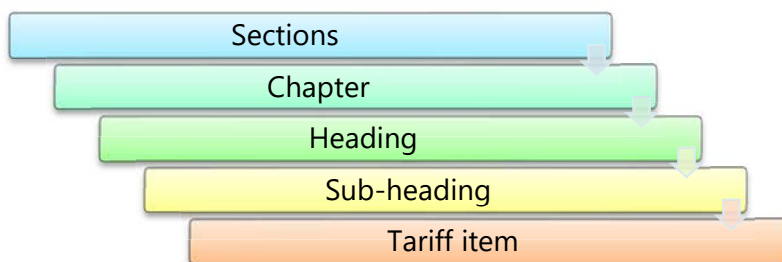
<sup>11</sup> Detailed provisions relating to Electronic Commerce Operator shall be discussed at Final level.

notified in six Schedules of rate notification for goods, viz., 0.25%, 3%, 5%, 12%, 18% and 28%<sup>12</sup>. **Certain specified goods have been exempted from tax.**

## Classification of goods under GST

In order to determine the rate applicable on a particular supply of goods or services, one needs to first determine the classification of such goods or services. Classification of goods and services assumes significance since there are different rates prescribed for supply of different goods and services. Therefore, classification is crucial for determining the rate of tax applicable on a particular product or service.

Classification of goods means identification of the chapter, heading, sub-heading and tariff item in which a particular product will be classified.



Chapter, heading, sub-heading and tariff item are referred in the Schedules of rate notification for goods under GST are the Chapter, heading, sub-heading and tariff item of the First Schedule to the Customs Tariff Act, 1975. Indian Customs Tariff is based on HSN. HSN stands for Harmonized System of Nomenclature. It is a multipurpose international product nomenclature developed by the World Customs Organization (WCO) for the purpose of classifying goods across the World in a systematic manner. It comprises of about 5,000 commodity groups; each identified by a 6 digit code [code can be extended], arranged in a legal and logical structure and is supported by well-defined rules to achieve uniform classification. India has extended the HSN codes upto 8-digits.

Along the lines of HSN, the Indian Customs Tariff has a set of Rules of Interpretation of the First Schedule and General Explanatory notes. These rules and the general explanatory notes give clear direction as to how the

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<sup>12</sup> Students may refer the CBIC website for the complete Schedule of GST Rates for goods for knowledge purposes.

nomenclature in the schedule is to be interpreted. These **Rules for Interpretation** including section and chapter notes and the General Explanatory Notes of the First Schedule<sup>1314</sup> **apply to the interpretation of the rate notification for goods under GST also.**

Consequently, under GST, goods are classified on the basis of HSN in accordance with the **Rules for the Interpretation** of the Customs Tariff.

Once classification for a product has been determined on this basis, applicable rate has to be determined as per the rate prescribed in the rate notification issued under GST.

## Classification of services under GST

A new **Scheme of Classification of Services** has been devised under GST. It is a modified version of the United Nations Central Product Classification. Under this scheme, the services of various descriptions have been classified under various sections, headings and groups. Chapter 99 has been assigned for services. This chapter has following sections:

**Section 5** Construction Services

**Section 6** Distributive Trade Services; Accommodation, Food and Beverage Service; Transport Services; Gas and Electricity Distribution Services

**Section 7** Financial and related services; real estate services; and rental and leasing services

**Section 8** Business and Production Services

**Section 9** Community, social and personal services and other miscellaneous services

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<sup>13</sup> The provisions relating to Customs Act and Customs Tariff Act will be discussed at Final Level.

<sup>14</sup> Sections: A group of Chapters representing a particular class of goods.

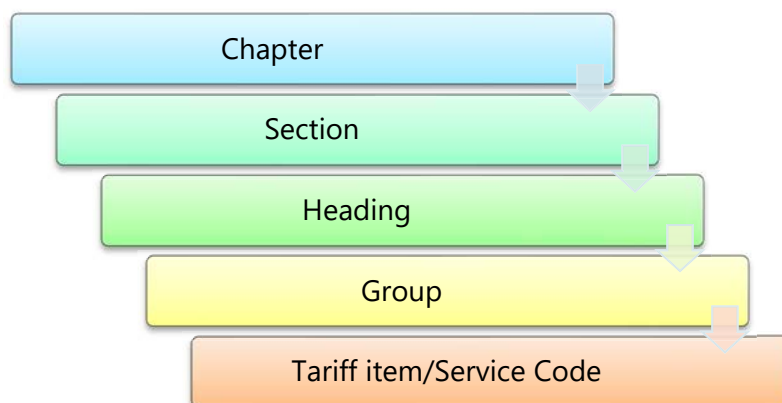
Chapters: Each section is divided into various chapters and sub-chapters. Each chapter contains goods of one class.

Chapter notes: They are mentioned at the beginning of each chapter. These notes are part of the statute and hence have the legal authority in determining the classification of goods.

Heading: Each chapter and sub-chapter is further divided into various headings.

Sub-heading: Each heading is further divided into various sub-headings.

Each section is divided into various headings which is further divided into Groups. Its further division is made in the form of 'Tariff item'/ Service Codes.



Rate of tax is determined in accordance with the Service Code in which the service is classified.

## GST Rates prescribed for various services

Broadly, four rates of CGST have been notified for services, viz., 2.5%, 6%, 9% and 14%<sup>15</sup>. Equivalent rate of SGST/UTGST will also be levied. For IGST, four rates have been notified for services, viz., 5%, 12%, 18% and 28%<sup>1617</sup>. **For certain specified services, nil rate of tax has been notified.**

**GST rates  
for services**

Services of gambling, services by way of admission to entertainment events/access to amusement facilities including casinos, race club, any sporting event such as IPL and the like, services provided by a race club by way of totalisator or a license to bookmaker in such club, attract the highest rate of 28% (CGST @ 14% and SGST @ 14% or IGST @ 28%).

A number of services are subject to the lowest rate of 5% (CGST @ 2.5% and SGST @ 2.5% or IGST @ 5%). For instance, GTA service is taxed @ 5% subject to the

<sup>15</sup> notified vide Notification No. 11/2017 CT (R) dated 28.06.2017

<sup>16</sup> notified vide Notification No. 8/2017 IT (R) dated 28.06.2017.

<sup>17</sup> Students may refer the CBIC website for the complete Schedule of GST Rates for services for knowledge purposes.

condition that credit of input tax charged on goods/services used in supplying said service has not been taken. Similarly, tax rate for restaurant service is 5% without any input tax credit.

**Services not covered under any specific heading are taxed at the rate of 18% (CGST @ 9% and SGST @9% or IGST @ 18%).**

In the following paras, applicability of GST in real estate sector has been briefly discussed:

#### **GST rates in real estate sector**



The effective rate of GST on real estate sector for the new projects by promoters are as follows:

- (i) 1% without ITC on construction of **affordable houses** (area 60 sqm in metros/ 90 sqm in non-metros and value upto ₹ 45 lakh).
- (ii) 5% without ITC is applicable on construction of:
  - (a) all houses other than affordable houses, and
  - (b) commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

#### **Conditions:**

Above tax rates shall be available subject to following conditions:

- (a) ITC shall not be available.
- (b) 80% of inputs and input services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including

additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be purchased from registered persons<sup>18</sup>.

However, if value of inputs and input services purchased from registered supplier is less than 80%, promoter has to pay GST on reverse charge basis, under section 9(4) of the CGST Act [discussed earlier], at the rate of 18% on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).

**Supply of services notified under section 9(4)**

Further, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge basis, under section 9(4) of the CGST Act, at the applicable rate which is 28% (CGST 14% + SGST 14%) at present.

Moreover, GST on capital goods shall be paid by the promoter on reverse charge basis, under section 9(4) of the CGST Act at the applicable rates [Notification No. 07/2019 CT (R) dated 29.03.2019/ Notification No. 07/2019 IT (R) dated 29.03.2019].



## 5. COMPOSITION LEVY [SECTION 10 OF THE CGST ACT]



### STATUTORY PROVISIONS

Section 10	Composition levy
Sub-section	Particulars
(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 fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding,—

<sup>18</sup> Discussion in above paras highlighted in green is solely for the purpose of knowledge of the students and is not meant for examination purposes.

	a	one percent. <sup>19</sup> 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 in State or turnover in Union territory in case of other suppliers
		subject to such conditions and restrictions as may be prescribed.
		Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore and fifty lakh rupees <sup>20</sup> , as may be recommended by the Council.
		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 ten percent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.
		<b>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.</b>
(2)		The registered person shall be eligible to opt under sub-section (1), if—

<sup>19</sup> Rate of tax prescribed in case of a manufacturer is half percent of the turnover in State/UT. The same has been discussed in detail in subsequent paras.

<sup>20</sup> The turnover limit for composition levy has been increased from ₹ 50 lakh to ₹ 1.5 crore vide Notification No. 14/2019 CT dated 07.03.2019.



	(a)	<i>save as provided in sub-section (1), he is not engaged in the supply of services</i>
	(b)	<i>he is not engaged in making any supply of goods which are not leviable to tax under this Act</i>
	(c)	<i>he is not engaged in making any inter-State outward supplies of goods</i>
	(d)	<i>he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52;</i>
	(e)	<i>he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council; <b>and</b></i>
	(f)	<i><b>he is neither a casual taxable person nor a non-resident taxable person.</b></i>
<i>Provided that where more than one registered persons 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 (1) unless all such registered persons opt to pay tax under that sub-section.</i>		
(2A)	<b>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 fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding three per cent. of the turnover in State or turnover in Union territory, if he is not—</b>	
	(a)	<b><i>engaged in making any supply of goods or services which are not leviable to tax under this Act;</i></b>
	(b)	<b><i>engaged in making any inter-State outward supplies of goods or services;</i></b>

	(c)	<i>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;</i>
	(d)	<i>a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and</i>
	(e)	<i>a casual taxable person or a non-resident taxable person.</i>
	<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 this sub-section unless all such registered persons opt to pay tax under this sub-section.</i>	
(3)	<i>The option availed of by a registered person under sub-section (1) <b>or sub-section (2A), as the case may be</b>, shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1) <b>or sub-section (2A), as the case may be</b>.</i>	
(4)	<i>A taxable person to whom the provisions of sub-section (1) <b>or, as the case may be, sub-section (2A)</b> apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.</i>	
(5)	<i>If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) <b>or sub-section (2A), as the case may be</b> despite not being eligible, such person shall, 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.</i>	
	<i><b>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</b></i>	

*person from the 1st day of April of a financial year upto 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:—*

- (i) supplies from the first day of April of a financial year upto the date when such person becomes liable for registration under this Act; and*
- (ii) 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.*



## ANALYSIS

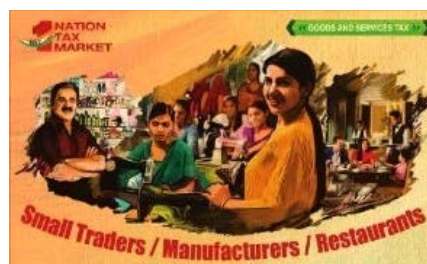
### (1) Overview of the Scheme

The composition levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to a prescribed limit. The objective of composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers.

**Voluntary and optional scheme**



Initially, the scheme was designed to benefit the small traders, manufacturers and restaurant service providers. So, the scheme was fundamentally for the suppliers of goods and only for restaurant service providers. However, subsequently, suppliers availing composition scheme were permitted to supply other services also, though only upto a small specified



value. This scheme is contained in **sub-sections (1) and (2) of section 10 of the CGST Act (hereinafter referred to as composition scheme for goods).**

Under this scheme, suppliers of goods have the option to pay tax at the concessional rate of 1% (CGST + SGST/UTGST) of the turnover and restaurant service providers have the option to pay tax @ 5% (CGST + SGST/UTGST) of the turnover. Small taxpayers with an aggregate turnover in the preceding financial year up to ₹ 1.5 crore are eligible to pay tax at these rates in the current financial year upto an aggregate turnover of ₹ 1.5 crore. However, a person engaged exclusively in supply of services other than restaurant service is not eligible for this composition scheme stipulated under sub-sections (1) and (2).



In order to provide benefit of composition scheme to persons engaged in supply of services other than restaurant service whose aggregate turnover in the preceding financial year is up to ₹ 50 lakh, a scheme to pay tax @



6% (CGST + SGST/UTGST) of the turnover was introduced with effect from 1<sup>st</sup> April, 2019 vide *Notification No. 2/2019 CT (R) dated 07.03.2019*. A mixed supplier who is primarily engaged in supplying services other than



restaurant service along with marginal supply of goods could also avail the



benefit of this scheme. With effect from 01.01.2020, the provisions of this scheme have been incorporated in sub-section (2A) of section 10 vide the Finance (No. 2) Act, 2019. It is important to note that *Notification No. 2/2019 CT (R) dated 07.03.2019* has not yet been rescinded and is still operational.

**Essentially, the composition scheme under sub-section (2A) (hereinafter referred to as composition scheme for services) is for small service providers like salon stylist, tailors, etc. This scheme provides an option to such suppliers to pay tax @ 6% of the turnover in the current financial year upto an aggregate turnover of ₹ 50 lakh.**

Suppliers opting for composition levy need not worry about the classification of their goods or services or both, the rate of GST applicable on their goods and/or services, etc. They are not required to raise any tax invoice, but

**Easy compliance as no elaborate accounts and records to be maintained**

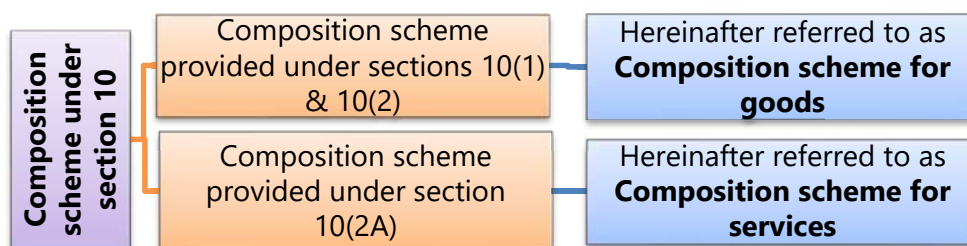
simply need to issue a Bill of Supply<sup>21</sup> wherein no tax will be charged from the recipient.

**Simple annual  
return  
Quarterly  
payment of tax**

An eligible person opting to pay tax under the composition scheme shall, instead of paying tax on every invoice at the specified rate, pay tax at the prescribed percentage of his turnover every quarter. At the end of a quarter, he would pay the tax, without availing the benefit of input tax credit. Return is to be filed annually by a composition supplier. Registration under GST law is compulsory for opting for the composition scheme.

The provisions relating to composition levy are contained in section 10 of CGST Act, 2017 and Chapter-II [Composition Levy] of Central Goods and Services Tax (CGST) Rules, 2017. The said rules have been incorporated in the discussion in the following paras at the relevant places.

As seen above, section 10 stipulates two types of composition schemes –

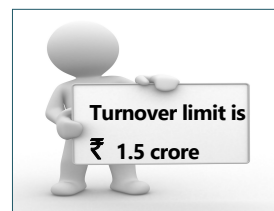


Provisions relating to these schemes have been discussed in detail in subsequent paras:

**(2) Turnover limit for opting for composition levy [Section 10(1), 10(2A) & 10(3)]**

**Turnover limit in case of composition levy for goods**

Section 10(1) of the CGST Act provides the turnover limit of ₹ 50 lakh in the preceding financial year for becoming eligible for composition levy for goods. However, proviso to section 10(1) empowers the Government to increase the said limit of ₹ 50 lakh



<sup>21</sup> Discussed in detail in Chapter-8: Tax Invoice, Credit and Debit Notes; E-way Bill

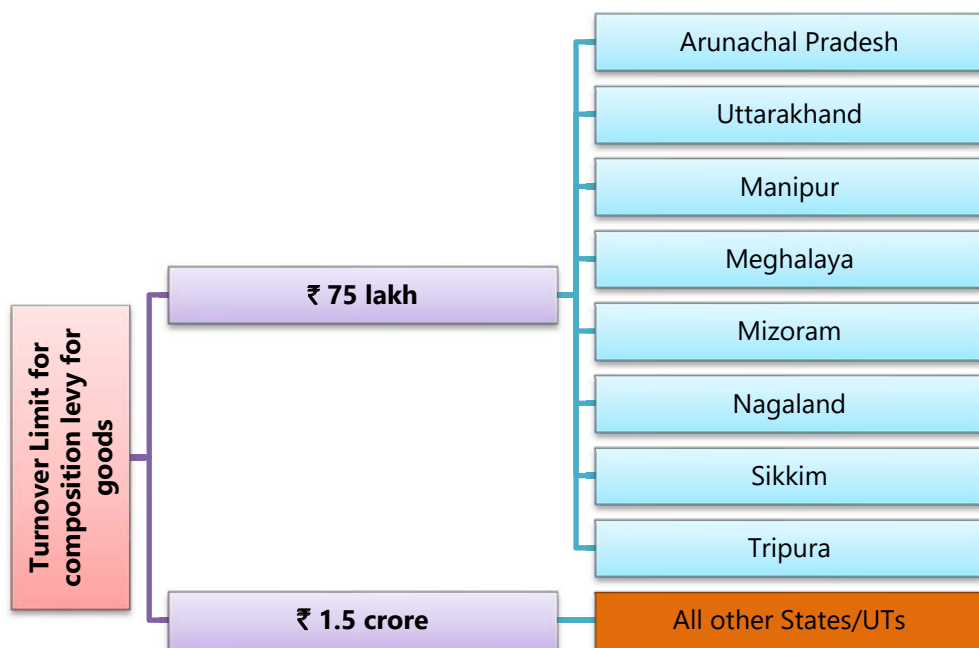
upto ₹ 1.5 crore, on the recommendation of the GST Council. In view of said power of the Government to increase the turnover limit for composition levy as granted by first proviso to section 10(1), the turnover limit for composition levy for goods has been increased from ₹ 50 lakh to ₹ 1.5 crore vide *Notification No. 14/2019 CT dated 07.03.2019*.

However, the said notification further stipulates that the turnover limit for composition levy for goods shall be ₹ 75 lakh **in respect of 8 of the Special Category States** namely:

Special Category States	
Arunachal Pradesh	Mizoram
Uttarakhand	Nagaland
Manipur	Sikkim
Meghalaya	Tripura

In case of Special Category States of **Assam, Himachal Pradesh** and **Jammu and Kashmir**, the turnover limit will be ₹ 1.5 crore only.

Thus, if the aggregate turnover of a supplier in a State/UT other than Special Category States (except Assam, Himachal Pradesh and Jammu and Kashmir) is upto ₹ 1.5 crore in the preceding financial year, said supplier is eligible for composition scheme for goods. Further, it is important to note that the aggregate turnover is computed on all India basis for a person having same Permanent Account Number (PAN) – *Refer the definition of aggregate turnover discussed in subsequent paras.*



Further, the option of a registered person to avail composition scheme for goods shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit of ₹ 1.5 crore [₹ 75 lakh in 8 specified special category States] [Section 10(3)].



**(2)** A shoes' dealer 'Prithviraj' has offices in Maharashtra and Goa. He makes intra-State supply of goods from both these offices.

In order to determine whether 'Prithviraj' is eligible to avail benefit of the composition scheme for goods, turnover of both the offices would be taken into account and if the same does not exceed ₹ 1.5 crore, 'Prithviraj' can opt to avail the composition levy scheme (subject to fulfilment of other prescribed conditions) for goods for both the offices.

### Turnover limit in case of composition levy for services

**Section 10(2A) provides the turnover limit of ₹ 50 lakh in the preceding financial year for becoming eligible for composition levy for services.**





**(3)** A hair stylist 'Billoo Barber' has his salon in Delhi and Haryana, making intra-State supplies.

In order to determine whether 'Billoo' is eligible to avail benefit of the composition scheme for services, turnover of both the salons would be taken into account and if the same does not exceed ₹ 50 lakh, 'Billoo' can opt to avail the composition levy scheme (subject to fulfilment of other prescribed conditions) for both the salons.

***Further, the option of a registered person to avail composition scheme for services shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the threshold limit of ₹ 50 lakh [Section 10(3)].***



### Summary

To summarise, a registered person opting for composition scheme for goods should have an aggregate turnover upto ₹ 1.5 crore [₹ 75 lakh in 8 specified Special Category States] in the preceding FY and he can avail the benefit of said scheme in the current FY till the time his aggregate turnover in the current FY does not exceed ₹ 1.5 crore/₹ 75 lakh.

***Similarly, a registered person opting for composition scheme for services should have an aggregate turnover upto ₹ 50 lakh in the preceding FY and he can avail the benefit of said scheme in the current FY till the time his aggregate turnover in the current FY does not exceed ₹ 50 lakh.***

From the above discussion, it is apparent that the term aggregate turnover is of utmost importance. So, let us understand this term in detail.

### **(3) Aggregate turnover under composition levy [Section 2(6) read with explanation 1 to section 10]**



The definition of aggregate turnover as contained in section 2(6) of the CGST Act is analysed as follows:

The aggregate turnover is the sum of value of all outward supplies falling in the following four categories:

- ☐ Taxable supplies
- ☐ Exempt supplies
- ☐ Exports of goods or services or both
- ☐ Inter-state supplies

**Aggregate turnover**

It excludes:

- ☐ The value of inward supplies on which tax is payable by a person on reverse charge basis
- ☐ Taxes including cess paid under GST law.


It is computed on all India basis for a person having same Permanent Account Number (PAN).

**Further, explanation 1 to section 10 clarifies that that for the purposes of computing aggregate turnover of a registered person for determining his eligibility to pay tax under this section, aggregate turnover:**

- ☐ **includes value of supplies from the 1st April of a FY up to the date of his becoming liable for registration and**
- ☐ **excludes 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.**

On combined reading of the aforesaid provisions, the method of computing the aggregate turnover for the purpose of determining the eligibility of a registered person for the composition scheme [for both goods and services] can be depicted in a diagram as follows:

**While computing the threshold limit of ₹ 1.5 crore/ ₹ 75 lakh / ₹ 50 lakh, inclusions in and exclusions from 'aggregate turnover' are as follows:**

	<b><u>Includes</u></b> <b><u>Value of all outward supplies</u></b>	<b><u>Excludes</u></b>
	--Taxable supplies --Exempt supplies --Exports* --Inter-State supplies* <b>of persons having the same PAN be computed on all India basis.</b> <b>These also include</b>	--CGST/ SGST/ UTGST/ IGST/ Cess --Value of inward supplies on which tax is payable under reverse charge. --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

**Value of supplies** made by registered person from 1st April of a FY up to the date when he becomes liable for registration under this Act

**\*Note:** The value of exports and inter-State supplies might be relevant only while determining the aggregate turnover of the preceding FY. These values are not relevant for determining the aggregate turnover of the current FY in which the composition supplier has opted for composition levy as he is not permitted to make inter-State supplies and exports in the said FY.

#### **(4) Rates of tax under the composition levy scheme [Section 10(1) and section 10(2A) read with rule 7]**

Rule 7 of the CGST Rules, 2017 prescribes the rates at which tax is payable by a registered person opting for composition levy – composition levy for goods and composition levy for services.

##### **Rates of tax in case of composition levy for goods**

A registered person opting for composition levy for goods shall pay tax calculated at the prescribed rates [mentioned in table below] during the current FY, in lieu of the tax payable by him under regular scheme:

S. No.	Category of registered persons	Rate of tax
1	Manufacturers, other than manufacturers of notified goods, i.e. ice cream, pan masala, tobacco <b>and aerated waters</b> .	1½ % <sup>22</sup> of the turnover in the State/Union territory
2	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II [referred to as <b>"Restaurant service"</b> in discussion under this chapter]	2½ % <sup>23</sup> of the turnover in the State/Union territory
3	Any other supplier eligible for composition levy under section 10 of CGST Act and Chapter-II [Composition Levy] of CGST Rules.	1½ % <sup>24</sup> of turnover of taxable supplies of goods & services in the State/Union territory

**Note** - Students may note that while 'aggregate turnover' of preceding FY is relevant for the purpose of determining eligibility to avail composition scheme, the tax has to be paid in accordance with the applicable rates on the 'turnover' (or 'turnover of taxable supplies', as the case may be) in a particular tax period.

### ILLUSTRATION 1

*Taxpayer 'Tolaram' is a manufacturer who has opted for composition levy for goods, having one unit – A1 in UP and another unit – A2 in MP. Total turnover of two units in last FY was ₹ 115 lakh (₹ 85 lakh + ₹ 30 lakh). Turnover of units A1 and A2 in the first quarter of current financial year is ₹ 5 lakh and ₹ 10 lakh respectively. Compute the amount payable under composition levy under section 10(1) & 10(2) of the CGST Act, 2017 by 'Tolaram'.*

<sup>22</sup> Effective rate 1% (CGST+ SGST/UTGST)

<sup>23</sup> Effective rate 5% (CGST+ SGST/UTGST)

<sup>24</sup> Effective rate 1% (CGST+ SGST/UTGST)

**ANSWER**

Unit	Location	Turnover in previous FY	Turnover in 1st quarter of this FY	Total tax (@1%)
A1	U.P.	₹ 85 lakh	₹ 5 lakh	₹ 5,000
A2	M.P.	₹ 30 lakh	₹ 10 lakh	₹ 10,000
<b>Total</b>		₹ 115 lakh	₹ 15 lakh	₹ 15,000

**ILLUSTRATION 2**

Taxpayer 'Bholaram' is a trader, who has opted for composition levy for goods, of both taxable and exempted goods. It has one retail showroom – A1 in Punjab and another retail showroom – A2 in Rajasthan, both selling taxable as well as exempted goods. Total turnover (including taxable and exempted goods) of the two showrooms in last FY was ₹ 115 lakh (₹ 85 lakh + ₹ 30 lakh). Turnover of showrooms A1 and A2 in the first quarter of current financial year is ₹ 35 lakh [A1 - ₹ 15 lakh (₹ 5 lakh from sale of taxable goods and ₹ 10 lakh from sale of exempted goods) and A2 - ₹ 20 lakh (₹ 10 lakh from sale of taxable goods and ₹ 10 lakh from sale of exempted goods)]. Compute the amount payable under composition levy under section 10(1) & 10(2) of the CGST Act, 2017 by 'Bholaram'.

**ANSWER**

Retail showroom	Location	Turnover in previous FY	Taxable turnover* in 1st quarter of this FY	Total tax (@1%)
A1	Punjab	₹ 85 lakh	₹ 5 lakh	₹ 5,000
A2	Rajasthan	₹ 30 lakh	₹ 10 lakh	₹ 10,000
<b>Total</b>		₹ 115 lakh	₹ 15 lakh	₹ 15,000

Note: A supplier, other than manufacturer and restaurant service provider, eligible for composition levy under section 10(1) & 10(2) has to pay tax @ 1% (CGST+ SGST) of the turnover of only taxable supplies of goods and services in the State.

### Rates of tax in case of composition levy for services

**A registered person opting for composition levy for services shall pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] of the turnover of supplies of goods and services in the State or Union territory.**

### **ILLUSTRATION 3**

Taxpayer 'Padmavati' is a salon stylist, who has opted for composition levy for services, having one branch – B1 in Vasant Kunj, Delhi and another branch – B2 in Gurgaon, Haryana. Total turnover of two branches in last FY was ₹ 45 lakh (₹ 25 lakh + ₹ 20 lakh). Turnover of branches B1 and B2 in the first quarter of current financial year is ₹ 5 lakh and ₹ 10 lakh respectively. Compute the amount payable under composition levy under section 10(2A) of the CGST Act, 2017 by 'Padmavati'.

### **ANSWER**

Branch	Location	Turnover in previous FY	Turnover in 1st quarter of this FY	Total tax (@6%)
B1	Delhi	₹ 25 lakh	₹ 5 lakh	₹ 30,000
B2	Haryana	₹ 20 lakh	₹ 10 lakh	₹ 60,000
<b>Total</b>		₹ 45 lakh	₹ 15 lakh	₹ 90,000

As seen above, since the tax under composition scheme has to be computed as a specified % of the turnover in State or turnover in Union territory, it is pertinent to understand what is turnover in State or turnover in Union territory.

### **(5) Turnover in State or turnover in Union territory under composition levy [Section 2(112) read with explanation 2 to section 10]**

As per section 2(112) of the CGST Act, 2017, turnover in State/ 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

**Turnover in State**

**Turnover in Union territory**


by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess.

**Further, explanation 2 to section 10 clarifies that 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:**

- (i) **supplies from the first day of April of a FY up to the date when such person becomes liable for registration under this Act; and**
- (ii) **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.**

On combined reading of the aforesaid provisions, the method of computing the **turnover in a State/UT for paying tax under the composition scheme** can be depicted in a diagram as follows:

**While computing the Turnover in a State/UT to pay tax under composition levy, inclusions and exclusions are as follows:**

 <u><b>Includes</b></u>	<u><b>Excludes</b></u>
<p>All taxable supplies and exempt supplies made within the State/UT</p> <p><i>(While computing turnover in a State/UT of a supplier, other than manufacturer and restaurant service provider, eligible for composition levy for goods [eg-trader], the exempt supplies will not be taken into consideration)</i></p>	<ul style="list-style-type: none"> <li>--CGST/ SGST/ UTGST/ IGST/ Cess</li> <li>--Value of inward supplies on which tax is payable under reverse charge.</li> <li>--Value of supplies from the first day of April of a FY up to the date when such person becomes liable for registration under this Act</li> <li>--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</li> </ul>



(4) A photographer 'Champak' has commenced providing photography services in Delhi from April this year. His turnover for various quarters till December is as follows:

April-June	₹ 20 lakh
July-Sept	₹ 30 lakh
Oct-Dec	₹ 20 lakh

In the given case, since Champak has started the supply of services in the current financial year, his aggregate turnover in the preceding FY is Nil. Consequently, in the current FY, he is eligible for composition scheme for services. He becomes eligible for the registration when his aggregate turnover exceeds ₹ 20 lakh.

While registering under GST, he opts for composition scheme for services.

For determining his turnover of the State for payment of tax under composition scheme for services, turnover of April-June quarter [₹ 20 lakh] shall be excluded as the value of 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 are to be excluded for this purpose.

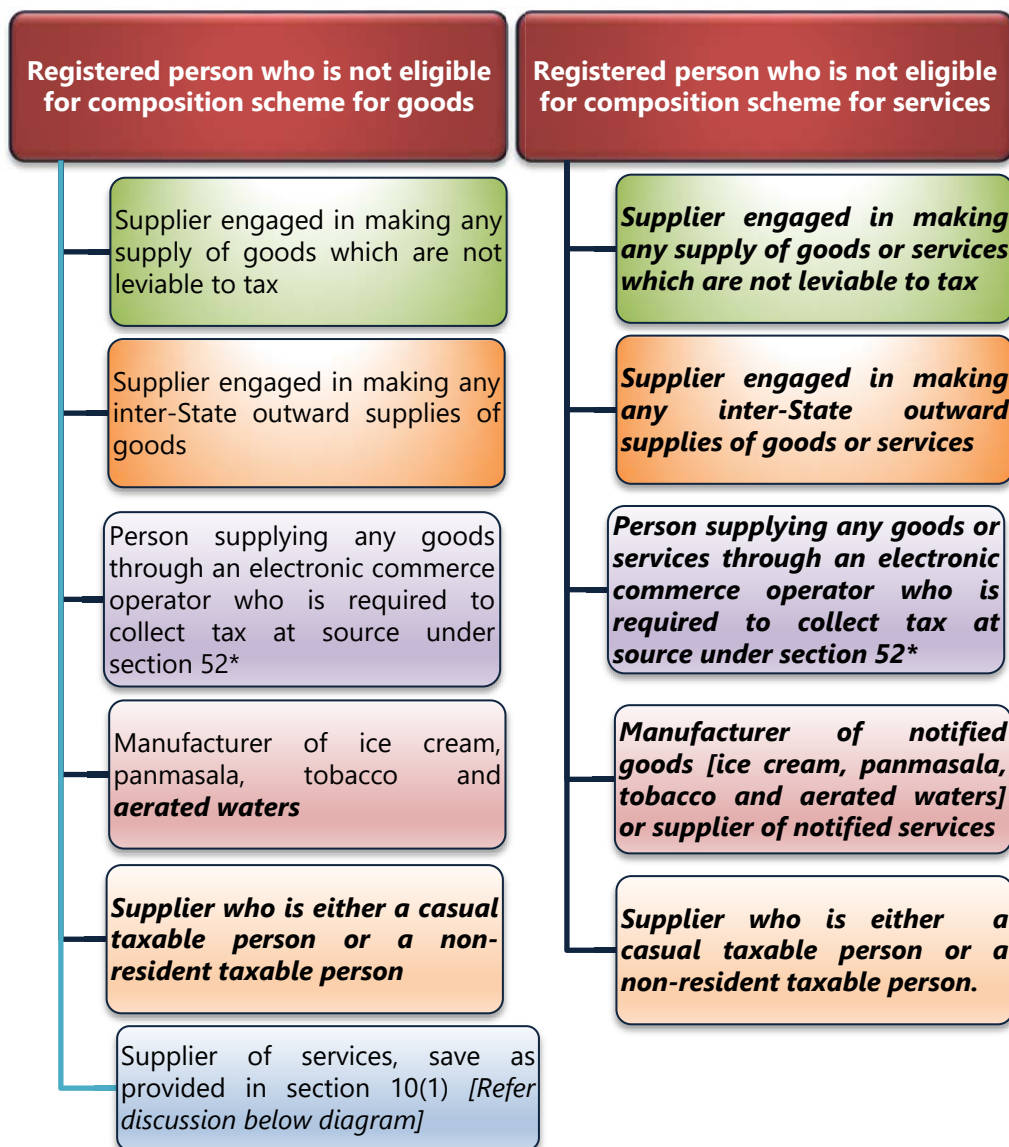
On next ₹ 30 lakh [turnover of July-Sept quarter], he shall pay tax @ 6% [3% CGST and 3% SGST], i.e. CGST ₹ 90,000 and SGST ₹ 90,000.

By the end of July-Sept quarter, his aggregate turnover reaches ₹ 50 lakh\*.

Consequently, his option to avail composition scheme for services shall lapse by the end of July-Sept quarter and thereafter, he is required to pay tax at the normal rate of 18%. Thus, the tax payable for Oct-Dec quarter is ₹ 20 lakh × 18%, i.e. ₹ 3,60,000.

*\*while computing aggregate turnover for determining Champak's eligibility to pay tax under composition scheme, value of 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 (i.e. turnover of April-June quarter), are included.*

**(6) Who are NOT eligible to opt for composition scheme? [Section 10(2) and (2A)]**



\*Section 52 relating to tax collected at source has been discussed in detail at the Final level.





There is no restriction on composition supplier to receive inter-State inward supplies of goods or services.

**A person engaged in marginal supply of services other than restaurant service also eligible for composition levy for goods [Second proviso to section 10(1) read with section 10(2)(a)]**

Fundamentally, the composition scheme for goods can be availed in respect of goods and only one service namely, restaurant service. However, there are cases where a manufacturer/ trader is also engaged in supply of services other than restaurant service though the percentage of such supply of services is very small as compared to the supplies of goods. There may also be cases where a restaurant service provider is also engaged in supplying a small percentage of other services.

With a view to enable such taxpayers to avail of the benefit of composition scheme for goods, second proviso to section 10(1) permits marginal supply of services [other than restaurant services] for a specified value along with the supply of goods and/or restaurant service, as the case may be. This specified value is value not exceeding:

(a) 10% of the turnover in a State/Union territory in the preceding financial year

or

(b) ₹ 5 lakh,

whichever is higher.

Thus, it can be inferred that where the turnover of a registered person opting for composition scheme for goods is upto ₹ 50 lakh in the preceding financial year, he can supply services [other than restaurant services] upto a maximum value of ₹ 5 lakh in the current financial year.

Further, where the turnover of a registered person opting for composition scheme is more than ₹ 50 lakh and upto ₹ 1.5 crore in the preceding financial year, he can supply services [other than restaurant services] in the current financial year upto a maximum value of 10% of the turnover in a State/Union territory in the preceding financial year.



(5) Ramsewak is engaged in supply of goods. His turnover in preceding FY is ₹ 60 lakh. Since his aggregate turnover in the preceding FY does not exceed ₹ 1.5 crore, he is eligible for composition scheme for goods in current FY. Further, in current FY, he can supply services [other than restaurant services] upto a value of not exceeding:

(a) 10% of ₹ 60 lakh, i.e. ₹ 6 lakh

or

(b) ₹ 5 lakh,

whichever is higher.

Thus, he can supply services upto a value of ₹ 6 lakh in current FY. If the value of services supplied exceeds ₹ 6 lakh, he becomes ineligible for the composition scheme for goods and has to opt out of the same.

**Interest income to be excluded for determining the value of turnover in a State or Union territory under second proviso to section 10(1)**  
**[Explanation to second proviso to section 10(1)]**

***Generally, businesses tend to save and invest money in the form of deposits, loans or advances. However, this way they get engaged in supply of service by way of extending deposits, loans or advances<sup>25</sup> – a service other than restaurant service. And where the income from such services cause the value of services<sup>26</sup> supplied to exceed the value referred in second proviso to section 10(1)<sup>27</sup> [10% of the turnover in the***

<sup>25</sup> It is, however, pertinent to note that services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount are exempt from GST – Discussed in detail in Chapter 4 – Exemptions from GST.

<sup>26</sup> other than restaurant services

<sup>27</sup> as discussed in preceding paras

*preceding FY in a State/Union territory or ₹ 5 lakh, whichever is higher], said business would have become ineligible for the composition scheme for goods and one has to opt out of the composition scheme. This can cause a lot of hardship to small businesses.*

*In view of the above, an explanation is inserted after second proviso to section 10(1) to clarify that for the purposes of second proviso to section 10(1), 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 value of turnover in a State or Union territory.*


*Under second proviso to section 10(1), a registered person opting for composition scheme may supply services [other than restaurant services] of value not exceeding 10% of the turnover in the preceding financial year in a State/Union territory or ₹ 5 lakh, whichever is higher. Thus, while computing value of services [other than restaurant services] as referred in this proviso, interest on loans/deposit/advances will not be taken into account.*




**The provisions relating to composition levy discussed hereafter are applicable to both composition levy for goods as well as composition levy for services.**

### **(7) Conditions and restrictions for composition levy [Rule 5]**

Person opting for composition levy has to comply with the following conditions:

- ☐ he was not engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY. The following goods have been hereby notified vide *Notification No. 14/2019 CT dated 07.03.2019* as amended:

Tariff item, subheading, heading or Chapter*	Description
2105 00 00	Ice cream and other edible ice, whether or not containing cocoa 

<b>2106 90 20</b>	Pan masala 
<b>24</b>	All goods, i.e. Tobacco and manufactured tobacco substitutes 
<b>2202 1010</b>	<b>Aerated Waters</b> 

*\* as specified in the First Schedule to the Customs Tariff Act, 1975*

- ☐ he shall pay tax under section 9(3)/9(4)<sup>28</sup> (reverse charge) on inward supply of goods or services or both.
- ☐ he is neither a casual taxable person nor a non-resident taxable person
- ☐ 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
- ☐ 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.

Further, where the goods held in stock by him are liable to be taxed under reverse charge under section 9(4)<sup>29</sup>, the tax thereon has been paid under reverse charge under section 9(4).

<sup>28</sup> wherever applicable

<sup>29</sup> This condition applies in case where a builder/promoter opting for composition scheme has the stock of the goods on which he is required to pay GST on reverse charge basis under section 9(4) in one or more of the following cases:

- (i) Builder/promoter must purchase at least 80% of inputs and input services used in supplying the service, from registered persons. In case of shortfall, he's required to pay tax under reverse charge on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).
- (ii) Where cement is received from an unregistered person, promoter/builder has to pay tax on supply of such cement under reverse charge and
- (iii) GST on capital goods is payable by the promoter on reverse charge basis.

**(8) Intimation of opting for composition levy [Rules 3 & 4]**

**(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**. 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. **The option to pay tax under composition levy shall be effective from the date from which registration is effective.**

**(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 on the GST Common Portal [www.gst.gov.in]. The intimation shall be filed **prior to the commencement of the FY** for which said option is exercised.

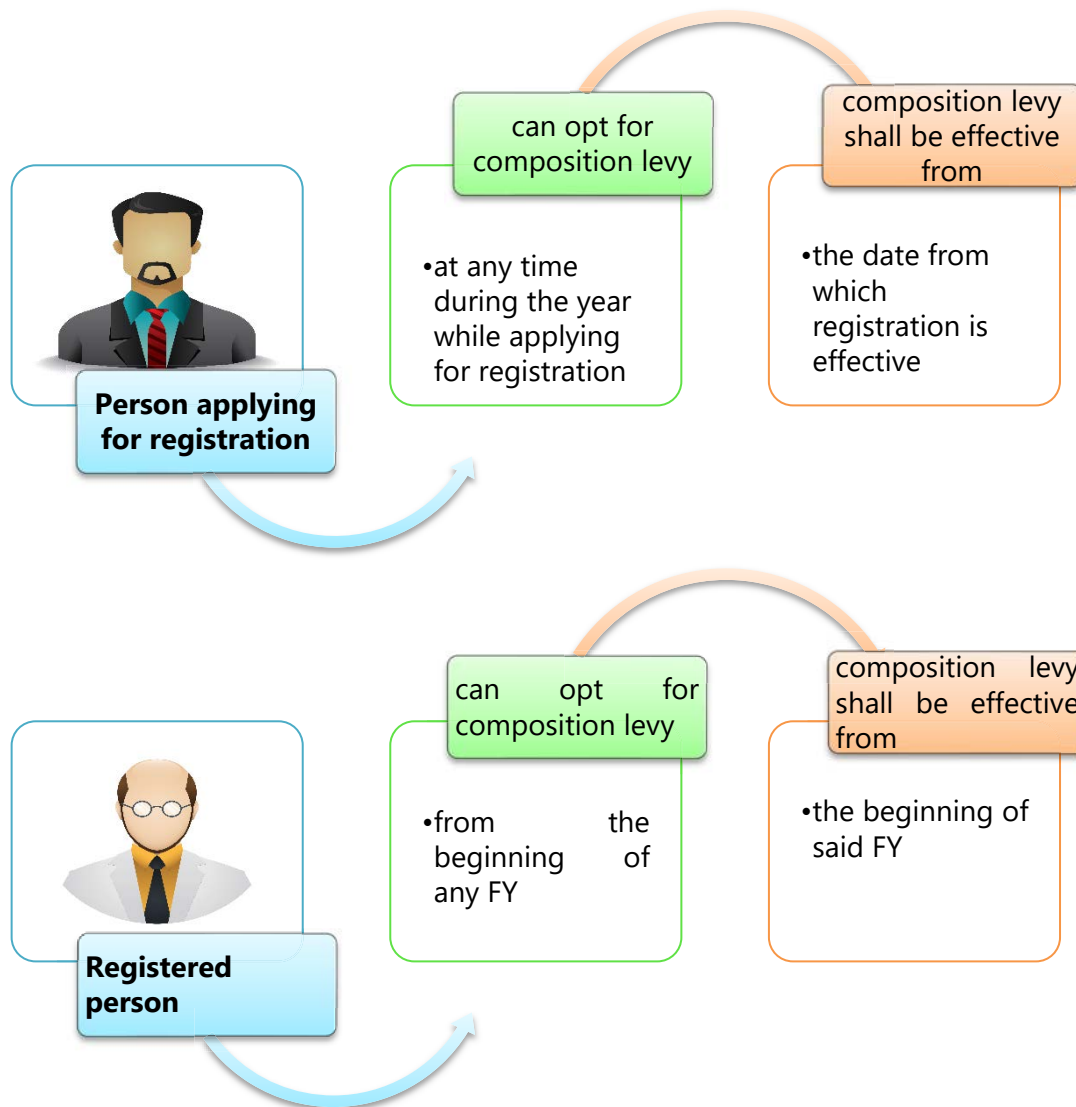
He shall also furnish the **statement in prescribed form** in accordance with the provisions of rule 44(4) of CGST Rules, 2017 [*Discussed in detail in Chapter 6 – Input Tax Credit*] **within 60 days** from the commencement of the relevant FY.

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.

**The option to pay tax under composition levy shall be effective from the beginning of the FY.**

**A person applying for registration can opt for composition at the time of applying for registration [this time being any time of the financial year] and composition levy shall be effective from the date from which registration is effective. A registered person can opt for composition scheme from the beginning of any FY and composition levy shall be effective from the beginning of said FY.**





### (9) Validity of composition levy [Section 10(3) read with rule 6]

#### I. Withdrawal from the composition scheme by a taxpayer who ceases to satisfy any of the prescribed conditions

- ❑ The option exercised by a registered person to pay amount under composition levy shall remain valid so long as he satisfies all the conditions mentioned in the relevant section and rules. For instance, the option to pay tax under composition scheme lapses from the day on which aggregate turnover of a registered person

exceeds the specified limit (₹ 1.5 crore/ ₹ 75 lakh/ ₹ 50 lakh) during the FY.

- ❑ Such person is required to pay tax under regular scheme under section 9(1) from the day he ceases to satisfy any of the conditions prescribed for composition levy. He shall issue tax invoice for every taxable supply made thereafter. Further, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.
- ❑ The **effective date from which withdrawal from the composition scheme shall take effect** shall be the date indicated by him in his intimation, but such date may not be prior to the commencement of the financial year in which such intimation is being filed<sup>30</sup>.

## II. **Withdrawal from the composition scheme by a taxpayer who intends to withdraw from the said scheme**

- ❑ The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in prescribed form.
- ❑ The **effective date from which withdrawal from the composition scheme shall take effect** shall be the date indicated by him in his application, but such date may not be prior to the commencement of the financial year in which such application for withdrawal is being filed<sup>31</sup>.

## III. **Denial of option to pay tax under the composition scheme by tax authorities**

- ❑ Where the proper officer has reasons to believe that the registered person was not eligible to pay tax under composition scheme or has contravened the provisions of the CGST Act or provisions of this Chapter, he may issue a show cause notice (SCN) to such person. Upon receipt of reply to SCN, he shall pass an order either accepting the reply, or denying the option

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<sup>30</sup> Circular No. 77/51/2018 GST dated 31.12.2018

<sup>31</sup> Circular No. 77/51/2018 GST dated 31.12.2018

to pay tax under composition scheme from the date of the option or from the date of the event concerning such contravention, as the case may be.

- ❑ **In case of denial of option to pay tax under composition levy by the tax authorities**, the effective date of such denial shall be from a date, including any retrospective date, as may be determined by tax authorities. However, such effective date shall not be prior to the date of contravention of the provisions of the CGST Act/ CGST Rules<sup>32</sup>.

In each of the above cases, such person may furnish a statement in prescribed form containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn/denied, within a period of 30 days from the date from which the option is withdrawn/ or from the date of the order denying composition scheme.



**(6)** A person availing composition scheme during a financial year crosses the turnover of ₹ 1.5 crore on 9<sup>th</sup> of December. The option availed shall lapse from the day on which his aggregate turnover during the financial year exceeds ₹ 1.5 crore, i.e. on 9<sup>th</sup> December, in this case.

**(10) Composition scheme to be adopted uniformly by all the registered persons having the same PAN [Proviso to section 10(2) and proviso to section 10(2A)]**

All registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme.



**(7)** A dealer 'Kishorilal' has two offices in Delhi and is eligible for composition levy for goods. If 'Kishorilal' opts for the composition scheme for goods, both the offices would pay taxes under composition scheme and abide by all the conditions as may be prescribed for the said composition scheme.

<sup>32</sup> Circular No. 77/51/2018 GST dated 31.12.2018



**(11) Composition scheme supplier cannot collect tax [Section 10(4)]**

Taxable person opting for the composition scheme shall not collect tax from the recipient on supplies made by him. It implies that a composition scheme supplier cannot issue a tax invoice.

**(12) Composition scheme supplier cannot enter into credit chain [Section 10(4)]**

Taxable person opting for the composition scheme is not entitled to any credit of input tax.

**(13) Imposition of penalty in case of irregular availment of the composition scheme [Section 10(5)]**

If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme, the person would be liable to penalty and the provisions of section 73 or 74 of the CGST Act shall be applicable for determination of tax and penalty.

**6. LET US RECAPITULATE****1. Extent & Commencement of CGST Act/ SGST Act/ UTGST Act/ IGST Act**

Applicability	CGST	SGST	UTGST	IGST
	Intra-State supply			Inter-State supply
States of India	✓	✓		✓
Union Territories with Legislature	✓	✓		✓
Union Territories without Legislature	✓		✓	✓

## 2. Levy and collection of CGST/IGST

Particulars	CGST	IGST
<b>Levied on</b>	Intra-State supplies of goods or services or both	Inter-State supplies of goods or services or both
<b>Collected and paid by</b>	Taxable person	
<b>Supply outside purview of GST</b>	Alcoholic liquor for human consumption	
<b>Value for levy</b>	Transaction value under section 15 of the CGST Act	
<b>Rates</b>	Rates as notified by Government. Maximum rate of CGST can be 20%.	IGST rate= CGST rate + SGST rate Maximum rate of IGST can be 40%.
<b>Supplies on which tax would be levied w.e.f. a notified date</b>	<input type="checkbox"/> petroleum crude <input type="checkbox"/> high speed diesel <input type="checkbox"/> motor spirit (commonly known as petrol) <input type="checkbox"/> natural gas and <input type="checkbox"/> aviation turbine fuel	
<b>Tax payable under reverse charge</b>	<input type="checkbox"/> Supply of goods or services or both, notified by the Government. <input type="checkbox"/> Supply of specified categories of goods or services or both by an unregistered supplier to specified class of registered persons.	
<b>Tax payable by the electronic commerce operator</b>	The Government may notify specific categories of services the tax on supplies of which shall be paid by electronic commerce operator (ECO) as if such services are supplied through it.	

### 3. Composition levy [Section 10]

#### Composition levy

- An option for specified categories of small taxpayers to pay GST at a very low rate on the basis of turnover.

#### Advantages

- Low rates of tax
- Hassel free simple procedures for such taxpayers
- Simple calculation of tax based on turnover
- A very simple annual return

#### Composition levy provided under section 10(1) and 10(2)

- Referred in this chapter as composition levy for goods

#### Composition levy provided under section 10(2A)

- Referred in this chapter as composition levy for services

#### Procedure for opting for the scheme

Category of persons	How to exercise option	Effective date of composition levy
New registration under GST	Intimation in the registration form	From the effective date of registration
Registered person opting for composition levy	Intimation in prescribed form	Beginning of the financial year

#### Turnover limit for composition levy

##### Turnover limit in preceding FY to opt for composition levy for goods

For Special Category States except Assam, Himachal Pradesh and J&K • ₹ 75 lakh

For remaining States

• ₹ 1.5 crore

##### Turnover limit in preceding FY to opt for composition levy for services

**Turnover for composition levy for services** • ₹ 50 lakh in preceding financial year

### Rates of tax

Composition scheme	Category of registered persons	Rate
For goods	Manufacturer	1% ( $\frac{1}{2}\%$ CGST + $\frac{1}{2}\%$ SGST/UTGST) of turnover
	Restaurant service	5% ( $2\frac{1}{2}\%$ CGST + $2\frac{1}{2}\%$ SGST/UTGST) of turnover
	Others	1% ( $\frac{1}{2}\%$ CGST + $\frac{1}{2}\%$ SGST/UTGST) of turnover of taxable supplies
For services		6% (3% CGST + 3% SGST/UTGST)

### Conditions and restrictions for composition levy

Person opting for composition:

is neither a casual taxable person nor a non-resident taxable person

shall pay tax under section 9(3)/9(4) on inward supply

is not engaged in the manufacture of notified goods, namely, icecream, panmasala, tobacco and **aerated waters**

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

shall mention the words "**composition taxable person**" at a prominent place at his place of business

**Who are NOT eligible to opt for composition scheme?**

<b>Registered person who is not eligible for composition scheme for goods</b>	<b>Registered person who is not eligible for composition scheme for services</b>
Supplier engaged in making any supply of goods which are not leviable to tax	<b><i>Supplier engaged in making any supply of goods or services which are not leviable to tax</i></b>
Supplier engaged in making any inter-State outward supplies of goods	<b><i>Supplier engaged in making any inter-State outward supplies of goods or services</i></b>
Person supplying any goods through an electronic commerce operator who is required to collect tax at source under section 52*	<b><i>Person supplying any goods or services through an electronic commerce operator who is required to collect tax at source under section 52*</i></b>
Manufacturer of ice cream, panmasala, tobacco and aerated waters	<b><i>Manufacturer of notified goods [ice cream, panmasala, tobacco and aerated waters] or supplier of notified services</i></b>
<b><i>Supplier who is either a casual taxable person or a non-resident taxable person</i></b>	<b><i>Supplier who is either a casual taxable person or a non-resident taxable person.</i></b>
Supplier of services, save as provided in section 10(1)**	

**\*\*A registered person opting for composition scheme for goods is allowed to supply services [other than restaurant services] alongwith supply of goods or supply of restaurant services of value not exceeding 10% of the turnover in the preceding financial year in a State/Union territory or ₹ 5 lakh, whichever is higher. Here, while computing turnover in a State/UT, interest on loans/deposit/advances will not be taken into account.**

**Other points**

Bill of supply shall be issued instead of tax invoice.

Tax shall not be not collected from recipient of supply

Input tax credit shall not be availed

Composition Scheme if availed shall include all registered persons having same PAN

Penalty shall be imposed in case of irregular availment of the composition scheme

**7. TEST YOUR KNOWLEDGE**

1. *State the person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:*
  - (a) *Services provided by an arbitral tribunal to any business entity.*
  - (b) *Sponsorship services provided by a company to an individual.*
  - (c) *Renting of immovable property service provided by the Central Government to a registered business entity.*
2. *Vivek Goyal, director of A2Z Pvt. Ltd., has received sitting fee amounting to ₹ 1 lakh from A2Z Pvt. Ltd for attending the Board meetings. Who is the person liable to pay tax in this case?*
3. *Raghu Associates provided sponsorship services to WE-WIN Cricket Academy, an LLP. Determine the person liable to pay tax in this case.*
4. *'Safe Trans', a Goods Transport Agency, transported goods of Kapil & Co., a partnership firm, which is not registered under GST. Determine the person liable to pay tax in this case.*
5. *Legal Fees is received by Sushrut, an advocate, from M/s. Tatva Trading Company having turnover of ₹ 50 lakh in preceding F. Y. Who is the person liable to pay tax in this case?*
6. *State the person liable to pay GST in the following independent cases provided recipient is located in the taxable territory:*
  - (a) *Services supplied by an insurance agent to an Insurance Company.*

- (b) *Services supplied by a recovery agent to a car dealer.*
  - (c) *Security services (services provided by way of supply of security personnel) provided to a registered person.*
7. *Sultan & Sons, a partnership firm, in Nagpur, Maharashtra is a wholesaler of a taxable product 'P' and product 'Q' exempt by way of a notification, in the State of Maharashtra. Its aggregate turnover in the preceding financial year is ₹ 130 lakh. The firm wishes to opt for composition scheme under sub-sections (1) & (2) of section 10 of the CGST Act. However, its accountant is of the view that a person engaged in making supply of exempt goods is not eligible for the said scheme. Discuss.*
- Note: Assume that Sultan & Sons is not engaged in manufacture of goods as notified under section 10(2)(e).*
8. *A person availing composition scheme, under sub-sections (1) & (2) of section 10 of the CGST Act, in Haryana during a financial year crosses the turnover of ₹ 1.5 crore in the month of December. Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March? Please advise.*
9. *Determine whether the suppliers in the following cases are eligible for composition levy, under section 10(1) & 10(2) of the CGST Act, 2017, provided their turnover in preceding year does not exceed ₹ 1.5 crore:*
- (i) *Mohan Enterprises is engaged in trading of pan masala in Rajasthan and is registered in the same State.*
  - (ii) *Sugam Manufacturers has registered offices in Punjab and Haryana and supplies goods in neighbouring States.*
10. *Subramanian Enterprises has two registered places of business in Delhi. Its aggregate turnover for the preceding year for both the places of business was ₹ 120 lakh. It wishes to pay tax under composition levy, under section 10(1) & 10(2) of the CGST Act, 2017, for one of the places of business in the current year while under normal levy for other. You are required to advise Subramanian Enterprises whether he can do so?*
11. *Mr. Ajay has a registered repair centre where electronic goods are repaired/serviced. His repair centre is located in State of Rajasthan and he is not engaged in making any inter-State supply of services. His aggregate turnover in the preceding financial year (FY) is ₹ 45 lakh.*

*With reference to the provisions of the CGST Act, 2017, examine whether Mr. Ajay can opt for the composition scheme under section 10(1) & 10(2) of the CGST Act, 2017 in the current financial year? Or whether he is eligible to avail benefit of composition scheme under section 10(2A)? Considering the option of payment of tax available to Mr. Ajay, compute the amount of tax payable by him assuming that his aggregate turnover in the current financial year is ₹ 35 lakh.*

*Will your answer be different if Mr. Ajay procures few items required for providing repair services from neighbouring State of Madhya Pradesh?*

12. *M/s United Electronics, a registered dealer, is supplying all types of electronic appliances in the State of Karnataka. Their aggregate turnover in the preceding financial year by way of supply of appliances was ₹ 120 Lakh.*

*The firm also expects to provide repair and maintenance service of such appliances from the current financial year.*

*With reference to the provisions of the CGST Act, 2017, examine:*

- (i) *Whether the firm can opt for the composition scheme, under section 10(1) and 10(2) of the CGST Act, 2017, for the current financial year, as the turnover may include supply of both goods and services?*
- (ii) *If yes, up to what amount, the services can be supplied?*



## 8. ANSWERS/HINTS

1. (a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under reverse charge, in the given case, GST is payable by the recipient - business entity.
- (b) GST on sponsorship services provided by any person to any body corporate or partnership firm located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided to an individual, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier – company.
- (c) GST on services supplied by Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under CGST Act, 2017 is payable under reverse charge. Therefore, in the given case, GST



is payable under reverse charge by the recipient – registered business entity.

2. GST on supply of services by director of a company to the said company located in the taxable territory is payable on reverse charge basis.

Therefore, in the given case, person liable to pay GST is the recipient of services, i.e., A2Z Pvt. Ltd.

3. In case of services provided by any person by way of sponsorship to any body corporate or partnership firm, GST is liable to be paid under reverse charge by such body corporate or partnership firm located in the taxable territory. Further, for the reverse charge purposes, Limited Liability Partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2008 is also be considered as a partnership firm. Therefore, in the given case, WE-WIN Cricket Academy is liable to pay GST under reverse charge.

4. In case of services provided by Goods Transport Agency (GTA) in respect of transportation of goods by road to, *inter alia*, any partnership firm whether registered or not under any law; GST is liable to be paid by such partnership firm. Therefore, in the given case, Kapil & Co. is liable to pay GST under reverse charge.

5. GST on legal services supplied by an advocate [Mr. Sushrut] to any business entity [M/s. Tatva Trading Company] located in the taxable territory is payable on reverse charge basis.

Therefore, in the given case, person liable to pay GST is the recipient of services, i.e., M/s. Tatva Trading Company.

6. (a) GST on services supplied by an insurance agent to any person carrying on insurance business located in the taxable territory is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – Insurance Company.  
(b) GST on services supplied by a recovery agent to a banking company or a financial institution or a non- banking financial company located in the taxable territory is payable under reverse charge. However, since, in the given case, services are being supplied by a recovery agent to a car dealer, GST is payable under forward charge by the service provider - recovery agent.

- (c) GST on security services (services provided by way of supply of security personnel) provided to a registered person, located in the taxable territory is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – registered person receiving the services.
7. The view taken by the accountant of Sultan & Sons is not valid in law. A registered person with an aggregate turnover in a preceding financial year up to ₹ 1.5 crore is eligible for composition levy, under section 10(1) & 10(2), in Delhi. Further, such person must not be engaged in making any supply of goods which are not leviable to tax under this Act and must not be engaged in making any inter-State outward supplies of goods, for being eligible to pay tax under said scheme.
- In the given case, the aggregate turnover of Sultan & Sons does not exceed ₹ 1.5 crore. Further, it is engaged in making only intra-State supply of goods and Product P supplied by it is taxable and Product Q supplied by it is leviable to tax though exempted by way of notification. Therefore, it is eligible for composition levy under section 10(1) & 10(2) in the current year.
8. No. The option to pay tax under composition scheme lapses from the day on which the aggregate turnover of the person availing composition scheme for goods during the financial year exceeds the specified limit (₹ 1.5 crore). Once he crosses the threshold, he is required to file an intimation for withdrawal from the scheme in prescribed form within 7 days of the occurrence of such event.
- Every person who has furnished such an intimation, may electronically furnish at the common portal, a statement in prescribed form containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn, within a period of 30 days from the date from which the option is withdrawn.
9. (i) A supplier engaged in the manufacture of goods as notified under section 10(2)(e), during the preceding FY is not eligible for composition scheme under section 10(1) and 10(2). Ice cream and other edible ice, whether or not containing cocoa, Pan masala, Tobacco and manufactured tobacco substitutes and aerated waters are notified under this category. However, in the given case, since Mohan Enterprises is engaged in trading of pan masala and not manufacture

and his turnover does not exceed ₹ 1.5 crore, he is eligible for composition scheme subject to fulfilment of specified conditions.

- (ii) Since supplier of inter-State outward supplies of goods is not eligible for composition levy, Sugam Manufacturers is not eligible for composition levy.
- 10.** A registered person with an aggregate turnover in a preceding financial year up to ₹ 1.5 crore is eligible for composition levy, under section 10(1) & 10(2), in Delhi. Since the aggregate turnover of Subramanian Enterprises does not exceed ₹ 1.5 crore, it is eligible for composition levy in the current year. However, all registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one such registered person opts for normal scheme, others become ineligible for composition scheme. Thus, Subramanian Enterprises either have to opt for composition levy for both the places of business or under normal levy for both the places of business.
- 11.** Section 10(1) provides that a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore (₹ 75 lakh in Special Category States except Assam, Himachal Pradesh and Jammu and Kashmir), may opt to pay, in lieu of the tax payable by him, an amount calculated at the specified rates. However, as per proviso to section 10(1), person who opts to pay tax under composition scheme may supply services other than restaurant services, of value not exceeding 10% of the turnover in a State or Union territory in the preceding financial year or ₹ 5 lakh, whichever is higher.

In the given case, since Mr. Ajay is an exclusive supplier of services other than restaurant services [viz. repair services], he is not eligible for composition scheme under section 10(1) & 10(2).

However, section 10(2A) provides an option to a registered person (subject to certain conditions) whose aggregate turnover in the preceding financial year is upto ₹ 50 lakh and who is not eligible to pay tax under composition scheme under section 10(1) & 10(2), to pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] of the turnover of supplies of goods and services in the State or Union territory.

Thus, in view of the above-mentioned provisions, Mr. Ajay is eligible to avail the composition scheme under section 10(2A) as his aggregate

turnover in the preceding FY does not exceed ₹ 50 lakh and he is not eligible to opt for the composition scheme under section 10(1) & 10(2).

Thus, the amount of tax payable by him as per the composition scheme under section 10(2A) is ₹ 2,10,000 [6% of ₹ 35 lakh].

A registered person cannot opt for composition scheme under section 10(2A), if, *inter alia*, he is engaged in making any inter-State outward supplies. However, there is no restriction on inter-State procurement of goods. Hence, answer will remain the same even if Mr. Ajay procures few items from neighboring State of Madhya Pradesh.

- 12. (i)** The registered persons, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore, may opt to pay tax under composition levy, under section 10(1) and 10(2).

The scheme can be availed by an intra-State supplier of goods and supplier of restaurant service.

However, the composition scheme permits supply of marginal services (other than restaurant services) for a specified value along with the supply of goods and restaurant service, as the case may be.

Thus, M/s United Electronics can opt for composition scheme for the current financial year as its aggregate turnover is less than ₹ 1.5 crore in the preceding financial year and it is not engaged in inter-State outward supplies.

- (ii)** The registered person opting for composition scheme, under section 10(1) and 10(2), can also supply services (other than restaurant services) for a value up to 10% of the turnover in the preceding year or ₹ 5 lakh, whichever is higher, in the current financial year.

Thus, M/s United Electronics can supply repair and maintenance services up to a value of ₹ 12 lakh [10% of ₹ 20 lakh or ₹ 5 lakh, whichever is higher] in the current financial year.

## AMENDMENTS MADE VIDE THE FINANCE ACT, 2020

The Finance Act, 2020 has become effective from 27.03.2020. However, most of the amendments made in the CGST Act and IGST Act vide the Finance Act, 2020 would become effective only from a date to be notified by the Central Government in the Official Gazette. Such a notification has not been issued till the time this Study Material is being released for printing. Therefore, the applicability or otherwise of such amendments for May 2021 and/or November 2021 examinations shall be announced by the ICAI only after such notification is issued by the Central Government.

In the table given below, the existing provisions<sup>33</sup> relating to section 10 are compared with the provisions as amended by the Finance Act, 2020.

Once the announcement for applicability of such amendments for examination(s) is made by the ICAI, students should read the provisions given hereunder in place of the related provisions discussed in the Chapter.

Existing provisions	Provisions as amended by the Finance Act, 2020	Remarks
<p><b><u>Sub-section (2)</u></b>            "The registered person shall be eligible to opt under sub-section (1), if–            (a).....            (b) he is not engaged in making any supply of goods which are not leviable to tax under this Act            (c) he is not engaged in making any inter-State outward supplies of goods</p>	<p><b><u>Sub-section (2)</u></b>            "The registered person shall be eligible to opt under sub-section (1), if–            (a).....            (b) he is not engaged in making any supply of goods <b>or services</b> which are not leviable to tax under this Act            (c) he is not engaged in making any inter-State outward supplies of goods <b>or services</b>            (d) he is not engaged in making any supply of</p>	<p>Section 10(2) is being amended to harmonise the conditions for eligibility for opting to pay tax under composition scheme under sub-sections (1) and (2) and under sub-section (2A) of the CGST Act.</p>

<sup>33</sup> Provisions existing as on the date when the Study Material was released for printing

(d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and

(e).....

(f)....."

goods **or** **services** through an electronic commerce operator who is required to collect tax at source under section 52; and

(e).....

(f)....."