

## 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', an option is provided to go for a *put together* scheme. The GST law provides the option of availing the benefit of Composition Levy to small businesses. The objective of composition scheme is to bring simplicity and to reduce the compliance cost for the small taxpayers. Moreover, it is optional and the eligible person opting to pay tax under this scheme can pay tax at a prescribed percentage of his turnover every quarter, instead of paying tax at normal rate.

### **Threshold limit for Composition scheme:**

The provision related to composition levy is governed by Section 10 of the CGST Act, 2017 ("Act"). 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, under Section-10(1) of the Act has the power to increase the said limit of fifty lakh rupees to one crore rupees, by way of a notification, on recommendation of GST Council.

In exercise of the power conferred under Section – 10(1) of the Act, Central Government by way of Notification No- 8/2017-CT dated 27th June-2017 prescribed the limit of Rs. Seventy-five lakh rupees which was subsequently increased to Rs. One crore by Notification No. 46/2017-CT dated 13th October-2017.

For special category states as specified in sub-clause (g) of clause (4) of article 279A of the Constitution, except Uttarakhand and Jammu and Kashmir aggregate turnover limit was originally specified as fifty lakh rupees by Notification No- 8/2017-CT dated 27th June-2017 which was subsequently increased Rs. seventy-five lakh rupees by Notification No. 46/2017-CT dated 13th October-2017.

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 '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.

### **Composition Rate:**

Section-10(1) of the Act provides upper limit for composition rate for different category of registered person. Central Government by way of Notification No- 8/2017-CT dated 27th June-2017 as amended by Notification No. 01/2018-CT dated 01<sup>st</sup> January-2018 as prescribed following rates:-

- **Manufacturer: One per cent** (both CGST and SGST) of the turnover in State or turnover in Union territory.
- **Restaurants not serving alcohol:** Service provided by Restaurants as specified under paragraph 6(b) of Schedule II as 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 of any drink (other than alcoholic liquor for human consumption) are leviable at the rate of five percent (two and half of CGST and two and half for SGST) under composition scheme.
- **Other suppliers: One per cent** of the turnover **taxable supplies of goods in** State or turnover in Union territory. It should be noted that in this case aggregate turnover shall not be leviable to composition rate only turnover of taxable supplies shall be leviable to composition levy.

The registered person opting for composition levy shall pay tax under sub-section (3) or sub-section (4) of section 9 on inward supply of goods or services or both.

**Eligible Person: -**

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 (Restaurant Service).
- 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**.
- 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. Central Government by way of Notification No. 8/2017-CT has specified goods manufacturers of which shall not be eligible for this scheme.

S. No.	Classification	Description
1	2105 00 00	Ice cream and other edible ice products, whether or not containing cocoa
2	2106 90 20	Pan Masala
3	24	Tobacco and manufactured tobacco substitutes

The conditions and restrictions for composition levy as provided in Rule-5 of the Central Goods and Service Tax Rules, 2017 (“**Rules**”) 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,

- 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 of the Act;

The benefit of composition scheme will be available only when all the registered entities under a single Permanent Account Number opts for such scheme.

### **How to Opt Composition Scheme?**

This option can be exercised in three possible scenarios: -

<b>S.No.</b>	<b>Various Scenarios of opting the scheme</b>	<b>How to opt</b>	<b>Effective date for Composition</b>
1	The taxable person migrating to GST from previous regime	Can opt by filing FORM GST CMP-01 not later than 30 days or such further period as may be extended, from the Appointed date.	Effective from Appointed date
2	Person taking new registration under GST	Can opt at the time of obtaining registration in Part B of FORM GST REG-01	Effective form the date of registration
3	A registered person under GST opting for composition scheme	May opt by filing FORM GST CMP-02 prior to commencement of FY for which option is exercised	Effective from the beginning of the financial year
4	The taxable person migrating to GST from previous regime and Person taking new registration under GST (one time) but opting for Composition Scheme after the appointed date or his date of registration	By filing intimation in FORM GST CMP-02	Effective from the first day of the month immediately succeeding the month in which he files an intimation

Any registered person who has availed of input tax credit and also opts to pay tax under Composition Scheme, then, such person shall be required to pay an amount 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, reduced by such percentage points as may be prescribed, on the day immediately preceding the date of exercising of such option. However, if after such payment any balance of input tax credit is left lying in his electronic credit ledger, such balance shall lapse. Statement of such input tax shall be filed in Form GST ITC-03.

### **Returns:**

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. Registered person opting for composition levy have to file Annual Return in FORM GSTR-9A.

### **Invoice :**

A registered person opting for composition scheme shall not issue a tax invoice. He shall issue a BILL OF SUPPLY containing various details as given below: -

- (a) Name, address and GSTIN of the supplier
- (b) a consecutive serial number not exceeding sixteen characters, in one or multiple series, containing alphabets or numerals or special characters -hyphen or dash and slash symbolised as "-" and "/" respectively, and any combination thereof, unique for a financial year
- (c) date of its issue
- (d) name, address and Goods and Services Tax Identification Number or Unique Identity Number, if registered, of the recipient
- (e) Harmonised System of Nomenclature Code for goods or services
- (f) description of goods or services or both
- (g) value of supply of goods or services or both taking into account discount or abatement, if any; and
- (h) signature or digital signature of the supplier or his authorised representative

Registered person may not issue a bill of supply if the value of the goods or services or both supplied is less than two hundred rupees. 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.

### **Validity and Withdrawal**

The option exercised by registered person to pay tax under composition scheme shall remain valid so long as he satisfies all the conditions. He may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the Act and these rules.

The option to pay tax under composition scheme lapses from the day on which his aggregate turnover during the financial year exceeds the specified limit (Rs. 1 Cr/Rs. 75 lakhs) or he ceases to satisfy any of the conditions of this Scheme. He is required to file an intimation for withdrawal from the scheme in FORM GST CMP-04 within seven days from the day on which the threshold limit has been crossed. A registered person paying tax under this scheme may also voluntarily opt out by filing FORM GST CMP-04.

### **Contravention of any provisions of Composition levy**

Where any contravention is observed by the proper officer wherein the registered person was not eligible to pay tax under the composition scheme or has contravened the provisions of the Act or provisions of the CGST Rules, 2017, 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 the composition scheme shall not be denied.

Upon receipt of the reply to the said show cause notice in FORM GST CMP-06, the proper officer shall issue an order in FORM GST CMP-07 within a period of thirty days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under the composition scheme from the date of the option or from the date of the event concerning such contravention, as the case may be.

Further, Section 12(5) of Act provides that If the proper officer has reasons to believe that a taxable person has paid tax under Composition scheme despite not being eligible, then, in addition to any

