

CHARGE OF GST

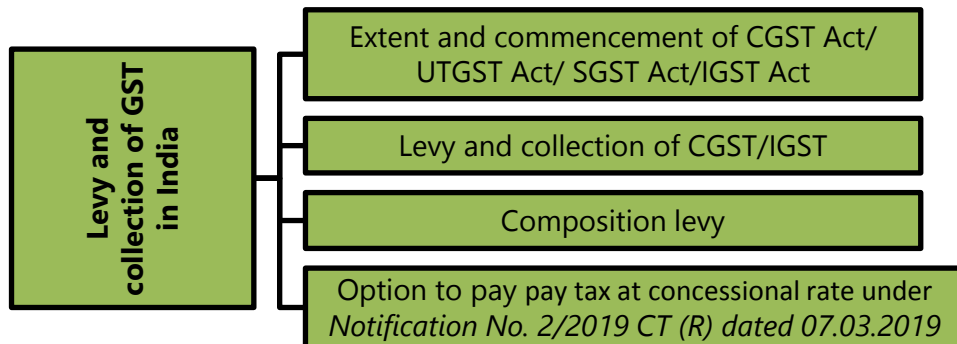


LEARNING OUTCOMES

After studying this Chapter, you will be able to –

- ❑ explain the extent and commencement of CGST Act, IGST Act, SGST Act & UTGST Act.
- ❑ describe the provisions pertaining to levy and collection of CGST & IGST.
- ❑ identify and analyse the services on which tax is payable under reverse charge mechanism.
- ❑ understand and analyse the composition levy- eligibility for the same and conditions to be fulfilled.
- ❑ explain and analyse the option to pay tax at concessional rate under *Notification No. 2/2019 CT (R) dated 07.03.2019*

CHAPTER OVERVIEW



1. INTRODUCTION

Power to levy tax is drawn from the Constitution of India. To pave way for the introduction of Goods and Services Tax ("**GST**"), 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].
- ✔ **Exempt supply:** means supply of any goods or services or both which attracts nil rate of tax or which may be wholly exempt from tax under section 11, or under section 6 of the Integrated Goods and Services Tax Act, and includes non-taxable supply [Section 2(47) of CGST Act].
- ✔ **Aggregate turnover:** means the aggregate value of all taxable supplies (excluding the value of inward supplies on which tax is payable by a person on reverse charge basis), exempt supplies, exports of goods or services or both and inter-State supplies of persons having the same Permanent Account be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess [Section 2(6) of CGST Act].

 **Business:** includes –

(a) any trade, commerce, manufacture, profession, vocation, adventure, wager or any other similar activity, whether or not it is for a pecuniary benefit;

(b) any activity or transaction in connection with or incidental or ancillary to (a) above;

(c) any activity or transaction in the nature of (a) above, whether or not there is volume, frequency, continuity or regularity of such transaction;

(d) supply or acquisition of goods including capital assets and services in connection with commencement or closure of business;

(e) provision by a club, association, society, or any such body (for a subscription or any other consideration) of the facilities or benefits to its members, as the case may be;


(f) admission, for a consideration, of persons to any premises; and


(g) services supplied by a person as the holder of an office which has been accepted by him in the course or furtherance of his trade, profession or vocation;


(h) activities of a race club including by way of totalisator or a license to book maker or activities of a licensed book maker in such club;

(i) any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities

[Section 2(17) of CGST Act].

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

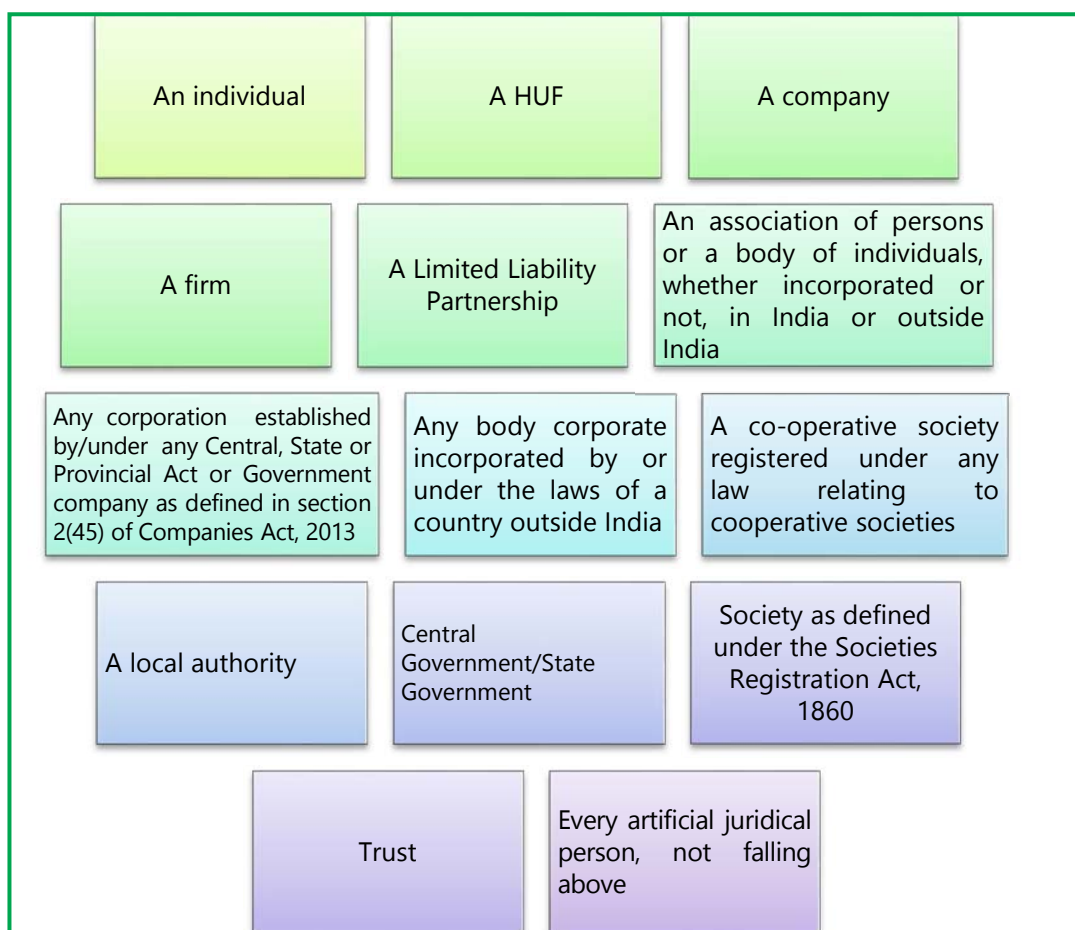
 any payment made or to be made, whether in money or otherwise, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person but shall not include any subsidy given by the Central Government or a State Government,

 the monetary value of any act or forbearance, in respect of, in response to, or for the inducement of, the supply of goods or services or both, whether by the recipient or by any other person

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

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

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



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

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

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

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

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

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

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

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

❖ **Taxable supply:** means a supply of goods and/or services which is 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]

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

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

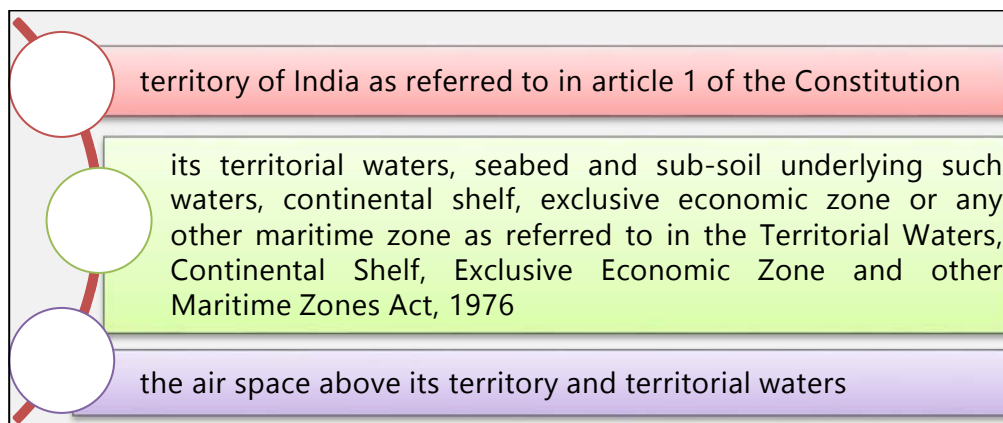


3. EXTENT & COMMENCEMENT OF GST LAW

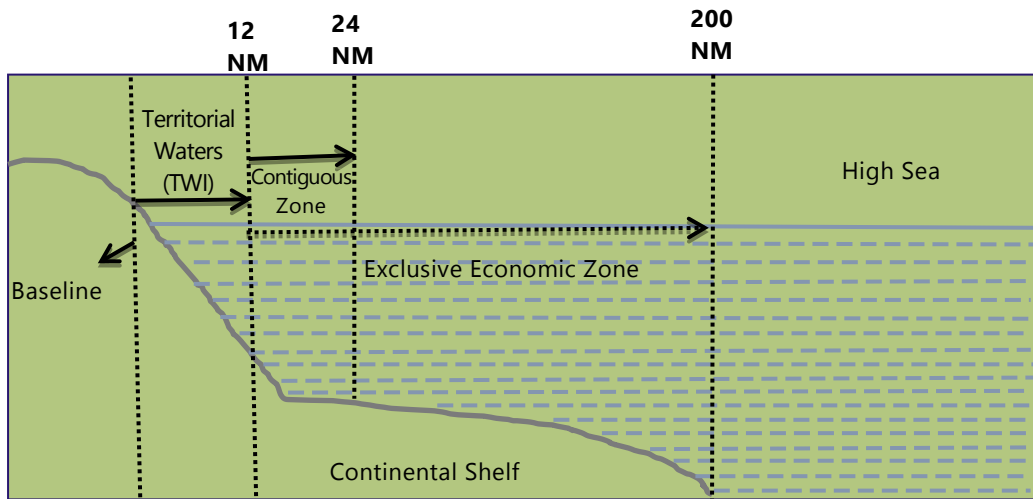
- (i) **Central Goods and Services Tax Act, 2017** extends to the whole of India including Jammu and Kashmir [Section 1 of the CGST Act].



India: "India" means-



[Section 2(56) of CGST Act].



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



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

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

- (iii) **Integrated Goods and Services Tax Act, 2017** extends to the whole of India 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—

- the Andaman and Nicobar Islands;
- Lakshadweep;
- Dadra and Nagar Haveli;
- Daman and Diu;
- Chandigarh; and
- other territory.

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

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



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



STATUTORY PROVISIONS

Section 9 of the CGST Act	Levy and collection
Sub-section	Particulars
(1)	<i>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.</i>
(2)	<i>The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council.</i>
(3)	<i>The Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both</i>


	<i>and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</i>
(4)	<i>The Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.</i>
(5)	<i>The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services.</i> <i>Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:</i> <i>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.</i>



ANALYSIS





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






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

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


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


 On **inter-State supplies** of goods and/or services, Integrated Goods and Services Tax (IGST) is **levied** on the **transaction value** under section 15 of the CGST Act¹. 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

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

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

-  Supply of goods or services or both, **notified by the Government** on the recommendations of the GST Council.

¹ *Goods imported into India: For the goods imported into India, the IGST shall be levied and collected as per the section 3 of the Custom Tariff Act, 1975 i.e. the additional duty shall be as per the Custom Tariff Act, 1975 and the value shall also be determined as per the said Act. This aspect will be discussed in detail at the Final Level.*

- ✓ 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:**

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 this case have been elaborated subsequently in this chapter.*



Goods and services notified under reverse charge mechanism

under section 9(3) of the CGST Act/ section 5(3) of the IGST Act are as follows:

A. Supplies of goods taxable under reverse charge, i.e. 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 charge².

B. Supply of services taxable under reverse charge under section 9(3) of the CGST Act, i.e. the services where tax is payable by the recipient:

Notification No. 13/2017 CT (R) dated 28.06.2017 as amended has notified the following categories of supply of services wherein whole of the tax shall be paid on reverse charge basis by the recipient of services:

S. No.	Category of supply of service	Supplier of service	Recipient of Service
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 the time	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

² 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.

	<p>being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person.</p>		<p>under any other law for the time being in force in any part of India; or</p> <p>(c) any co-operative society established by or under any law; or</p> <p>(d) any person registered under the CGST Act or the IGST Act or the SGST Act or the UTGST Act; or</p> <p>(e) any body corporate established, by or under any law; or</p> <p>(f) any partnership firm whether registered or not under any law including association of persons; or</p> <p>(g) any casual taxable person; located in the taxable territory.</p> <p>[Hereinafter</p>
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			referred as Specified recipients]
<p>However, reverse charge mechanism (RCM) shall not apply to services provided by a GTA, by way of transport of goods in a goods carriage by road to-</p> <p>(a) a Department/ establishment of the Central Government/ State Government/ Union territory; or</p> <p>(b) local authority; or</p> <p>(c) Governmental agencies,</p> <p>which has taken registration under the CGST Act only for the purpose of deducting tax under section 51³ and not for making a taxable supply of goods or services⁴.</p>			
2.	<p>Services supplied by an individual advocate including a senior advocate or firm of advocates by way of legal services, directly or indirectly.</p> <p>"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.</p>	<p>An individual advocate including a senior advocate or firm of advocates.</p>	<p>Any business entity located in the taxable territory.</p>

³ Provisions relating to tax deducted at source contained in section 51 shall be discussed at the Final Level.

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 for discussion on this exemption]

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

	<p>relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport;</p> <p>(iii) transport of goods or passengers.</p>		
5A	<p>Services supplied by Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under CGST Act, 2017</p>	<p>Central Government, State Government, Union territory or local authority</p>	<p>Any person registered under the CGST Act, 2017</p>
5B	<p>Services supplied by any person by way of transfer of development rights (TDR) or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.</p>	<p>Any person</p>	<p>Promoter</p>
5C	<p>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</p>	<p>Any person</p>	<p>Promoter</p>

	name) and/or periodic rent for construction of a project by a promoter⁵		
6.	Services supplied by a director of a company/body corporate to the said company/body corporate.	A director of a company or a body corporate	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.	An insurance agent	Any person carrying on insurance business, located in the taxable territory.
8.	Services supplied by a recovery agent to a banking company or a financial institution or a non-banking financial company.	A recovery agent	A banking company or a financial institution or a non-banking financial company, located in the taxable

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.

			territory.
9.	Supply of services by an author, music composer, photographer, artist or the like by way of transfer or permitting the use or enjoyment of a copyright covered under section 13(1)(a) of the Copyright Act, 1957 relating to original literary, dramatic, musical or artistic works to a publisher, music company, producer or the like.	Author or music composer, photographer, artist, or the like	Publisher, music company, producer or the like, located in the taxable territory.
10.	Supply of services by the members of Overseeing Committee to Reserve Bank of India (RBI)	Members of Overseeing Committee constituted by the RBI	RBI
11.	Services supplied by individual Direct Selling Agents (DSAs) other than a body corporate, partnership or limited liability partnership (LLP) firm to bank or non-banking financial company (NBFCs).	Individual Direct Selling Agents (DSAs) other than a body corporate, partnership or LLP firm	A banking company or a NBFC, located in the taxable territory
12.	Services provided by business facilitator to a	Business facilitator	A banking company, located in the

	<i>banking company.</i>		<i>taxable territory</i>
13.	<i>Services provided by an agent of business correspondent to business correspondent.</i>	<i>An agent of business correspondent</i>	<i>A business correspondent, located in the taxable territory.</i>
14.	<p><i>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></p> <p><i>(i) (a) a Department or Establishment of the Central Government or State Government or Union territory; or</i></p> <p><i>(b) local authority; or</i></p> <p><i>(c) Governmental agencies; which has taken registration under the CGST Act, 2017 only for the purpose of deducting</i></p>	<i>Any person other than a body corporate</i>	<i>A registered person, located in the taxable territory.</i>

	<p>tax under section 51 of the said Act and not for making a taxable supply of goods or services; or</p> <p>(ii) a registered person paying tax under composition scheme.</p>		
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🔔 All the above services have also been notified for reverse charge under IGST Act. In addition to them, two additional services are also notified for reverse charge under IGST law. These services will be discussed at the Final level.

For purpose of this notification,-

- (a) The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.
- (b) **Body Corporate:** has the same meaning as assigned to it in clause (11) of section 2 of the Companies Act, 2013.

As per section 2(11) of the Companies Act, 2013, body corporate or corporation includes a company incorporated outside India, but does not include—

- (i) a co-operative society registered under any law relating to co-operative societies; and
 - (ii) any other body corporate (not being a company as defined in this Act), which the Central Government may, by notification, specify in this behalf.
- (c) the business entity located in the taxable territory who is litigant, applicant or petitioner, as the case may be, shall be treated as the

person who receives the legal services for the purpose of this notification.

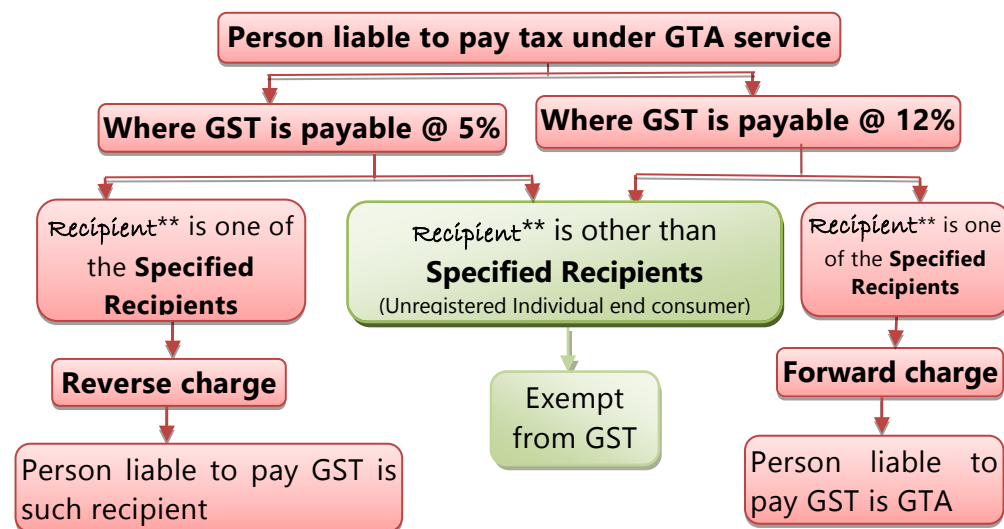
- (d) the words and expressions used and not defined in this notification but defined in the Central Goods and Services Tax Act, the Integrated Goods and Services Tax Act, and the Union Territory Goods and Services Tax Act shall have the same meanings as assigned to them in those Acts.
- (e) Limited Liability Partnership formed and registered under the provisions of the Limited Liability Partnership Act, 2008 shall also be considered as a partnership firm or a firm.
- (f) Insurance agent means an insurance agent licensed under section 42 of the Insurance Act, 1938 who receives agrees to receive payment by way of commission or other remuneration in consideration of his soliciting or procuring insurance business including business relating to the continuance, renewal or revival of policies of insurance [Section 2(10) of the Insurance Act, 1938].
- (g) Renting of immovable property means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property.
- (h) ***the provisions of this notification, in so far as they apply to the Central Government, State Government, shall also apply to the Parliament and State Legislature.***

Person liable to pay GST on GTA service

GTA services are taxable at the following two rates:

- (i) **@ 5%** (2.5% CGST+2.5% SGST/UTGST or 5% IGST) provided GTA has not taken the Input Tax Credit (ITC) on goods 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.*

Tax payable by the ECO on notified services

Electronic Commerce Operator (ECO)⁶ 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.



⁶ Detailed provisions relating to Electronic Commerce Operator shall be discussed at Final level.

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

GST Rates prescribed for various goods

Broadly, six rates of CGST have been notified in six Schedules of rate notification for goods, viz., 0.125%, 1.5%, 2.5%, 6%, 9% and 14%. SGST/ UTGST at the equivalent rate is also leviable. With regard to IGST, broadly six rates have been notified in six Schedules of rate notification for goods, viz., 0.25%, 3%, 5%, 12%, 18% and 28%⁷. **For certain specified goods, nil rate of tax has been notified.**

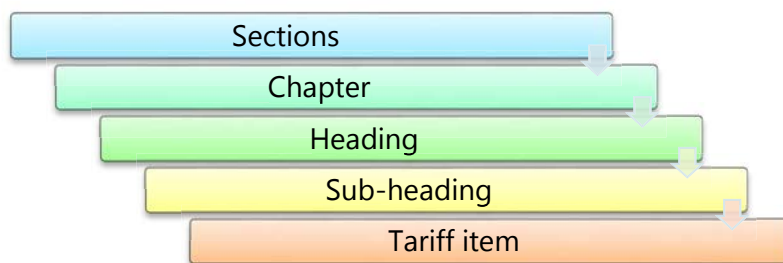


**GST rates
for goods**

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,

⁷ Students may refer the CBIC website for the complete Schedule of GST Rates for goods for knowledge purposes.

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 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 Schedule⁸⁹ **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

⁸ The provisions relating to Customs Act and Customs Tariff Act will be discussed at Final Level.

⁹ **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.

under various sections, headings and groups. Chapter 99 has been assigned for services. This chapter has following sections:

Section 5 Construction Services

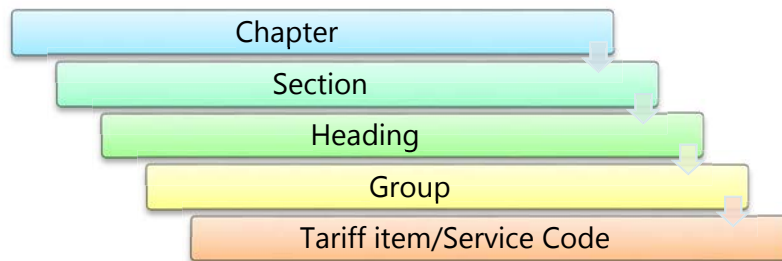
Section 6 Distributive Trade Services; Accommodation, Food and Beverage Service; Transport Services; Gas and Electricity Distribution Services

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.



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

GST Rates prescribed for various services

Broadly, four rates of CGST have been notified for services, viz., 2.5%, 6%, 9% and 14%¹⁰. Equivalent rate of SGST/ UTGST will also be levied. For IGST, four rates have been notified for services, viz., 5%, 12%, 18% and 28%^{11,12}. **For certain specified services, nil rate of tax has been notified.**



¹⁰ notified vide Notification No. 11/2017 CT (R) dated 28.06.2017

¹¹ notified vide Notification No. 8/2017 IT (R) dated 28.06.2017.

¹² Students may refer the CBIC website for the complete Schedule of GST Rates for services for knowledge purposes.

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:

GST rates in real estate sector



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

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

Conditions:

Above tax rates shall be available subject to following conditions:

- (a) ITC shall not be available.

(b) 80% of inputs and input services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be purchased from registered persons¹³.

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

Supply of services notified under section 9(4)

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

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



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



STATUTORY PROVISIONS

Section 10	Composition levy
Sub-section	Particulars
(1)	Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding

¹³ Discussion in above paras highlighted in green is solely for the purpose of knowledge of the students and is not meant for examination purposes.

	<p>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,—</p>
a	one per cent. of the turnover in State or turnover in Union territory in case of a manufacturer
b	two and a half per cent. of the turnover in State or turnover in Union territory in case of persons engaged in making supplies referred to in clause (b) of paragraph 6 of Schedule II, and
c	half per cent. of the turnover in State or turnover in Union territory in case of other suppliers
	subject to such conditions and restrictions as may be prescribed.
	Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore and fifty lakh rupees , 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.
(2)	The registered person shall be eligible to opt under sub-section (1), if—
(a)	save as provided in sub-section (1), he is not engaged in the supply of services
(b)	he is not engaged in making any supply of goods which are not leviable to tax under this Act
(c)	he is not engaged in making any inter-State outward supplies of goods

	(d)	<i>he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; and</i>
	(e)	<i>he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council</i>
		<i>Provided that where more than one registered persons are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.</i>
(3)		<i>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).</i>
(4)		<i>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.</i>
(5)		<i>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.</i>

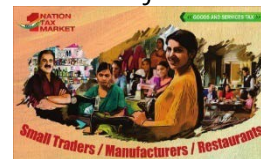


ANALYSIS



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 upto 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 Supply¹⁴ 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, 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 up to **₹ 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**

¹⁴ Discussed in detail in Chapter-8: Tax Invoice, Credit and Debit Notes; E-way Bill

Category States namely:

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


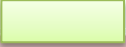
***In case of Assam, Himachal Pradesh and Jammu and Kashmir, the turnover limit will be ₹ 1.5 crore.**

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

 Includes	 Excludes
<p>Value of all outward supplies</p> <ul style="list-style-type: none"> --Taxable supplies --Exempt supplies --Exports --Inter-State supplies <p>of persons having the same PAN be computed on all India basis.</p>	<ul style="list-style-type: none"> --CGST/ SGST/ UTGST/ IGST/ Cess --Value of inward supplies on which tax is payable under reverse charge.



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.

S. No.	Category of registered persons	Rate of tax*
1	Manufacturers, other than manufacturers of such goods as may be notified by the Government, i.e. ice cream, pan masala and tobacco.	½ % ¹⁵ of the turnover in the State/Union territory**
2	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II [hereinafter referred to as “ Restaurant service ”]	2½ % ¹⁶ of the turnover in the State/Union territory**
3	Any other supplier eligible for composition levy under section 10 of CGST Act and Chapter-II [Composition Levy] of CGST Rules.	½ % ¹⁷ of the turnover of taxable supplies of goods and services in the State or Union territory**

****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 [Section 2(112) of the CGST Act, 2017].

¹⁵ Effective rate 1% (CGST+ SGST/UTGST)

¹⁶ Effective rate 5% (CGST+ SGST/UTGST)

¹⁷ Effective rate 1% (CGST+ SGST/UTGST)



Intimation of opting for composition levy [Rules 3 & 4]



(i) Intimation by person applying for registration:

Any person who is not registered and applies for registration may give an option to pay tax under composition levy **in Part B of the registration form, viz., FORM GST REG-01**. The same shall be considered as an intimation to pay tax under composition levy. Such intimation shall be considered only after the grant of registration to the applicant 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 6 – Input Tax Credit*] **within 60 days** from the commencement of the relevant FY.

Any intimation in respect of any place of business in a State/UT shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

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

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 7: 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)¹⁸.
- ❑ he shall pay tax under section 9(3)/9(4)¹⁹ (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**:

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

* 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

¹⁸ 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:

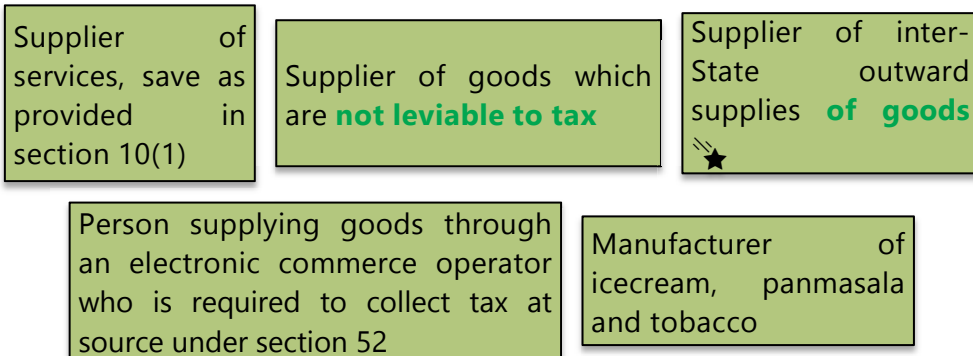
- (i) Builder/promoter must purchase at least 80% of inputs and input services used in supplying the service, from registered persons. In case of shortfall, he's required to pay tax under reverse charge on all such inward supplies (to the extent short of 80% of the inward supplies from registered supplier).
- (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.

¹⁹ 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)]



There is no restriction on composition supplier to receive inter-State inward supplies of goods as also to make inter-State inward and outward supply of services.

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 upto a value of ₹ 6 lakh in current FY. If the value of services supplied exceeds ₹ 6 lakh, he becomes ineligible for the composition scheme 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 advances²⁰ – a service other than restaurant service. And where the income from such services cause the value of services²¹ 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.

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




²⁰ 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.

²¹ other than restaurant services





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 filed²².***

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 filed²³.***

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

²² Circular No. 77/51/2018 GST dated 31.12.2018

²³ Circular No. 77/51/2018 GST dated 31.12.2018



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 Rules²⁴.

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.



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

²⁴ Circular No. 77/51/2018 GST dated 31.12.2018


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

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



6. 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 notification²⁵.**



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.

²⁵ Since section 31(3)(c) is applicable only to a composition supplier. This section has been discussed in detail in Chapter 8 – Tax Invoice; Credit and Debit Notes; E-way Bill.

After payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse. Section 18(4) and related rules have been discussed in detail in Chapter 6 – 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.



7. LET US RECAPITULATE

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

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

2. Levy and collection of CGST/IGST

Particulars	CGST	IGST
Levied on	Intra-State supplies of goods/services/both	Inter-State supplies of goods/services/both
Collected and paid by	Taxable person	

Supply outside purview of GST	Alcoholic liquor for human consumption	
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	<ul style="list-style-type: none"> + petroleum crude + high speed diesel + motor spirit (commonly known as petrol) + natural gas and + aviation turbine fuel 	
Tax payable under reverse charge	<ul style="list-style-type: none"> ◆ Supply of goods or services or both, notified by the Government. ◆ Supply of <u>specified categories of goods or services or both</u> by an unregistered supplier to <u>specified class of registered persons.</u> 	
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

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

Turnover limit for 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

Category of registered persons	Rate
Manufacturer	1 % (½% CGST + ½% SGST/UTGST)
Suppliers of food	5 %
Others	1 %

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 turnover²⁶ in the preceding financial year in a State/Union territory or ₹ 5 lakh, whichever is higher.

Other points

Bill of supply shall be issued instead of tax invoice.

Tax shall not be not collected from recipient of supply

Input tax credit shall not be availed

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

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

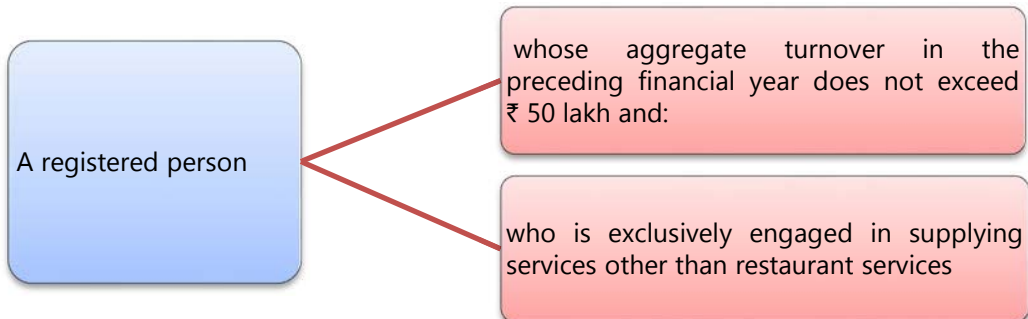
²⁶ While computing value of services, interest on loans/deposit/advances will not be taken into account.

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

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



Ineligible suppliers

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

Supplier making **supplies** not leviable to tax

Supplier of inter-State outward supplies neither **of goods nor 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 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.

**8. TEST YOUR KNOWLEDGE**

1. What is the maximum rate of CGST prescribed under CGST Act?
 - (a) 20%
 - (b) 28%
 - (c) 24%
 - (d) 40%
2. Which of the following taxes levied on intra-State supply?
 - (a) CGST
 - (b) SGST/UTGST
 - (c) Both (a) and (b)
 - (d) IGST
3. What is the threshold limit of turnover in the preceding financial year to be eligible for composition levy in Delhi?
 - (a) ₹ 50 lakh
 - (b) ₹ 75 lakh
 - (c) ₹ 80 lakh
 - (d) ₹ 1.5 crore

4. Which of the following is not included in aggregate turnover?
- (a) Exempt supplies of goods or services or both
 - (b) Export of goods or services or both
 - (c) Inter-State supply of goods or services or both
 - (d) Value of inward supplies on which tax is paid under reverse charge
5. IGST is levied on:
- (a) Inter-State supplies
 - (b) Intra-State Supplies
 - (c) Both (a) and (b)
 - (d) None of the above
6. _____ is levied on the import of goods and/or services.
- (a) IGST
 - (b) CGST and SGST
 - (c) CGST and UTGST
 - (d) None of the above
7. The maximum rate of IGST can be:
- (a) 20%
 - (b) 30%
 - (c) 40%
 - (d) None of the above
8. On supply of which of the following items, GST shall be levied with effect from such date as may be notified by the Government on the recommendations of the Council:
- (a) Petroleum crude
 - (b) Alcoholic liquor for human consumption
 - (c) Both (a) and (b)
 - (d) None of the above
9. GST is payable by the recipient under reverse charge on:
- (a) Sponsorship services
 - (b) Transport of goods by rail

- (c) *Transport of passengers by air*
 (d) *All of the above*
10. *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.*
11. *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?*
12. *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.*
13. *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?*

9. ANSWERS/HINTS

1. (a) 2. (c) 3. (d) 4. (d) 5. (a) 6. (a)
 7. (c) 8. (a) 9. (a)
10. (a) Since GST on services provided or agreed to be provided by an arbitral tribunal to any business entity located in the taxable territory is payable under reverse charge, in the given case, GST is payable by the recipient - business entity.

- (b) GST on sponsorship services provided by any person to any body corporate or partnership firm located in the taxable territory is payable under reverse charge. Since in the given case, services have been provided to an individual, reverse charge provisions will not be attracted. GST is payable under forward charge by the supplier – company.
 - (c) GST on services supplied by Central Government, State Government, Union territory or local authority by way of renting of immovable property to a person registered under CGST Act, 2017 is payable under reverse charge. Therefore, in the given case, GST is payable under reverse charge by the recipient – registered business entity.
11. 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.
12. (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.

13. 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. 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 provisions²⁷ 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.

Existing provisions	Provisions as amended by the Finance (No. 2) Act, 2019	Remarks
<p>Sub-section (1) "Notwithstanding anything to the contrary..... five lakh rupees, whichever is higher."</p>	<p>Sub-section (1) - Explanation inserted after second proviso "Notwithstanding anything to the contrary..... five lakh rupees, whichever is higher." Explanation - For the purposes of second proviso, the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount shall not be taken into account for determining the value of turnover in a State or Union territory.</p>	<p>Under the existing provisions, this point is clarified vide <i>Order No. 01/2019 CT dated 01.02.2019</i>. It is now being incorporated in the CGST Act vide the explanation proposed by the Finance (No. 2) Act, 2019 to section 10(1).</p>

²⁷ Provisions existing as on the date when the Study Material was released for printing

<p><u>Sub-section (2)</u> The registered person shall be..... recommendations of the Council.</p>	<p><u>Sub-section (2) – New clause (f) inserted</u> The registered person shall be..... recommendations of the Council. (f) he is neither a casual taxable person nor a non-resident taxable person.</p>	<p>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).</p>
	<p><u>New sub-section (2A) inserted to section 10</u> 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</p>	<p>Presently, the option available to the small service providers to pay tax at concessional rate is provided vide <i>Notification No. 2/2019 CT (R) dated 07.03.2019</i>. This option is being incorporated in the CGST Act by the Finance (No. 2) Act, 2019 by inserting new sub-section (2A) in section 10. It is important to note that one of the conditions to opt for benefit under</p>

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.

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.

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 financial year exceeds the limit specified under sub-section (1).

Sub-section (3)

The option availed of by a registered person under sub-section (1) **or sub-section (2A)** shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1).

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.

Sub-section (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.

Sub-section (4)

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.

Sub-section (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

Sub-section (5)

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, mutatis mutandis, apply for

<p>section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.</p>	<p>determination of tax and penalty.</p>	
	<p>Explanations inserted after sub-section (5)</p> <p>“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.</p> <p>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:—</p> <p>(i) supplies from the first day</p>	<p>Under the existing provisions, these points are clarified vide <i>Order No. 01/2019 CT dated 01.02.2019</i> and <i>Notification No. 2/2019 CT (R) dated 07.03.2019</i>.</p> <p>These are now being incorporated in the CGST Act vide the explanations proposed by the Finance (No. 2) Act, 2019 to section 10.</p>

of April of a financial year upto the date when such person becomes liable for registration under this Act; and

(ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.”