After studying this Chapter, you will be able to –

- explain the extent and commencement of GST law.
- describe the intra-State supply, inter-State supply and supply in the territorial waters.
- 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.
- explain and analyse the option to pay tax at concessional rate under Notification No. 2/2019 CT (R) dated 07.03.2019.
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"), 101st Constitutional Amendment Act was passed. By virtue of this Act, central excise duty, additional duties of customs, 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

Generally, 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

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 [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].

E-Commerce operator: means any person who owns, operates or manages digital or electronic facility or platform for electronic commerce. [Section 2(45) 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].

Customs frontiers of India: means the limits of a customs area [Section 2(4) of the IGST Act]. ‘Customs Area’ is the area of a customs station or a warehouse and includes any area in which imported goods or export goods are ordinarily kept before clearance by Customs Authorities [Section 2(11) of the Customs Act, 1962].

Non-taxable online recipient: means any Government, local authority, governmental authority, an individual or any other person not registered and receiving online information and database access or retrieval (OIDAR) services in relation to any purpose other than commerce, industry or any other business or profession, located in taxable territory.

Explanation - For the purposes of this clause, the expression “governmental authority” means an authority or a board or any other body, -

(i) set up by an Act of Parliament or a State Legislature; or
(ii) established by any Government,
with 90% or more participation by way of equity or control, to carry out any function entrusted to a Panchayat under article 243G or to a municipality under article 243W of the Constitution [Section 2(16) of the IGST 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 chargeable 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. [Section 2(107) 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]

3. EXTENT & COMMENCEMENT OF GST LAW

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

India: “India” means [Section 2(56) of CGST Act]-

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

**example**: Maharashtra GST Act, 2017 extends to whole of the State of 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 including Jammu and Kashmir [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, Daman and Diu, Chandigarh and other 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;

(d) Daman and Diu;

(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.

Before we go into niceties of leviability of CGST and IGST under respective statutes, let us first understand the terms - inter-State supply, intra-State Supply and supplies in territorial waters.

### 4. INTER-STATE SUPPLY [SECTION 7 OF THE IGST ACT]

#### STATUTORY PROVISIONS

<table>
<thead>
<tr>
<th>Section 7</th>
<th>Inter-State Supply</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sub-section</strong></td>
<td><strong>Particulars</strong></td>
</tr>
</tbody>
</table>
| (1) | Subject to the provisions of section 10, supply of goods, where the location of the supplier and the place of supply are in—
(a) two different States;
(b) two different Union territories; or
(c) a State and a Union territory,
shall be treated as a supply of goods in the course of inter-State trade or commerce. |
| (2) | Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce. |
| (3) | Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in—
(a) two different States;
(b) two different Union territories; or
(c) a State and a Union territory,
shall be treated as a supply of services in the course of inter-State trade or commerce. |
3.8 GOODS AND SERVICES TAX

| (4) | Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce. |
| (5) | Supply of goods or services or both,—
(a) when the supplier is located in India and the place of supply is outside India;
(b) to or by a Special Economic Zone developer or a Special Economic Zone unit; or
(c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce. |

ANALYSIS

This section provides as to when the supplies of goods and/or services shall be treated as **Supply in the course of inter-State trade/commerce**.

<table>
<thead>
<tr>
<th>Inter-State Supplies</th>
<th>Supply of goods/services when location of the supplier and the place of supply are in two different States/UTs</th>
</tr>
</thead>
<tbody>
<tr>
<td>Inter-State Supplies</td>
<td>Supply of goods/services imported into the territory of India</td>
</tr>
<tr>
<td>Inter-State Supplies</td>
<td>Supplier located in India and the place of supply is outside India</td>
</tr>
<tr>
<td>Inter-State Supplies</td>
<td>Supply to/by an SEZ developer or SEZ unit; or</td>
</tr>
<tr>
<td></td>
<td>Supply in the taxable territory, not being an intra-State supply &amp; not specified anywhere</td>
</tr>
</tbody>
</table>

**A. ‘SUPPLY OF GOODS’ in the course of inter-State trade/commerce**

[Section 7(1) and (2) of the IGST Act]

It primarily covers two kinds of supplies – Supply of goods within India and supply of goods imported into India. The two categories of supplies are discussed hereunder:

(i) **Supplies within India**

Supply of goods shall be considered as supply of goods in course of inter-State trade or commerce in the following cases:
The terms ‘location of the supplier’ and ‘place of supply’ have been explained in Chapter 5 – Place of Supply.

The above concept can be easily understood with the help of following examples. In each of the following cases, supplies of goods shall be treated as supply of goods in course of inter-State trade/commerce.

**Location of Supplier**  
- Punjab  
- Punjab  
- Daman and Diu

**Place of Supply**  
- Haryana  
- Daman and Diu  
- Chandigarh

(ii) **Supplies from outside India**

Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be considered as supply of goods in the course of inter-State trade or commerce. Import of goods, means bringing goods into India from a place outside India. Thus, all imports shall be deemed as inter-State supplies and accordingly IGST shall be levied on the imported goods in addition to the applicable custom duties.
B. ‘SUPPLY OF SERVICES’ in the course of inter-State trade/commerce  
[Section 7(3) and 7(4) of the IGST Act]

It primarily covers two kinds of supplies – supply of services within India and import of services into India. The two categories of supplies are discussed hereunder:

(i) Supplies within India

Supply of services shall be considered as supply of services in course of inter-State trade or commerce in the following cases:

(ii) Import of services into India

Supply of services which are imported into territory of India, shall be treated as supply of services in the course of inter-State trade or commerce. The term ‘import of services’ has been defined under section 2(11) of the IGST Act as supply of any service where the supplier is located outside India, the recipient is located in India, and the place of supply of service is in India.

From the aforesaid discussion, it can be inferred that import of goods or services\(^1\) shall be treated as inter-State supplies and would be subject to IGST.

C. SUPPLY OF GOODS OR SERVICES OR BOTH in the course of inter-State trade or commerce [Section 7(5) of the IGST Act]

Certain supplies are treated as supplies in the course of inter-State trade or commerce, and shall equally apply to supply of goods and to supply of services. These have been discussed hereunder:

---

\(^1\) Provisions relating to import of goods/services have been discussed in detail in Chapter 14 – Import and Export under GST.
I. Supply of goods or services or both when the supplier is located in India and the place of supply is outside India

It is important to note here that in this case, location of recipient is not material to qualify as supply in the course of inter-State trade or commerce. However, such supplies of goods and/or services need to satisfy some more conditions to qualify as export of goods and/or services².

II. Supply of goods or services or both to or by a Special Economic Zone developer/ Special Economic Zone unit

SEZ is a geographically bound zone within India where the economic laws relating to export and import are more liberal as compared to other parts of the country. For all tax purposes, SEZ is considered to be a place outside India. Any supplies made to SEZ unit/developer or vice versa are inter-State supplies. It is noteworthy that place of supply is not relevant in case of supplies to/from an SEZ unit or developer.

Further, supply of goods or services or both to a Special Economic Zone developer or a Special Economic Zone unit are zero-rated supplies [Section 16 of the IGST Act] – Discussed in detail in Chapter 14 – Import and Export under GST.

² Provisions relating to export of goods/services have been discussed in detail in Chapter 14 – Import and Export under GST.
III. Supply of goods and/or services in the taxable territory, not being an intra-State supply & not covered elsewhere in this section

This is a residuary clause and shall cover all supplies in taxable territory which are neither covered under any provisions [enumerated above] determining inter-State supplies nor are intra-State supplies.

5. INTRA-STATE SUPPLY [SECTION 8 OF THE IGST ACT]

<table>
<thead>
<tr>
<th>STATUTORY PROVISIONS</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Section 8</strong></td>
</tr>
<tr>
<td><strong>Sub-section</strong></td>
</tr>
<tr>
<td>(1)</td>
</tr>
<tr>
<td></td>
</tr>
</tbody>
</table>
or a Special Economic Zone unit;
(ii) goods imported into the territory of India till they cross the customs frontiers of India; or
(iii) supplies made to a tourist referred to in section 15.

(2) Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply.

Provided that the intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.

Explanation 1. - For the purposes of this Act, where a person has, -
(i) an establishment in India and any other establishment outside India;
(ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or
(iii) an establishment in a State or Union territory and any other establishment registered within that State or Union territory,
then such establishments shall be treated as establishments of distinct persons.

Explanation 2. - A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

**ANALYSIS**

This section provides as to when the supplies of goods and/or services shall be treated as **intra-State supply**.
A. Which supplies of goods/services shall be treated as intra-State supplies? [Section 8(1) and 8(2) of the IGST Act]

Supply of goods/services where the location of the supplier and the place of supply of goods/services are in the same State or same Union territory shall be treated as intra-State supply. Such supplies are exigible to CGST and SGST.

The concept discussed above has been explained by way of following examples:

<table>
<thead>
<tr>
<th>Location of Supplier</th>
<th>Place of Supply</th>
<th>Whether qualifies as intra-State supply?</th>
</tr>
</thead>
<tbody>
<tr>
<td>Punjab</td>
<td>Punjab</td>
<td>Yes</td>
</tr>
<tr>
<td>London</td>
<td>Delhi</td>
<td>No</td>
</tr>
<tr>
<td>Delhi</td>
<td>Gujarat</td>
<td>No</td>
</tr>
<tr>
<td>Puducherry</td>
<td>Puducherry</td>
<td>Yes</td>
</tr>
</tbody>
</table>
B. Exclusions [Proviso to section 8(1) and proviso to section 8(2) of the IGST Act]

Certain supplies of goods/services shall not be treated as intra-State supplies even when the location of supplier and place of supply fall within the same State/Union Territory. These supplies are as under:

- **Supply of goods/services to or by SEZ Unit or SEZ Developer:** Supply of goods/services to/by a SEZ developer/unit or supply to a SEZ developer/unit shall not be treated as intra-State supply. As already discussed in this chapter, such supplies shall be treated as supply in course of inter-State trade or commerce.

- **Supply of goods made to a tourist [referred to in section 15 of the IGST Act]:** shall not be considered as intra-State supply. Explanation to section 15 defines tourist as a person not normally resident in India, who enters India for a stay of not more than 6 months for legitimate non-immigrant purposes.

George, a tourist from USA, visits India and purchases a shawl in Delhi. In this case, even though the place of supply and location of supplier are in the same State, it will be treated as inter-State transaction and will be exigible to IGST.

- **Goods imported in India:** Goods imported into the territory of India till they cross the customs frontiers of India are supplies in course of inter-State trade/commerce and thus, are excluded from the definition of intra-State supplies.

C. Establishments of distinct persons

Establishments of same entity shall be considered as establishments of distinct persons where a person has:

(i) an establishment in India and any other establishment outside India;

(ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or
(iii) an establishment in a State or Union territory and any other establishment within that State or Union territory.

Thus, any supply between any of the above establishments shall be treated as supply between establishments of distinct persons. Further, a person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.

Services of short-term accommodation, conferencing, banqueting etc. provided to a SEZ developer/SEZ unit – whether to be treated as an inter-State supply or an intra-State supply

As discussed earlier, as per section 7(5)(b) of the IGST Act, the supply of goods or services or both to a SEZ developer or a SEZ unit shall be treated to be a supply in the course of inter-State trade or commerce.

However, as per section 12(3)(c) of the IGST Act, the place of supply of services by way of accommodation in any immovable property for organising any functions shall be the location at which the immovable property is located [Please refer Chapter 5 – Place of Supply for detailed discussion of said provisions]. Thus, in such cases, if the location of the supplier and the place of supply is in the same State/Union territory, it would be treated as an intra-State supply.

It is an established principle of interpretation of statutes that in case of an apparent conflict between two provisions, the specific provision shall prevail over the general provision.

In the instant case, section 7(5)(b) of the IGST Act is a specific provision relating to supplies of goods or services or both made to a SEZ developer or a SEZ unit, which states that such supplies shall be treated as inter-State supplies.

It is therefore, clarified that services of short term accommodation, conferencing, banqueting etc., provided to a SEZ developer or a SEZ unit shall be treated as an inter-State supply [Circular No. 48/22/2018 GST dated 14.06.2018].
6. SUPPLIES IN TERRITORIAL WATERS

[SECTION 9 OF THE IGST ACT]

STATUTORY PROVISIONS

<table>
<thead>
<tr>
<th>Section 9</th>
<th>Supplies in territorial waters</th>
</tr>
</thead>
<tbody>
<tr>
<td></td>
<td>Notwithstanding anything contained in this Act -</td>
</tr>
<tr>
<td>(a)</td>
<td>where the location of the supplier is in the territorial waters, the location of such supplier; or</td>
</tr>
<tr>
<td>(b)</td>
<td>where the place of supply is in the territorial waters, the place of supply,</td>
</tr>
<tr>
<td></td>
<td>shall, for the purposes of this Act, be deemed to be in the coastal State or Union territory where the nearest point of the appropriate baseline is located.</td>
</tr>
</tbody>
</table>

ANALYSIS

This section determines the location of supplier and/or the place of supply when such location of supplier and/or the place of supply is in territorial waters. Before that, let us understand the term “territorial waters”.

The term ‘Territorial waters’ has not been defined in the GST law. However, as per United Nations Convention on the Law of the Sea, the term ‘territorial sea’ is a belt of coastal waters extending atmost 12 nautical miles from the baseline of a coastal state. Section 3(2) of the Territorial Waters, Continental Shelf, Exclusive Economic Zone and Other Maritime Zones Act, 1976 stipulates that the limit of territorial waters is the line every point of which is at a distance of 12 nautical miles from the nearest point of the appropriate base line. Refer the pictorial diagram showing ‘territorial waters’ given on page 3.6 earlier in this chapter.

Section 9 of the IGST Act provides that where the location of the supplier is in the territorial waters, it shall be deemed that location of such supplier is in the coastal State or Union Territory where the nearest point of the appropriate baseline is located. Similarly, in case where the place of supply is in territorial waters, the place of supply shall be deemed to be in the coastal State or Union Territory where the nearest point of the appropriate baseline is located.
After understanding the terms – inter-State supply, intra-State supply and supplies in territorial waters, we shall discuss hereunder the chargeability of CGST and IGST and related provisions.

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

STATUTORY PROVISIONS

<table>
<thead>
<tr>
<th>Section 9 of the CGST Act, 2017</th>
<th>Levy and collection (CGST)</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Sub-section</strong></td>
<td><strong>Particulars</strong></td>
</tr>
<tr>
<td>(1)</td>
<td>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 recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</td>
</tr>
<tr>
<td>(2)</td>
<td>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.</td>
</tr>
<tr>
<td>(3)</td>
<td>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</td>
</tr>
</tbody>
</table>
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.

<p>| | |</p>
<table>
<thead>
<tr>
<th></th>
<th></th>
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</thead>
<tbody>
<tr>
<td><strong>(4)</strong></td>
<td>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.</td>
</tr>
</tbody>
</table>
| **(5)** | 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.  
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 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. |
<table>
<thead>
<tr>
<th>Sub-section</th>
<th>Particulars</th>
</tr>
</thead>
<tbody>
<tr>
<td>(1)</td>
<td>Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-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 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</td>
</tr>
<tr>
<td>(2)</td>
<td>Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962.</td>
</tr>
<tr>
<td>(3)</td>
<td>The integrated 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.</td>
</tr>
<tr>
<td>(4)</td>
<td>The Government may, on the recommendations of the Council, by notification, specify a class of registered</td>
</tr>
</tbody>
</table>
### Charge of GST

**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.**

**The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-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.**

*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 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 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 7 – 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%.

⚠️ In case of **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. 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:
- petroleum crude
- high speed diesel
- motor spirit (commonly known as petrol)
- natural gas and
- aviation turbine fuel

**Goods imported into India:** All imports are deemed as inter-State supplies and accordingly IGST shall be levied on imported goods in addition to the applicable custom duties.

The integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of the Customs Tariff Act, 1975 on the value as determined under the said Act at the point when duties of customs are levied on the said goods under the Customs Act, 1962.

The integrated tax on goods shall be in addition to the applicable Basic Customs Duty (BCD) which is levied as per the Customs Tariff Act. In addition, GST compensation cess, may also be leviable on certain luxury and demerit goods under the Goods and Services Tax (Compensation to States) Cess Act, 2017.
Reverse Charge Mechanism

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

- Supply of goods or services or both, 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.

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:

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.

However, the underlying principle of an indirect tax is that burden of such tax has to be ultimately passed on to the recipient. GST being an indirect tax, this principle holds good for GST. Therefore, under reverse charge mechanism, only the compliance requirements, [i.e. to obtain registration under GST, deposit the tax with the Government, filing returns, etc.] have been shifted from supplier to recipient. The burden to pay GST ultimately lies on the recipient only.

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 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. the goods where tax is payable by the recipient:** Goods like cashewnuts [not shelled/peeled], bidi wrapper leaves, tobacco leaves, supply of lottery, silk yarn, used vehicles, seized and confiscated goods, old and used goods, waste and scrap, raw cotton, etc. are taxable under reverse charge.

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 CGST shall be paid on reverse charge basis by the recipient of services:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Category of supply of service</th>
<th>Supplier of service</th>
<th>Recipient of Service</th>
</tr>
</thead>
</table>
| 1     | Supply of services by a Goods Transport Agency (GTA) in respect of transportation of goods by road to- (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 | Goods Transport Agency (GTA) who has not paid CGST @ 6% [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-

3 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.
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.

[Hereinafter referred as Specified recipients]

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-
(a) a Department/ establishment of the Central Government/ State Government/ Union territory; or
(b) local authority; or
(c) Governmental agencies,
which has taken registration under the CGST Act only for the purpose
of deducting tax under section 51 and not for making a taxable supply of goods or services\(^4\).

<table>
<thead>
<tr>
<th></th>
<th>Services supplied by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.</th>
<th>An individual advocate including a senior advocate or firm of advocates.</th>
<th>Any business entity located in the taxable territory.</th>
</tr>
</thead>
<tbody>
<tr>
<td>2</td>
<td>“Legal service” means any service provided in relation to advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority.</td>
<td></td>
<td></td>
</tr>
<tr>
<td>3</td>
<td>Services supplied by an arbitral tribunal to a business entity.</td>
<td>An arbitral tribunal.</td>
<td>Any business entity located in taxable territory.</td>
</tr>
<tr>
<td>4</td>
<td>Services provided by way of sponsorship to any body corporate or partnership firm.</td>
<td>Any person</td>
<td>Any body corporate or partnership firm located in the taxable territory.</td>
</tr>
<tr>
<td>5</td>
<td>Services supplied by the Central Government, State Government, Union territory or local authority to a business entity excluding, -</td>
<td>Central Government, State Government, Union territory or local</td>
<td>Any business entity located in the taxable territory.</td>
</tr>
</tbody>
</table>

\(^4\) These services have been simultaneously exempted from payment of tax. Thus, there will be no tax liability in this case. [Refer Chapter 4: Exemptions from GST].
(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 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.

<table>
<thead>
<tr>
<th>5A</th>
<th>Services supplied by Central Government, State Government, Union territory/ local authority by way of renting of immovable property to a person registered under CGST Act, 2017</th>
<th>Central Government, State Government, Union territory or local authority</th>
<th>Any person registered under the CGST Act, 2017 [read with section 20(v) of IGST Act, 2017].</th>
</tr>
</thead>
<tbody>
<tr>
<td>5B</td>
<td>Services supplied by any person by way of transfer of development rights (TDR) or Floor</td>
<td>Any person</td>
<td>Promoter</td>
</tr>
<tr>
<td>3.28</td>
<td>GOODS AND SERVICES TAX</td>
<td></td>
<td></td>
</tr>
</tbody>
</table>

| 5C | **Space Index (FSI)** (including additional FSI) for construction of a project by a promoter. |

| 5C | **Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter** |

| 6 | **Services supplied by a director** of a company/body corporate to the said company/body corporate. |

| 6 | **A director of a company or a body corporate** |

| 6 | **The company or a body corporate located in the taxable territory.** |

| 7 | **Services supplied by an insurance agent** to any person carrying on insurance business. |

| 7 | **An insurance agent** |

| 7 | **Any person carrying on insurance business, located in the taxable territory.** |

---

5 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.
<table>
<thead>
<tr>
<th></th>
<th><strong>Services supplied by a recovery agent</strong> to a banking company or a financial institution or a non-banking financial company.</th>
<th><strong>A recovery agent</strong></th>
<th><strong>A banking company or a financial institution or a non-banking financial company, located in the taxable territory.</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>9</td>
<td><strong>Supply of services by an author, music composer, photographer, artist</strong> 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 literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.</td>
<td><strong>Author or music composer, photographer, artist, or the like</strong></td>
<td><strong>Publisher, music company, producer or the like, located in the taxable territory.</strong></td>
</tr>
<tr>
<td>10</td>
<td><strong>Supply of services by the members of Overseeing Committee to Reserve Bank of India (RBI)</strong></td>
<td><strong>Members of Overseeing Committee constituted by RBI</strong></td>
<td><strong>RBI</strong></td>
</tr>
<tr>
<td>11</td>
<td><strong>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).</strong></td>
<td><strong>Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or LLP firm</strong></td>
<td><strong>A banking company or a NBFC, located in the taxable territory</strong></td>
</tr>
<tr>
<td></td>
<td>Services provided by business facilitator to a banking company.</td>
<td>Business facilitator</td>
<td>A banking company, located in the taxable territory</td>
</tr>
<tr>
<td>---</td>
<td>---------------------------------------------------------------</td>
<td>----------------------</td>
<td>----------------------------------------------------</td>
</tr>
<tr>
<td>12</td>
<td>Services provided by an agent of business correspondent to business correspondent.</td>
<td>An agent of business correspondent</td>
<td>A business correspondent, located in the taxable territory.</td>
</tr>
<tr>
<td>13</td>
<td>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 (b) local authority; or (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</td>
<td>Any person other than a body corporate</td>
<td>A registered person, located in the taxable territory.</td>
</tr>
</tbody>
</table>
making a taxable supply of goods or services; or
(ii) a registered person paying tax under composition scheme.

🔔🔔
All the above services have also been notified for reverse charge under IGST Act vide Notification No. 10/2017 IT (R) dated 28.06.2017 as amended. In addition to them, following additional services are also notified by said notification for IGST purposes:

<table>
<thead>
<tr>
<th>S. No.</th>
<th>Category of supply of service</th>
<th>Supplier of service</th>
<th>Recipient of Service</th>
</tr>
</thead>
<tbody>
<tr>
<td>1.</td>
<td>Any service <strong>supplied by any person who is located in a non-taxable territory</strong> to any person other than non-taxable online recipient.</td>
<td>Any person located in a non-taxable territory</td>
<td>Any person located in the taxable territory other than non-taxable online recipient [see definitions].</td>
</tr>
<tr>
<td>2.</td>
<td>Services <strong>supplied by a person located in non-taxable territory by way of transportation of goods by a vessel</strong> from a place outside India up to the customs station of clearance in India</td>
<td>A person located in non-taxable territory</td>
<td>Importer, located in the taxable territory. If any goods at any time between their importation and the time when they are cleared for home consumption, includes any owner, beneficial owner or any person holding himself out to be the importer [Section 2(26) of the Customs Act, 1962].</td>
</tr>
</tbody>
</table>
For purpose of these notifications,-

(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**: 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 [Section 2(11) of the Companies Act, 2013].

(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.

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 and 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 and 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.**

Electronic Commerce Operator (ECO) is any person who owns/operates/manages an electronic platform for supply of goods/services/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 notify specific categories of services the tax on supplies of which shall be paid by the electronic commerce operator (ECO) if such services are supplied through it. Such services shall be notified on the recommendations of the GST Council.

.Notification No. 17/2017 CT (R) dated 28.06.2017 / Notification No. 14/2017 IT (R) dated 28.06.2017 as amended has notified the following categories of services supplied through ECO for this purpose –

(a) services by way of transportation of passengers by a radio-taxi, motorcab, maxicab and motor cycle;

(b) services by way of providing accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes, except where the person supplying such service through electronic commerce operator is liable for registration under section 22(1) of the CGST Act.

(c) services by way of house-keeping, such as plumbing, carpentering etc, except where the person supplying such service through electronic commerce operator is liable for registration under sub-section 22(1) of the CGST Act.

<table>
<thead>
<tr>
<th>Meaning of various terms</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>(i) Radio taxi:</strong> means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).</td>
</tr>
</tbody>
</table>
(ii) **Maxi cab:** means any motor vehicle constructed or adapted to carry more than 6 passengers, but not more than 12 passengers, excluding the driver, for hire or reward.

**Motor cab:** means any motor vehicle constructed or adapted to carry not more than 6 passengers excluding the driver for hire or reward.

**Motor car:** means any motor vehicle other than a transport vehicle, omnibus, road-roller, tractor, motor cycle or invalid carriage.

All the provisions of the CGST/IGST Act shall apply to such ECO as if he is the supplier liable for paying the tax in relation to the supply of above services.

It is important to note here that the above provision shall apply only in case of supply of services.

**Person liable to pay GST for above specified services when supplied through ECO**

- If the ECO is located in taxable territory, then the person liable to pay tax is the ECO.
- If the ECO does not have physical presence in the taxable territory, then the person liable to pay tax is the person representing the ECO.
- If the ECO has neither the physical presence nor any representative in the taxable territory, then the person liable to pay tax is the person appointed by the ECO for the purpose of paying the tax.

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**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 notified in six Schedules of rate notification for goods, viz., 0.25%, 3%, 5%, 12%, 18% and 28%\(^6\). **Certain specified goods have been exempted from tax.**

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 under GST**

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

Tariff item, sub-heading, heading and chapters referred in the Schedules of rate notification for goods under GST are the Tariff item, sub-heading, heading and chapters 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 developed an 8-digit code of HSN.

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

\(^6\) 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\(^7\) 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

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.

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\(^7\) *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.
Rate of tax is determined in accordance with the Service Code in which the service is classified.

Broadly, four rates of CGST have been notified for services, viz., 2.5%, 6%, 9% and 14%\(^8\). Equivalent rate of SGST/UTGST will also be levied. For IGST, four rates have been notified for services, viz., 5%, 12%, 18% and 28%\(^9\)\(^10\). For certain specified services, nil rate of tax has been notified.

Services of gambling, services by way of admission to entertainment events/access to amusement facilities, any sporting event such as IPL and the like, services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go-rounds, go-carting and ballet, 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 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:

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\(^8\) notified vide Notification No. 11/2017 CT (R) dated 28.06.2017
\(^9\) notified vide Notification No. 8/2017 IT (R) dated 28.06.2017.
\(^10\) Students may refer the CBIC website for the complete Schedule of GST Rates for services for knowledge purposes.
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.\(^{11}\)

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).

Further, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement on reverse charge.

\(^{11}\) Discussion in above paras highlighted in purple is solely for the purpose of knowledge of the students and is not meant for examination purposes.
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].

8. COMPOSITION LEVY [SECTION 10 OF THE CGST ACT]

STATUTORY PROVISIONS

<table>
<thead>
<tr>
<th>Section 10</th>
<th>Composition levy</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-section</td>
<td>Particulars</td>
</tr>
<tr>
<td>(1)</td>
<td>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,—</td>
</tr>
<tr>
<td>(a)</td>
<td>one per cent. of the turnover in State or turnover in Union territory in case of a manufacturer</td>
</tr>
<tr>
<td>(b)</td>
<td>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</td>
</tr>
<tr>
<td>(c)</td>
<td>half per cent. of the turnover in State or turnover in Union territory in case of other suppliers</td>
</tr>
</tbody>
</table>

subject to such conditions and restrictions as may be prescribed.

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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**, 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.

<table>
<thead>
<tr>
<th>(2)</th>
<th>The registered person shall be eligible to opt under sub-section (1), if—</th>
</tr>
</thead>
<tbody>
<tr>
<td>(a)</td>
<td><strong>save as provided in sub-section (1), he is not engaged in the supply of services</strong></td>
</tr>
<tr>
<td>(b)</td>
<td>he is not engaged in making any supply of goods which are not leviable to tax under this Act</td>
</tr>
<tr>
<td>(c)</td>
<td>he is not engaged in making any inter-State outward supplies of goods</td>
</tr>
<tr>
<td>(d)</td>
<td>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</td>
</tr>
<tr>
<td>(e)</td>
<td>he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council</td>
</tr>
</tbody>
</table>

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.

| (3) | The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a |
3.42 GOODS AND SERVICES TAX

| (4) | A taxable person to whom the provisions of sub-section (1) 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. |
| (5) | If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) 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. |

ANALYSIS

Overview of the Scheme

The composition levy is an alternative method of levy of tax designed for small taxpayers whose turnover is up to prescribed limit. The objective of composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers. Primarily, the composition scheme is available to the suppliers of goods and restaurant service, but composition suppliers are permitted to supply services up to a specified marginal value in the year of opting for composition. Small taxpayers with an aggregate turnover in a preceding financial year up to ₹1.5 crore shall be eligible for composition levy.

Suppliers opting for composition levy need not worry about the classification of their goods or services or both, the rate of GST applicable on their goods and/or services, etc. They are not required to raise any tax invoice, but simply need to issue a Bill of Supply\(^{12}\) wherein no tax will be charged from the recipient.

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 a prescribed percentage of his turnover every quarter. At the end of a quarter,

\(^{12}\) Discussed in detail in Chapter-10: Tax Invoice, Credit and Debit Notes.
he would pay the tax, without availing the benefit of input tax credit. Return is to be filed annually by a composition supplier.

Persons making inter-State supplies of goods or persons making supplies of goods through e-commerce operators who are required to collect tax at source shall not be eligible for 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.

**Turnover limit for Composition Levy [Section 10(1)]**

Section 10 of the CGST Act provides the turnover limit of ₹ 50 lakh for becoming eligible for composition levy. However, proviso to section 10(1) empowers the Government to increase the said limit of ₹ 50 lakh upto ₹ 1.5 crore, on the recommendation of the 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 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 shall be ₹ 75 lakh in respect of 8 of the Special Category States namely:

<table>
<thead>
<tr>
<th>Special Category States</th>
</tr>
</thead>
<tbody>
<tr>
<td>Arunachal Pradesh</td>
</tr>
<tr>
<td>Mizoram</td>
</tr>
<tr>
<td>Uttarakhand</td>
</tr>
<tr>
<td>Nagaland</td>
</tr>
<tr>
<td>Manipur</td>
</tr>
<tr>
<td>Sikkim</td>
</tr>
<tr>
<td>Meghalaya</td>
</tr>
<tr>
<td>Tripura</td>
</tr>
</tbody>
</table>

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

In other words, 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.

A 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, 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 both the offices.

While computing the threshold limit of ₹ 1.5 crore, inclusions in and exclusions from ‘aggregate turnover’ are as follows

<table>
<thead>
<tr>
<th>Includes</th>
<th>Excludes</th>
</tr>
</thead>
<tbody>
<tr>
<td><strong>Value of all outward supplies</strong></td>
<td><strong>--CGST/ SGST/ UTGST/ IGST/ Cess</strong></td>
</tr>
<tr>
<td>--Taxable supplies</td>
<td>--Value of inward supplies on which tax is payable under reverse charge.</td>
</tr>
<tr>
<td>--Exempt supplies</td>
<td></td>
</tr>
<tr>
<td>--Exports</td>
<td></td>
</tr>
<tr>
<td>--Inter-State supplies</td>
<td></td>
</tr>
</tbody>
</table>

A dealer ‘X’ has two offices in Delhi. In order to determine whether ‘X’ is eligible to avail benefit of the composition scheme, turnover of both the offices would be taken into account and if the same does not exceed ₹ 1.5 crore, X can opt to avail the composition levy scheme (subject to fulfilment of other prescribed conditions).

**Rates of tax under the composition levy scheme [Section 10(1) read with rule 7]**

A registered person, whose aggregate turnover in the preceding FY does not exceed ₹ 1.5 crore, may opt to 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.
<table>
<thead>
<tr>
<th>S No.</th>
<th>Category of registered persons</th>
<th>Rate of tax</th>
</tr>
</thead>
<tbody>
<tr>
<td>1</td>
<td>Manufacturers, other than manufacturers of such goods as may be notified by the Government, i.e. ice cream, pan masala and tobacco.</td>
<td>½ %(^\text{13}) of the turnover in the State/Union territory(^\text{**}).</td>
</tr>
<tr>
<td>2</td>
<td>Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II ([\text{hereinafter referred to as Restaurant service}])</td>
<td>2½ %(^\text{14}) of the turnover in the State/Union territory(^\text{**}).</td>
</tr>
<tr>
<td>3</td>
<td>Any other supplier eligible for composition levy under section 10 of CGST Act and Chapter-II ([\text{Composition levy}]) of CGST Rules.</td>
<td>½ %(^\text{15}) of the turnover of taxable supplies of goods and services in the State or Union territory(^\text{**}).</td>
</tr>
</tbody>
</table>

**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 by the said taxable person but excludes central tax, State tax, Union territory tax, integrated tax and cess \(\text{[Section 2(112) of the CGST Act, 2017]}\).

**Intimation of opting for composition levy \([\text{Rules 3 & 4}]\)**

(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 \(\text{in Part B of the registration form, viz., FORM GST REG-01}\). The same shall be considered as an intimation to pay tax under composition levy. Such intimation shall be

\(^{13}\) Effective rate 1% \((\text{CGST} + \text{SGST/UTGST})\)

\(^{14}\) Effective rate 5% \((\text{CGST} + \text{SGST/UTGST})\)

\(^{15}\) Effective rate 1% \((\text{CGST} + \text{SGST/UTGST})\)
considered only after the grant of registration to the applicant and his **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], **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 8 – 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.**

Thus, a person applying for registration can opt for composition at any time of the financial year and composition levy shall be effective 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.

**Conditions and restrictions for composition levy [Rule 5]**

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

- he is neither a casual taxable person nor a non-resident taxable person [Concept of casual taxable person and non-resident taxable person has been discussed in detail in Chapter 9: Registration].
the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under reverse charge under section 9(4)\(^\text{16}\)

- he shall pay tax under section 9(3)/9(4)\(^\text{17}\) (reverse charge) on inward supply of goods or services or both.

- 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:

<table>
<thead>
<tr>
<th>Tariff item, subheading, heading or Chapter*</th>
<th>Description</th>
</tr>
</thead>
<tbody>
<tr>
<td>2105 00 00</td>
<td>Ice cream and other edible ice, whether or not containing cocoa</td>
</tr>
<tr>
<td>2106 90 20</td>
<td>Pan masala</td>
</tr>
<tr>
<td>24</td>
<td>All goods, i.e. Tobacco and manufactured tobacco substitutes</td>
</tr>
</tbody>
</table>

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

- 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

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\(^\text{16}\) 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.

\(^\text{17}\) wherever applicable
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.

Who are not eligible to opt for composition scheme? [Section 10(2)]

- Supplier of services, save as provided in section 10(1)
- Supplier of goods which are not leviable to tax
- Supplier of inter-State outward supplies of goods
- Person supplying goods through an electronic commerce operator who is required to collect tax at source under section 52
- Manufacturer of icecream, panmasala and tobacco

ABC Industries, a manufacturer in Mumbai, is engaged in supply of goods in Mumbai as well as Chennai (i.e. inter-State supply of goods). Here, ABC Industries cannot enter into the composition scheme as it is effecting inter-State supply of goods i.e. Chennai.

A person engaged in marginal supply of services other than restaurant service along with the supply of goods or restaurant services [Second proviso to section 10(1) read with section 10(2)(a)]

Fundamentally, the composition scheme 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, 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 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.

Ramsewak is engaged in supply of goods. His aggregate 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 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 up to a value of ₹6 lakh in current FY. If the value of services supplied exceeds ₹6 lakh, he becomes ineligible for the composition scheme and has to opt out of the composition scheme.

**Interest income to be excluded while computing aggregate turnover for determining eligibility for composition scheme**

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\(^\text{18}\) – a service other than restaurant service. And where the income from such services cause the value of services\(^\text{19}\) supplied to exceed the value referred in second proviso to section 10(1) \[10% of the turnover in the preceding FY in a State/Union territory or ₹5 lakh, whichever is higher\], said business becomes ineligible for the composition scheme 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, Order No. 01/2019 CT dated 01.02.2019 has been issued to clarify that the value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account -

i. for determining the eligibility for composition scheme under second proviso to section 10(1). Under this proviso, 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 second proviso to section 10(1), interest on loans/deposit/advances will not be taken into account.

\(^{18}\) 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.

\(^{19}\) other than restaurant services

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ii. in computing aggregate turnover in order to determine eligibility for composition scheme.

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) 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.  

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.

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20 Circular No. 77/51/2018 GST dated 31.12.2018
21 Circular No. 77/51/2018 GST dated 31.12.2018
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 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*.\(^{22}\)

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.

A person availing composition scheme during a financial year crosses the turnover of ₹ 1.5 crore on 9th 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 9th December, in this case.

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

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.

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\(^{22}\) Circular No. 77/51/2018 GST dated 31.12.2018
A dealer ‘Champaklal’ has two offices in Delhi and is eligible for composition levy. If ‘Champaklal’ opts for the composition scheme, both the offices would pay taxes under composition scheme and abide by all the conditions as may be prescribed for the composition scheme.

**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.

**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.

**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.

**ILLUSTRATION**

Taxpayer ‘Tolaram’ is a manufacturer 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 Unit A1 and A2 in the first quarter of this financial year was ₹ 5 lakh and ₹ 10 lakh respectively. Compute the amount payable under composition levy by Taxpayer ‘Tolaram’.

**ANSWER**

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

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9. OPTION TO PAY TAX AT CONCESSIONAL RATE UNDER NOTIFICATION NO. 2/2019 CT (R) DATED 07.03.2019

Overview of the Scheme

As we have already seen that primarily, the composition scheme is available in respect of goods and only one service namely, restaurant service. Further, marginal supply of other services is permitted along with the supply of goods and/or restaurant service. However, a person engaged exclusively in supply of services other than restaurant service is not eligible for the composition scheme.

In order to provide benefit to such suppliers, a scheme to pay tax at the concessional rate has been formulated primarily for small service providers like salon stylist, tailors etc. who are not otherwise eligible for composition scheme. This scheme is contained in Notification No. 2/2019 CT (R) dated 07.03.2019 as amended.

This notification provides an option to a registered person whose aggregate turnover in the preceding financial year is upto ₹ 50 lakh and who is not eligible to pay tax under composition scheme, to pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)] on first supplies of goods and/or services upto an aggregate turnover of ₹ 50 lakh made on/after 1st April in any financial year, subject to specified conditions.

The scheme has been elucidated as under:

Who are the persons not eligible for composition scheme, but eligible for Notification No. 2/2019 CT (R)?

A registered person whose aggregate turnover in the preceding financial year does not exceed ₹50 lakh and who is exclusively engaged in supplying services other than restaurant services.
Conditions to be fulfilled

The conditions for availing the concessional rate of tax under Notification No. 2/2019 CT (R) are primarily same as the conditions for availing the composition scheme with few exceptions. The same have been elaborated as under:

1. Supplies are made by a registered person who is:
   - not engaged in making **any supply** which is not leviable to tax under the said Act. Under composition scheme, restriction is only on supply of **goods** not leviable to tax.
   - not engaged in making any inter-State outward supply – **neither of goods nor of services**. This condition is a divergence from the composition scheme where the restriction is only on making inter-State outward supply of goods and not on inter-State outward supply of services.
   - neither a casual taxable person nor a non-resident taxable person.
   - not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52.
   - not engaged in **making supplies** of notified goods, namely, ice cream and other edible ice, whether or not containing cocoa [2105 00 00], Pan masala [2106 90 20] and all goods of Chapter 24, i.e. Tobacco and manufactured tobacco substitutes. Under composition scheme, condition is that the supplier should not be engaged in **manufacture** of notified goods.

2. The registered person shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.

3. The registered person shall issue a bill of supply** instead of tax invoice. Such bill of supply will have the following words at its top - ‘taxable person paying tax in terms of Notification No. 2/2019 CT (R) dated 07.03.2019, not eligible to collect tax on supplies’.

**Order No. 3/2019 CT dated 08.03.2019 has clarified that provisions of section 31(3)(c) of the CGST Act, 2017 [containing
provisions relating to Bill of Supply] shall also apply to a person paying tax under this notification²³.

Other significant points

1. Where more than one registered persons are having the same PAN, tax on supplies by all such registered persons is paid at concessional rate under this notification.

2. The registered person opting to pay tax at concessional rate under this notification shall be liable to pay:
   - (CGST @ 3% + SGST/UTGST @ 3%) on all outward supplies - first supplies of goods or services or both upto an aggregate turnover of ₹50 lakh made on or after 1st April in any FY – regardless of any exemption from tax available to such supplies or any notification issued under section 9(1).
   - Tax on inward supplies on which he is liable to pay tax under section 9(3)/9(4) (reverse charge) at the applicable rates.

3. In computing aggregate turnover in order to determine eligibility of a registered person to pay tax at concessional rate under this notification, 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.

4. Where any registered person who has availed of ITC opts to pay tax under this notification, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger.

Said amount shall be equivalent to the ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods as if the supply made under this notification attracts the provisions of section 18(4) of the CGST Act and the rules made thereunder.

After payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse. Section

²³ Since section 31(3)(c) is applicable only to a composition supplier. This section has been discussed in detail in Chapter 10 – Tax Invoice; Credit and Debit Notes.
18(4) and related rules have been discussed in detail in Chapter 8 – Input Tax Credit.

5. The CGST Rules, 2017, as applicable to a person paying tax under composition scheme shall, mutatis mutandis, apply to a person paying tax under this notification.

First supplies of goods or services or both shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from 1st April of a FY to the date from which he becomes liable for registration under the said Act.

but for the purpose of determination of tax payable under this notification, shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

LET US RECAPITULATE

1. Extent & Commencement of CGST Act/ SGST Act/ UTGST Act/ IGST Act

<table>
<thead>
<tr>
<th>Applicability</th>
<th>CGST Intra-State supply</th>
<th>SGST Intra-State supply</th>
<th>UTGST Inter-State supply</th>
<th>IGST Inter-State supply</th>
</tr>
</thead>
<tbody>
<tr>
<td>States of India</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Union Territories with Legislature</td>
<td>✓</td>
<td>✓</td>
<td></td>
<td>✓</td>
</tr>
<tr>
<td>Union Territories without Legislature</td>
<td>✓</td>
<td></td>
<td></td>
<td>✓</td>
</tr>
</tbody>
</table>

2. Levy and collection of CGST/IGST

<table>
<thead>
<tr>
<th>Particulars</th>
<th>CGST</th>
<th>IGST</th>
</tr>
</thead>
<tbody>
<tr>
<td>Levied on</td>
<td>Intra-State supplies of goods/services/both</td>
<td>Inter-State supplies of goods/services/both</td>
</tr>
<tr>
<td>Collected and paid by</td>
<td>Taxable person</td>
<td></td>
</tr>
<tr>
<td>Supply outside purview of GST</td>
<td>Alcoholic liquor for human consumption</td>
<td></td>
</tr>
</tbody>
</table>
### Value for levy

Transaction value under section 15 of the CGST Act

### Rates

Rates as notified by Government.

- **Maximum rate of CGST can be 20%**.
- **IGST rate = CGST rate + SGST rate (more or less)**
- **Maximum rate of IGST can be 40%**.

### Supplies on which tax would be levied w.e.f. a notified date

- Petroleum crude
- High speed diesel
- Motor spirit (commonly known as petrol)
- Natural gas
- Aviation turbine fuel

### Tax payable under reverse charge

- Supply of goods or services or both, notified by the Government.
- Supply of specified categories of goods or services or both by an unregistered supplier to specified class of registered persons.

### Tax payable by the electronic commerce operator

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 rate of tax
- Hassel free simple procedures for such taxpayers
- Simple calculation of tax based on turnover
- A very simple annual return
### Procedure for opting for the scheme

<table>
<thead>
<tr>
<th>Category of persons</th>
<th>How to exercise option</th>
<th>Effective date of composition levy</th>
</tr>
</thead>
<tbody>
<tr>
<td>New registration under GST</td>
<td>Intimation in the registration form</td>
<td>From the effective date of registration</td>
</tr>
<tr>
<td>Registered person opting for composition levy</td>
<td>Intimation in prescribed form</td>
<td>Beginning of the financial year</td>
</tr>
</tbody>
</table>

### Turnover limit for opting for the scheme

- **For Special Category States except Assam, Himachal Pradesh and J&K**
  - ₹75 lakh
- **For remaining States**
  - ₹1.5 crore

### Rates of tax

<table>
<thead>
<tr>
<th>Category of registered persons</th>
<th>Rate</th>
</tr>
</thead>
<tbody>
<tr>
<td>Manufacturer</td>
<td>1% (½% CGST +½% SGST/UTGST)</td>
</tr>
<tr>
<td>Suppliers of food</td>
<td>5%</td>
</tr>
<tr>
<td>Others</td>
<td>1%</td>
</tr>
</tbody>
</table>
### 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
- was not engaged in the manufacture of notified goods
- 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?

- Supplier of services other than restaurant services**
- Supplier of goods not leviable to tax
- Supplier of inter-State outward supplies of goods
- Person supplying goods through an electronic commerce operator who is required to collect tax at source under section 52
- Manufacturer of icecream, panmasala and tobacco

**A registered person opting for composition scheme 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.

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24 While computing value of services, interest on loans/deposit/advances will not be taken into account.
4. **Option to pay tax at the concessional rate under Notification No. 2/2019 CT (R) dated 07.03.2019**

**Option to pay concessional tax at concessional rate**

- An option for small service providers with aggregate turnover upto ₹ 50 lakh in preceding FY who are not eligible for composition scheme to pay tax @ 3% [Effective rate 6% (CGST+ SGST/UTGST)]
- on first supplies of goods and/or services upto an aggregate turnover of ₹ 50 lakh made on/after 1st April in any FY, subject to specified conditions

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3.62 GOODS AND SERVICES TAX

**Ineligible suppliers**

- Supplier is either a casual taxable person or a non-resident taxable person.
- Supplier making supplies not leviable to tax.
- Supplier of inter-State outward supplies either of goods or of services.
- Person supplying goods through an electronic commerce operator who is required to collect tax at source under section 52.
- Supplier of icecream, panmasala and tobacco.

**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.
- All registered persons having same PAN shall pay tax at the concessional rate under this notification.
- Tax on inward supplies under section 9(3)/9(4) shall be paid at the applicable rates, by the registered person opting for concessional rate.
- In computing aggregate turnover in order for determining eligibility for this scheme, interest on loans/deposit/advances will not be taken into account.

**TEST YOUR KNOWLEDGE**

1. State 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. A person availing composition scheme in Haryana during a financial year crosses the turnover of ₹ 1.5 crore during the course of the year i.e. he crosses the turnover of ₹ 1.5 crore in December? Will he be allowed to pay tax under composition scheme for the remainder of the year, i.e. till 31st March?

3. Determine whether the supplier in the following cases are eligible for composition levy 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.

4. 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 for one of the place of business in the current year while under normal levy for other. You are required to advice Subramanian Enterprises whether he can do so?

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/ 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. No. The option to pay tax under composition scheme lapses from the day on which the aggregate turnover of the person availing composition scheme 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.

3. (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. Ice cream and other edible ice, whether or not containing cocoa, Pan masala and Tobacco and manufactured tobacco substitutes are hereby notified. 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.

4. A registered person with an aggregate turnover in a preceding financial year up to ₹ 1.5 crore is eligible for composition levy 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.
AMENDMENTS MADE VIDE THE FINANCE (NO. 2) ACT, 2019

The Finance (No. 2) Act, 2019 has become effective from 01.08.2019. However, the amendments made in the CGST Act and IGST Act vide the Finance (No. 2) Act, 2019 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\(^\text{25}\). Therefore, the applicability or otherwise of such amendments for May 2020 and/or November 2020 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\(^\text{26}\) relating to section 10 are compared with the provisions as amended by the Finance (No. 2) Act, 2019.

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.

<table>
<thead>
<tr>
<th>Existing provisions</th>
<th>Provisions as amended by the Finance (No. 2) Act, 2019</th>
<th>Remarks</th>
</tr>
</thead>
<tbody>
<tr>
<td>Sub-section (1) “Notwithstanding anything to the contrary................ five lakh rupees, whichever is higher.”</td>
<td>Sub-section (1) - Explanation inserted after second proviso “Notwithstanding anything to the contrary................ five lakh rupees, whichever is higher.”</td>
<td>Under the existing provisions, this point is clarified vide Order No. 01/2019 CT dated 01.02.2019. It is now being incorporated in the CGST Act vide the explanation proposed by the Finance (No. 2) Act, 2019 to section 10(1).</td>
</tr>
</tbody>
</table>

\(^{25}\) Section 103 of the Finance (No. 2) Act, 2019 amending section 95 of the CGST Act, 2017 prescribing definitions relating to advance ruling, has come into force on 01.09.2019. The same has been incorporated in Chapter 23: Advance Ruling.

\(^{26}\) Provisions existing as on the date when the Study Material was released for printing.
### GOODS AND SERVICES TAX

<table>
<thead>
<tr>
<th><strong>Sub-section (2)</strong></th>
<th><strong>Sub-section (2) – New clause (f) inserted</strong></th>
<th><strong>Presently, this condition that a person opting for composition levy must not be a casual taxable person nor a non-resident taxable person, is contained in rule 5 of the CGST Rules, 2017. This is sought to be incorporated in the CGST Act by the Finance (No. 2) Act, 2019 as clause (f) in section 10(2).</strong></th>
</tr>
</thead>
<tbody>
<tr>
<td>The registered person shall be........................ recommendations of the Council.</td>
<td>The registered person shall be........................ recommendations of the Council. (f) he is neither a casual taxable person nor a non-resident taxable person.</td>
<td>Presently, the option available to the small service providers to pay tax at concessional rate is provided vide Notification No. 2/2019 CT (R) dated 07.03.2019. This option is being incorporated in the CGST Act by the Finance (No. 2) Act, 2019 by...</td>
</tr>
</tbody>
</table>

### New sub-section (2A) inserted to section 10

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—

(a) engaged in making any supply of goods or services which are not leviable to tax under this Act;

(b) engaged in making any inter-State outward supplies of goods or services;

(c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;

(d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and

(e) a casual taxable person or a non-resident taxable person:

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.

inserting new sub-section (2A) in section 10.

It is important to note that one of the conditions to opt for benefit under Notification No. 2/2019 CT is that the registered person must not be a supplier of notified goods while under sub-section (2A), the condition for opting for the concessional rate under said sub-section is that the registered person must neither be a manufacturer of notified goods nor be a supplier of notified services.
<table>
<thead>
<tr>
<th>Sub-section (3)</th>
<th>Sub-section (4)</th>
<th>Sub-section (5)</th>
</tr>
</thead>
<tbody>
<tr>
<td>The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).</td>
<td>A taxable person to whom the provisions of sub-section (1) or, as the case may be, sub-section (2A) apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.</td>
<td>If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) or sub-section (2A) 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,</td>
</tr>
</tbody>
</table>

Sub-sections (3), (4) and (5) are being amended to make them applicable to the registered person opting for concessional rate of tax under sub-section (2A) also.
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.

| Explanations inserted after subsection (5) | Under the existing provisions, these points are clarified vide Order No. 01/2019 CT dated 01.02.2019 and Notification No. 2/2019 CT (R) dated 07.03.2019. These are now being incorporated in the CGST Act vide the explanations proposed by the Finance (No. 2) Act, 2019 to section 10. |
| “Explanation 1.— For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year 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 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.”