

# Composition Levy

## Legal Provision

### Section 10 (1) - Eligibility Criteria for Composition Levy

*Notwithstanding anything to the contrary contained in this Act*

*but subject to the provisions of sub-sections (3) and (4) of section 9,*

a **registered person**, whose **aggregate turnover** in the preceding financial year did not exceed **₹ 1.5Cr.** (75 lacs for **Special category State except state of Assam, Himachal Pradesh and Jammu & Kashmir**) *may opt to pay*, in lieu of the tax payable by him **u/s 9(1)**, an amount calculated at such rate as may be prescribed, but **not exceeding**,-

Refer Note-1

Refer Note-2

Refer Note-3

- Half Per cent** of the **turnover in State** or **turnover in Union territory** in case of a **manufacturer**,
- 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**
- half per cent** of the turnover of taxable supply of goods (An services as per rule 7 below) in State or turnover in Union territory in case of **other suppliers**.

*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 10% of turnover in a State or Union territory in the preceding financial year or 5 lakh rupees, whichever is higher.*

Newly Inserted by CGST Amendment Act, 2018

Refer Note-4

**Actual Rate of Tax under Composition Scheme notified in Rule 7 of CGST Rules, 2017 (Amended by N/n 1/2018 C.T.) [ following rates to be remember by students ]**

Sr.No	Categories of registered person	Central Rate	State/UT GST Rate	Total Rate	Basis of Calculation
1	Manufacturers other than manufacturers of such goods as may be notified by the government	0.5% <small>Amended</small>	0.5%	1%	Turnover in State
2	Suppliers making supplies referred to in Clause (b) of para 6 of schedule II Example - Restaurant, Catering, Mess or any other service contract where goods as food or drink is supplied for human consumption	2.50%	2.50%	5%	Turnover in State
3	Other Suppliers	0.50%	0.50%	1%	Turnover of taxable supplies of goods & services in State

Inserted by N/N 3/2019 dt 29/01/2019

### Section 10 (3) - Eligibility Criteria for Composition Scheme

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.e. 1.5 Cr.)

## Section 10 (2) - Conditions for Composition Scheme

**Old Provision -** (a) he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;

**New Provision -** (a) Save as provided in subsection (1), he is not engaged in the supply of services

*Comment: - As we have seen in proviso to sec 10(1), 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 10% of turnover in a State or Union territory in the preceding financial year or 5 lakh rupees, whichever is higher.*

### Following amendments are made in different clauses of Sec 10(1)

**Note - 1 :** Earlier, the Government had the power to increase the turnover limit for determining the eligibility for composition scheme (hereinafter referred to as eligibility turnover limit) upto ₹ 1 crore [First proviso to section 10 of CGST Act].

**The said provision has been amended thereby empowering the Government to enhance the eligibility turnover limit for composition scheme upto ₹ 1.5 crore.**

Now a registered person, whose aggregate turnover in the preceding financial year did not exceed ₹ 1.5 crore is eligible to opt for composition scheme.

**Note - 2 :** Turnover limit for determining the eligibility for composition scheme in case of Special Category States

Turnover upto 75 lacs	Turnover upto 1.5 Cr.
➡ Arunachal Pradesh	➡ Assam
➡ Uttarakhand	➡ Himachal Pradesh
➡ Manipur	➡ Meghalaya
➡ Mizoram	➡ Nagaland
➡ Sikkim	➡ Tripura
➡ Jammu & Kashmir	

**Note - 3 :** Section 10(1) has been amended in following manner with a view to remove any interpretational ambiguity and stipulate that the composition tax payers shall pay tax as a percentage of their turnover instead of the tax payable on the invoice value of the transactions under section 9(1) [applicable to regular taxpayers].

**Note - 4 : Composition scheme taxpayers permitted to render services other than restaurant services upto a specified limit [Second proviso to section 10 of the CGST Act]**

**Situation before amendment -** Under the old provisions, only a supplier of restaurant service was eligible for composition scheme.

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.

**Amendment -** With a view to enable such taxpayers to avail of the benefit of composition scheme, second proviso has been added to section 10(1) which permits a registered person opting for composition scheme to supply services [other than restaurant services] of specified value. 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.

**Impact -** Thus, a registered person opting for composition scheme whose turnover is more than ₹ 50 lakh and upto ₹ 1.5 crore in the preceding financial year 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 or ₹ 5 lakh, whichever is higher.

## Question

Mr. X is a trader eligible for composition scheme in financial year 18-19 as his turnover in preceding financial year is ₹ 68 lakhs. In the current year Mr. X made following supply

- 1 April 2018 supply the goods to Mr. Raj worth ₹2,50,000
- 10 April 2018 supply the goods to Mr. Veer worth ₹7,50,000
- 20 May 2018 supply the goods to Mr. Sameer worth ₹22,00,000
- 22 May 2018 supply the service to Mr. Tushar worth ₹2,20,000

Calculate the GST payable by Mr. X & whether Mr. X is eligible for composition scheme after 22 May 2018?

**Answer:**

**Legal Provision:-** As per Section 10(1) of CGST Act, 2017 inter alia provides that the benefit of composition levy can be availed by a registered person if the aggregate turnover in the preceding financial year does not exceed ₹ 1.5 crore. However, the said threshold is reduced to ₹ 75 lakh in case of special category states other than Assam, Himachal Pradesh and Jammu & Kashmir.

Provided further that In case of manufacturer, trader or supplier of service as per clause (b) para 6 schedule II under sec 10(1) may supply services (other than those refer in clause (b) of paragraph 6 of schedule II), of value not exceeding 10% of turnover in state or union territory in the preceding financial year or 5 lakh rupees, whichever is higher.

Conclusion: Calculation of GST = Total supply of goods X 1 %

Sr. No.	Particular	Calculation	CGST	SGST
1.	Supply to Raj	2,50,000x 0.5%	1,250	1,250
2.	Supply to Veer	7,50,000x 0.5%	3,750	3,750
3.	Supply to Sameer	22,00,000x 0.5%	11,000	11,000
	<b>Total</b>		<b>16,000</b>	<b>16,000</b>

Calculation of GST payable on service supply= CGST = ₹2,20,000 x 0.5% = ₹1100

SGST = ₹2,20,000 x 0.5% = ₹1100

Mr X can supply the services upto ₹6,80,000 (i.e. 10% of 68 lakh or 5 lakh whichever is higher).

In the given case, Mr. X supply the service only for ₹ 2,20,000 which is within the limit.

Therefore in the given case Mr. X is eligible for composition scheme even after 22 May 2018

### Regarding applicability of composition scheme to a registered person supplying services upto a limit (Removal of Difficulties Order no 1/2019 - CT dt 01/02/2019 supersedes Removal of Difficulties Order No. 1/2017 - Central Tax dated 13.10.2017 )

- a registered person engaged in the supply of services, other than supply of service referred to in clause (b) of paragraph 6 of Schedule II to the said Act, may opt for the scheme under the sec 10(1) of CGST Act
- a person who opts for the said scheme may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II to the said Act), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher;

**Issue:-** A person rendering services as part of the savings and investment practice of business, by way of extending deposits, loans or advances, in so far as the consideration is represented by way of interest or discount, is resulting in their ineligibility for the aforesaid scheme, causing hardships to a lot of small businesses and because of that, certain difficulties have arisen in giving effect to the provisions of section 10.

**Clarification –** As per the above stated provisions, it is hereby clarified 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–

- for determining the eligibility for composition scheme under second proviso to sub-section (1) of section 10;
- in computing aggregate turnover in order to determine eligibility for composition scheme.

**Analysis: -** Earlier as per Removal of Difficulties Order No. 1/2017 - Central Tax dated 13.10.2017 this clarification was only regarding to restaurant service provider who wanted to opt for composition scheme but now this has been extended to all eligible persons under composition scheme if they are providing such exempt services and this is for the purpose of computing aggregate turnover and also for determining eligibility criteria to opt for composition scheme.

**Question Case Study**

M/s XYZ Pvt. Ltd. a manufacturer having the only registered place of business in the state of Maharashtra. Determine the eligibility to opt for composition scheme and also compute tax liability of M/s XYZ Pvt. Ltd. on the basis of following information assuming that total value of service provided by the company in Preceding Financial Year (PFY) is within the allowed limit of section 10(1) except interest and restaurant service.

S. No.	Particulars	PFY 2018-19 (₹)	1st Qtr 2019-20 (₹)
1.	Value of taxable supply of goods	90.00 lacs	20.00 lacs
2.	Value of exempt supply of goods	20.00 lacs	5.00 lacs
3.	Value of taxable supply of service	5.00 lacs	1.00 lac
4.	Value of exempt supply of service	3.00 lacs	0.50 lac
5.	Value of supply of restaurant service	15.00 lacs	1.50 lacs
6.	Interest on loan/advances/deposits	4.00 lacs	1.20 lacs

Calculate GST payable under composition scheme for 1st quarter of CFY 2019-20

**Answer: Legal Provision:** As per section 2(6) of CGST Act, 2017, aggregate turnover means the aggregate value of :

- All taxable supplies (other than inward supplies under RCM)
- Exempt Supplies
- Export of goods or services or both and

- Inter-state supplies of person having same PAN

to be computed on all India basis but it excludes central tax, state tax, union territory tax, integrated tax and cess

a) Calculation of aggregate turnover of PFY 2018-19.

Particulars	₹ in lacs
Value of taxable supply of goods	90.00
Value of exempt supply of goods	20.00
Value of taxable supply of service	5.00
Value of exempt supply of service	3.00
Value of supply of restaurant service	15.00
<b>Aggregate turnover</b>	<b>133.00</b>

**Note:**

a) Interest on loan/advances/deposit shall not to be considered for calculation of aggregate turnover

b) Calculation of value of supply of service to be allowed in CFY 2019-20 as per CGST Amendment Act, 2018

The applicable limit is 10% of turnover in state i.e. ₹13.3 lakhs or ₹ 5 lakhs whichever is higher.

Actual supply of service in CFY [taxable supply + exempt supply] = ₹ 1.5 lakhs which is within limit

**Note:** Interest on loan/advances/deposits not to be considered in above limit

c) Calculation of GST on supply of goods and services except restaurant service

S. No.	Particulars	(₹)
1.	Value of taxable supply of goods	20,00,000.00
2.	Value of exempt supply of goods	5,00,000.00
3.	Value of taxable supply of service	1,00,000.00
4.	Value of exempt supply of service	50,000.00
		<b>26,50,000.00</b>
	CGST @ 0.5%	13,250.00
	SGST @ 0.5%	13,250.00
	Total	<b>26,76,500.00</b>

#### d) Calculation of GST liability on restaurant service

Particulars	(₹)
Value of Supply	1,50,000.00
CGST @ 2.5 %	3,750.00
SGST @ 2.5 %	3,750.00
Total	1,57,500.00

#### Note:

- i. Manufacturer shall pay composition tax @ 1% of turnover in state which also includes nil rate & wholly exempt supply.
- ii. Author's opinion as per above order: interest on loan to be excluded only from Aggregate turnover & not from Turnover in State. Hence it should be added for calculation of GST liability but still there is no clarification, hence, not taken for above calculation.

### Composition Scheme for Service: (Effective from 1 st April, 2019) [N/N 2/2019 – CT(R) dt 7/3/2019]

#### Eligibility Criteria :-

- 1) Supplies are made by registered person whose aggregate turnover in Preceding financial year was ₹50Lakh or below.
- 2) Supply is not eligible to pay tax u/s 10(1) of CGST Act

**Composite Tax rate & Levy in current year :- GST rate 6%** (i.e. CGST 3% & SGST 3%) **on first supply of goods or services or both** upto an aggregate turnover of ₹50 lakh made on or after the first day of April in any financial year, by a registered person

**Explanation - "first supplies of goods or services or both"** shall,

**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 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.

### Other condition for availing composition scheme:-

- a) The supplier should not be engaged in the business of making any supplies on which GST is not leviable under this Act (i.e., petro products or alcoholic liquor).
- b) The supplier should not be making any interstate supplies.
- c) The supplier should not be a casual taxable person, non-resident taxable person and
- d) The supplier should not making any supply through e-commerce operator (ECO) on which TCS applies.
- e) Shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
- f) Shall be liable to pay central tax on inward supplies on which he is liable to pay tax under Section 9(3) or 9(4) of CGST Act at the applicable rates.
- g) Shall issue, instead of tax invoice, a **bill of supply** as referred to in section 31(3)(c) of the CGST Act with particulars as prescribed in rule 49 of CGST Rules.

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'

- h) The supplier should not be engaged in business of ice cream, Pan Masala, Tobacco and tobacco substitutes.

### Analysis:-

**Removal of ITC :-** 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 said Act and the rules made there-under **and after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.**"; (Newly Inserted by N/N 9/2019 CT (R) dt 29/03/2019)

**Applicability of CGST Rules related to composition levy :-** The Central Goods and Services Tax Rules, 2017, as applicable to a person paying tax under section 10 of the said Act shall, mutatis mutandis, apply to a person paying tax under this notification.". (Newly Inserted by N/N 9/2019 CT (R) dt 29/03/2019)

### Intimation of option to pay tax under Notification:- (Circular no. 97/16/2019 -GST dt 05/04/2019)

1. **Intimation by a registered person:** a registered person who wants to opt for payment of central tax @ 3% by availing the benefit of the notification, may do so by filing intimation in the manner specified in rule 3(3) of the CGST rules in **FORM GST CMP-02 by selecting the category of registered person as "Any other supplier eligible for composition levy"**.

Such person shall also furnish a statement in FORM GST ITC03 in accordance with the provisions of rule 3(3) of the CGST rules. The option to pay tax by availing the benefit of the notification would be **effective from the beginning of the financial year.**

2. **Intimation by person applying for registration:** any person who applies for registration and who wants to opt for payment of central tax @ 3% by availing the benefit of the said notification, if eligible, may do so by **indicating in the FORM GST REG-01 at the time of filing of application for registration**

The option to pay tax by availing the benefit of the notification would be **effective from the date of registration** in cases where new registration has been obtained during the financial year.

The option of payment of tax by availing the benefit of the said notification in respect of any place of business in any State or Union territory shall be deemed to be applicable in respect of all other places of business registered on the same Permanent Account Number.

**Note:-** In computing aggregate turnover in order to determine eligibility of a registered person to pay central tax at the rate of three percent 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.

**Denial of composition option by tax authorities and effective date thereof via Circular no. 77/51/2018-GST dt 31/12/2018**

Voluntary withdrawal of composition scheme	Registered person exceeding Aggregate turnover of ₹1.5 Cr	By Tax authority (Proper officer)
<ol style="list-style-type: none"> <li><b>Form</b> - A registered person who intends to withdraw from composition scheme shall file an application in form CMP 04 within 7 days from such withdrawal</li> <li>Effective date of such withdrawal shall be the date indicated by the dealer in the intimation/application</li> </ol> <p><b>Note:-</b> But that date cannot be prior to the commencement of FY in which withdrawal application is filed.</p> <p><b>Example:</b> – CMP-04 is filed on 23/04/2018 (FY 2018-19). The date to be indicated in CMP-04 for the withdrawal, cannot be before 01/04/2018.</p>	<ol style="list-style-type: none"> <li><b>Form</b> - CMP 04 within 7 days of the occurrence of such event</li> <li>Effective date of such withdrawal shall be the date indicated by the dealer in the intimation/application.</li> </ol>	<ol style="list-style-type: none"> <li><b>Notice in form</b> - CMP 05 by proper officer</li> <li>Reply in form CMP- 06 from registered person</li> <li>Order in form CMP -07 within 30-days of the receipt of such reply</li> <li>*Effective date - The effective date of such withdrawal as may be <b>determined by tax authority including any retrospective date but not before the date of contravention of the provision of CGST Act and rules</b></li> </ol>

**Note:-** Provision of section 18(1)(c) of the CGST Act shall apply for claiming credit on inputs held in stock, inputs contained in semi-finished or finished goods held in stock and on capital goods on the date immediately preceding the date of issue of the order.