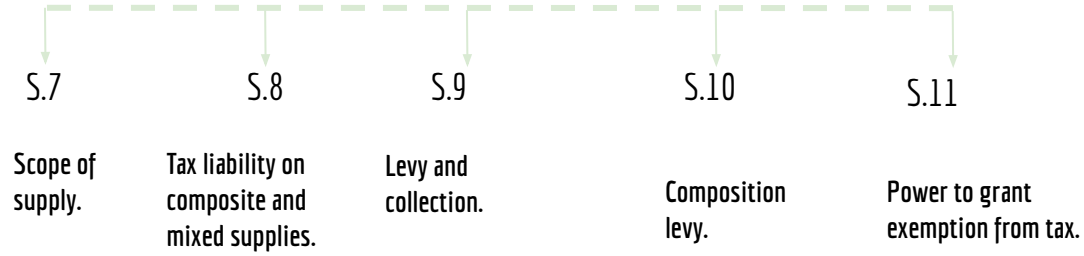


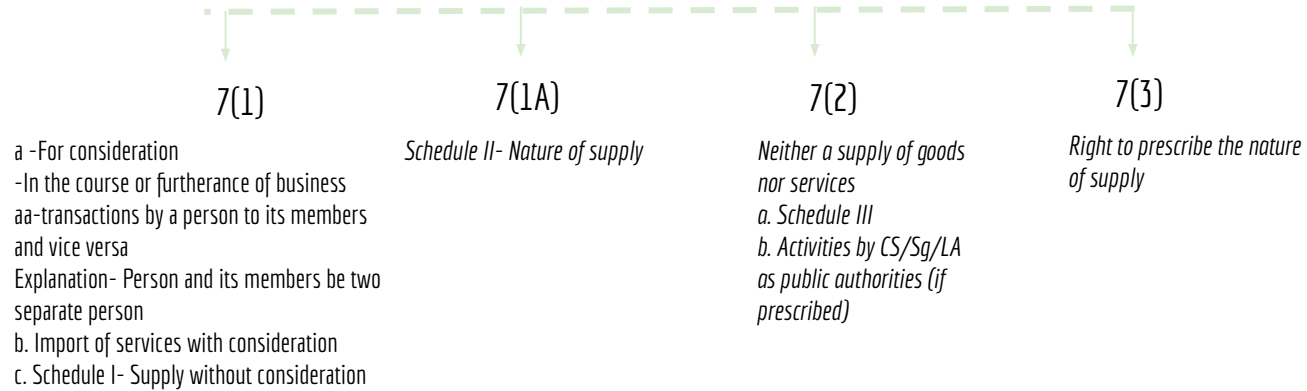


## Chapter 3





## Section 7 of CGST Act



7. (1) For the purposes of this Act, the expression “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;

aa) the activities or transactions, by a person, other than an individual, to its members or constituents or vice-versa, for cash, deferred payment or other valuable consideration. [Inserted vide Finance Bill 2021 applicable wef 01-07-2017]

Explanation.--For the purposes of this clause, it is hereby clarified that, notwithstanding anything contained in any other law for the time being in force or any judgment, decree or order of any Court, tribunal or authority, the person and its members or constituents shall be deemed to be two separate persons and the supply of activities or transactions inter se shall be deemed to take place from one such person to another;”

(b) import of services for a consideration whether or not in the course or furtherance of business; and

(c) the activities specified in Schedule I, made or agreed to be made without a consideration; and

~~(d) the activities to be treated as supply of goods or supply of services as referred to in Schedule II. [ omitted vide CGST Amendment Act, 2018 w.e.f. 1-07-17]~~



(1A) where certain activities or transactions constitute a supply in accordance with the provisions of sub-section (1), they shall be treated either as supply of goods or supply of services as referred to in Schedule II.” [ Inserted vide CGST amendment Act, 2018 wef 01-07-2017 ]

(2) Notwithstanding anything contained in sub-section (1),--

(a) activities or transactions specified in Schedule III; or

(b) such activities or transactions undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities, as may be notified by the Government on the recommendations of the Council, shall be treated neither as a supply of goods nor a supply of services.

(3) Subject to the provisions of sub-sections (1) (1A) and (2), 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.



# Schedule I

## ACTIVITIES TO BE TREATED AS SUPPLY EVEN IF MADE WITHOUT CONSIDERATION

Entry No.	Provision as per CGST Act	Analysis
1.	Permanent transfer or disposal of business assets where input tax credit has been availed on such assets	<p>This entry covers the cases where the business assets are transferred or disposed of without a consideration.</p> <p>E.g.1- M/s vanity enterprises gifted their used Air conditioner to M/s Pragya bal sansthan. They give it for free. In this case M/s Vanity enterprises is liable to take it as a supply as per schedule I and pay tax on this transaction.</p> <p>e.g. 2- M/s Henican transferred their motor car purchased one year back. It is given to Sandhya trust for free. In this case taking the normal situation that the input tax credit of a motor vehicle was not availed by M/s Henican as it is a blocked credit and is available only in limited cases. It will not be deemed as a supply under entry no. 1 of Schedule I of CGST Act as the ITC was not availed at the time of purchase of the vehicle.</p> <p>e.g.3- M/s Henican had 5 air conditioners. ITC was availed on all these Air conditioners. They exchanged all the AC's for their new ductable unit.This is a supply in the normal course. A consideration in the form of goods is also a consideration.</p> <p>e.g.4 M/s Henican sold their Ferrari to a charitable institution for Rs. 50 lac. This is a supply as per para 1a of section 7. It is made for consideration and is in the course or furtherance of business.</p> <p>Take care to note that this particular entry is applicable only on transfer of Goods.</p>



Entry No.	Provision as per CGST Act	Analysis
2.	<p>Supply of goods or services or both between related person or between distinct person as specified in section 25, when made in the course or furtherance of business.</p> <p>Provided that gifts not exceeding fifty thousand rupees in value in a financial year by an employer to an employee shall not be treated as the supply of goods or services or both.</p>	<p>This entry covers the cases where the Goods or services are provided to the-</p> <ul style="list-style-type: none"> <li>- <b><u>Related person</u></b>- As per explanation to section 15 of CGST Act. Following are related persons for the purpose of GST.</li> <li>- Officers or directors of one another's business</li> <li>- Legally recognised Partners</li> <li>- Employer and Employee</li> <li>- One person controlling more than 25% voting power in both of them</li> <li>- One of them directly or indirectly controls the other</li> <li>- Both of them are directly or indirectly controlled by a third person</li> <li>- Together they directly or indirectly control a third person</li> <li>- They are members of same family</li> <li>- Person also includes the legal person</li> <li>- One is sole agent or sole distributor or sole concessionaire</li> </ul>



2.		<p>e.g. M/s Tata sons gifted a Rolax watch to his employee on his birthday. This will be deemed as a supply even if there is no consideration. As this is made to an employee and the employee is a related person.</p> <p>e.g. M/s Tata Sons hold the 30% voting right of M/s Tata Tele and 50% voting right of M/s Tata Consultancy Ltd. In this case Tata tele and Tata consultancy are related persons</p> <p>e.g. Mr. Ratan Tata controls Tata salt and Tata steel. Both of these are related persons.</p> <p>e.g. Tata Tele holds the controlling stake in Tata Sale. Tata steel also has the controlling stake in Tata Salt. Both Tata tele and Tata steel are related people.</p> <p>e.g. M/s Ram Rahim is providing the free food to their employees. They are not charging anything for the food. Also it is not covered anywhere in the employment contract. In this case this will be a supply of food and will fall in entry number two of Schedule I.</p> <p>- <u><b>Distinct Person-</b></u></p> <p>Section 25(4) &amp; (5) explain the distinct persons. Where a person under the same PAN is having more than registration then those registrations will be a distinct person to each other</p> <p>Any transaction between the distinct persons will also fall under this entry.</p> <p>e.g. M/s Ambipure is registered in Haryana and Maharashtra. They transferred the stock of Haryana to Maharashtra for sale. In this case this stock transfer will be deemed as a supply.</p>



2.		<p><u><i>Important Advance rulings:</i></u></p> <ul style="list-style-type: none"><li>● <b>Caltech Polymers:</b> Food provided to employees on concessional rate is a supply.</li><li>● <b>Asia Columbia Hospitals:</b> Services by the employees sitting in head office will be a supply for Branches.</li></ul>





<p>3.</p>	<p>Supply of Goods-</p> <p>(a) by a principal to his agent where the agent undertakes to supply such goods on behalf of the principal; or</p> <p>(b) by an agent to his principal where the agent undertakes to receive such goods on behalf of the principal.</p>	<p>First thing we need to understand is the definition of an agent in GST.</p> <p>Section 2(5) of CGST Act</p> <p><i>“agent” means a person, including a factor, broker, commission agent, arhatia, del credere agent, an auctioneer or any other mercantile agent, by whatever name called, who carries on the business of supply or receipt of goods or services or both on behalf of another”</i></p> <p>Here the agent is a person making or receiving the supply on behalf of his principle.</p> <p>Now in case the agent has received some goods from the principal or supply some goods to the principal. This will be a supply even if there is no consideration.</p> <p>Circular No. 57/31/2018-GST dated 4th September 2018 further explains the points related to this entry.</p>
<p>4.</p>	<p>Import of services by a <del>taxable person</del> <b>Person</b> from a related person or from any of his other establishments outside India, in the course or furtherance of business.</p>	

Substituted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f. 01-02-2019



## Schedule II

Entry No.	Provision as per CGST Act	Analysis
1.Transfer	(a) any transfer of the title in goods is a supply of goods; (b) any transfer of right in goods or of undivided share in goods without the transfer of title thereof, is a supply of services; (c) any transfer of title in goods under an agreement which stipulates that property in goods shall pass at a future date upon payment of full consideration as agreed, is a supply of goods	Eg. 1 Dell Inc. is engaged in assembling of laptops. They sell them to wholesalers. This is supply of Goods. E.g. 2 - Edufiesta is engaged in online education.They give laptops to the Faculties to use it for online classes. This is supply of services. Eg. 3- Mr. Ram purchased a bike from Hero moto corp. It is on hire purchase basis. Mr. Ram will be able to get the ownership after 2 years. Till then he will pay Rs. 3000 per month. This is supply of goods.
2.Land and Building	(a) any lease, tenancy, easement, licence to occupy land is a supply of services; (b) any lease or letting out of the building including a commercial, industrial or residential complex for business or commerce, either wholly or partly, is a supply of services.	Letting out of any immovable property is supply of services
3.Treatment or process	Any treatment or process which is applied to another person's goods is a supply of services	This is covered under the job work. Eg. 4 Fine Fab is engaged in sales of shirts. They cut the pieces and send them to M/s Stitches to complete them for sale. The supply of M/s stitches is service for GST.



5. Supply of services	<p>The following shall be treated as supply of services, namely:–</p> <p>(a) renting of immovable property;</p> <p>(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>(c) temporary transfer or permitting the use or enjoyment of any intellectual property right;</p> <p>(d) development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;</p> <p>(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act; and</p> <p>(f) transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.</p>	<p>Entry 5(b) will cover the works contract services provided by developers. Where the entire consideration is paid after the (earliest of) Completion certificate or first occupation, it will be a sale of immovable property. But if any amount of consideration was received before that. Then it will be a works contract services. As per notification no. it will be taxable as follows. (w.e.f. 1.4.2019)</p> <ol style="list-style-type: none"> <li>1. GST @ 1.5% (Effective rate 1% after deducting Land Cost) without ITC for affordable residential apartments.</li> <li>2. GST @ 7.5% (Effective rate 5% after deducting Land Cost) without ITC for residential apartments other than affordable residential apartments.</li> <li>3. GST @ 12% with ITC for commercial properties (other than specified ones which will attract GST @ 5%).</li> </ol>
6. Composite supply	<p>The following composite supplies shall be treated as a supply of services, namely:–</p> <p>(a) works contract as defined in clause (119) of section 2; and (b) supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink (other than alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration.</p>	<p>Services under para 6b are also taxable @5% without ITC.</p>



7. Supply of Goods	<del>The following shall be treated as supply of goods, namely:— Supply of goods by any unincorporated association or body of persons to a member thereof for cash, deferred payment or other valuable consideration.</del>	
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### Case Law:

- THE STATE OF MADRAS VS. GANNON DUNKERLEY & CO.,(MADRAS) LTD.



## Schedule III

*[See section 7]*

### **ACTIVITIES OR TRANSACTIONS WHICH SHALL BE TREATED NEITHER AS A SUPPLY OF GOODS NOR A SUPPLY OF SERVICES**

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.
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.

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.*

*8. (a) Supply of warehoused goods to any person before clearance for home consumption;*

*(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.*

Explanation 1.—For the purposes of paragraph 2, the term "court" includes District Court, High Court and Supreme Court.

*Explanation 2.—For the purposes of paragraph 8, the expression "warehoused goods" shall have the same meaning as assigned to it in the Customs Act, 1962. ]<sup>1</sup>*

1. Inserted vide Central Goods and Services Tax (Amendment) Act, 2018 **w.e.f 01-02-2019**

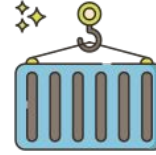


India

No  
Supply

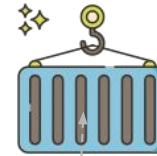
US

Foreign Port



China

Foreign Port

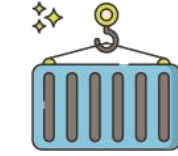


India

Warehoused Goods



Sold to A



Sold to B



No  
Supply



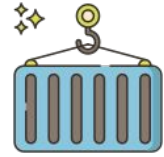
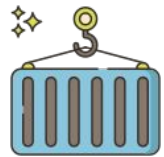


India

US

Indian Port

Foreign Port



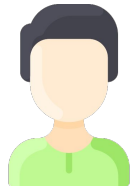
Not Cleared for home consumption

No Supply

Sold to A



Sold to B





## Section 8 of CGST Act



8(a)

Composite supply shall be treated as supply of principal supply

8(b)

*Mixed supply will be treated as supply of item having the highest tax rate*



## Section - 8

The tax liability on a composite or a mixed supply shall be determined in the following manner, namely:—

- (a) a composite supply comprising two or more supplies, one of which is a principal supply, shall be treated as a supply of such principal supply; and
- (b) a mixed supply comprising two or more supplies shall be treated as a supply of that particular supply which attracts the highest rate of tax.



## **Definition of Composite and Mixed supply:**

Section 2(30) “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;

Illustration.— 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.

Section 2(74) “mixed supply” means two or more individual supplies of goods or services, or any combination thereof, made in conjunction with each other by a taxable person for a single price where such supply does not constitute a composite supply.

Illustration.— A supply of a package consisting of canned foods, sweets, chocolates, cakes, dry fruits, aerated drinks 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;



## Examples of Composite and Mixed supply:

EX. 1- M/s Chocomoto is preparing the Diwali celebration bundles. Their two bestsellers includes the following items.

1. Premium Gift pack- It contains 5 Coke bottles, two Fruit and nuts and five Choco pie. The entire pack is available for Rs. 750.
2. Pick your gift- You can select from 5 Chocolates @50 each. Any of the drinks @Rs. 80 Each and Haldiram Namkeens @Rs. 150 each.

EX. 2-

Defallo limited sell rice with plastic bags. Rice is exempted as they are not using any brand name but Bags are taxable. What will be the tax implication in this case.



## Circular 11/2017 dated 20th October 2017-

1.	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]	Printing is the principal supply and therefore such supplies would constitute supply of service falling under heading 9989 of the scheme of classification of services.
2.	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



## Circular 34/ 2018 dated 1st March 2018

1.	Whether activity of bus body building, is a supply of goods or services?	To be determined on the basis of facts and circumstances of each case.
2.	Whether retreading of tyres is a supply of goods or services?	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%)
3.	Whether Priority Sector Lending Certificates (PSLCs) are outside the purview of GST and therefore not taxable?	PSLCs are taxable as goods at standard rate of 18% under the residuary S. No. 453 of Schedule III of notification No. 1/2017-Central Tax(Rate). GST payable on the certificates would be available as ITC to the bank buying the certificates



## Circular 34/ 2018 dated 1st March 2018

4.	Whether the activities carried by DISCOMS against recovery of charges from consumers under State Electricity Act are exempt from GST?	Other activities are taxable( laterone withdrawan by CBIC once they lost the case in high court)
5.	Whether the guarantee provided by State Government to state owned companies against guarantee commission, is taxable under GST?	The service provided by Central Government/State Government to any business entity including PSUs by way of guaranteeing the loans taken by them from financial institutions against consideration in any form including Guarantee Commission is taxable.





## *Composite and Mixed supply: Imp Pronouncements:*

- Torrent Power Ltd. (Gujrat High Court): Validity of Circular No. 34/8/2018. Ancillary activities like renting of metre are part of composite supply of electricity distribution. Principal supply is exempt so all these activities will also be exempt.
- Kundan Mishthan Bhandar: Advance ruling: Supply of food items from sweet shop in a restaurant will be taxable @5%.
- Kundan mishthan bhandar AAR reversed by AAAR: The order of AR was reversed.
- M/s Kerala forest development corporation ltd.: Tour operator can charge on individual items on various components.



- The first test for registered person is to identify the true and substantial nature of what is being supplied to the recipient from the perspective of recipient 1. This has to be determined objectively from the recipient's perspective. It is the actual supply made to the recipient that must be considered and not how the supply is invoiced or charged to the recipient. Even the proportion of cost of each element is not a determinative factor. However, the difficulty lies in ascertaining the question of where, in the eyes of the consumer, the value and benefit lies. What is in the mind of the customer when they make their purchase is highly subjective.
- In the second test, two or more distinct elements have been held to constitute a single supply where one element is the principal element and the other is ancillary whose role is only to enhance the enjoyment of the principal service by its customer. Since the ancillary element is not regarded as an aim by itself, but is only functional to the principal one, it will share the treatment of the principal service 3. To illustrate, where an airline supplied zero rated flights for a single price including the provision of in-flight catering, the Court of Appeal decided that catering was provided for the comfort and convenience of passengers and is ancillary to the main supply of the flight and therefore the court found a single composite supply.



## Advance Rulings:

- Arihant Enterprises Application No. :126 Authority: AAR (Maharashtra)
- M/s TATA MARCOPOLO MOTORS LTD. Order No.: KAR ADRG 12 / 2019 Dated: 25-06-2019





## Section 9 of CGST Act

9(1)

Tax on supply of G/s/b  
Rate - prescribed (not more than 20%)  
Value- sec 15

9(2)

*GST on 5 petroleum products from future date*

9(3)

Reverse Charge -  
Specified goods and services

9(4)

*Reverse charge on specified purchases from URD*

9(5)

*Right prescribe the ECO liable to pay GST on supply via their portal  
1st Proviso- if no physical presence at a place , rep will be liable for GST  
IInd Proviso- If no Rep, appoint one*



## Section - 9(1)

(9)1	Basic Levy	<p>Subject to the provisions of sub-section (2), there shall be <i>levied a tax called the central goods and services tax</i> on all <i>intra-State supplies of goods or services</i> or both,</p> <p>except on the supply of alcoholic liquor for human consumption, on the <i>value determined under section 15</i></p> <p>and at <i>such rates, not exceeding twenty per cent.</i>, as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person.</p>
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The basic levy of GST is casted upon a supplier. The term is defined in the CGST Act. A supplier means-

*“supplier” in relation to any goods or services or both, shall mean the person supplying the said goods or services or both and shall include an agent acting as such on behalf of such supplier in relation to the goods or services or both supplied;”- Section 29(105).*



## Section 9(2)

2.	5 petroleum product out from levy	The central tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), 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.
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5 Petroleum products are out from the levy of GST for now. It was decided at the time of introducing the GST in India. But they are supposed to be a part of GST levy. Let us hope that in future they can be levied to GST. But till then GST is not leviable on these five petroleum products.



## Section 9(3)

3	Reverse charge levy	The Government may, on the recommendations of the Council, by notification, specify the 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 and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.
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Reverse charge means reversing the Levy of GST. Normal levy of GST is called forward charge. In forward charge levy the supplier is required to collect the tax from the buyer and deposit it to the account of the government. In reverse charge exactly reverse of this happens. The buyer himself makes the payment of tax to the account of the government.

What is the difference in reverse charge and forward charge Levy?



## Section 9(4)

4	Reverse charge levy for purchase from unregistered buyer	<p><del>The central tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.</del></p> <p>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 this 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. [ Substituted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f 01-02-2019 ]</p>
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## Section 9(5)

5	ECO levy	The Government may, on the recommendations of the Council, by notification, specify categories of services the tax on intra-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:
First proviso to section 9(5)	Liability of representative when ECO is not present physically present	Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:
Second proviso to section 9(5)	Liability to appoint a representative	Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also he does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.



	<b>Notification</b>	<b>Description</b>
<b>Goods</b>	01/2017-Central Tax(rate), dt 28-06-2017	Cgst rate schedule notified under section 9(1)
	02/2017-Central Tax(rate), dt 28-06-2017	Cgst exempt notified schedule notified under section 11(1)
	04/2017-Central Tax(rate), dt 28-06-2017	Reverse Charge on certain specified supplies of goods under section 9(3)
<b>Services</b>	011/2017-Central Tax(rate), dt 28-06-2017	To notify the rates of supply of services under CGST Act
	012/2017-Central Tax(rate), dt 28-06-2017	To notify Exemptions on supply of services under CGST Act
	013/2017-Central Tax(rate), dt 28-06-2017	To notify categories of services on which tax will be payable under reverse charge mechanism under CGST Act



We need to analyse the 1st sub-section of section 9. It answers many important questions.

- CGST is on intra state supply.
- It is on supply.
- Supply shall be of Goods or services or any combination thereof.
- It is on all supplies of goods and/or services but not on alcoholic liquor. It is out of the scope of GST. You can refer to the 101st constitutional amendment Act. It defines the GST as a tax on supply of goods and/or services except alcoholic liquor.
- Value of levy of GST - The value of supply shall be determined as per the provisions under section 15 of CGST Act. We will read it in detail in the Chapter no. 6 of this book. But for a quick reference we can fix in our mind that value for GST purpose is the value charged on a valid invoice. The price the buyer is required to pay for a supply whether in the form of money or in any other form.
- Rate for levy of GST - The rate of tax is required to be notified by the government. But in any case they can't be more than 20% for CGST. (Same provision is there in SGST Act also , thus the total rate can't be more than 40% for both Acts. In the IGST levy section the rate mentioned is 40%.

**Let us try to understand the meaning of all these terms.**





## Section 7 of IGST Act -Inter state supply

SS.1

**Goods-**

**LOS & Place of supply**

- Different states
- Different UT's
- One state and other UT

SS.2

**Import of Goods-**

-Till they cross the custom frontiers

SS.3

**Services-**

**LOS & Place of supply**

- Different states
- Different UT's
- One state and other UT

SS.4

**Import of services-**

SS.5

**Goods/services-**

- LoS- India & PoS is O/S India
- To/by SEZ developer or Unit
- In Taxable territory, not covered anywhere



# Inter State Supply

Section 7 of IGST Act explains the inter state supply.

<b>(1) Inter state supply of Goods</b>	Subject to the provisions of <b>section 10</b> , supply of goods, where the location of the supplier and the place of supply are in-- (a) two different States; (b) two different Union territories; or (c) a State and a Union territory, shall be treated as a supply of goods in the course of inter-State trade or commerce
<b>(2) Import of Goods</b>	Supply of goods imported into the territory of India, till they cross the customs frontiers of India, shall be treated to be a supply of goods in the course of inter-State trade or commerce.
<b>(3) Inter state supply of services</b>	Subject to the provisions of section 12, supply of services, where the location of the supplier and the place of supply are in-- (a) two different States; (b) two different Union territories; or (c) a State and a Union territory, shall be treated as a supply of services in the course of inter-State trade or commerce.



<b>(4) Import of services</b>	Supply of services imported into the territory of India shall be treated to be a supply of services in the course of inter-State trade or commerce.
<b>(5) Misc supplies to be inter state supply</b>	Supply of goods or services or both,-- (a) when the supplier is located in India and the place of supply is outside India; (b) to or by a Special Economic Zone developer or a Special Economic Zone (c) in the taxable territory, not being an intra-State supply and not covered elsewhere in this section, shall be treated to be a supply of goods or services or both in the course of inter-State trade or commerce.



## Analysis-

Inter state supply will include the following-

1. Supply from one state or UT to another state or UT. This applies on both goods and/or services. Location of supplier and place of supply shall be in different states or UT's. Now we need to understand the meaning of Location of supplier and place of supply.
  - Location of the supplier is the location to manage his outward supply. Generally it is his registered place of business. But there can be some exceptions also. Like if he has a fixed place of business in some state but that place is not registered. But he had the technical infrastructure or manpower, then it can also be a location of a supplier.
  - Place of supply is the location where a supply is delivered. Section 10,11,12,13 of IGST Act covers the place of supply. We will read these sections in detail to understand the place of supply.
2. In case of import of Goods or services their nature will be of inter state supply. The tax liability will be on the importer of Goods or services. Import is deemed as an inter state supply of Goods by the Constitution of India itself. In case of services, they are covered by the entry 1 of 10/2017 IGST-rate, the notification for RCM in IGST.
3. In the following scenarios the nature of supply will be inter state
  - The supplier is in India and the place of supply is outside India.
  - Supply to SEZ developer
  - Supply in Indian territory not covered by the intra state supply.





Section 8 IGST Act-Intra state supply

SS.1

**Goods-**

LoS & PoS both are in same state or UT

Proviso to SS.1

**Exception-**

I. Supply to or from SEZ developer or Unit

li. Import into India till they cross the custom frontiers

SS.2

**Services-**

LoS & PoS both are in same state

Proviso to SS.2

**Exception-**

I. Supply to or from SEZ developer or Unit

Exp. 1 to SS.2

**Establishment of Distinct person-**

- i-One in India and one Outside India
- ii-One in a state and other is outside the state
- iii-One in a state and other registered in same state

Exp. 2 to SS.2

branch or an agency or a representational office shall be treated as establishment in that territory





## Intra state supply-

The term is defined by section 8 of IGST Act.

8. (1) Subject to the provisions of section 10, supply of goods where the location of the supplier and the place of supply of goods are in the same State or same Union territory shall be treated as intraState supply:

Provided that the following supply of goods shall not be treated as intra-State supply, namely:--

- (i) supply of goods to or by a Special Economic Zone developer or a Special Economic Zone unit;
- (ii) goods imported into the territory of India till they cross the customs frontiers of India; or
- (ii) Supplies made to a tourist referred to in section 15.

(2) Subject to the provisions of section 12, supply of services where the location of the supplier and the place of supply of services are in the same State or same Union territory shall be treated as intra-State supply:

Provided that the intra-State supply of services shall not include supply of services to or by a Special Economic Zone developer or a Special Economic Zone unit.



Explanation 1.--For the purposes of this Act, where a person has,--

(i) an establishment in India and any other establishment outside India;

(ii) an establishment in a State or Union territory and any other establishment outside that State or Union territory; or

(iii) an establishment in a State or Union territory and any other establishment being a business vertical registered within that State or Union territory, then such establishments shall be treated as establishments of distinct persons.

Explanation 2.--A person carrying on a business through a branch or an agency or a representational office in any territory shall be treated as having an establishment in that territory.



## Illustration

Please determine the nature of the transaction in following cases.

1.	Mr. Tanishk from Bangalore made a supply of Goods to Mr. Zian of Pune.
2.	Sainmy from Delhi made a supply at Thiruvananthapuram.
3.	CRL enterprises located in Tripura made a supply in Puducherry
4.	Msigno Private limited located in Chandigarh made a supply to Kerala
5.	ADCL Ltd , located in Gurugram , Haryana made a supply to Expo Ltd, located in SEZ of Gurugram
6.	AYSM of Gurugram made a supply to DLF Haryana, An SEZ developer
7.	Jigyasu of Vijaya Nagar, Telangana , made a supply to Chitra & Co. Of Nashik



## Supply-

Defined in section 7 of CGST Act. Supply can be of Goods or services or a combination of both. But the basic requirement is that there should be a consideration and it should be in course or furtherance of business.

## Goods

**Section 2(52)** “Goods” means every kind of movable property other than money and securities but includes actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply.

**Analysis-** Goods will include the Following-

- Every kind of movable property.
- Growing crops, Grass and things attached to land , if there is a contract to sever them for supply
- Actionable Claims

Following are not included in the definition of Goods-

- Immovable property.
- Money
- Securities



- The goods will include all movable property. The term movable property or immovable property is not defined in CGST Act. The General clauses Act defines the term immovable property.
- Section 2(26) of The General Clauses Act- “immovable property” shall include land, benefits to arise out of land, and things attached to the earth, or permanently fastened to anything attached to the earth.
- Land and anything attached to earth is immovable as per this definition. Now we need to understand the meaning of attached to Earth.

## Services

Section (102) “Services” means anything other than goods, money and securities but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;

Explanation.--For the removal of doubts, it is hereby clarified that the expression “services” includes facilitating or arranging transactions in securities;



## Alcoholic liquor for Human consumption

Alcoholic liquor for human consumption is out from the preview of GST. But Alcoholic liquor for industrial use will still be liable for GST.

## Value of supply

The value of supply is covered by section 15 of CGST Act. We will read it in detail in Chapter 6 but for now we can take the value of supply as Transaction value. The amount payable for a supply, whether in money or some other benefits.

## Tax rate notifications

The section provides the right to notify the tax rates. Following notifications were issued to notify the tax rates for goods and services.

01/2017- CTR	CGST Rate Schedule notified under section 9 (1)
11/2017-CTR	To notify the rates for supply of services under CGST Act



Try to find out the changes yourself and then verify with the answer given below.

	<b>Forward Charge</b>	<b>Reverse Charge</b>
Collection of Tax	In forward charge the Tax is collected by the supplier.	In reverse charge, The tax is directly paid by the recipient of supply.
Payment of Tax	Payment to the account of the government is made by the Supplier.	Payment to the account of the government is made by the recipient.
Charging Section	Section 9(1) is the charging section for forward charge.	Section 9(3) & 9(4) is the charging section for Reverse charge.
Notification	Notification no. 1/2017 -CTR and 11/2017 -CTR provides for the tax rates for forward charge respectively.	Section 4/2017-CTR and section 13/2017 provide for the supplies covered under the reverse charge.
Invoice	The invoice in case of forward charge is raised by the supplier	In case of reverse charge, Invoice is issued by supplier only if he is registered. In case of Unregistered supplier the invoice is raised by the recipient under the self invoicing as mentioned in section 31(3)(f).

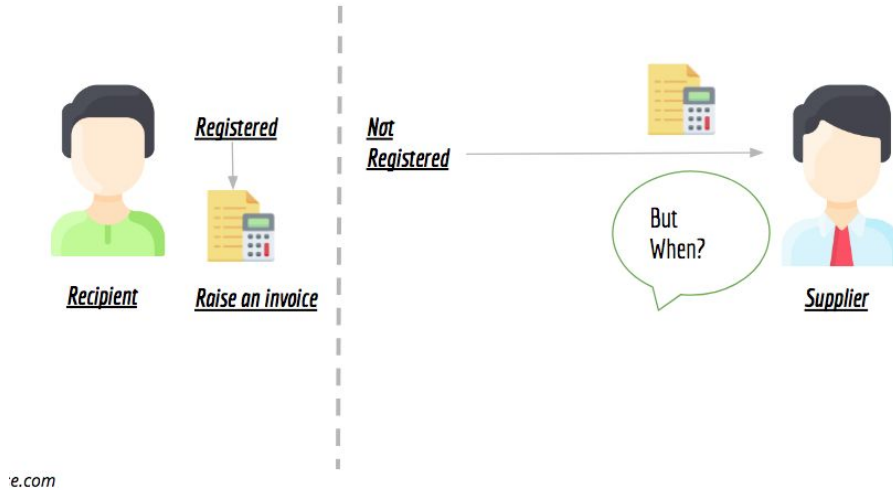


Availability of ITC	The ITC is available on an accrual basis.	In case of reverse charge ITC is available only when the payment of tax is made by the cash ledger. This tax cant be paid via ITC.
Prosecution and Penalty	The provisions related to the prosecution will be applicable on the supplier. He will be liable for penalty also.	IN this case the prosecution and penalty will belong to the recipient.
Reporting in GSTR 3b	In GSTR 3b , ITC is shown in table 4.	In GSTR 3b , It is shown in liability in Table 3 and then the ITC is shown in Table 4.
Time of Supply	Time of supply for forward charge supply is date of Invoice in case of Goods and Supply +30 days in case of Services.	In case of reverse charge , Time of supply is receipt of Goods , in case of goods and supply +60 days in case of services.





## Invoicing for the reverse charge supply



This is another provision for the reverse charge. But it is applicable only in case of purchases from an unregistered supplier. Goods or services can be notified under this section. Similarities and differences between reverse charge u/s 9(3) & 9(4).



<u>Similarities</u>	9(3)	9(4)
Tax collection	No need to collect tax from the buyer.	No need for collection of tax from buyer
Tax Payment	Tax is paid to the account of the government by the buyer of supply directly.	Same
Compliances	Recipients are liable for compliances related to tax.	Same
Offence and penalty	The penalty for compliance is also leviable on the recipient.	Same
ITC eligibility	ITC of tax payable in RCM is available only when it is paid via cash ledger.	Same



<u>Differences</u>		
Recipient	In this case the recipient can be registered or unregistered.	It applies only to purchases from an unregistered supplier.
Notification	These are notified by notification no. 4/2017 CTR for Goods and 13/2017-CTR for services.	There is no notification yet to notify any supply in this RCM.
Liability to register	In some cases there can be a liability to register on the recipient under this RCM.	In this Reverse charge, there is no liability on the recipient to get registered.
Invoice	The recipient is required to make an invoice if the supplier is registered. On the other hand if the supplier is registered he will raise the invoice.	In this case the recipient is liable to raise the invoice in every case.



This levy is acted upon by an E-commerce operator. In case of notified supplies, the E-commerce operator is liable to pay tax. Only the services can be notified here under this section.

1.	17/2017-CTR	Services by way of transportation of passengers by a radio-taxi, motor cab, maxi cab and motorcycle.
2.	17/2017-CTR	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 vendor is required to be registered under section 22(1) of this Act.
3.	23/2017-CTR	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 sub-section (1) of section 22 of the said Central Goods and Services Tax Act.

In these cases the ECO is liable to pay the tax on supply through their portal. But in case of Hotel Booking and house -keeping , if the vendor is liable to be registered , There is no need for payment of tax by ECO.



### **Illustration:-**

Zexture Ltd is providing radio taxi services. Vendors register at their portal and then provide the services using their mobile application made for booking of cabs. Out of 800 vendors 50 are registered in GST. Who will be liable to pay tax i relation of services provided by-

- Registered Vendors
- Unregistered Vendors

### **Illustration:-**

Flipkart has created an E-commerce portal. The portal registers the vendors and let them list their Goods for sale. They have 15000 vendors. Out of this number 12000 are registered in GST. Who is liable for payment of GST on the supplies via Flipkart.

- In case of registered vendors
- In case of Unregistered Vendors





## Section IX of IGST Act

5(1)

Tax on supply of G/s/b except on alcoholic liquor for human consumption  
Rate - prescribed (not more than 40%)  
Value- sec 15

Proviso - on Import of goods  
Levy & collection acc. to sec-3 of customs tariff act  
Value - sec-12 of customs act

5(2)

*GST on 5 petroleum products from future date*

5(3)

Reverse Charge - Specified goods and services

5(4)

*Reverse charge on specified purchases from URD*

5(5)

*Right prescribe the ECO liable to pay GST on supply via their portal  
1st Proviso- if no physical presence at a place, rep will be liable for GST  
IInd Proviso- If no Rep, appoint one*



## Section-5 of IGST Act, 2017

**(1)** Subject to the provisions of sub-section (2), there shall be levied a tax called the integrated goods and services tax on all inter-State supplies of goods or services or both, except on the supply of alcoholic liquor for human consumption, on the value determined under section 15 of the Central Goods and Services Tax Act and at such rates, not exceeding forty per cent., as may be notified by the Government on the recommendations of the Council and collected in such manner as may be prescribed and shall be paid by the taxable person:

Provided that the integrated tax on goods imported into India shall be levied and collected in accordance with the provisions of section 3 of the Customs Tariff Act, 1975 (51 of 1975.) on the value as determined under the said Act at the point when duties of customs are levied on the said goods under section 12 of the Customs Act, 1962. (52 of 1962.)

**(2)** The integrated tax on the supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), 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.



**(3)** 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 and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.

~~**(4)** The integrated tax in respect of the supply of taxable goods or services or both by a supplier, who is not registered, to a registered person shall be paid by such person on reverse charge basis as the recipient and all the provisions of this Act shall apply to such recipient as if he is the person liable for paying the tax in relation to the supply of such goods or services or both.~~

**(4)** 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 this 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.

Substituted vide Integrated Goods and Services Tax (Amendment) Act, 2018 w.e.f 01-02-2019





**(5)** The Government may, on the recommendations of the Council, by notification, specify categories of services, the tax on inter-State supplies of which shall be paid by the electronic commerce operator if such services are supplied through it, and all the provisions of this Act shall apply to such electronic commerce operator as if he is the supplier liable for paying the tax in relation to the supply of such services:

Provided that where an electronic commerce operator does not have a physical presence in the taxable territory, any person representing such electronic commerce operator for any purpose in the taxable territory shall be liable to pay tax:

Provided further that where an electronic commerce operator does not have a physical presence in the taxable territory and also does not have a representative in the said territory, such electronic commerce operator shall appoint a person in the taxable territory for the purpose of paying tax and such person shall be liable to pay tax.





## Section 10 of CGST Act

10(1)

- Pay at prescribed rate in lieu of Sec 9(1)  
1st Proviso- Govt may increase the limit upto 1.5 Cr  
2nd proviso- Supply services upto higher of 10% of turnover in state or Rs. 5lac  
Explanation 1- Interest not to be included in services

10(2)

*GST on 5 petroleum products from future date*

10(2A)

Reverse Charge - Specified goods and services

10(3)

*Reverse charge on specified purchases from URD*

10(4)

*Right prescribe the ECO liable to pay GST on supply via their portal  
1st Proviso- if no physical presence at a place, rep will be liable for GST  
1Ind Proviso- If no Rep, appoint one*

10(5)

*Reverse charge on specified purchases from URD*



## Section - 10(1)

10(1)	Right to pay at notified rates in lieu of tax payable u/s 9(1).	Notwithstanding anything to the contrary contained in this Act but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by under sub-section (1) of section (9), an amount calculated at such rate as may be prescribed, but not exceeding, -- (a) one per cent. of the turnover in State or turnover in Union territory in case of a manufacturer, (b) 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 (c) half per cent. of the turnover in State or turnover in Union territory in case of other suppliers, subject to such conditions and restrictions as may be prescribed:
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The first sub-section provide that a taxpayer can opt for a composition levy and can pay tax at a reduced rate. This amount will replace the amount of tax payable u/s 9(1). Point to ponder for you. Whether there is any other section, which creates a liability to pay tax? We just analysed section 9, entirely. If you recall section 9(3) & (4), They also impose a liability to pay tax in reverse charge. Thus the tax paid at specified rates under composition levy will cover the forward charge only. A composition dealer is still liable to pay tax on purchases in reverse charge.

### Illustration

Samalakha Vastra Bhandar is engaged in the sale of Ready made clothes. They are registered as a composition dealer in GST. In the month of May 2020 they had the following supply.

- Cotton Sarees Rs. 500,000. Tax rate on Cotton Saree is 12%.
- Sweaters for 5-8 year old Babies for Rs. 80,000 taxable @18% as per 1/2017- CT
- Baby suits for 9-12 year old babies for Rs. 21,000 taxable @18% as per 1/2017-CTR
- Kanjivaram Silk Sarees for Rs. 2,00,000 taxable @12% as per 1/2017-CTR.
- Cartage of Rs. 80,000 was paid on transportation of Goods purchases during the month.

Please calculate their tax liability for the month of May 2020.



## Illustration

Ashirwad Dhaba is located on Mysore Ooty highway. They are registered as a composition dealer. They made following outward supplies during the Month of June 2020. Pls calculate their tax payable.

- Shahi Thali 500@60Rs each
- Combo thali 1000@30Rs each
- Special Thali 200@100Rs each
- They paid fees to advocate for their compliance work- Rs. 70000

First Proviso	Right to Government to increase the threshold limit	Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding <b>one crore and fifty lakh rupees</b> , as may be recommended by the Council.
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[ Substituted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f. 01-02-2019 ]



The limit of 50 lac can be increased from 50 lac to 1.5 Crores. Notification no. 14/2019 was issued to raise the threshold limit of turnover for Composition dealers. But in case of taxpayers registered in following states, the limit is Rs. 75 lac only. (i) Arunachal Pradesh, (ii) Manipur, (iii) Meghalaya, (iv) Mizoram, (v) Nagaland, (vi) Sikkim, (vii) Tripura, (viii) Uttarakhand.

Second proviso	Right to supply services along with Goods	“Provided further that a person who opts to pay tax under clause (a) or clause (b) or clause (c) may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II), of value not exceeding ten per cent. of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher.
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[Inserted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f. 01-02-2019]



Earlier the composition dealers were facing a huge problem. In most of the cases, traders do have some income from services. E.g. A trader may have the interest income or a Minor income from a house property. But the provisions of Composition levy made him ineligible in case he is engaged in supply of services also. Although interest income was removed from that list via RoD. But to make it smooth for the composition taxpayers the Law was changed. Now they can also supply services to the extent of 10% of turnover in a state. It is other than the supply of food referred in Para 6b of Schedule II of CGST Act.

Now the question is whether this Rs. 5,00,000 is applicable PAN wise or GSTIN wise. A PAN may have many GSTIN's associated with it. Also the aggregate turnover is consolidated PANwise but the turnover in state is GSTIN wise. We need to compare this figure with turnover in the state. Whether the limit of Rs. 5,00,000 shall be available PAN wise or GSTIN wise?

Explanation	Turnover not to include interest	“Explanation.-- For the purposes of second proviso, the value of exempt supply of services provided 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 for determining the value of turnover in a State or Union territory.”;
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[ Inserted vide FINANCE (NO. 2) ACT, 2019 w.e.f. 01-01-2020 ]



In calculation of 10% of Turnover in a state , we need to remove the interest supply.

### Illustration

Getwellsoon Pharma is registered in a composition scheme in GST.His turnover for the month of April 2020 was Rs. 2.31lac Rs. Apart from that he had the following incomes-

- Interest of Rs. 5000 on fixed deposit.
- Interest on the amount lent to one of his customers was Rs. 32000.
- Rent from the second floor of his building, Rs. 21000.
- He generated the leads for a company selling machines for Sugar and Blood pressure. He earned a commission of Rs. 7000 on the various sales taken place in the month.

Pls check his eligibility for the Composition levy. Also calculate the amount of tax payable by him for the month of April.





## Illustration

Janta Kirana store has following supplies during the FY 2019-20.

Total turnover of grossery items- Rs.70,00,000

Sale of Pooja samagri- Rs. 3,00,000

Sale of home made spices- Rs. 5,00,000

Sale of home made pickles - Rs. 8,00,000

He is also engaged in making the pickle for the customers using their Goods. During the year he charged RS. 750000 from various customers for making Pickle and chyawanprash.

Pls check his eligibility for composition and total tax payable during the year.



## Section - 10(2)

SS 2	Eligibility for Composition	<p>The registered person shall be eligible to opt under sub-section (1), if: –</p> <p>(a) <b>save as provided in The registered person shall be eligible to opt under sub-section (1), if: –</b></p> <p>(a) save as provided in sub-section (1) he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;</p> <p>(b) he is not engaged in making any supply of goods <b>or services</b> which are not leviable to tax under this Act;</p> <p>(c) he is not engaged in making any inter-State outward supplies of goods or services;</p> <p>(d) he is not engaged in making any supply of goods <b>or services</b> through an electronic commerce operator who is required to collect tax at source under section 52; and</p> <p>(e) he is not a manufacturer of such goods as may be notified by the Government on the <b>recommendations of the Council (Notification no. 14/2019)</b>; and</p> <p>(f) <b>he is neither a casual taxable person nor a non-resident taxable person</b></p>
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[ Substituted vide Central Goods and Services Tax (Amendment) Act, 2018 w.e.f. 01-02-2019 ]

[ Inserted vide Finance Act, 2020 dated 27-03-2020 w.e.f. 01-01-2021 ]



These conditions shall be fulfilled for a composition eligibility. Notification no. 14/2019 CT has notified the following items.

Sl. No.	Tariff item, subheading, heading or Chapter	Description
(1)	(2)	(3)
1	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2	2106 90 20	Pan masala.
3	24	All goods, i.e. Tobacco and manufactured tobacco substitutes



First proviso	Provided that where more than one registered person are having the same Permanent Account Number (issued under the Income-tax Act, 1961), the registered person shall not be eligible to opt for the scheme under sub-section (1) unless all such registered persons opt to pay tax under that sub-section.
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### Illustration

Laxmi Appam corner is engaged in sales of Appam. They have one branch in Kerala and one in Karnataka. Their turnover is less than Rs. 1 Crore. They are ready to pay tax @5% and leave the ITC. They want to apply for composition levy for Kerala state. Please analyse their eligibility for composition levy in Kerala state. They want to pay 5% on sale of Appam in Karnataka , but under the normal levy.



## Section - 10(2A)

S.S. 2A	Composition levy for services providers	<p>(2A) Notwithstanding anything to the contrary contained in this Act, but subject to the provisions of sub-sections (3) and (4) of section 9, a registered person, not eligible to opt to pay tax under sub-section (1) and sub-section (2), whose aggregate turnover in the preceding financial year did not exceed fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9, an amount of tax calculated at such rate as may be prescribed, but not exceeding three per cent. of the turnover in State or turnover in Union territory, if he is not-</p> <ul style="list-style-type: none"><li>(a) engaged in making any supply of goods or services which are not leviable to tax under this Act;</li><li>(b) engaged in making any inter-State outward supplies of goods or services;</li><li>(c) engaged in making any supply of goods or services through an electronic commerce operator who is required to collect tax at source under section 52;</li><li>(d) a manufacturer of such goods or supplier of such services as may be notified by the Government on the recommendations of the Council; and</li><li>(e) a casual taxable person or a non-resident taxable person:</li></ul>
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		Provided that where more than one registered person are having the same Permanent Account Number issued under the Income-tax Act, 1961, the registered person shall not be eligible to opt for the scheme under this sub-section unless all such registered persons opt to pay tax under this subsection.”;
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[Inserted vide FINANCE (NO. 2) ACT, 2019 w.e.f. 01-01-2020]

This is a specific composition levy for service providers. It was introduced via notification no. 2/2019 and then was incorporated into the Act itself.

## Features of Composition levy for service providers u/s 10(2A)

### a) Threshold limit-

It is allowed only to the taxpayers engaged in the supply of services and have turnover upto 50 lac. This turnover is of preceding financial year. E.g. In 2-18-19 the turnover of Nasty Unisex saloon was Rs. 40 lac. They are eligible for composition levy u/ss 2A for service providers.



## b) Tax rate -

The tax rate in case of levy u/s 10(2A) is 6%. The tax will be paid by the supplier. No collection can be made from the buyer. This is a uniform tax rate and they don't need to look at the rate notifications. The prescribed 6% rate will prevail on other rates. But any tax payable u/s 9(3) or 9(4) will be payable on the tax rate prescribed in notification no. 4/2017 in case of goods and 13/2017 in case of services.

## Example-

Lakme Unisex Saloon opted for composition levy u/s 10(2A) of CGST Act. They are required to pay tax @6% on their outward supply. But they also procured the goods and paid in RCM for transportation charges. In this case they are liable to pay @5%, i.e. the prescribed rate as per 13/2017 CTR.



### c) Eligibility of ITC

A levy u/s 10(2A) is not eligible for input tax credit. In the same example above, Lakme Salon is not eligible for the tax paid under RCM or on any purchase. They need to pay straight 6% on outward supplies.

### d) Liability of reverse charge

Composition dealers are also required to pay tax in reverse charge. It supersedes the entire CGST Act but is subject to the provisions of section 9(3) & 9(4). Thus a person in composition levy for services provider is still liable for payment of tax in reverse Charge.





## Section - 10(3)

SS.3		(3) The option availed of by a registered person under sub-section (1) <b>sub-section 2A as the case may be</b> shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1) <b>or sub-section 2A as the case may be.</b>
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### Illustration

M/s New fashion is engaged in the sale of ready made garments. Their turnover till May 2020 is Rs. 1.38 Crores. During the month of June 2020, Their turnover was Rs. 18 lac. Whether they are eligible for composition levy.

[Inserted vide FINANCE (NO. 2) ACT, 2019 w.e.f. 01-01-2020]



## Section - 10(4)

SS.4		(4) A taxable person to whom the provisions of sub-section (1) or as the case may be sub-section 2A apply shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
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### Example

Smartkids sports limited is engaged in the sale of Kids toys. They are not eligible to claim the input tax credit on their purchase. Also they are liable to pay tax in RCM on notified inward supplies.

[Inserted vide FINANCE (NO. 2) ACT, 2019 w.e.f. 01-01-2020]



## Section - 10(5)

SS.5		(5) If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) despite not being eligible, such person shall, in addition to any tax that may be payable by him under any other provisions of this Act, be liable to a penalty and the provisions of section 73 or section 74 shall, mutatis mutandis, apply for determination of tax and penalty.
Exp 1		Explanation 1.-- For the purposes of computing aggregate turnover of a person for determining his eligibility to pay tax under this section, the expression “aggregate turnover” shall include the value of supplies made by such person from the 1st day of April of a financial year upto the date when he becomes liable for registration under this Act, but shall not include the value of exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.

[Inserted vide FINANCE (NO. 2) ACT, 2019 w.e.f. 01-01-2020]



Exp 2		<p>Explanation 2. -- For the purposes of determining the tax payable by a person under this section, the expression “turnover in State or turnover in Union territory” shall not include the value of following supplies, namely: --</p> <p>(i) supplies from the first day of April of a financial year upto the date when such person becomes liable for registration under this Act; and</p> <p>(ii) exempt supply of services provided by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount.’.</p>
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[Inserted vide FINANCE (NO. 2) ACT, 2019 w.e.f. 01-01-2020]



## Relevant notifications

Notification no. & Date	Description
12/2020-Central Tax ,dt. 21-03-2020	Seeks to waive off the requirement for furnishing FORM GSTR-1 for 2019-20 for taxpayers who could not opt for availing the option of special composition scheme under notification No. 2/2019-Central Tax (Rate)
43/2019-Central Tax ,dt. 30-09-2019	Seeks to amend notification No 14/2019- Central Tax dated 7.3.2019 so as to exclude manufacturers of aerated waters from the purview of composition scheme.
21/2019-Central Tax ,dt. 23-04-2019	Seeks to notify procedure for quarterly tax payment and annual filing of return for taxpayers availing the benefit of Notification No. 02/2019- Central Tax (Rate), dated the 7th March, 2019



14/2019-Central Tax ,dt. 07-03-2019	Seeks to supersede notification No. 08/2017 - Central Tax dated 27.06.2017 in order to extend the limit of threshold of aggregate turnover for availing Composition Scheme u/s 10 of the CGST Act, 2017 to Rs. 1.5 crores.
05/2019-Central Tax ,dt. 29-01-2019	Seeks to amend notification No. 8/2017-Central Tax dated 27.06.2017 so as to align the rates for Composition Scheme with CGST Rules, 2017
01/2018-Central Tax ,dt. 01-01-2018	Central Tax seeks to further amend notification No. 8/2017 - Central Tax so as to prescribe effective rate of tax under composition scheme for manufacturers and other suppliers.
46/2017-Central Tax ,dt. 13-10-2017	Seeks to amend notification No. 8/2017-Central Tax.
08/2017-Central Tax,dt. 27-06-2017	Seeks to to notify the turnover limit for Composition Levy for CGST



18/2019-Central Tax (Rate) ,dt. 30-09-2019	Seeks to amend notification No 2/2019- Central Tax (Rate) dated 7.3.2019 so as to exclude manufacturers of aerated waters from the purview of composition scheme.
09/2019-Central Tax (Rate) ,dt. 29-03-2019	Seeks to amend notification No. 02/2019- Central Tax (Rate) so as to provide for application of Composition rules to persons opting to pay tax under notification no. 2/2019- Central Tax (Rate).
02/2019-Central Tax (Rate) ,dt. 07-03-2019	To give composition scheme for supplier of services with a tax rate of 6% having annual turn over in preceding year upto Rs 50 lakhs.



## Relevant Circulars

Circular no.	Date	File no.	Description
77/2018	31-12-2018	Circular No. 77/51/2018-GST	Denial of composition option by tax authorities and effective date thereof
03/2017	05-07-2017	F. No. 349/75/2017-GST	Proper officer relating to provisions other than Registration and Composition under the Central Goods and Services Tax Act, 2017-Reg
01/2017	26-06-2017	F. No. 349/75/2017-GST	Proper officer for provisions relating to Registration and Composition levy under the Central Goods and Services Tax Act, 2017 or the rules made thereunder - Reg







## Section 11 of CGST Act



## Section - 11

(1) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by notification, exempt generally, either absolutely or subject to such conditions as may be specified therein, goods or services or both of any specified description from the whole or any part of the tax leviable thereon with effect from such date as may be specified in such notification.

(2) Where the Government is satisfied that it is necessary in the public interest so to do, it may, on the recommendations of the Council, by special order in each case, under circumstances of an exceptional nature to be stated in such order, exempt from payment of tax any goods or services or both on which tax is leviable.

(3) The Government may, if it considers necessary or expedient so to do for the purpose of clarifying the scope or applicability of any notification issued under sub-section (1) or order issued under sub-section (2), insert an explanation in such notification or order, as the case may be, by notification at any time within one year of issue of the notification under sub-section (1) or order under sub-section (2), and every such explanation shall have effect as if it had always been the part of the first such notification or order, as the case may be.



## Section - 11

**Explanation.**--For the purposes of this section, where an exemption in respect of any goods or services or both from the whole or part of the tax leviable thereon has been granted absolutely, the registered person supplying such goods or services or both shall not collect the tax, in excess of the effective rate, on such supply of goods or services or both.

