

## Levy of Tax

### 6.0 Introduction

The word “Levy” means charge or imposition or collection of tax by authority. For the purpose of collecting tax, the authority should have powers to levy such tax. The Constitution of India in Article 265 sets out that no tax shall be levied or collected except by the authority of law. The fundamental right to equality (Article 14) and right to carry on business or profession (Article 19) cannot in any case be infringed. Under the Central Excise Act, 1944, excise duty is levied by Central Government on production/manufacture of excisable goods removed for domestic consumption in India. However, Excise Duty is collected at the time of removal of goods.

Taxable event and point of time for payment of tax were two different aspects under major indirect tax laws in pre-GST era. The same principle is being followed in GST also. In this chapter we shall only be dealing with the subject of levy under GST regime i.e. taxable event for the purpose of levy of GST.

In any fiscal statute the most important section is the Charging Section of such statute. Under GST Regime subject of levy is dealt in Section 9 of the Central Goods and Services Tax Act [CGST Act]/State Goods and Services Tax Act [SGST] and Section 5 of the Integrated Goods and Services Tax Act, 2017 [IGST Act]. Thus, section 9 of CGST Act/SGST Act and Section 5 of IGST Act are the Charging Sections for the purposes of levy of GST. CGST and SGST shall be levied on all intra-state supplies of goods and/or services and IGST shall be levied on all inter- state supplies of goods and/or services respectively.

As per article 279A of the Constitution, the Goods and Services Tax Council shall recommend the date on which the goods and services tax be levied on petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel. Till such date these products are outside the purview of GST. Furthermore, as per Clause 12A of Article 366 of the Constitution of India, taxes on the supply of alcoholic liquor for human consumption are outside the purview of the Goods and Services Tax. Alcoholic liquor for human consumption shall continue to be liable to VAT.

### 6.1 Levy and collection of tax- Section 9 of the CGST Act, 2017 read with Section 5 of the IGST Act, 2017

Section	Details
9(1) and 5(1)	<p>CGST shall be levied on all intra-State supplies of goods or services or both with the exception of supply of alcoholic liquor for human consumption. Further, the aforesaid CGST shall be levied on the value determined under Section 15 of the CGST Act at notified rates, but not exceeding 20% under each Act . In addition, aforesaid CGST is to be paid by the taxable person and shall be collected in the prescribed manner.</p> <p>‘IGST’ shall be levied on all supplies of goods or services or both made in the course of inter-State trade or commerce with the exception of supply of alcoholic liquor for human consumption. Further, the aforesaid IGST shall be levied on the value determined under Section 15 of the CGST Act at notified rates, but not exceeding 40%. In addition, the IGST shall be collected in the prescribed manner and paid by the taxable person.</p>
	The Integrated Tax on goods imported into India shall be levied and collected in

<p>Proviso to 5(1) IGST Act</p>	<p>accordance with Section 3 of the Customs Tariff Act, 1975 on a value determined under aforesaid Customs Tariff Act, 1975 at the point when duties of customs are levied on the said goods under Section 12 of the Customs Act, 1962. Further, the Government vide its N. No.18/2017-Integrated Tax (Rate) dated 05.07.2017 has exempted the import of services by a SEZ unit or developer for its authorised operations from the entire IGST leviable under section 5 of the IGST Act, 2017.</p>												
<p>9(2) and 5(2)</p>	<p><u>Levy of Central Tax, State Tax and Integrated Tax on Specified Petroleum Products with effect from a Notified Date</u> Central Tax, State Tax and Integrated Tax on following petroleum products shall be levied with effect from a date to be notified by the Government on the recommendation of the GST Council:</p> <table border="1" data-bbox="415 520 1471 636"> <tr> <td>1.</td> <td>Petroleum crude</td> <td>3.</td> <td>Motor Spirit</td> <td>5.</td> <td>Aviation Turbine Fuel</td> </tr> <tr> <td>2.</td> <td>High Speed Diesel</td> <td>4.</td> <td>Natural Gas</td> <td></td> <td></td> </tr> </table>	1.	Petroleum crude	3.	Motor Spirit	5.	Aviation Turbine Fuel	2.	High Speed Diesel	4.	Natural Gas		
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2.	High Speed Diesel	4.	Natural Gas										
<p>9(3) and 5(3)</p>	<p><u>Central Tax, State Tax and Integrated Tax to be Paid on Reverse Charge Basis</u> The Government may specify categories of supply of goods or services or both, the tax on which shall be payable on Reverse Charge basis by recipient of such goods or services or both. One will appreciate after analyzing the above provisions that it is either the supplier of supply who is liable to pay tax or recipient of supply who is liable to discharge tax liability on the full value of consideration in a supply. To say it differently there is no concept of partial reverse charge wherein on part of the value supplier has to pay tax and on part of the value recipient has to discharge the tax liability. It further provides that in all the situations where recipient of supplies has been made liable to pay tax he shall be treated as supplier of supplies 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. W.e.f. 01.02.2019 vide N. No.02/2019- CT, dated- 29.1.2019 <u>Payment of tax on reverse charge basis in r/o taxable supplies by an unregistered supplier to a registered person</u> The Government may specify a class of registered persons who shall pay the tax on Reverse Charge basis in respect of supply of specified categories of goods or services or both received from an unregistered supplier. Thus, the provisions of Reverse Charge shall apply only when following cumulative conditions are satisfied:</p> <table border="1" data-bbox="415 1417 1471 1686"> <tr> <td>(a)</td> <td>A class of registered persons who are required to pay tax on Reverse Charge basis must be specified by the Government by Notification;</td> </tr> <tr> <td>(b)</td> <td>The categories of supply of goods or services or both in respect of which tax is required to be paid by specified class of registered persons should also be specified * [Refer Note]; and</td> </tr> <tr> <td>(c)</td> <td>The supply of specified categories of goods or services or both must be made by an unregistered supplier to a specified class of registered persons.</td> </tr> </table> <p>For the period 01.07.2017 to 31.01.2019 vide N. No. 08/2017-CT(R) dated 28.06.2017 Central tax in respect of the supply of taxable goods or services or both by an unregistered supplier to a registered person shall be paid by the recipient on reverse charge basis. Here, it is essential to highlight that in order to fall within the ambit of Section 9(4), it shall be necessary that supply of goods or services or both is made by an unregistered supplier to a registered person. Thus, when any supply of goods or services or both is made by a registered supplier to a registered person/unregistered person, the same cannot fall within the ambit of Section 9(4).</p>	(a)	A class of registered persons who are required to pay tax on Reverse Charge basis must be specified by the Government by Notification;	(b)	The categories of supply of goods or services or both in respect of which tax is required to be paid by specified class of registered persons should also be specified * [Refer Note]; and	(c)	The supply of specified categories of goods or services or both must be made by an unregistered supplier to a specified class of registered persons.						
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9(4) and 5(4)	<p>The Government has brought a big relief to the registered taxable person by way of providing exemption to these persons from the leviability of Central Tax on aggregate value of intra-state supplies of goods or services or both of value of Rs. 5,000/- in a day with effect from 01.07.2017.</p>		
<p><u>N. No.08/2017-CT(R) has been amended w.e.f. 13.10.2017 vide N. No. 38/2017-CT(R)</u></p>			
<p>The aforesaid amendment has been done with a view to exempt all intra-State supplies by an unregistered supplier to a registered person even in those cases where the aggregate value of such supplies of goods or services or both from all or any of the unregistered suppliers exceeds Rs. 5,000 in a day until 31.03.2018.</p>			
<p>Further, the Government also exempts a person who is registered only for the purpose of deducting tax at source under section 51 from discharging tax liability under reverse</p>			
<p>charge under section 9(4) on supplies received from unregistered suppliers. This provision again seems to be a good move by the Government towards the registered suppliers.</p>			
<p>Furthermore, the Government also exempts a person dealing in buying &amp; selling of second hand goods and discharging tax liability on the difference of purchase and sale price from discharging tax liability under reverse charge u/s 9(4) on goods purchased from unregistered persons. The Government by issuing and providing above stated exemptions to the registered persons tries to remove the avoidable burden of compliance from the registered persons.</p>			
<p>Provisions of Section 5(4) of the IGST Act are identical to the provisions of Section 9(4) of the CGST Act, 2017. Therefore, the same are not discussed for the sake of brevity.</p>			
<p>Provisions of Section 9(4) and Section 5(4) were kept in abeyance till 31.03.2019. However, these sub-sections were substituted with effect from 01.02.2019 by CGST (Amendment) Act, 2018. Government thereafter has notified certain supplies like TDR, Cement, Capital Goods etc. under the purview of these sub-sections on which GST is payable under reverse charge. For detailed discussion on the subject refer to Chapter-8 of this book.</p>			
<p><u>CGST/SGST or IGST on Specified Categories of Supply of Services shall be paid by E-Commerce Operator</u></p>			
<p>These sections shall apply to supply of services only and not to supply of goods. It is to be noted carefully that aforesaid provision of Reverse Charge shall be applicable only in those cases where specified services shall be supplied through ECO on digital or electronic network. Further, all the provisions of the CGST or the IGST Act, as the case may be, shall apply to such ECO as if he is the person liable for paying the tax in relation to the supply of such services. In addition, following points are worth mentioning:</p>			
<p style="text-align: center;"><b>Situation</b></p>		<p style="text-align: center;"><b>Person liable for paying tax</b></p>	<p style="text-align: center;"><b>CGST Act</b></p>
<p>Where an ECO does not have a physical presence in the taxable territory</p>		<p>Any person representing such ECO for any purpose in the taxable territory</p>	<p>First Proviso to Sec.9(5)</p>
<p>Where an ECO does not have a physical presence in the taxable territory and also he does not have a representative in the taxable territory</p>		<p>Any person appointed by ECO in the taxable territory for the purpose of paying tax</p>	<p>Second Proviso to Sec.9(5)</p>
9(5) and 5(5)	<p>Notified categories of intra-state supply of services on which tax shall be paid by the ECO</p>		

		<u>With effect from 01.07.2017-N. No. 17/2017-CT(R), dated 28.06.2017</u>
(i)	From 01.07.2017-Services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab and motor cycle;	<u>With effect from 01.07.2017-N. No. 17/2017-CT(R), dated 28.06.2017</u>
(ii)	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 sub-section (1) of section 22 of the CGST Act;	<u>With effect from 22.08.2017-N. No. 23/2017-CT(R), dated 22.08.2017</u>
(iii)	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 (1) of section 22 of the CGST Act.	

\*Note-1:

Categories of supply of goods in respect of which tax is to be paid by the recipient of goods in terms of Section 9(4) /Section 5(4) w.e.f. 01.04.2019, Here Promoter is the recipient in following categories:

1	<u>With effect from 01.04.2019- N.No.07/2019-CT(R)/N.No.07/2019-IT(R), both dated 29.03.2019</u> Supply of such goods and services or both [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)] which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project , in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 11/ 2017- Central Tax (Rate), dated 28th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, as amended.
2	<u>With effect from 01.10.2019-N .No. 24/2019-CT(R) / N. No.23/2019-IT(R), both dated 30.09.2019</u> Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 For the period 01.04.2019 to 30.09.2019-N. No. 07/2019-CT(R)/N. No. 07/2019-IT(R), both dated 29.03.2019 Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 11/ 2017- Central Tax (Rate), dated 28th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, as amended.
3	<u>With effect from 01.04.2019- N. No.07/2019-CT(R)/N. No.07/2019-IT(R), both dated 29.03.2019</u> Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975 supplied to a promoter for construction of a project on which tax is payable or paid at the rate prescribed for items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, in notification No. 11/ 2017- Central Tax (Rate), dated 28th June, 2017, as amended.

### 6.1.1 “Recipient “of Supply of Goods or Services or Both - Section 2(93)

In case a supply of goods or services or both is made for a consideration, the person who is liable to pay such consideration shall be treated as recipient of such goods or services or both. However, it is immaterial whether such person actually makes the payment to the supplier of goods or services or both or someone else on his behalf makes payment to the supplier of such goods or

services or both. In case where supply of goods (and not services) is made without consideration, 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, shall be treated as recipient of goods. Further, in a situation where no consideration is payable for the supply of a service (and not goods) the person to whom the service is rendered, shall be treated as recipient of service. Besides, 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 also include an agent acting as such on behalf of the recipient in relation to the goods or services or both supplied.

### 6.1.2 “Supplier” of Goods or Services or both - Section 2(105)

Supplier is the person who makes supply of goods or services or both. Further, it provides that any agent who makes supply of goods or services or both on behalf of such person shall also be treated as supplier. Similar provisions were there in Service Tax Regime also where assessee included his agent.

### 6.2 Tax Liability on Composite and Mixed Supplies - Section 8

Sec.	Details
	<p><u>Composite Supply</u> Composite Supply comprising two or more supplies , one of which is a principal supply, shall be treated as a supply of such principal supply. Thus, taxability of composite supply shall be determined on the basis of the principal supply.</p>
	<p>It is also essential to highlight here that above stated two statutory provisions viz. definition of composite supply under Section 2(30) and its taxability under Section 8, cannot be reconciled with each other. The definition of composite supply under section 2(30), comprises of supply of two or more taxable supplies of goods or services, whereas Section 8(a) provides that tax liability in respect of composite supply, comprising of two or more supplies [not taxable supplies] , one of them shall be principal supply, shall be treated as supply of such principal supply. Thus, in terms of Section 2(30) composite supply shall include only taxable supplies and not exempt supply. However, such interpretation shall not sustain in terms of provisions of Section 8(a) which does not bar the inclusions of supplies of two or exempted supplies in the definition of composite supply.</p>
	<p>Now, the question arises how to read such provisions which are prima facie contradictory to each other. In order to answer the foregoing question, reliance has to be placed on the Rule of Harmonious Construction which is one of the leading Rules of Statutory Interpretation. As per the aforesaid Rule, a statute must be read as a whole and one provision of the Act must be construed with reference to other provisions in the same Act so as to make a consistent enactment of the whole statute . Such a construction has the merit of avoiding any inconsistency or repugnancy either within a section or between sections and other parts of the statute.</p>
8(a)	<p>In the instant context, applying the above Rule of Harmonious Interpretation and judicial pronouncements, the later provision shall prevail as that is the last intention of the makers. The later provision in the instant case shall be Section 8 which provides that composite supply comprises of two or more supplies including taxable and exempted as well.</p>

<p>Supply made by a taxable person to a recipient consisting of two or more taxable supplies of goods or services or both, which are naturally bundled and supplied in conjunction with each other in the ordinary course of business, one of which is a principal supply. The term “taxable supplies” in definition of composite supply can be read as “supplies” applying the Rule of Harmonious Interpretation read with judicial pronouncements. It is also essential to mention here that there is no straight jacket formula which can be laid down to determine whether two or more supplies are naturally bundled in the ordinary course of business. Each individual case needs to be analyzed in the backdrop of several factors so as to determine whether such combination of supplies is naturally bundled in the ordinary course of business. However, if provision of one supply is incidental to the provision of main supply and it is provided so as to ensure the better enjoyment of the principal supply, then it is said to be treated as naturally bundled in the ordinary course of business.</p>				
<b>Mixed Supply - Essential Elements of a Mixed Supply</b>				
8(b)	(a)	It is a supply made by a taxable person;	(d)	It consists of two or more individual supplies of goods or services or both or any combination thereof; and
	(b)	It is made to a recipient;	(e)	It does not fulfill the parameters of a composite supply i.e. supply is not naturally bundled and not supplied in conjunction with each other in the ordinary course of business.
	(c)	It is made for a single price;		
	Tax treatment of a Mixed Supply		Treated as a supply which attracts the highest rate of tax.	

### 6.3 Composition Levy - Section 10

Sec.	Details		
10(1)	<b>Threshold limit for Composition Levy</b> Aggregate turnover in the preceding financial year did not exceed Rs. 50 Lakh.		
	Composition Levy for small taxable persons supplying goods Strict compliance of the GST Acts shall entail substantial cost in the form of detailed accounts and records to be kept and frequent returns to be filed etc. It may not be feasible for the small taxable persons to comply with the various requirements of the GST Acts on account of time and cost constraints. To help small taxable persons, the option of payment of tax under Composition Levy Scheme shall be given vide Section 10 of the CGST Act, 2017. A registered person may opt to pay an amount of tax calculated at such rate as may be prescribed in CGST Rules, in lieu of the tax payable by him at normal rates given under Sec.9(1).		
	Rate of tax after including equivalent SGST under Composition Levy shall not exceed the following rates:		
	Type of Suppliers	Maximum Rate in State or Union Territory	
	Manufacturers	2% of the turnover	
	Restaurant/Outdoor Catering/Mandap Keeper Services	5 % of the turnover	
	Other suppliers	1 % of the turnover	
In Section 10(1) maximum rates of tax under Composition Levy are given for different suppliers. Actual rates of tax under Composition Levy are given in Rule 7 of the CGST Rules, 2017.			
<b>Increase in Threshold limit for Composition Levy Scheme</b>			
The Government may increase the said limit of Rs. 50 Lakh to such higher amount but not exceeding the amount mentioned below:			
With effect from 01.02.2019		Rs. One crore and fifty lakhs	

For the period 01.07.2017 to 31.01.2019						Rs. One crore			
The Government has increased the threshold limit for Composition Levy as under:									
Location of the eligible registered person				Effective Period	Threshold Limit(Rs.)	CT N. No.	Date of N. No.		
Any of the following specified States,namely: -				W.e.f. 01.04.2019	75 Lakh	14/2019	07.03.2019		
(i)	Arunachal Pradesh								
(ii)	Manipur								
(iii)	Meghalaya								
(iv)	Mizoram								
(v)	Nagaland								
(vi)	Sikkim								
(vii)	Tripura								
(viii)	Uttarakhand								
Any of the following specified States,namely: -				13.10.2017 31.03.2019	to	75 Lakh	06/2017	13.10.2017	
(i)	Arunachal Pradesh			01.07.2017 12.10.2017	to	50 Lakh	08/2017	27.6.2017	
(ii)	Manipur								
(iii)	Meghalaya								
(iv)	Mizoram								
(v)	Assam								
(vi)	Nagaland								
(vii)	Sikkim								
(viii)	Tripura								
(ix)	Uttarakhand								
(x)	Himachal Pradesh								
Any State or Union territory excepting 7 States specified above during the corresponding period				W.e.f. 01.04.2019		1 Crore & Fifty Lakh	14/2019	07.03.2019	
Any State or Union territory excepting 9 States specified above during the corresponding period				13.10.2017 31.03.2019	to	1 Crore	46/2017	13.10.2017	
Any State or Union territory excepting 9 States specified above during the corresponding period				01.07.2017 12.10.2017	to	75 Lakh	08/2017	27.6.2017	
First Proviso	<u>Effective Date for Composition Levy</u>								
	Rule 4(1)	Time of Filing Intimation for Composition Levy					Effective Date		
		Prior to the commencement of the financial year for which the option to pay tax under Composition Levy is exercised.					From the beginning of the financial year.		
		Prior to the appointed day.					From the appointed day.		
	The intimation under Rule 3(2) for payment of tax under Composition Levy Scheme shall be								
Rule 4(2)	considered only after grant of registration to the applicant and his option to pay tax under section 10 shall be effective from the date fixed under Rule 10(2) or Rule 10(3).								
<u>Conditions and Restrictions for Composition Levy</u>									
In terms of Rule 5(1) the person exercising the option to pay tax under section 10									

	shall comply with the following conditions, namely:					
Rule 5(1)	(a)	He is neither a casual taxable person nor a non-resident taxable person;				
	(b)	The goods held in stock by him on the appointed day have not been purchased in the course of inter-State trade or commerce or imported from a place outside India or received from his branch situated outside the State or from his agent or principal outside the State, where the option is exercised under Rule 3(1);				
	(c)	The goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under Section 9(4);				
	(d)	He shall pay tax under Section 9(3) or Section 9(4) on inward supply of goods or services or both;				
	(e)	He was not engaged in the manufacture of goods as notified under Section 10(2) (e) ,during the preceding financial year;				
	(f)	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				
	(g)	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.				
	Rule 5(2)	The registered person paying tax under section 10 may not file a fresh intimation every year and he may continue to pay tax under the Composition Scheme subject to the provisions of the Act and these rules.				
Rule 7	<u>Effective Rate of Tax [after including equivalent SGST]</u>					
	S.No.	Category of registered persons	01.07.2017 to 31.12.2017	W.e.f.01.01.2018 N.No. 03 / 2018-CT, dated 23.01.208		
	1.	Manufacturers of goods other than following:-		2%	1% of the turnover	
		1	Ice-cream and other edible ice, whether or not containing cocoa			
		2	Pan Masala			
		2A	W.e.f.01.10.2019-N. No. 43/2019-CT, dated 30.09.2019 Aerated Water			
	3	Tobacco and Manufactured Tobacco Substitutes				
	2.	Restaurant Services / Outdoor Catering Services / Mandap Keeper Services		5%	5% of the turnover	
3.	Any other supplier eligible for composition levy under Sec.10 and the provisions of Composition Levy given vide Rule 3 to Rule 7 of the CGST Rules, 2017		1%	1% of the turnover of taxable supplies of goods		
Second	With effect from 01.02.2019					
	Composition dealers are allowed to supply services upto specified limit Composition Dealers are allowed to supply services (other than restaurant services, mandap keeper services and outdoor catering services) of value not exceeding 10% of turnover in a State or Union territory in the preceding financial year or Rs. 5,00,000,					

proviso	whichever is higher.
	<u>Explanation</u> 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.
	<u>Conditions and Restrictions for Composition Levy</u>
	The registered person shall not be eligible to opt for composition levy if:
10(2)	(a) <u>With Effect From 01.02.2019</u> He is not engaged in the supply of services except as provided in second proviso to Section 10(1). He may supply services (other than restaurant services, mandap keeper services and outdoor catering services) of value not exceeding 10% of turnover in a State or Union territory in the preceding financial year or Rs. 5,00,000/-, whichever is higher;
	<u>For the Period 01.07.2017 to 31.01.2019</u> He is not engaged in the supply of services with the exception of restaurant services, mandap keeper services and outdoor catering services.
	(b) He is not engaged in making any supply of goods which are not leviable to tax under GST i.e. alcoholic liquor for human consumption and specified petroleum products. Exempt supplies shall not be covered under this clause. Thus, a person engaged in supply of exempt goods may opt to pay tax under composition levy;
	(c) He is not engaged in making any inter-State outward supplies of goods;
	(d) He is not engaged in making any supply of goods through an Electronic Commerce Operator [ECO] who is required to collect tax at source under Section 52;
	(e) He is not a manufacturer of notified goods. In terms of N.No. 08/2017-CT, dated 27.06.2017 read with 14/2019 the manufacturers of ice-cream and other edible ice, whether or not containing cocoa; Pan Masala; aerated water, Tobacco and manufactured tobacco substitutes shall not be eligible to opt for composition scheme.
	(f) <u>With Effect From 01.01.2020</u> He is neither a taxable person nor a non-resident taxable person. Rule 5(1)(a) of the CGST Rules has provided for this restriction since. 22.06.2017. However, this restriction has now been included in Section 10(2) also.
Proviso	<u>All registered persons having the same PAN must opt for composition levy</u> In order to avail the benefit of composition levy scheme, it is necessary that all the business verticals/registrations which are separately held by a registered person having the same Permanent Account Number [PAN ] must opt for composition levy. Thus, a registered person shall not be eligible to opt for Composition Scheme only for one business vertical/registration out of his multiple business verticals/registrations.
	With effect from 01.04.2019 vide N.No. 02/2019-CT(R), dated 07.03.2019 [As amended vide N.No.09/2019-CT(R), dated 29.03.2019] <u>Alternative Composition Scheme for Payment of Tax for Supplier of Services or Mixed Suppliers (not eligible for earlier Composition Scheme)</u> However, aforesaid composition scheme has been implemented in exercise of the powers conferred by following sections:
	Sec. 9(1) Levy and collection of CGST on all intra-State supplies.
	Sec.11(1) Power to exempt generally, either absolutely or subject to specified conditions.
	Sec.16(1) Entitlement to take credit of input tax charged on any supplies which are used or intended to be used in the course or furtherance of the business.
	(A) <u>Eligibility</u> A registered person who is not eligible to opt to pay tax under original/earlier Composition Scheme meant primarily for supplier of goods and whose aggregate turnover in the preceding financial year did not exceed Rs. 50,00,000/-.

10(2A)	(B)	<u>Maximum Rate of Tax in State or turnover in Union territory</u>		
		Under CGST Act	Under SGST Act	Total/Effective
		3% of the turnover	3% of the turnover	6% of the turnover
	(C)	Conditions and Restrictions to be complied with by the Registered Person		
		(a)	He is not engaged in making any supply of goods or services which are not leviable to tax under this act like alcoholic liquor for human consumption;	
		(b)	He is not engaged in making any inter-state outward supplies of goods or services;	
		(c)	He is not engaged in making any supply of goods or services through an electroniccommerce operator who is required to collect tax at source under section 52;	
			He is not a manufacturer of such goods or supplier of such services as may be notified by the	
	(d)	government on the recommendations of the council; and		
	(e)	He is not a casual taxable person or a non-resident taxable person.		
	(D)	<u>All registered persons having same pan shall pay tax under this composition scheme only</u>		
		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 this composition scheme unless all such registered persons opt to pay tax under this composition scheme.		
10(3)	<u>Lapse of Option for both Composition Schemes</u>			
	The option availed of by a registered person shall lapse with effect from the day on which his aggregateturnover during a financial year exceeds the limit specified below:			
	Composition scheme primarily for suppliers of goods			
	For specified states			
	W.e.f. 01.04.2019 and for the period 13.10.2017 to 31.03.2019		Rs. 75 Lakh	
	01.07.2017 to 12.10.2017		Rs. 50 Lakh	
	Any state or union territory excepting specified states			
	W.e.f. 01.04.2019		Rs. 1.5 Crore	
	13.10.2017 to 31.03.2019		Rs. 1 Crore	
	01.07.2017 to 12.10.2017		Rs. 75 Lakh	
Composition scheme primarily for supplier of services				
Any State or Union territory				
W.e.f. 01.04.2019		Rs. 50 Lakh		
It is to be noted carefully that the word “day” has been used in aforesaid Section 10(3). Section 18(1) (c) of CGST Act , if a person ceases to pay tax under section 10 i.e. composition scheme, he shall be entitled to take credit of Input Tax in respect of the Inputs held in stock, Inputs contained insemi-finished or finished goods held in stock and on capital goods on the day immediately preceding the date from which he becomes liable to pay tax under Normal Scheme. Accordingly, there shall be no loss of credit to the registered person.				
10(4)	<u>No Tax to Be Collected from neither the Recipient nor Any ITC Shall Be Allowed under both the CompositionSchemes</u>			
	Following two prohibitions shall be imposed on a taxable person who opts for either of the compositionSchemes applicable to him/itself:			
	(a)	Prohibition on collecting any tax from the recipient on supplies made by him; and		
	(b)	Prohibition on availing credit of input tax.		
<u>Imposition of penalty in case of wrong availment of either of the composition schemes</u>				

10(5)	If it comes to the knowledge of the proper officer that a taxable person was not eligible to opt for either of the composition schemes, but has wrongly availed the same then the concerned taxable person shall be liable to pay the following:	
	(a)	Tax which may be payable by him under other provisions of the Act i.e. at regular rates; and
	(b)	Penalty. As no specific penalty has been provided in the law for this infringement, the taxable person shall be subject to penalty under section 125 of the CGST Act, 2017. This section provides that any person, who contravenes any of the provisions of this Act or any rules made there under for which no penalty is separately provided for in this Act, shall be liable to a penalty which may extend to Rs. 25,000/-. Thus, maximum amount of penalty shall be Rs. 25000/-. However, penalty for less than Rs. 25,000/- may be imposed.
<u>Explanation 1</u> .- 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.		
<u>Explanation 2</u> .- 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.	

### 6.3.1 Significance of the terms “Aggregate Turnover” and “Financial Year”

As the criteria for eligibility for opting composition scheme for a registered person shall be aggregate turnover not exceeding Rs. 75 Lakh in the preceding financial year, It must be kept in mind while computing the tax liability under the composition scheme that the term “turnover in a State or turnover in Union territory “has been defined under section 2(112) of the CGST Act, 2017.	
The turnover in state or union territory shall include the value of exempt supplies thereby composition taxable person shall be liable to pay tax on aggregate value of taxable supplies including the value of exempt supplies.	
Controversy regarding Applicability of Aggregate Turnover limit in the first financial year to which GST is applicable	
Will the aggregate turnover limit of Rs.75 lakh apply to existing tax payers who have migrate themselves under GST and their turnover in the preceding financial year i.e. 2016-17 exceeded Rs. 75 lakh considering that this Act under which the term aggregate turnover has been defined was not in force during F/Y 2016-17?	
Following Different views are prevailing in trade and industry regarding the aggregate turnover limit for availing the benefit of composition scheme:	
View 1	Limit of Rs. 75 lakh shall be considered. If aggregate turnover computed as per the discussion above of F/Y 2016-17 exceeds Rs. 75 lakh, such person is not eligible to pay tax under composition scheme.
View 2	Since the term aggregate turnover had no legal enforceability in financial year 2016-17, the same cannot be read into for determining the eligibility to avail composition scheme for financial year 2017-18. Thus, aggregate turnover shall be considered as Nil and every person dealing in eligible supplies is entitled to pay tax under composition scheme till his aggregate turnover in GST exceeds Rs. 75 lakh.

### 6.3.2 Intimation for Composition Levy

(1)	<p>Any person who has been granted registration on a provisional basis under Rule 24(1) (b) and who opts to pay tax under section 10, shall electronically file an intimation in FORM GST CMP-01 , duly signed or verified through electronic verification code, on the common portal, prior to the appointed day, but not later than thirty days after the said day, or such further period as may be extended by the Commissioner in this behalf. Further, the said intimation may be filed either directly or through a Facilitation Centre notified by the Commissioner. In exercise of foregoing power, the period for filing intimation in FORM GST CMP-01 has been extended to 16.08.2017 vide Order no. 01/2017-GST, dated 21.07.2017.</p>
Proviso to Rule 3(1)	<p>Where the intimation in FORM GST CMP-01 is filed after the appointed day, the registered person shall not collect any tax from the appointed day but shall issue bill of supply for supplies made after the said day.</p>
(2)	<p>Any person who applies for registration under Rule 8(1) may give an option to pay tax under Section 10 in Part B of FORM GST REG-01 which shall be considered as intimation to pay tax under the said section.</p>
(3)	<p>Any registered person who opts to pay tax under section 10 shall electronically file an intimation in FORM GST CMP-02, duly signed or verified through EVC, on the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised and shall furnish the statement in FORM GST ITC-03 in accordance with the provisions of Rule 44(4) within a period of sixty days from the commencement of the relevant financial year.</p>
(4)	<p><u>Option to pay tax under composition levy by a person granted provisional registration or a person who is liable to be registered -Rule 3(3A)</u>  <u>For the Period 15.9.2017 to 12.10.2017 - Inserted vide N.No.34/2017-CT, dated 15.09.2017</u>  A person who has been granted registration on a provisional basis under Rule 24 or who has applied for registration under Rule 8(1) may opt to pay tax under section 10 with effect from 01.10.2017 by electronically filing an intimation in FORM GST CMP-02, before the said date and shall furnish the statement in FORM GST ITC-03 in accordance with the provisions of Rule 44(4) within 90 days from the said date.  <u>For the Period w.e.f. 13.10.2017 Substituted vide N.No.45/2017-CT, dated 13.10.2017 read with N. No 03/2018 - CT dated 23.01.2018</u>  A person who has been granted registration on a provisional basis under Rule 24 or who has been granted certificate of registration under Rule 10(1) may opt to pay tax under section 10 with effect from the first day of the month immediately succeeding the month in which he files an intimation in FORM GST CMP-02, on the common portal on or before 31.03 2018, and shall furnish the statement in FORM GST ITC-03 in accordance with the provisions of sub-rule (4) of rule 44 within a period of 180 days (90 days upto 22.01.2018) from the day on which such person commences to pay tax under Section 10.</p>
(5)	<p>Any person who files an intimation under sub-rule (1) to pay tax under section 10 shall furnish the details of stock, including the inward supply of goods received from unregistered persons, held by him on the day preceding the date from which he opts to pay tax under the said section, electronically, in FORM GST CMP-03, on the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner, within a period of 90 days [60 days for the period 01.07.2017 to 16.08.2017] of the date from which the option for composition levy is exercised or within such further period as may be extended by the Commissioner in this behalf. In exercise of the above power of the Commissioner, the period for intimation of details of stock held on the date preceding the date from which the option to pay tax under Section 10 of the Act is exercised in FORM GST CMP-03.</p>

(6)	Any intimation under Rule 3(1) of the CGST Rules in respect of any place of business in any State or Unionterritory shall be deemed to be intimation in respect of all other places of business registered on the same PAN.
	Note: The provisions of this section have been made applicable w.e.f. 22.06.2017 vide N. No.1/2017-CT dated 19.06.2017 and accordingly the last date to intimate the department regarding willingness to opt for composition scheme shall be 21.07.2017 i.e. 30 days from the appointed day (22.06.2017).

### 6.3.3 Validity of composition levy

(1)	The option exercised by a registered person to pay tax under section 10 shall remain valid so long as he satisfies allthe conditions mentioned in the said section and these rules.
(2)	The person referred to in Rule 6 (1) shall be liable to pay tax under Normal levy scheme i.e. Section 9(1) from the day he ceases to satisfy any of the conditions mentioned in section 10 or these rules and shall issue tax invoice for every taxable supply made thereafter and he shall also file an intimation for withdrawal from the scheme in FORM GST CMP-04 within seven days of occurrence of such event.
(3)	The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in GST CMP-04 , duly signed or verified through EVC, electronically on the Common Portal.
(4)	Where the proper officer has reasons to believe that the registered person was not eligible to pay tax under section 10 or has contravened the provisions of the Act or these rules, he may issue a notice to such person in FORM GST CMP-05 to show cause within fifteen days of the receipt of such notice as to why the option to pay tax under section 10 should not be denied.
(5)	Upon receipt of reply to the show cause notice issued under sub-rule (4) from the registered person GST CMP-06 , the proper officer shall issue an order in FORM GST CMP-07 within thirty days of receipt of such reply, either accepting the reply, or denying the option to pay tax under section 10 from the date of option or from the date of the event concerning such contravention, as the case may be.
(6)	Every person who has furnished an intimation under sub-rule (2) or filed an application for withdrawal under sub-rule (3) or a person in respect of whom an order of withdrawal of option has been passed in FORM GST CMP-07 under sub-rule (5), may electronically furnish at the Common Portal, either directly or through a Facilitation Centre notified by the Commissioner, a statement in FORM GST ITC-01 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 or denied, within 30 days, from the date from which the option is withdrawn or from the date of order passed in FORM GST CMP-07 , as the case may be.
(7)	Any intimation or application for withdrawal under sub-rule (2) or (3) or denial of the option to pay tax under section 10 in accordance with sub-rule (5) in respect of any place of business in any State or Union territory shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

### 6.3.4 Periodicity of Payment of Tax & Furnishing of Return and Deemed Compliance with Provisions of Section 37 &Section 39

Payment of Tax on	With effect from 23.04.2019- N. No. 21/2019-CT, dated 23.04.2019 Registered Persons eligible for Composition Levy shall furnish a Statement , for every quarter or, as the case may be, part thereof, in FORM GST CMP-08 till the 18th day of the month succeeding such quarter. Further, the aforesaid statement
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Quarterly basis	shall contain the details of payment of self-assessed tax.	
	For the period 01.07.2017 to 31.03.2019 A registered person eligible for Composition Levy shall make payment of GST electronically for eachquarter or part thereof within 18 days after the end of such quarter.	
Annual GST Return	With effect from 23.04.2019- N. No.21/2019-CT, dated 23.04.2019 Following Registered Persons shall furnish a return for every financial year or, as the case may be, part thereof, in FORM GSTR-4 on or before 30thApril following the end of such financial year:	
	1.	Registered Persons paying tax under the provisions of Section 10 i.e. primarily Supplier of Goods ; or
	2.	Registered Persons paying tax by availing the benefit of N. No. 02/2019-CT(R), dated 07.03.2019 i.e. primarily suppliers of services.
Deemed Compliance with Sec.37 and Sec.39	N. No.21/2019-CT, dated 23.04.2019 The registered persons paying tax by availing the benefit of N.No.02/2019-CT(R), dated 07.03.2019 i.e. primarily suppliers of services shall be deemed to have complied with the provisions of Section 37 and Section 39 of the CGST Act, if they have furnished above mentioned FORM GST CMP-08 and FORM GSTR-4.	

#### 6.4 Composition scheme primarily for supplier of services

W.e.f.01.04.2019-N.No.02/2019-CT(R),dated 07.03.2019-amended Vide N.No.09/2019-CT(R), dated 29.03.2019		
Quantum of Supply eligible for Composition Scheme		
“First supplies of goods or services or both” upto an aggregate turnover of Rs. 50,00,000 made on or after the 1st April in any financial year		
Inclusion and Exclusion from the expression “first supplies of goods or services or both”		
Inclusion for the purposes of determining eligibility of a person to pay tax under this notification	Exclusion for the purpose of determination of tax payable under this notification	
The supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the CGST Act.	The supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the CGST Act.	
Conditions and Restrictions for Payment of Tax under this Notification		
Supplies are made by a registered person, -		
1.	(i)	Whose aggregate turnover * [Refer Note] in the preceding financial year was Rs. 50,00,000 (Rupees fifty lakh) or below ;
	(ii)	Who is not eligible to pay tax under Section 10(1) of the CGST Act;
	(iii)	Who is not engaged in making any supply which is not leviable to tax under the CGST Act;
	(iv)	Who is not engaged in making any inter-State outward supply ;
	(v)	Who is neither a casual taxable person nor a non-resident taxable person ;
	(vi)	Who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52; and
	(vii)	Who is not engaged in making supplies of any of the following goods :
	S.No.	Tariff item, subheading, heading or Description

	Chapter	
1	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2	2106 90 20	Pan masala
2A	2202 1010	W.e.f. 01.10.2019- Aerated Water
3	24	All goods, i.e. Tobacco and manufactured tobacco substitutes
*Note: Aggregate Turnover shall not include value of supply of exempt services by way of extending deposits, loans or advances.		
In computing aggregate turnover in order to determine eligibility of a registered person to pay central tax at the rate of 3% , 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.		
2.	<u>All Registered Persons having Same PAN shall Pay Tax under this Notification</u> Where more than one registered persons are having the same permanent account number, issued under the income tax act, 1961, central tax and state tax on supplies by all such registered persons is paid under Composition Scheme at the rate of 3% each under CGST Act and SGST Act.	
3.	<u>No Tax Collection and No ITC</u> 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.	
4.	<u>Issue of Bill of Supply</u> The registered person shall issue, instead of tax invoice, a bill of supply.	
5.	<u>Specified Words to be mentioned on the top of bill of supply</u> The registered person shall mention the following words at the top of the bill of supply, namely: 'Taxable person paying tax in terms of Notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies'.	
6.	<u>Composition Tax to be paid on All Outward Supplies</u> The registered person opting to pay central tax at the rate of 3% under this notification shall be liable to pay central tax at the rate of 3% on all outward supplies of goods or services or both upto an aggregate turnover of Rs. 50 Lakh made on or after 1st April in any financial year.	
7.	<u>Payment on Tax at Applicable Rates in r/o Inward Supplies on which tax is paid under RCM</u> The registered person opting to pay central tax at the rate of 3% under this notification shall be liable to pay central tax on inward supplies on which he is liable to pay tax on Reverse Charge basis under Section 9(3) or under Section 9(4) of the CGST Act at the applicable rates.	
8.	Inserted vide N.No.09/2019-CT(R), Dated 29.03.2019 <u>Reversal of ITC where the Supplier Shifts from Regular Scheme to Composition Scheme under this Notification</u> Where any registered person who has availed of input tax credit 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, equivalent to the credit of input tax 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 there-under. Section 18(4) deals with reversal of ITC where the supplier shifts from Regular Scheme to Composition Scheme. Further, after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.	

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