

Chapter I

Levy and Collection of Tax

FAQ

Meaning and scope of supply (Section 7)

Q1. What is the scope of the term 'supply' as defined in CGST Act, 2017?

Ans. As per Sub-section (1) of Section 7, Supply includes:

1. all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business;
2. import of services for a consideration whether or not in the course or furtherance of business;
3. the activities specified in Schedule I, made or agreed to be made without a consideration; and
4. the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

Q2. Is it required to distinguish whether a particular supply involves supply of goods or services or both?

Ans. Yes. The CGST Act, 2017 specifies certain provisions separately for supply of goods and supply of services viz., Section 12 and Section 13 provides for ascertaining time of supply of goods and time of supply of services respectively; similarly separate provisions have been specified for ascertaining place of supply of goods and place of supply of services. Further, the rate of tax applicable to supply of goods and supply of services may be different. Accordingly, it is important to distinguish whether a particular transaction involves supply of goods or supply of services.

Q3. How to distinguish whether a particular supply involves supply of goods or services or both?

Ans. The Schedule II appended to CGST Act, 2017 enlists the activities which are to be treated as supply of goods or supply of services. One may refer Schedule II with reference to Section 7 to classify whether the transaction involves supply of goods or supply of services.

Q4. Whether supply of goods or services without consideration is liable to tax?

Ans. The activities enumerated in Schedule I will qualify as supply even if made without consideration. Accordingly, such supplies in the absence of consideration are liable to

tax. To illustrate, following are the activities which will qualify as supply in the absence of consideration and eventually would be liable to tax:

1. Permanent transfer or disposal of business assets where input tax credit has been availed on such assets.
2. Supply of goods or services or both between related persons or between distinct persons as specified in section 25, when made in the course or furtherance of business:
Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as supply of goods or services or both.
3. Supply of goods—
 - (a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or
 - (b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.
4. Import of services by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Q5. Whether transfer of goods to another branch located outside the State is taxable?

Ans. In terms of Section 25(4) of the CGST Act, 2017, every person is required to obtain separate registration for every branch located in different state or union territory and shall be treated as distinct persons. Accordingly, the supply of goods (stock transfers) to a branch located outside the State would qualify as supply liable to tax in terms of clause 2 to Schedule I of the CGST Act, 2017. Further, it is important to note that, supply of goods to a branch / unit located within the same State having separate registration would also be liable to tax since both such units (supplying unit and recipient unit) would qualify as distinct person in terms of Section 25(4).

Q6. Whether gifts given by employer to employee will also qualify as supply?

Ans. In terms of Explanation appended to Section 15 it is clarified that employer and employee will be deemed to be related persons. Accordingly, in terms of proviso to clause 2 of Schedule I, gift by an employer to employee will be a supply and will be liable to tax. However, any gifts for a value not exceeding fifty thousand rupees in a financial year will not qualify as supply and as such will not be liable to tax.

Q7. Whether supply of goods by principal to his agent or by agent to his principal is taxable in the absence of consideration?

Ans. In terms of Section 7 read with Schedule I, following would qualify as supply:

1. Supply of goods by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or

2. Supply of goods by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.

Q8. Whether import of services will be liable to tax under GST regime?

Ans. The following import of service will qualify as supply under CGST Act, 2017:

1. import of service for a consideration whether or not in the course or furtherance of business is a supply;
2. import of service by a taxable person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Tax liability on composite and mixed supplies (Section 8)

Q9. What is composite supply?

Ans. In terms of Section 2(30) of CGST Act, 2017 composite supply means supply consisting of two or more taxable supplies of goods or services or both, or any combination thereof, 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 illustration of composite supply appended to Section 2(30) is as follows:

Where goods are packed and transported with insurance, the supply of goods, packing materials, transport and insurance is a composite supply and supply of goods is a composite supply.

Q10. How would the tax liability be determined in case of Composite supply?

Ans. In terms of Section 8 of the CGST Act, 2017 tax liability in case of composite supply should be determined with reference to the principal supply forming part of such composite supply.

Q11. What is Mixed Supply?

Ans. In terms of Section 2(74), mixed supply means two or more individual supplies of goods or services or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply. The illustration of mixed supply appended to Section 2(74) is as follows:

A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drink and fruit juices when supplied for a single price is a mixed supply. Each of these items can be supplied separately and is not dependent on any other. It shall not be a mixed supply if these items are supplied separately.

Q12. How would the tax liability be determined in case of Mixed supply ?

Ans. In terms of Section 8, the tax liability in case of a mixed supply shall be ascertained with reference to that particular supply which attracts highest rate of tax.

Levy and Collection (Section 9)

Q13. What are the taxes that are levied on an intra-State supply?

Ans. In terms of Section 9 of the CGST Act, 2017, intra-State supplies are liable to CGST & SGST. In terms of Section 7 of UTGST Act, 2017, intra-State supplies effected by a taxable person located in Union Territory (within the Union Territory) will be liable to CGST & UTGST.

Q14. How to ascertain the taxable value for levy of CGST & SGST/UTGST?

Ans. Section 15 of the CGST Act, 2017 specifies that the value of supply of goods or services or both shall be the transaction value, which is the price actually paid or payable for the said supply of goods or services or both where the supplier and the recipient of the supply are not related and the price is the sole consideration for the supply. Further Section 15 provides for certain inclusions which will form part of the value viz., incidental expenses, commission, interest, penalty etc. In cases where the supplier and recipient are related persons or where the price is not the sole consideration, the provisions and method for ascertaining the value of taxable supply as prescribed in valuation rules shall apply..

Q15. What is the rate of tax that is applicable on intra-State supplies?

Ans. The applicable rate of tax is yet to be notified. However, the provisions specifies that the Central/State Government may specify rate of tax not exceeding 20%.

Q16. Who is responsible to pay taxes?

Ans. Generally, the person effecting taxable supplies is liable to pay taxes. However, following are certain exceptions:

- (a) Reverse charge: Supply of goods or services or both, as may be notified by the Government on the recommendations of the Council, the tax on which shall be paid by the recipient under reverse charge; and
- (b) E-Commerce: Categories of services as may be notified by the Government on the recommendation of Council the tax on which shall be paid by the electronic commerce operator if such services are supplied through it

Q17. What does the payment of tax under reverse charge mean?

Ans. In terms of Section 2(98), the terms reverse charge is defined to mean 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.

Q18. What are the different types of supplies which are liable to tax under reverse charge mechanism?

Ans. As per Section 9 of the CGST Act, 2017 there are two types of supplies which are liable to tax under reverse charge mechanism which are:-

1. Specified categories of supply of goods or services or both as notified by government on recommendation of the council
2. Supply of taxable goods or services or both by an unregistered supplier to a registered person

Q19. Whether the tax on intra-State supplies is applicable to every supplies?

Ans. No. Section 9(1) which is the charging provision for levy and collection of tax on intra-State supplies excludes supply of alcoholic liquor for human consumption. Further, in terms of Section 9(2), tax on supply of petroleum crude, high speed diesel, motor spirit, 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. Accordingly, supply of alcoholic liquor for human consumption is not liable to tax under CGST Act, 2017.

Q20. Whether CGST & SGST/UTGST is applicable on import of goods or service or both?

Ans. In terms of Section 7 of the IGST Act, 2017, import of goods or services or both is shall be treated to be a supply in the course of inter-State trade or commerce. Accordingly, tax under the provisions of IGST Act, 2017 (IGST) shall apply on import of goods or services or both.

Composition levy (Section 10)

Q21. What is the rate of tax applicable to a taxable person opting to pay tax under composition scheme?

Ans. The rate of tax applicable to a taxable person opting to pay tax under composition scheme is not yet notified . However, Section 10(1) of the CGST Act, 2017 prescribes, subject to such conditions and restrictions as may be prescribed, that the rate of tax shall not exceed:

1. one per cent of the turnover in State or turnover in Union territory in case of a manufacturer;
2. 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
3. half per cent, of the turnover in State or turnover in Union territory in case of other suppliers

Q22. Can every taxable person opt to pay tax under composition scheme?

Ans. No. The registered taxable person whose aggregate turnover in the preceding financial year does not exceed fifty lakhs rupees may opt to pay tax subject to satisfaction of the following conditions:

1. he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;

2. he is not engaged in making any supply of goods which are not leviable to tax under this Act;
3. he is not engaged in making any inter-State outward supplies of goods;
4. 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
5. he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:

Q23. Whether a supplier of services is eligible to pay tax under composition scheme?

Ans. No. A supplier of services is not eligible to opt for composition scheme. However, a supplier supplying composite supply involving supply of service or goods being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption) is eligible to opt for payment of taxes under composition scheme.

Q24. A taxable person having same PAN can opt to pay tax under composition scheme by seeking separate registration for branches?

Ans. No. A registered person shall not be eligible to opt for the composition scheme unless all such registered persons (branches having separate registration under a single PAN) opt to pay tax under composition scheme.

Q25. Whether a taxable person under composition Scheme eligible to claim input tax credit?

Ans. No, a taxable person under composition scheme is not eligible to claim input tax credit.

Q26. Can a customer who buys from a taxable person who is under composition scheme claim composition tax as input credit?

Ans. No. The recipient is not eligible to take input tax credit of composition tax paid. Moreover, a taxable person paying taxes under composition scheme is not entitled to collect taxes from the recipient in terms of Section 10(4) of the CGST Act, 2017. Accordingly, there does not arise a question for the recipient to claim input tax credit.

Q27. What is aggregate turnover?

Ans. In terms of Section 2(6) of the CGST Act, 2017, "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 Number, to be computed on all India basis but excludes central tax, State tax, Union territory tax, integrated tax and cess;

Q28. A taxable person can still pay tax under composition scheme even after the turnover in the current financial year exceeds fifty lakh rupees?

Ans. In terms of Section 10(3), the option availed for paying tax under composition scheme

shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds fifty lakh rupees.

Q29. What are the penal consequences if a taxable person violates the conditions prescribed for composition scheme?

Ans. Following are the consequence for non-compliance with the conditions specified therein:

1. shall be liable to pay additional taxes at the rates applicable to regular taxable person;
2. shall be liable to penalty; and
3. the amount of tax and penalty shall be recovered in terms of Section 73 & 74 of CGST Act, 2017.

Power to grant exemption from tax (Section 11)

Q30. Whether Council has powers to grant exemption from payment of taxes?

Ans. No. The power to grant exemption is vested with the Government. In other words, the Government by notification on the recommendations of the council may grant exemption from tax subject to such conditions as may be notified..

MCQ'S

Meaning and scope of supply (Section 7)

Q1. What are different types of supplies covered under the scope of Supply?

- (a) Supplies made with consideration
- (b) Supplies made without consideration
- (c) Both of the above
- (d) None of the above

Ans. (c) Both of the above

Q2. What are the factors differentiating Composite Supply & Mixed Supply?

- (a) Nature of bundling i.e. artificial or natural
- (b) Existence of Principal Supply
- (c) Both of the above
- (d) None of the above

Ans. (c) Both of the above

Levy & collection (Section 9)

Q3. What are the taxes levied on an intra-State Supply?

- (a) CGST
- (b) SGST *
- (c) CGST and SGST
- (d) IGST

Ans. (c) CGST and SGST

Q4. What is the maximum rate prescribed under CGST?

- (a) 12%
- (b) 28%
- (c) 20%
- (d) 18%

Ans. (c) 20%

Q5. Who will notify the rate of tax to be levied under CGST?

- (a) Central Government suo moto
- (b) State Government suo moto
- (c) GST Council suo moto
- (d) Central Government as per the recommendations of the GST Council

Ans. (d) Central Government as per the recommendations of the GST Council

Q6. What are the supplies on which reverse charge mechanism would apply?

- (a) Notified categories of goods or services or both
- (b) Inward supply of goods or services or both from an unregistered dealer
- (c) Both of the above
- (d) None of the above

Ans. (c) Both of the above

Q7. Which of the following taxes will be levied on Imports?

- (a) CGST
- (b) SGST
- (c) IGST
- (d) Exempt

Ans. (c) IGST

Q8. Which of the following taxes would be levied on an intra-State supply of goods or services or both

- (a) CGST
- (b) Union territory tax
- (c) Both of the above
- (d) IGST

Ans. (c) Both of the above

Q9. Is there any maximum rate prescribed under UTGST?

- (a) 14%
- (b) 28%
- (c) 20%
- (d) 30%

Ans. (c) 20%

Composition levy (Sections 10)

Q10. Which of the following persons can opt for composition scheme?

- (a) Person making any supply of goods which are not leviable to tax under this Act;
- (b) Person making any inter-State outward supplies of goods;
- (c) Person effecting supply of goods through an e-commerce operator liable to collect tax at source
- (d) None of the above

Ans. (d) None of the above

Q11. What is the threshold limit of turnover in the preceding financial year for opting to pay tax under composition scheme?

- (a) Rs.20 lacs
- (b) Rs.10 lacs
- (c) Rs.50 lacs
- (d) None of the above

Ans. (c) Rs.50 lacs

Q12. What is the rate applicable under CGST to a registered person being a manufacturer opting to pay taxes under composition scheme?

- (a) 2.5%
- (b) 1%
- (c) 0%
- (d) No composition for manufacturer

Ans. (b) 1%

Q13. What is the rate applicable under CGST to a registered person being a hotelier opting to pay taxes under composition scheme?

- (a) 1%
- (b) 0.5%
- (c) 2.5%
- (d) None of the above

Ans. (c) 2.5%

Q14. What is the rate applicable under CGST to a registered person opting to taxes under composition scheme, not being a manufacturer or a hotelier?

- (a) 1%
- (b) 2.5%
- (c) 0.5%
- (d) None of the above

Ans. (c) 0.5%

Q15. Can a registered person opt for composition scheme only for one out of his 3 business verticals having same Permanent Account Number?

- (a) Yes
- (b) No
- (c) Yes, subject to prior approval of the Central Government
- (d) Yes, subject to prior approval of the concerned State Government

Ans. (b) No

Q16. Can Composition scheme be availed if the registered person effects interstate supplies?

- (a) Yes
- (b) No
- (c) Yes, subject to prior approval of the Central Government

(d) Yes, subject to prior approval of the concerned State Government

Ans. (b) No

Q17. Can a registered person under Composition Scheme claim input tax credit?

(a) Yes

(b) No

(c) Input tax credit on inward supply of goods only can be claimed

(d) Input tax credit on inward supply of services only can be claimed

Ans. (b) No

Q18. Can a registered person opting for composition scheme collect tax on his outward supplies?

(a) Yes

(b) No

(c) Yes, if the amount of tax is prominently indicated in the invoice issued by him

(d) Yes, only on such goods as may be notified by the Central Government

Ans. (b) No

Q19. Which of the following will be excluded from the computation of 'aggregate turnover'?

(a) Value of Taxable supplies

(b) Value of Exempt Supplies

(c) Non-taxable supplies

(d) Value of inward supplies on which tax is paid on reverse charge basis

Ans. (d) Value of inward supplies on which tax is paid on reverse charge basis

Q20. What will happen if the turnover of a registered person opting to pay taxes under composition scheme during the year 2017-18 crosses Rs.50 lakhs?

(a) He can continue under composition scheme till the end of the financial year

(b) He will be liable to pay tax at normal rates of GST on the entire turnover for the financial year 2017-18

(c) He will cease to remain under the composition scheme with immediate effect

(d) He will cease to remain under the composition scheme from the quarter following the quarter in which the aggregate turnover exceeds Rs.50 lacs

Ans. (c) He will cease to remain under the composition scheme with immediate effect