

Chapter II

Levy and Collection of Tax

FAQ's

Scope of Supply (Section 7)

Section 7 of the Central Goods and Services Tax Act, 2017 (“the CGST Act, 2017” or “the CGST Act”) made applicable to IGST *vide* Section 20 of the Integrated Goods and Services Tax Act, 2017 (“the IGST Act, 2017” or “the IGST Act”) and UTGST *vide* Section 21 of the Union Territory Goods and Services Tax Act, 2017 (“the UTGST Act, 2017” or “the UGST Act”)

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

Ans. As per Section 7(1) of the CGST Act, 2017, supply includes:

- (a) 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;
- (b) import of services for a consideration whether or not in the course or furtherance of business [and]¹;
- (c) the activities specified in Schedule I, made or agreed to be made without a consideration;²
- (d) Deleted³

Clause (d) being part of the section 7(1) defining the term ‘*supply*’ leads to a situation where an activity listed in Schedule II would be deemed to be a supply even if it does not constitute a supply as per clauses (a), (b) and (c) of section 7(1). Classification of certain specified activities or transactions (which qualify as a supply under the CGST Act) either as supply of goods or supply of services is supposed to be done in Schedule II. Hence, clause (d) of section 7(1) has been deleted and a new sub-section (1A) in section 7 has been inserted]

Further, it may be noted that, subject to the provisions of section 7 (1), (1A)⁴ and (2),

¹ Effective date yet to be notified.

² The word “and” after the words “a consideration” has been deleted – Effective date yet to be notified.

³ Effective date yet to be notified. Earlier - (d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II.

⁴ Effective date yet to be notified.

the Government may, on the recommendations of the Council, specify, by notification, the transactions that are to be treated as:

- (a) a supply of goods and not as a supply of services; or
- (b) a supply of services and not as a supply of goods.

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 thereof 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 under the IGST Act, 2017. Further, the rate of tax applicable to supply of goods and supply of services are 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 the CGST Act, 2017 enlists the activities or transactions⁵ which are to be treated as supply of goods or supply of services. One may refer Schedule II with reference to Section 7 of the CGST Act to classify whether the transaction involves supply of goods or supply of services. In other words, where certain activities or transactions constitute a supply as per section 7(1) of the CGST Act, 2017, they shall be treated either as supply of goods or supply of services as referred to in Schedule II.

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:

⁵ Effective date yet to be notified.

Provided that gifts not exceeding ` 50,000/-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.

Further the Board vide Circular No. 57/31/2018-GST dated 4.09.2018 has clarified the Scope of Principal-agent relationship in the context of Schedule I.

4. Import of services by a ⁶person from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Hence, import of services by entities which are not registered under GST (say, they are only making exempted supplies) but are otherwise engaged in business activities is taxed when received from a related person or from any of their establishments outside India.

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 who is required to obtain separate registration for every branch located in different State or Union territory 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 clause 2 of Schedule I, gifts exceeding ` 50,000/- by an employer to employee will be a supply, when made in the course or furtherance of business and will be liable to tax. As, in terms of proviso to clause 2 of Schedule I, any gifts for a value not exceeding ` 50,000/- in a financial year will not qualify as supply and as such will not be liable to tax.

Further, as per press release dated 10.07.2017, if services are provided free of charge

⁶ Effective date yet to be notified. Earlier "*taxable person*".

to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer. The relevant extract of aforesaid press release is as under:

“Another issue is the taxation of perquisites. It is pertinent to point out here that the services by an employee to the employer in the course of or in relation to his employment is outside the scope of GST (neither supply of goods or supply of services). It follows therefrom that supply by the employer to the employee in terms of contractual agreement entered into between the employer and the employee, will not be subjected to GST. Further, the input tax credit (ITC) scheme under GST does not allow ITC of membership of a club, health and fitness centre [Section 17(5)(b)(ii)]. It follows, therefore, that if such services are provided free of charge to all the employees by the employer then the same will not be subjected to GST, provided appropriate GST was paid when procured by the employer. The same would hold true for free housing to the employees, when the same is provided in terms of the contract between the employer and employee and is part and parcel of the cost-to-company (C2C).”

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 even if made without consideration:

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 the CGST Act, 2017:

1. As per Section 7, import of service for a consideration whether or not in the course or furtherance of business is a supply;
2. As per Schedule I, import of service by a taxable person, even if made without consideration, from a related person or from any of his other establishments outside India, in the course or furtherance of business.

Q9. Whether superior kerosene oil [SKO] retained for the manufacture of Linear Alkyl Benzene [LAB] exigible to GST?

Ans. In terms of Circular No. 12/12/2017-GST dated 26.10.2017, the LAB manufacturers receive superior Kerosene oil (SKO) from, a refinery, say, Indian Oil Corporation (IOC). They extract n-Paraffin (C9-C13 hydrocarbons) from SKO and return back the

remaining of SKO to the refinery. In this context, the issue has arisen as to whether in this transaction GST would be levied on SKO sent by IOC for extracting n-paraffin or only on the n-paraffin quantity extracted by the LAB manufactures. Further, whether the return of remaining Kerosene by LAB manufactures would separately attract GST in such transaction.

In this regard, Department has clarified that GST will be payable by the refinery only on the net quantity of superior kerosene oil (SKO) retained for the manufacture of Linear Alkyl Benzene (LAB). Though, refinery would be liable to pay GST on such returned quantity of SKO, when the same is supplied by it to any other person.

Q10. Whether GST leviable on inter-state transfer of aircraft engines, parts and accessories for use by their own airlines?

Ans. Yes. In terms of clause 2 of Schedule I of the CGST Act, 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, even if, without consideration, attracts GST. Hence, GST will be levied on inter-State transfer of aircraft engines, parts and accessories for use by their own airlines.

Further, Circular No. 16/16/2017-GST dated 15.11.2017 also clarifies that credit of GST paid on aircraft engines, parts & accessories will be available for discharging GST on inter-State supply of such aircraft engines, parts & accessories by way of inter-State stock transfers between distinct persons as specified in Section 25 of the CGST Act, notwithstanding that credit of input tax charged on consumption of such goods is not allowed for supply of service of transport of passengers by air in economy class at GST rate of 5%.

Q11. Whether supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc., printed with design, logo, name, address or other contents supplied by the recipient of such supplies, would constitute supply of goods or supply of services?

Ans. The Government *vide Circular No. 11/11/2017-GST dated 20.10.2017* has clarified that supply of books, pamphlets, brochures, envelopes, annual reports, leaflets, cartons, boxes etc. printed with logo, design, name, address or other contents supplied by the recipient of such printed goods, are composite supplies and the question, whether such supplies constitute supply of goods or services would be determined on the basis of what constitutes the principal supply.

Printing of books, pamphlets, brochures, annual reports, and the like, where only content is supplied by the publisher or the person who owns the usage rights to the intangible inputs while the physical inputs including paper used for printing belong to the printer, supply of printing [of the content supplied by the recipient of supply] is the

principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.

While, supply of printed envelopes, letter cards, printed boxes, tissues, napkins, wall paper etc. falling under Chapter 48 or 49, printed with design, logo etc. supplied by the recipient of goods but made using physical inputs including paper belonging to the printer, predominant supply is that of goods and the supply of printing of the content [supplied by the recipient of supply] is ancillary to the principal supply of goods and therefore such supplies would constitute supply of goods falling under respective headings of Chapter 48 or 49 of the Customs Tariff.

Q12. Whether supply by artists through galleries is leviable under GST?

Ans. In terms of *Circular No. 22/22/2017-GST dated 21.12.2017*, since art works sent to the gallery for exhibition does not involve consideration, therefore, the same is not a supply.

It is only when the buyer selects a particular art work displayed at the gallery, that the actual supply takes place and applicable GST would be payable at the time of such supply.

Q13. Whether GST will apply wherein goods are moved within the State or from the State of registration to another State for supply on approval basis?

Ans. In terms of *Circular No. 10/10/2017-GST dated 18.10.2017*, the goods which are taken for supply on approval basis can be moved from the place of business of the registered supplier to another place within the same State or to a place outside the State on a delivery challan along with the e-way bill wherever applicable and the invoice may be issued at the time of delivery of goods. For this purpose, the person carrying the goods for such supply can carry the invoice book with him so that he can issue the invoice once the supply is fructified.

Hence, all such supplies, where the supplier carries goods from one State to another and supplies them in a different State, will be inter-State supplies and attract IGST in terms of Section 5 of IGST Act. And those within the State will be exigible to CGST and SGST in terms of Section 9 of the CGST Act and SGST Act, respectively.

Q67. Enlist the activities or transactions which shall not be considered as 'supply' for GST by way of Schedule III?

Ans. Following are the activities or transactions which shall not be considered as 'supply' for GST by way of Schedule III:

1. Services by an employee to the employer in the course of or in relation to his employment.
2. Services by any Court or Tribunal established under any law for the time being in

force. Here, the term "Court" includes District Court, High Court and Supreme Court.

3. (a) the functions performed by the Members of Parliament, Members of State Legislature, Members of Panchayats, Members of Municipalities and Members of other local authorities;
- (b) the duties performed by any person who holds any post in pursuance of the provisions of the Constitution in that capacity; or
- (c) the duties performed by any person as a Chairperson or a Member or a Director in a body established by the Central Government or a State Government or local authority and who is not deemed as an employee before the commencement of this clause.
4. Services of funeral, burial, crematorium or mortuary including transportation of the deceased.
5. Sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building.[i.e., excluding sale of under-construction premises where the part or full consideration is received before issuance of completion certificate or before its first occupation, whichever is earlier)].
6. Actionable claims, other than lottery, betting and gambling.
7. Supply of goods from a place in the non-taxable territory to another place in the non-taxable territory without such goods entering into India.

This will exclude from the tax net such transactions which involve movement of goods, caused by a registered person, from one non-taxable territory to another non-taxable territory.

8. (a) Supply of warehoused goods to any person before clearance for home consumption. Where warehoused goods shall have the same meaning as assigned to it in the Customs Act, 1962.
- (b) Supply of goods by the consignee to any other person, by endorsement of documents of title to the goods, after the goods have been dispatched from the port of origin located outside India but before clearance for home consumption.

This is to ensure that there is no double taxation of transactions where supply of goods occurs in the course of high sea sales and sale of warehoused goods, before clearance for home consumption. Although the *Circular No. 33 /2017-Customs dt 01-08-2017* was issued to state that IGST would be payable only once at the time of clearance of goods for home consumption.

^{7 & 8} Effective date yet to be notified.

Tax Liability on Composite and Mixed Supplies (Section 8)

Section 8 of the CGST Act, 2017 made applicable to IGST vide Section 20 of the IGST Act, 2017 and UTGST vide Section 21 of the UTGST Act, 2017

Q14. What is composite supply?

Ans. In terms of Section 2(30) of the CGST Act, 2017, composite supply means a supply made by a taxable person to a recipient 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 principal supply.

Q15. What is a principal supply?

Ans. In terms of Section 2(90) of the CGST Act, principal supply means the supply of goods or services which constitutes the predominant element of a composite supply and to which any other supply forming part of that composite supply is ancillary.

Q16. 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.

Q17. What is mixed supply?

Ans. In terms of Section 2(74) of the CGST Act, 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.

Q18. How would the tax liability be determined in case of Mixed supply?

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

Q19. Whether food supplied to the in-patients as advised by the doctor is taxable under GST?

Ans. In terms of Para 5(3) of *Circular No. 32/06/2018-GST dated 12.02.2018*, food supplied to the in-patients as advised by the doctor/nutritionists is a part of composite supply of healthcare and not separately taxable. Other supplies of food by a hospital to patients (not admitted) or their attendants or visitors are taxable.

Q20. Whether retreading of tyres is a supply of goods or services?

Ans. In terms of *Circular No. 34/08/2018-GST dated 01.03.2018*, in retreading of tyres, which is a composite supply, the pre-dominant element is the process of retreading which is a supply of service. Rubber used for retreading is an ancillary supply. Which part of a composite supply is the principal supply, must be determined keeping in view the nature of the supply involved. Value may be one of the guiding factors in this determination, but not the sole factor. The primary question that should be asked is what is the essential nature of the composite supply and which element of the supply imparts that essential nature to the composite supply. Supply of retreaded tyres, where the old tyres belong to the supplier of retreaded tyres, is a supply of goods (retreaded tyres under heading 4012 of the Customs Tariff attracting GST @ 28%).

Q21. Whether supply of equipment and installation/commissioning of the same would constitute a composite supply?

Ans. While the recipient actually purchases the equipment, making the equipment the principal supply, the installation makes the equipment usable by the recipient. Even if, there is a separate charge for the installation of the equipment, since the service is naturally bundled and provided in the ordinary course of business, the supply would be a composite supply.

Q22. Whether supply of laptop and a carry case would constitute a composite supply?

Ans. In this case, the case only adds value to the supply of laptop and therefore, the case would be ancillary while the laptop comprises the predominant element of the supply. Even where the brand of the case is not the same as that of the laptop, and the supplier establishes that the case is naturally bundled with the laptop in the ordinary course of his business, the supply can be treated as a composite supply.

Q23. Whether supply of repair services of laptop with parts would constitute a composite supply?

Ans. As such, it is the skill and expertise of the supplier that makes the laptop function as desired. Whether replacement is necessary or a mere resetting of the existing parts restores the functionality of the laptop is not known to the customer. Where the object of the contract is unknown to the customer, that object cannot be the purpose of the

contract. The only object that is known to the customer is the 'repair service' which makes it the predominant object of supply. This would be the position even if the cost of the parts replaced is higher than the cost of service. *However, this theory can apply only where such a replacement is done in the ordinary course of the business of repairing laptops, and such a replacement is naturally bundled with the repair service.*

Q24. Which HSN code is to be used in case of composite supplies?

Ans. In case of composite supplies, the HSN code of the principal supply is to be used. [Reference to Section 8(a) of the CGST Act, 2017].

Q25. Which HSN code is to be used in case of mixed supplies?

Ans. In case of mixed supplies, the HSN of the supply that attracts the highest rate of tax is to be used. [Reference to Section 8(b) of the CGST Act, 2017].

Levy and Collection (Section 9)

Q26. 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. In terms of Section 9 of the SGST Act, 2017, intra-State supplies are liable to SGST. In terms of Section 7 of the UTGST Act, 2017, intra-State supplies effected by a taxable person located in Union Territory (within the Union Territory) will be liable to UTGST. Therefore, in case of intra-State supplies in case of State or Union Territory, CGST and SGST or CGST and UTGST will be applicable respectively.

Q27. 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 the Central Goods and Services Tax Rules ("the CGST Rules" or "the CGST Rules, 2017") (Rules 27 – 35) shall apply.

Q28. What is the rate of tax applicable on intra-State supplies?

Ans. The applicable rate of tax on intra-State supply of services has been majorly provided under Notification No. 11/2017-Central Tax (Rate), dated 28.06.2017 and rate on intra-State supply of goods has been provided under Notification No. 01/2017-Central

Tax (Rate), dated 28.06.2017 [with 3 corrigendum dated 30.06.2017, 12.07.2017 and 27.07.2017] respectively as amended from time to time.

It is pertinent to mention here that:

- Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 exempts intra-State supplies of certain services over certain specified percentage subject to certain conditions [Though till date, rate specified and condition stipulated in notification is NIL]
- Notification No. 02/2017-Central Tax (Rate) dated 28.06.2017 exempts intra-State supplies of certain goods from whole of CGST leviable under Section 9 of the CGST Act.
- Notification No. 03/2017-Central Tax (Rate) dated 28.06.2017 exempts intra-State supplies of goods over certain specified percentage subject to certain conditions.
- Notification No. 07/2017-Central Tax (Rate) dated 28.06.2017 exempts supplies of goods by CSD to Unit Run Canteens; CSD to authorised customers and Unit Run Canteen to authorised customers, from whole of CGST leviable under Section 9 of CGST Act.
- Notification No. 26/2017-Central Tax (Rate) dated 21.09.2017 exempts intra-State supply of heavy water and nuclear fuels falling in Chapter 28 of the First Schedule to the Customs Tariff Act, 1975 by the Department of Atomic Energy to the Nuclear Power Corporation of India Ltd from the whole of CGST leviable under Section 9 of the CGST Act.
- Notification No. 39/2017- Central Tax (Rate) dated 18.10.2017, subject to fulfillment of certain condition, notifies the rate of the Central Tax of 2.5% on intra-State supplies of food preparations put up in unit containers and intended for free distribution to economically weaker sections of the society under a programme duly approved by the Central Government or any State Government.
- Notification No. 40/2017-Central Tax (Rate) dated 23.10.2017 prescribe Central Tax rate of 0.05% on intra-State supply of taxable goods by a registered supplier to a registered recipient for export subject to specified conditions.
- Notification No. 45/2017-Central Tax (Rate) dated 14.11.2017, effective from 15.11.2017, provide concessional GST rate of 2.5% on scientific and technical equipments supplied to public funded research institutions. This notification is further amended vide Notification No. 9/2018- Central Tax (Rate) dated 25.01.2018.

- Notification No. 21/2018-Central Tax (Rate) dated 26.07.2018 exempts the intra-state supplies of specified handicraft goods over certain specified percentage.
- Notification No. 05/2018-Central Tax (Rate) dated 25.01.2018 exempts Central Govt.'s share of profit out of services by way of grant of license to explore petroleum crude etc.
- Notification No. 22/2018-Central Tax (Rate) dated 06.08.2018 exempts intra-State supply of goods or services or both received by a registered person from any supplier, who is not registered, from the whole of the central tax leviable thereon under Section 9(4) of the CGST Act, 2017 till 30.09.2019. [i.e. exempt payment of tax under Section 9(4) of the CGST Act, 2017 till 30.09.2019.]

[NOTE :

- Notification No. 11/2017-Central Tax (Rate) dated 28.06.2017 has been amended vide Notification No. 20/2017-Central Tax (Rate) dated 22.08.2017; Notification No. 24/2017-Central Tax (Rate) dated 21.09.2017; Notification No. 31/2017-Central Tax (Rate) dated 13.10.2017, Notification No. 46/2017-Central Tax (Rate) dated 14.11.2017 (w.e.f. 15.11.2017)], Notification No. 01/2018-Central Tax (Rate) dated 25.01.2018 and Notification No. 13/2018-Central Tax (Rate) dated 26.07.2018.
- Notification No. 01/2017-Central Tax (Rate) dated 28.06.2017 has been amended vide Notification No. 18/2017-Central Tax (Rate) dated 30.06.2017 (w.e.f.-1.07.2017); Notification No. 19/2017-Central Tax (Rate) dated 18.08.2017; Notification No. 27/2017-Central Tax (Rate) dated 22.09.2017; Notification No. 34/2017-Central Tax (Rate) dated 13.10.2017; Notification No. 41/2017-Central Tax (Rate) dated 14.11.2017 (w.e.f. 15.11.2017); Notification No. 06/2018-Central Tax (Rate) dated 25.01.2018; Notification No. 08/2018-Central Tax (Rate) dated 25.01.2018 and Notification No. 18/2018-Central Tax (Rate) dated 26.07.2018.
- Notification No. 02/2017-Central Tax (Rate) dated 28.06.2017 has been amended vide Notification No. 28/2017-Central Tax (Rate) dated 22.09.2017; Notification No. 35/2017-Central Tax (Rate) dated 13.10.2017; Notification No. 42/2017-Central Tax (Rate) dated 14.11.2017 (w.e.f. 15.11.2017); Notification No. 07/2018-Central Tax (Rate) dated 25.01.2018 and Notification No. 19/2018-Central Tax (Rate) dated 26.07.2018.
- Notification No. 12/2017-Central Tax (Rate) dated 28.06.2017 has been amended vide Notification No. 21/2017-Central Tax (Rate) dated 22.08.2017; Notification No. 25/2017-Central Tax (Rate) dated 21.09.2017; Notification No.

30/2017-Central Tax (Rate) dated 29.09.2017; Notification No. 32/2017-Central Tax (Rate) dated 13.10.2017; Notification No. 47/2017-Central Tax (Rate) dated 14.11.2017 (w.e.f. 15.11.2017); Notification No. 02/2018–Central Tax (Rate) dated 25.01.2018 and Notification No. 14/2018–Central Tax (Rate) dated 26.07.2018.

Q29. 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:** Section 9(3) of the CGST Act, 2017 *inter alia* provides that, the Government may, on the recommendations of the Council, by notification, specify categories of supply of goods or services or both, the tax on which shall be paid on reverse charge basis by the recipient of such goods or services or both.

In this regard, the Central Government *vide Notification No. 04/2017-Central Tax (Rate) dated 28.06.2017 read with Notification No. 36/2017-Central Tax (Rate) dated 13.10.2017, Notification No. 43/2017-Central Tax (Rate) dated 14.11.2017 and Notification No. 11/2018–Central Tax (Rate) dated 28.05.2018* specifies the supply of goods which are liable to CGST under Reverse Charge Mechanism (“RCM”).

Further, *Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017 read with Notification No. 22/2017-Central Tax (Rate) dated 22.08.2017, Notification No. 33/2017-Central Tax (Rate) dated 13.10.2017, Notification No. 03/2018–Central Tax (Rate) dated 25.01.2018 and Notification No. 15/2018–Central Tax (Rate) dated 26.07.2018* specifies the supply of services which are liable to CGST under RCM.

Further, ⁹Section 9(4) of the CGST Act *inter alia* provides that, the Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both. However, *Notification No. 22/2018-Central Tax (Rate) dated 06.08.2018* exempts intra-State supply of goods or services or both, received by registered person from an un-registered dealer from whole of the integrated tax under section 9(4) till 30th September 2019.

Furthermore, Import of service will be taxable in the hands of the recipient i.e., importer.

⁹ Effective date yet to be notified.

- (b) **E-Commerce:** Categories of services as specified under Notification 17/2017-Central Tax (Rate), dated 28.06.2017 read with Notification No. 23/2017- Central Tax (Rate) dated 22.08.2017 or such other services as may be notified by the Government on the recommendations of the Council the tax shall be paid by the electronic commerce operator if such services are supplied through it. The services notified till date are as under:
- (1) services by way of transportation of passengers by a radio-taxi, motor cab, maxicab and motor cycle;
 - (2) 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 Section 22(1) of the CGST Act.
 - (3) 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 Section 22(1).

Q30. Whether the tax on intra-State supplies is applicable to every supply?

Ans. No, Section 9(1) of the CGST Act, 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 the CGST Act, 2017.

Q31. Whether CGST and SGST/ UTGST is applicable on import of goods or services or both?

Ans. In terms of Section 7 of the IGST Act, 2017, import of goods or services or both shall be treated to be a supply in the course of inter-State trade or commerce. Accordingly, tax under the provisions of IGST Act shall apply on import of services. Further, proviso to Section 5(1) of the IGST Act states that IGST on goods imported into India shall be levied and collected in accordance with the provisions of Section 3 of the Customs Tariff Act, 1975 on the value as determined under the said Act.

Reverse Charge

Q32. What does the payment of tax under reverse charge mean?

Ans. In terms of Section 2(98) of the CGST Act, the term reverse charge means the 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 under Section 9(3) or 9(4) of the CGST Act, 2017 or under Section 5(3) or 5(4) of the IGST Act, 2017.

Q33. What are the different types of supplies which are liable to tax under RCM?

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

1. As per section 9(3), specified categories of supply of goods or services or both as notified by Government on recommendations of the Council are liable to tax under reverse charge mechanism. The Government has notified category of goods that attracts reverse charge liability *vide Notification No. 04/2017-Central Tax (Rate) dated 28.06.2017 amended vide Notification No. 36/2017-Central Tax (Rate) dated 13.10.2017, Notification No. 43/2017-Central Tax (Rate) dated 14.11.2017 and Notification No. 11/2018-Central Tax (Rate) dated 28.05.2018.* Category of services that attracts reverse charge liability are notified *vide Notification No. 13/2017-Central Tax (Rate) dated 28.06.2017 amended vide Corrigendum dated 25.09.2017, Notification No. 22/2017-Central Tax (Rate) dated 22.08.2017, Notification No. 33/2017-Central Tax (Rate) dated 13.10.2017, Notification No. 03/2018-Central Tax (Rate) dated 25.01.2018 and Notification No. 15/2018-Central Tax (Rate) dated 26.07.2018.*

As per ¹⁰section 9(4) of the CGST Act provides that, the Government may, on the recommendations of the Council, by notification, specify a class of registered persons who shall, in respect of supply of specified categories of goods or services or both received from an unregistered supplier, pay the tax on reverse charge basis as the recipient of such supply of goods or services or both, and all the provisions of the CGST Act shall apply to such recipient as if he is the person liable for paying the tax in relation to such supply of goods or services or both.

However, before this amendment, as per Section 9(4) supply of taxable goods or services or both by an unregistered supplier to a registered person are liable to tax under RCM. Further, *vide Notification No. 08/2017-Central Tax (Rate) dated 28.06.2017 with effect from 01.07.2017* the supplies made by unregistered suppliers to a registered person were exempted, if the aggregate value of such supplies does not exceed ` 5,000/- in a day. Thereafter, *vide Notification No. 38/2017-Central Tax (Rate), dated 13.10.2017*, RCM was deferred till 31st March,2018 without any threshold limit and then subsequently it was further extended till 30th June,2018 *vide Notification No. 12/2018-Central Tax (Rate), dt. 29-06-2018* and thereafter again extended till 30th September,2019 *vide Notification No. 22/2018-Central Tax (Rate) dated 06.08.2018.*

¹⁰ Effective date yet to be notified.

2. Exemption to recipients from application of Section 9(4) who are not liable to be registered otherwise than Section 24(vi) (as a tax deductor) is provided *vide Notification No. 09/2017-Central Tax (Rate) dated 28.06.2017*.
3. Exemption to registered taxpayers is provided from application of Section 9(4) who are engaged in outward supply of second hand goods in terms of Rule 32(5) *vide Notification No. 10/2017-Central Tax (Rate) dated 28.06.2017*.

Q34. Is it lawful to collect tax from recipient of supply on reverse charge basis?

Ans. Yes, as long as the tax is on the subject of levy, the Government is free to collect this tax from any person – either the supplier or the recipient or anyone else. Even a third party can be called upon to deposit the tax provided there is some nexus such as collection of payment for the supply between two other persons.

Q35. Should tax payable on reverse charge basis be reduced from the value of the supply?

Ans. Contractually if tax is not included in the price payable towards the supply, then tax payable on reverse charge basis cannot be reduced from the value of supply that is paid to the supplier. And if included, then due effect to this understanding must flow by making the deduction from the payment.

Q36. What is the effect of reverse charge on input tax credit?

Ans. As regards the recipient who pays tax on reverse charge basis, tax so paid would be available as credit subject to Section 17 of the CGST Act, 2017. As regards the supplier whose tax is paid by the recipient, value of such supply will be treated as '*exempt supply*' while applying Section 17(2) of the CGST Act, 2017 on all the credits availed.

Q37. What is the difference between reverse charge under Section 9(3) and under Section 9(4) of the CGST Act, 2017?

Ans. The Government has notified a list of goods and services along with the type of recipient who is liable to pay tax on those supplies covered under reverse charge as per Section 9(3). If the goods or the services are not listed or the recipient is not notified, then reverse charge does not apply. For example, tax in respect of services of advocate availed by a business entity is payable on reverse charge basis. If the recipient is a religious trust which means it is not a business entity, reverse charge is not applicable.

Whereas, as per ¹¹section 9(4) of the CGST Act, the Government may notify a class of registered persons who shall be liable to payment of tax on reverse charge basis, in respect of supply of specified categories of goods or services or both received from an unregistered supplier,

¹¹ Effective date yet to be notified.

However, the supplies made by unregistered suppliers to a registered person are exempted without any threshold limit till 30.09.2019 *vide Notification No. 22/2018-Central Tax (Rate) dated 06.08.2018*.

Q38. Is reverse charge applicable after supply or on payment of advance?

Ans. Reverse charge is applicable when there is a supply and the time of supply is determined by Section 12 or Section 13 of the CGST Act. Reverse charge is applicable at the time of advance even though actual supply is yet to take place. Section 31(3)(g) read with Rule 52 of the CGST Rules provides for the issuance of a Payment Voucher at the time of making payment to the supplier in cases where registered person is liable to pay tax on reverse charge basis.

Q39. What are the implications if, supplier charges GST on the invoice though reverse charge is applicable?

Ans. Recipient is free to reduce the GST charged from the value of invoice and pay only the net amount but liable to discharge the reverse charge obligation separately.

Q40. What are implications to supplier if recipient refuses to pay tax on reverse charge?

Ans. There is no recourse back to the supplier in case of default by recipient to discharge reverse charge liability.

Q41. In case supplier has paid GST which was payable by recipient on reverse charge, is recipient discharged from the liability to pay tax on reverse charge?

Ans. No, even if supplier has somehow paid tax, reverse charge liability must be discharged by the recipient.

Q42. Is GST wrongly paid by supplier available as input tax credit (ITC) to recipient? [In case of Reverse Charge]

Ans. No, GST wrongly paid by supplier cannot be claimed as input tax credit (ITC) by recipient in case of supply reported in FORM GSTR-1 as "*Supplies attracting tax on reverse charge basis*". However, the supplier can claim for refund of tax wrongly paid.

Q43. Is condition to pay supplier within 180 days applicable to supplies covered by reverse charge?

Ans. No, second proviso to Section 16(2) of the CGST Act requiring the recipient to make payment towards the value of supply along with tax payable thereon within a period of 180 days does not apply to supplies on which tax is payable on reverse charge basis.

Q44. Is reverse charge applicable on supply of goods also or is it only on supply of services?

Ans. Payment of tax on reverse charge is applicable on goods also. Notification No. 04/2017-Central Tax (Rate), Notification No. 04/2017-Integrated Tax (Rate) and Notification No.

04/2017-Union Territory Tax (Rate), all dated 28.06.2017 as amended from time to time may be referred.

Q45. Explain effect of Section 23 of the CGST Act in relation to reverse charge?

Ans. Persons specified in Section 23 are excluded from registration. If such persons are receiving inward supplies liable to tax on reverse charge basis under Section 9(3), they will be liable to get registered in terms of Section 24 and comply with other requirements of law. But, if such persons do not attract Section 9(3), then they can remain unregistered and therefore not attract Section 9(4) too.

Q46. In case supplier eligible to threshold exemption, is reverse charge applicable?

Ans. Supplier may not have paid tax due to threshold benefit but this does not excuse registered recipient from liability under Section 9(4) which is attracted if 'supplier is not registered' without inquiring into the reasons for such non-registration.

Q47. In case supplier is under composition and no tax appears on invoice, is reverse charge attracted under Section 9(4) of the CGST Act?

Ans. Though no tax appears on the invoice, the supplier is nevertheless registered. Hence, Section 9(4) is not attracted.

Q48. If all the supplies of a person are under reverse charge mechanism, can such person not register under the Act although the aggregate turnover is exceeding the prescribed limit?

Ans. It is not necessary for the supplier to take registration since the Notification No. 05/2017-Central Tax dated 19.06.2017 exempts persons subject to reverse charge under Section 9(3) from registration if they are engaged only in making taxable supplies on which tax is payable by the recipient. For Example: - In case of an independent director providing services, and his only income is from independent directorship (or such other services covered under RCM) to the company, in this case the director won't be required to take registration.

Q49. M/s XYZ Pvt. Ltd. imported some goods on which it was liable to pay GST under reverse charge. While the goods were lying at port, goods were lost or destroyed due to some natural disaster. In this case will it be liable to GST?

Ans. In case of natural disaster or loss, no import duty is levied, therefore no GST will be applicable.

Q50. M/s XY Ltd. is not registered under GST. The company avails the rent-a-cab service for its employees. Whether M/s XY Ltd. will be considered as taxable person under GST?

Ans. No

Composition Levy (Section 10)

Q51. What is the threshold limit for opting composition scheme?

Ans Notwithstanding anything to the contrary contained in the CGST Act but subject to the provisions of Sections 9(3) and 9(4), a registered person, whose aggregate turnover in the preceding financial year **did not exceed one crore rupees**, may opt to pay, in lieu of the tax payable by him *under section 9(1) an amount of tax calculated at such rate*¹² as may be prescribed.

In other words, composition tax payers shall, in lieu of the tax payable on the invoice value of the transactions under section 9(1) (applicable to regular taxpayers), pay tax as a percentage of their turnover.

Further, this limit, is **rupees seventy-five lakhs** in the case of an eligible registered person, registered under section 25 of the CGST Act, in any following States, namely: -

- (i) Arunachal Pradesh,
- (ii) Assam,
- (iii) Manipur,
- (iv) Meghalaya,
- (v) Mizoram,
- (vi) Nagaland,
- (vii) Sikkim,
- (viii) Tripura,
- (ix) Himachal Pradesh

It may be noted that aforesaid limit of ` 1 crore/ 75 lakh is notified *vide Notification No. 46/2017-Central Tax dated 13.10.2017*. Prior to such change the threshold limit was `75 and 50 lakh respectively as stated in Notification No. 8/2017-Central Tax dated 27.06.2017.

¹³Moreover, on recommendation of the Council, the Government may, by notification, increase the aforesaid limit of ` 1 crore upto ` 1.5 crore¹⁴. The limit is being raised from ` 1 crore to ` 1.5 crore as a measure of facilitate trade.

Q52. What is the rate of tax applicable to a taxable person opting to pay tax under composition scheme?

Ans. As per Section 10(1) of the CGST Act, 2017 read with Notification No. 1/2018 -Central Tax dated 1.1.2018 and subject to such conditions and restrictions as may be prescribed, with effect from 1.1.2018, the rate of tax, shall be:

^{12, 13 & 14} Effective date yet to be notified.

1. Half 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 of taxable supplies of goods in State or turnover in Union territory in case of other suppliers.

It may be noted that prior to 1.1.2018, the rates as per Notification No. 8/2017-Central Tax dated 27.06.2017 were:

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.

Q53. Can every taxable person opt to pay tax under composition scheme?

Ans. Registered person whose aggregate turnover in the preceding financial year does not exceed one crore rupees or seventy-five lakhs rupees in case of specified States as prescribed under Notification 46/2017-Central Tax, dated 13.10.2017), may opt to pay tax under composition scheme, subject to satisfaction of the following conditions and restrictions:

1. ¹⁵Save as provided in Section 10(1), he is not engaged in the supply of services - This is a consequential amendment, as a new proviso is being added to section 10(1) to provide that a person who opts to pay tax under composition scheme may supply services (other than restaurant services), of value not exceeding 10% of turnover in a State or Union territory in the preceding financial year or Rs. 5 lakh, whichever is higher.
2. he is not supplying goods which are not leviable to tax e.g. petrol;
3. he is not engaged in making any inter-State outward supplies of goods;
4. he is not supplying goods through an electronic commerce operator who is required to collect tax at source under Section 52; and

¹⁵ Effective date yet to be notified. Earlier it was -*he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;*

5. he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council. In this regard, following goods have been notified vide Notification No. 8/2017-Central Tax dated 27.06.2017.

- i) Ice cream and other edible ice, whether containing cocoa
- ii) Pan masala

All goods, i.e. Tobacco and manufactured tobacco substitutes (It may be noted, there is no restriction in case the person is engaged in trading of such goods.)

6. he is not entitled to input tax credit
7. he is neither casual taxable persons nor non-resident taxable persons.
8. composition scheme would become applicable for all the business verticals having separate registrations within the State and all other registrations outside the State which are held by the person with same PAN. (Would be applicable for all transactions under the same PAN)

To clarify further, if a taxable person has multiple business verticals and if he has opted for separate registrations for each such vertical, composition scheme would become applicable for all the business verticals and it cannot be applied for selected verticals only.

e.g.: If a taxable person has the following businesses separately registered: Sale of footwear (Registered in Karnataka), Sale of mobiles (Registered in Karnataka), Franchisee of McDonalds (Registered in Kerala). In the above scenario, the composition scheme would be applicable for all the 3 units. Taxable person will not be eligible to opt for composition scheme say for sale of footwear and sale of mobiles and opt to pay taxes under the regular scheme for franchisee of McDonalds.

9. 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) of the CGST Rules;
10. 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);
11. he shall pay tax under Section 9(3) or 9(4) of the CGST Act on inward supply of goods or services or both. However, for the time being, provisions of Section 9(4) have been suspended till 30.09.2019 vide Notification No. 22/2018-Central Tax (Rate) dated 06.08.2018;

12. 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 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.

Q54. Whether an application/ intimation needs to be made by supplier opting for composition scheme?

Ans Yes, the taxable person should make an application exercising his option to pay tax under composition scheme. There are three possibilities in which such option can be exercised:

- (a) **Taxable Person migrating from old registration to GST registration** : As per Rule 3(1) of the CGST Rules, in cases involving migration, there is need to exercise option of composition in **FORM GST CMP 01** prior to appointed date or within 30 days after the appointed date. In this case, the option to pay tax under composition scheme shall be effective from the appointed date. This date has further been extended to 16th August 2017. Such person would be required to file stock statement under Rule 3(4) in **FORM GST CMP-03** within a period of 90 days (extended from 60 days to 90 days by Notification No. 22/2017–Central Tax w.e.f.17.08.2017) from the date on which the option for composition levy is exercised or within such further period as may be extended by the Commissioner in this behalf.
- (b) **Taxable Person obtaining new registration under GST laws** : Such option can be exercised at the time of obtaining registration under Section 22 in **Part B of FORM GST REG-1**. In this case, the option to pay tax under composition scheme shall be effective from the effective date of registration. [Refer Rule 3(2) of CGST Rules]
- (c) **Taxable Person paying tax under normal levy in one financial year and wants to opt for composition scheme in next financial year, under the GST regime** : Such option can be exercised by filing intimation in **FORM GST CMP 02** prior to commencement of the year for which the option to pay tax under composition scheme is exercised. In this case, the option to pay tax under composition scheme shall be effective from the beginning of the financial year. Moreover, provisions of Section 18(4) shall become applicable and person shall be required to file statement containing details of stock and inward supply of goods received from un-registered persons, held in stock, on the date immediately preceding the date from which he opts for composition levy, in **FORM GST ITC 03** within 60 days from the commencement of the relevant financial year. [Refer Rule 3(3) of CGST Rules].The option exercised by a

registered person to pay tax under composition scheme is valid as long as the conditions stipulated in GST law to avail such scheme are complied with or option withdrawn by the assessee or 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 Chapter on Composition scheme in the CGST Rules.

- (d) **A new sub-rule (3A) was inserted** vide Notification No. 34/2017-Central Tax dated 15.09.2017 which had an overriding effect on provisions of sub-rule (1), (2) and (3). As per the said rule, it was provided that, in all cases involving (a), (b) and (c) above, the option of composition scheme can be obtained only from 01.10.2017 by filing application in **FORM CMP-02** and furnishing stock statements in **FORM GST ITC-03**, within 90 days from 01.10.2017.

Since, this was not the intended interpretation of the said amendment, sub-rule 3A was once again amended *vide Notification No. 45/2017–Central Tax dated 13.10.2017*. By making the said amendment, the government clarified that, sub-rule 3A was intended to cover those cases, where either at the time of migration or by taking registration under GST if any person who has availed normal scheme wishes to opt for composition scheme, then such person may opt for composition scheme 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 or before 31.03.2018. In this case, such person would be required to furnish stock statements in **FORM GST ITC-03** within 180 days from the day on which such person commences to pay tax under Section 10. It may be noted that, the purpose of rule (3A) is only to enable the persons to opt for composition scheme in the first year of GST implementation, without making them to wait up to the next financial year. This is on account of the fact that, the threshold limit for the purposes of composition scheme under Section 10 was enhanced twice i.e. once on 27.06.2017 and then again on 13.10.2017. Hence, Rule 3(3A) would only cover cases, where the application is made prior to 31.03.2018. For all applications made after 31.03.2018, the matter would be governed by Rule 3(3) above.

Summary

Taxable Person	Form to be filed
Migrating from old registration to GST registration	Form GST CMP-01
Obtaining new registration under GST laws	Part B of Form GST REG-1.
Paying tax under normal levy in one financial year and wants to opt for composition scheme in next financial year, under the GST regime	Form GST CMP-02

Q55. 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.

However, CGST (Amendment) Act 2018 dated 29.08.2018 vide ¹⁶inserting a proviso to Section 10 to provide that a person who opts to pay tax under composition scheme may supply services (other than restaurant services), of value not exceeding 10% of turnover in a State or Union territory in the preceding financial year or Rs. 5 lakh, whichever is higher.

Q56. Whether 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.

Q57. 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.

However, if the taxable person becomes ineligible to remain under composition scheme, the taxable person will become entitled to take input tax in respect of inputs held in stock (as inputs, contained in semi-finished or finished goods) on the day immediately preceding the date from which he becomes liable to pay tax under Section 9. (Refer Section 18(1)(c) read with Rule 40 of the CGST Rules). A statement of stock shall be filed in **Form GST ITC-01** within 30 days from the date from which the option is withdrawn or the order cancelling the composition option is passed.

Q58. 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.

Q59. 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

¹⁶ Effective date yet to be notified.

Account Number, to be computed on all India basis but excludes Central tax, State tax, Union territory tax, integrated tax and cess.

Q60. Whether a taxable person can still pay tax under composition scheme even after the turnover in the current financial year exceeds threshold limit?

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 the threshold limit of composition scheme.

Q61. What are the consequences, if a taxable person violates the conditions prescribed for composition scheme?

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

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 or 74 of the CGST Act, 2017.

Q62. Is there any option for registered taxable person to withdraw from the composition scheme?

Ans. The registered taxable person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in **FORM GST CMP-04**. Where the option of composition scheme is lapsed due to non-compliance of any of the eligibility conditions under Section 10 or rules made thereunder, then taxable person shall file an intimation of withdrawal in the same **FORM GST CMP-04** within 7 days of the occurrence of event leading to disability under the scheme. An intimation for withdrawal or cancellation of permission in respect of any place of business in a State or UT shall be deemed to be an intimation in respect of all other places of business registered on the same PAN.

Q63. Can the proper officer cancel the registration of supplier who has opted composition scheme?

Ans. Yes. Where the proper officer has reasons to believe that the taxable person was not eligible to the composition scheme, the proper officer may cancel the permission and demand the following:

- Differential tax and interest – viz., tax payable under the other provisions of the Act after deducting the tax paid under composition scheme.
- Penalty determined based on the demand provisions under Section 73 or 74.

However, it is essential to issue show cause notice in **FORM GST CMP 05** and provide an opportunity of being heard to the taxable person before proceeding with the demand.

The proper officer shall within 30 days of receipt of reply, either accept the reply (in **FORM GST CMP 06**) to SCN or deny the option to pay tax under section 10 from the date of option or from the date of event occurring the contravention of section 10 or rules thereunder, by passing an order in **Form GST CMP 07**.

Q64. State the clarifications made vide CGST (Removal of Difficulties Order), 2017 Order No. 1/2017-Central Tax dated 13.10.2017-, in respect of composition scheme?

Ans. CGST (Removal of Difficulties Order), 2017 Order No. 1/2017– Central Tax dated 13.10.2017 has provided the following two clarifications in respect of composition scheme:

- if a person supplies goods and/or services referred to in clause (b) of paragraph 6 of Schedule II of the said Act and also supplies any exempt services including services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, the said person shall not be ineligible for the composition scheme under Section 10 subject to the fulfillment of all other conditions specified therein.
- In computing his aggregate turnover in order to determine his eligibility for composition scheme, value of supply of any exempt services including 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.

Q65. What will be the rate of tax for bakery items supplied where eating place is attached - manufacturer for the purpose of composition levy?

Ans. The Government vide Circular No. 27/01/2018 dated 4.01.2018 has clarified that any service by way of serving of food or drinks including by a bakery qualifies under section 10(1)(b) of the CGST Act and hence GST rate of composition levy for the same would be 5%.

Q66. Whether a restaurant serving alcohol along with other foods etc. to its customers can opt for composition scheme under Section 10?

Ans. In terms of Section 10(2) (a) read with clause (b) of Entry No. 6 of Schedule II of CGST Act, 2017, such restaurant cannot opt for composition scheme.

MCQ's

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*

Tax Liability on Composite and Mixed Supplies (Section 8)

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*

Q3. What would be the tax rate applicable in case of composite supply?

- (a) Tax rate as applicable on principal supply
- (b) Tax rate as applicable on ancillary supply
- (c) Tax rate as applicable on respective supply
- (d) None of the above

Ans. (a) *Tax rate as applicable on principal supply*

Q4. What would be the tax rate applicable in case of mixed supply?

- (a) Tax rate as applicable on supply attracting the lowest rate of tax
- (b) Tax rate as applicable on supply attracting the highest rate of tax
- (c) Tax @ 28%
- (d) None of the above

Ans. (b) *Tax rate as applicable on supply attracting the highest rate of tax*

Levy and Collection (Section 9)

Q5.of the Constitution provides that no tax shall be levied or collected except by authority of law?

- (a) Article 254
- (b) Article 245
- (c) Article 265
- (d) Article 256

Ans. (c) *Article 265*

Q6. 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*

Q7. What is the maximum rate prescribed under CGST Act?

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

Ans. (c) *20%*

Q8. Who will notify the rate of tax to be levied under CGST Act?

- (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*

Q9. Which of the following taxes will be levied on imports?

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

(d) CGST and SGST

Ans. (c) *IGST*

Q10. What is the maximum rate prescribed under UTGST Act?

(a) 14%

(b) 28%

(c) 20%

(d) 30%

Ans. (c) *20%*

Reverse Charge

Q11. What are the supplies on which reverse charge mechanism would apply?

(a) Notified categories of goods or services or both under section 9(3)

(b) Inward supply of goods or services or both from an unregistered dealer under section 9(4)

(c) Both the above

(d) None of the above

Ans. (a) *Notified categories of goods or services or both under section 9(3) as section 9(4) has been deferred presently.*

Q12. Which of the following services are covered under Reverse Charge Mechanism of CGST Act, 2017?

i. Legal Consultancy

ii. Goods Transport Agency

iii. Manpower Supply

iv. Rent-a-Cab

(a) i & iii

(b) i & iv

(c) i & ii

(d) All the above

Ans. (c) *i and ii*

Q13. In case of GTA services provided to an Individual not registered under GST and not a business entity, liability to pay GST is on

- (a) Supplier
- (b) Recipient
- (c) Both
- (d) Exempt

Ans. (d) *Exempt vide Sl. No. 21A of Notification No. 12/2017-Central Tax (Rate), dated 28-Jun-2017*

Q14. In case of sponsorship services provided by Mr. A to M/s AB Ltd., liability to pay GST is on:

- (a) Mr. A
- (b) M/s AB Ltd.
- (c) Both
- (d) None of the above

Ans. (b) *M/s AB Ltd.*

Q15. In case of renting of land, inside an Industrial estate, by State Government to a registered manufacturing company, GST is:

- (a) Exempted
- (b) Applicable under Normal Charge
- (c) Applicable under Reverse Charge
- (d) None of the above

Ans. (c) *Applicable under Reverse Charge*

Q16. In case of services by an insurance agent to Ms. ABC Insurance Co. Ltd., GST is to be paid by:

- (a) Insurance Agent
- (b) ABC Insurance Co. Ltd.
- (c) Both
- (d) None of the above

Ans. (b) *ABC Insurance Co. Ltd.*

Q17. Sitting fees received by director of XYZ Ltd., is liable for GST in the hands of the.....

- (a) Director
- (b) XYZ Ltd

- (c) Both of above
- (d) None of the above

Ans. (b) *XYZ Ltd.*

Q18. Services by a recovery agent to M/s ZZZ Bank Ltd., are liable for GST in the hands of:

- (a) M/s ZZZ Bank Ltd.
- (b) Recovery agent
- (c) Both the above
- (d) None of the above

Ans. (a) *M/s ZZZ Bank Ltd.*

Q19. In case of lottery procured from State Government by a lottery distributor, GST is payable by:

- (a) Lottery distributor
- (b) State Government
- (c) Both the above
- (d) None of the above

Ans. (a) *Lottery distributor*

Q20. Reverse charge under section 9(3) of the CGST Act is applicable on:-

- (a) Only on notified services
- (b) Only on notified goods
- (c) Notified goods & services
- (d) None of the above

Ans. (c) *Notified goods & services*

Q21. If Tobacco leaves procured from an Agriculturist by a registered person, then: -

- (a) Reverse charge is applicable
- (b) Normal charge is applicable
- (c) Joint charge is applicable
- (d) None of the above

Ans. (a) *Reverse charge is applicable*

Q22. In case M/s. PQR Ltd., a registered person, has availed rent-a-cab service from M/s ABC Travels (Proprietor) service then which one of the following is true:-

- (a) Reverse charge is applicable as this is a notified service.
- (b) Reverse charge is applicable if ABC Travels is not registered.
- (c) Joint charge is applicable
- (d) None of the above

Ans. (b) *Reverse charge is applicable if ABC Travels is not registered.*

Q23. Reverse charge is applicable:

- (a) Only on intra-State supplies
- (b) Only on inter-State supplies
- (c) Both intra-State and inter-State supplies
- (d) None of the above

Ans. (c) *Both intra-State and inter-State supplies*

Q24. Banking services provided by Department of post :

- (a) Taxable & Reverse Charge Mechanism is applicable
- (b) Taxable & Normal Charge is applicable
- (c) Exempt from GST
- (d) Nil rated

Ans. (c) *Exempt from GST*

Q25. If a supplier is under the composition scheme, does RCM still apply to the recipient

- (a) Yes
- (b) No

Ans. (b) *No*

Q26. If all supplies made by a supplier are covered under RCM, should they still register under the CGST Act if the threshold exceeds the prescribed limit

- (a) Yes
- (b) No - Notification No. 05/2017-Central Tax dated 19.06.2017

Ans. (b) *No - Notification No. 05/2017- Central Tax dated 19.06.2017.*

Q27. When can credit for tax paid under reverse charge be taken?

- (a) Same month
- (b) Next month

(c) Any of the two months

Ans. (a) *Same month*

Q28. If a supplier is under the composition scheme, then whether tax will be paid under reverse charge by the composition supplier:

(a) Yes

(b) No

Ans. (a) Yes

Q29. Whether services supplied by individual Direct Selling Agents (DSAs) to banks/ non-banking financial company (NBFCs) will be covered under Reverse Charge Mechanism:

(a) Yes

(b) No

Ans. (a) Yes

Composition levy (Sections 10)

Q30. 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 and services(except restaurant services);

(c) Person effecting supply of goods through an e-commerce operator liable to collect tax at source

(d) Person providing restaurant services

Ans. (d) *Presently ,Person providing restaurant services. (It may be noted that CGST Act Amendment has provided an option to take composition scheme 10% or Rs. 5 Lacs as discussed earlier)¹⁷*

Q31. What is the threshold limit of turnover in the preceding financial year for opting to pay tax under composition scheme for States other than special category States ?

(a) ` 20 lacs

(b) ` 10 lacs

(c) ` 50 lacs

(d) ` 1 crore

¹⁷ Effective date yet to be notified.

Ans. (d) ` 1 crore [Notification No. 46/2017-Central Tax dated 13.10.2017 read with Notification No. 08/2017-Central Tax dated 27.06.2017]

Q32. What is the threshold limit of turnover in the preceding financial year for opting to pay tax under composition scheme for special category states?

- (a) ` 25 lacs
- (b) ` 50 lacs
- (c) ` 75 lacs
- (d) ` 1 crore

Ans. (c) ` 75 lacs [Notification No. 46/2017-Central Tax dated 13.10.2017 read with Notification No. 08/2017-Central Tax dated 27.06.2017]

Q33. 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) 0.5%
- (d) No composition for manufacturer

Ans. (c) 0.5% [Notification No. 01/2018-Central Tax dated 01.01.2018]

Q34. What is the rate applicable under CGST to a registered person being a hotelier (providing restaurant and accommodation services) opting to pay taxes under composition scheme?

- (a) 1%
- (b) 0.5%
- (c) 2.5%
- (d) Not eligible for composition scheme thus liable to pay normal tax

Ans. (d) *Not eligible for composition scheme thus liable to pay normal tax [Composition scheme is available to restaurant only. Even composition scheme is not extended to any other service provider]*

Q35. Mr. Richard, a trader in Delhi has opted for composition scheme of taxation under GST. Determine the rate of total GST payable by him under composition scheme:

- (a) 0.5% CGST & 0.5% SGST
- (b) 2.5% CGST & 2.5% UTGST
- (c) 5% IGST

(d) 5% UTGST

Ans. (a) 0.5% CGST & 0.5% SGST

Q36. 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

Q37. Can composition scheme be availed if the registered person effects inter-State 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

Q38. 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

Q39. 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

Q40. 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*

Q41. What will happen if the turnover of a registered person opting to pay taxes under composition scheme during the year 2017-18 crosses threshold limit?

- (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 threshold limit

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