

## COMPOSITION LEVY

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The word '*composition*' comes from the Latin *componere*, meaning "put together". It is a feature of Indirect Tax laws that in order to provide a comfort to assessee from complying with the requirement of paying tax on value addition by maintaining detail of 'inputs' and 'outputs', a option is provided to go for a *put together* scheme. As per the scheme the assessee is made free from maintaining complete details of its inputs and outputs and by merely making payment of single put-together amount better known as 'composition fees' the assessee is allowed to carry on its business.

The GST law also provides the option of availing the benefit of Composition Levy to small business houses. The provision related to composition levy is contained under Section 10 of the CGST Bill, 2017. The said section provides for an option to the 'Registered person' whose 'aggregate turnover' during preceding FY **does not exceed fifty lakh rupees** to discharge its GST liability on a composite or nominal rate. The Government has the power to increase the said limit of fifty lakh rupees to one crore rupees, by way of a notification.

A person shall be liable to be registered under the GST law, if he makes a taxable supply of goods or services or both, if his aggregate turnover in a financial year exceeds twenty lakh rupees (ten lakh rupees in special category states)

The 'aggregate turnover' as defined in GST law is the aggregate value of all:

- taxable supplies (excluding the value of inward supplies on which tax is payable 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.

The exact rates of composition are yet to be prescribed, however the maximum rates are classified under three categories:

- *Manufacturer*: Maximum **one per cent** of the turnover in State or turnover in Union territory.
- *Specific Service providers*: Only such service providers who are supplier of food related services (restaurant services) specified under paragraph 6(b) of Schedule II (supply, by way of or as part of any service or in any other manner whatsoever of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption) which are kept under composition levy at a maximum **two and a half per cent**.
- *Other suppliers*: **Half per cent** of the turnover in State or turnover in Union territory.

**Point to remember is that the above rates are provided in CGST Bill, therefore the actual pay out of composition rate will be double of the above rates i.e. either 1%, 2% or 5% bifurcated into CGST and SGST/UTGST.**

The Composition scheme can be availed by the following categories of registered persons:

- He is not engaged in the supply of service other than supplies referred to in clause (b) of paragraph 6 of Schedule II
- Person not engaged in making any supply of goods which are **not leviable to tax** under GST Laws.
- Person not engaged in making any **inter-State outward supplies of goods**. Under the earlier draft GST law the above exception was not clear. The language doesn't specify the interstate transaction, i.e. whether inward or outward supply. However, now it is clear that bar is only on making *outward supplies* while it is open for the supplier to procure inter-state supplies.
- The registered person should **not be engaged** in making any supply of goods through an **electronic commerce operator**. This restriction constrains numerous small suppliers/vendors from availing benefit of composition scheme. Although there is a valid reason behind the imposition of this restriction - the supply from an e-commerce operator may result in inter-state outward supplies in many cases.
- The taxable person should **not be a manufacturer** of such goods as may be **notified by the Government** on the recommendations of the Council.

The benefit of composition scheme will be available only when all the registered entities under a single Permanent Account Number opts for such scheme. The persons paying tax under composition scheme are required to **pay tax on quarterly basis** and also required to file a **quarterly return** in Form GSTR-4 by the 18<sup>th</sup> of the month following the end of the quarter instead of any statement of outward or

inward supplies. The proper officer may cancel the registration where the said person has not furnished returns for three consecutive tax periods.

The person registered under composition scheme is **neither permitted to collect any tax** from the recipient of supplies made by him **nor can he avail any credit** of input tax paid.

The option availed by a registered person shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds fifty lakh rupees.

The conditions and restrictions for composition levy are as follows:

- The person should neither be a casual taxable person nor a non-resident taxable person.
- The goods held in stock on the appointed day had 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 sub-rule (1) of rule 1 of Composition Rules.
- the goods held in stock by him have not been purchased from an unregistered person and where purchased, he pays the tax under reverse charge basis in compliance of sub-section (4) of section 9;
- The person shall pay tax under sub-section (3) or sub-section (4) of section 9 on inward supply of goods or services or both received from un-registered persons;
- The person 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

- The person 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.

The taxable person who has paid tax under composition scheme even when not being eligible will be liable to a penalty and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.

The option exercised by registered person to pay tax under composition scheme shall remain valid so long as he satisfies all the conditions.

Registered person can withdraw from composition scheme at his option by filing an application.

### **Challenge in Transition Year**

- Registered persons have to file option within 30 day from the transition date to avail the option of paying tax as per composition scheme;
- Goods in stock on transition date must not have 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.

### **What is the Aggregate turnover limit for the transition year?**

In case appointed date is 1<sup>st</sup> July, 2017 then in FY 2016-17 we will have GST only for 9 months. Therefore the limit of Rs 50 Lakhs for taxable turnover shall be counted for whole of the year or it shall be made proportionate based upon the number of months we will have in FY 2016-17. ( Notification awaited)

