

COMPOSITION TAX UNDER GST REGIME



CA Vishal Shah
Email : vishal@gadaharia.com
CA Bhavik Chandaria
Email : bhavik@gadaharia.com

Background

Government in its endeavor to reduce compliance burden on small and medium businesses have continued the saga of composition levy from the erstwhile VAT and Service Tax era to the GST era.

In GST regime, opting for composition scheme reduces compliances burden on these businesses whereby they are not required to collect tax, not required to issue tax invoices, relief from monthly compliances etc.

Flow of this article

We have attempted to capsulate the basic law (such as Eligibility, limits etc.) governing composition scheme in the table below for quick reference. Later on we have attempted to cover certain specific practical scenarios which could arise on day to day basis or certain areas which would need caution while planning and advising

	Composition Scheme u/s. 10(1)	Composition Scheme u/s. 10 (2A)
Who all are covered	<ul style="list-style-type: none"> Manufacturer of Goods (except specified goods) Supply of food as a part of service or otherwise (Mainly restaurant and catering service) Other Supplier of Goods <p>(Kindly note that for the purpose of easy reference this shall be termed as 'GOODS COMPOSITION')</p>	<ul style="list-style-type: none"> Suppliers who are not eligible u/s. 10(1) <p>(Kindly note that for the purpose of easy reference this shall be termed as 'SERVICES COMPOSITION')</p>
Legal references (Rules- Notifications)	<p>Sec.10(1) & 10(2) of CGST Act Rule 3 to 7, 62 of CGST Rules</p> <p>Notif.No. 14/2019 CT dated 7.3.2019 as amended Notif. No. 21/2019 CT dated 23.4.2019 as amended</p>	<p>Sec.10(2A) of CGST Act Rule 3 to 7, 62 of CGST Rules</p> <p>Notif.No. 2/2019 CT(R) dated 7.3.2019 as amended Notif.No.21/2019 CT dated 23.4.2019 as amended</p>

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Who can opt	Taxpayers whose aggregate turnover in preceding financial year does not exceed 1.5 Crore For supplies from specified states, this Limit is of Rs75 Lakh	Taxpayers whose aggregate turnover in preceding financial year does not exceed 50 Lakh No Separate limit for specified states in case of "Services"								
What shall be included & excluded in turnover	<table border="1"> <thead> <tr> <th>Includes</th> <th>Excludes</th> </tr> </thead> <tbody> <tr> <td>Taxable Supplies</td> <td>Inward supplies on which tax is payable under RCM</td> </tr> <tr> <td>Exempt Supplies</td> <td>Exempt supply by way of interest on deposits / loans / advances</td> </tr> <tr> <td>Outward supplies on which tax is payable by the recipient under RCM</td> <td></td> </tr> </tbody> </table>		Includes	Excludes	Taxable Supplies	Inward supplies on which tax is payable under RCM	Exempt Supplies	Exempt supply by way of interest on deposits / loans / advances	Outward supplies on which tax is payable by the recipient under RCM	
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	Composition Scheme u/s. 10(1)	Composition Scheme u/s. 10 (2A)						
Who all Who CANNOT opt for covered	<ul style="list-style-type: none"> Inter-state supply of goods Non-GST goods (Liquor, Petrol, Crude, etc) Manufacturer of specified goods (Notfn. No.14/2019-CT dated 7.3.2019 as amended) 	<ul style="list-style-type: none"> Inter-state supply of services 						
Rates of Taxes	<table border="1"> <tr> <td>Manufacturer</td> <td>2%</td> </tr> <tr> <td>Supply of Food</td> <td>5%</td> </tr> <tr> <td>Other Supplier of Goods</td> <td>1%</td> </tr> </table>	Manufacturer	2%	Supply of Food	5%	Other Supplier of Goods	1%	6%
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Partial Supplies	<p>Partial supply of service allowed.</p> <p>Value of such partial supply of services shall not exceed 10% of preceding year's turnover or 5 Lakhs, whichever is higher</p>	<p>Partial supplies of goods allowed.</p> <p>No limit prescribed.</p>						
Supply through E-Commerce Operator	<p>As of now NOT allowed.</p> <p>(Amendment made to allow this in Finance Act 2023, but effective date not yet notified)</p>	NOT ALLOWED						
When to Opt	<table border="1"> <tr> <td>New registration</td> <td>At the time of registration itself</td> </tr> <tr> <td>Shift from Regular to Composition</td> <td>To be opted prior to the commencement of the financial year</td> </tr> <tr> <td></td> <td>Opt in during the year is not allowed.</td> </tr> </table>	New registration	At the time of registration itself	Shift from Regular to Composition	To be opted prior to the commencement of the financial year		Opt in during the year is not allowed.	
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General provisions	<ul style="list-style-type: none"> Not allowed to collect tax Cannot raise "Tax Invoice". Instead has to raise "Bill of supply" Bill of supply to mention as "Composition dealer not allowed to collect Tax" To prominently display at POB, as "Composition Taxable person" 							

Certain Practical Points and Issues to be taken care

1. Whether opted for Composition of goods or composition of services?

At present GST portal doesn't ask for any information as to whether composition u/s 10(1) is opted or section 10(2A). So here tax payer will himself need to keep record as to what has been opted. This is necessary because of difference in tax rates, turnover limits, restriction on rendering of partial services etc. So some sort of self-check would be necessary as composition scheme would lapse as soon as the prescribed turnover limit is crossed during the year.

2. Composition turnover and threshold turnover

Currently, threshold turnover upto which one is exempted from registration is Rs 40,00,000 for goods and Rs 20,00,000 for services.

During the first year of composition registration, for the purpose of calculating composition turnover limit of Rs 1.5 Crore/75 lakh/50lakh, turnover made upto threshold will have to be included.

However, for the purpose of paying tax under composition, such threshold turnover has to be excluded.

3. Turnover limit for a person having additional POB in specified states

Mr A has one office in Mumbai and another in Sikkim (Specified state). For the purpose of 10(1)-composition, what would be the turnover limit ? 1.5 Cr or 75 lakh ?.

First of all it should be noted that Mr A will have to opt for composition simultaneously for all the registration under same PAN. Rs.75 Lakhs being the lower limit the same shall apply on all India basis.

4. Where tax payer registered under **any one** composition, tax rate on other partial supplies?

Registered under composition as & existing rate	Tax on other partial supplies being,		
	Services	Trading / Manufacturing	Exempted goods or services
Manufacturer-1%	1%	1%	Taxable-@1%
Service of supplying food-5%	5%	5%	Taxable-@5%
Other than above two (E.g:- trader) -1%	1%	1%	No Tax on exempted goods and exempted services.
Service composition-6%	6%	6%	Taxable @ 6%.

5. Composition scheme to lapse if turnover is crossed prescribed limit

Composition scheme will immediately lapse during the year at the time when turnover has crossed the specified limit of 1.5 Crore/75 lakh/50Lakh

6. Calculation of 10% of previous years turnover.

10(1)-goods composition allows tax payer to partially render services with a cap of 10% of **previous years turnover** or Rs. 5,00,000, whichever is higher. Here, previous year's turnover would be aggregate of goods **as well as services** turnover. Further, such services turnover would also include exempt services turnover.

7. For goods composition, extent of "service" allowed in first year

Assuming that Tax payer did not have any turnover in previous year, extent of value of services that would be allowed in first year would be upto Rs 5,00,000.

8. During the year, can one jump from 10(1)-composition to 10(2A) composition?

Having opted for goods composition during the year, tax payer may have exceeded the permissible limit of services (10% or Rs 5,00,000) that can be rendered. At this point of time, he becomes ineligible for Section 10(1)-good composition. However, he may still be eligible for service composition u/s 10(2A). Can he do so during the year? Legally this is possible since section 10(2A)-categorically invites such tax payer who becomes ineligible for 10(1). On practical side also, GST portal, while opting for composition, does not distinguish between 10(1) & 10(2A). So, one may straightway start paying tax @ 6% on entire turnover including that of goods turnover in the next compliance. One might need to add "service" in the GST profile if not added earlier.

9. Outdoor caterer & Composition

Supply of food or drink as a part of service is covered under 10(1)-Composition. Apart from restaurant, this would cover outdoor caterers also. Prescribed composition rate is 5%.

However, it should be noted that if outdoor caterer doesn't opt for composition, then too specific GST rate specified is 5% without ITC. While under composition, tax-payer will not be able to recover tax from its customer which he might be able to do so if he stays in normal regime. So before opting for composition here one should weigh this fact and take call.

10. Inward RCM & Composition tax payer

For a composition tax payer, RCM would continue to apply as normal, wherever applicable, on his inward supplies. For Eg:- Composition tax payer availing security services from "other than body corporate" supplier would be liable to pay GST on security services on RCM basis.

However, value of security services would NOT form part of his turnover.

11. Composition Tax-Manner of calculation

As mentioned earlier, composition tax payer is not allowed to collect tax. Special care should be taken while paying tax. E.g:- In case of service composition, where service value is Rs 10,00,000. Tax payable would be 6% on Rs 10,00,000. One CANNOT treat as Tax being included in Rs 10,00,000 and arrive at tax figure of 56,603.

12. ITC implications on shifting from regular to composition

- ITC availed for the goods held in stock, shall lapse
- ITC related to "regular tax regime" but not appearing in GSTR-2B till March, shall lapse

13. Can restaurant supplying liquor opt for composition?

Since liquor is non-GST goods, taxpayer is not eligible to opt for composition.

