

## Levy of and Exemption from Tax

### **Q 1. Where is the power to levy GST derived from?**

Ans. Article 246A of the Constitution, which was introduced by the Constitution (101st Amendment) Act, 2016 confers concurrent powers to both, Parliament and State Legislatures to make laws with respect to GST i. e. central tax (CGST) and state tax (SGST) or union territory tax (UTGST). However, clause 2 of Article 246A read with Article 269A provides exclusive power to the Parliament to legislate with respect to inter-State trade or commerce i.e. integrated tax (IGST).

### **Q 2. What is the taxable event under GST?**

Ans. Taxable event under GST is supply of goods or services or both. CGST and SGST/ UTGST will be levied on intra-State supplies. IGST will be levied on inter-State supplies.

### **Q 3. Whether supplies made without consideration will also come within the purview of supply under GST?**

Ans. Yes, but only those activities which are specified in Schedule I to the CGST Act / SGST Act. The said provision has been adopted in IGST Act as well as in UTGST Act also.

### **Q 4. Will giving away essential commodities by a charitable institution be taxable activity?**

Ans. In order to be a supply which is taxable under GST, the transaction should be in the course or furtherance of business. As there is no quid pro quo involved in supply for charitable activities, it is not a supply under GST.



**Q 5. Who can notify a transaction to be supply of goods or services?**

Ans. Central Government or State Government, on the recommendations of the GST Council, can notify an activity to be the supply of goods and not supply of services or supply of services and not supply of goods or neither a supply of goods nor a supply of services.

**Q 6. What are composite supply and mixed supply? How are these two different from each other?**

Ans. Composite supply is a supply consisting of two or more taxable supplies of goods or services or both or any combination thereof, which are bundled in natural course and are supplied in conjunction with each other in the ordinary course of business and where one of which is a principal supply. For example, when a consumer buys a television set and he also gets warranty and a maintenance contract with the TV, this supply is a composite supply. In this example, supply of TV is the principal supply, warranty and maintenance service are ancillary.

Mixed supply is combination of more than one individual supplies of goods or services or any combination thereof made in conjunction with each other for a single price, which can ordinarily be supplied separately. For example, a shopkeeper selling storage water bottles along with refrigerator. Bottles and the refrigerator can easily be priced and sold separately.

**Q 7. What is the treatment of composite supply and mixed supply under GST?**

Ans. Composite supply shall be treated as supply of the principal supply. Mixed supply would be treated as supply of that particular goods or services which attracts the highest rate of tax.

**Q 8. Are all goods and services taxable under GST?**

Ans. Supplies of all goods and services are taxable except alcoholic liquor for human consumption. Supply of petroleum crude, high speed diesel, motor spirit (commonly known as petrol), natural gas and aviation turbine fuel shall be taxable with effect from a future date. This date would be notified by the Government on the recommendations of the GST Council.

**Q 9. What is meant by Reverse Charge?**

Ans. It means the liability to pay tax is on the recipient of supply of goods and services instead of the supplier of such goods or services in respect of notified categories of supply.

**Q 10. Is the reverse charge mechanism applicable only to services?**

Ans. No, reverse charge applies to supplies of both goods and services, as notified by the Government on the recommendations of the GST Council.

**Q 11. What will be the implications in case of receipt of supply from unregistered persons?**

Ans. In case of receipt of supply from an unregistered person, the registered person who is receiving goods or services shall be liable to pay tax under reverse charge mechanism.



**Q 12. Can any person other than the supplier or recipient be liable to pay tax under GST?**

Ans. Yes, the Central/State government can specify categories of services the tax on which shall be paid by the electronic commerce operator, if such services are supplied through it and all the provisions of the Act shall apply to such electronic commerce operator as if he is the person liable to pay tax in relation to supply of such services.

**Q 13. What is the threshold for opting to pay tax under the composition scheme?**

Ans. The threshold for composition scheme is Rs. 50 Lakhs of aggregate turnover in the preceding financial year. The benefit of composition scheme can be availed up to the turnover of Rs. 50 Lakhs in current financial year.

**Q 14. What are the rates of tax for composition scheme?**

Ans. There are different rates for different sectors. In normal cases of supplier of goods (i.e. traders), the composition rate is 0.5 % of the turnover in a State or Union territory. If the person opting for composition scheme is manufacturer, then the rate is 1% of the turnover in a State or Union territory. In case of restaurant services, it is 2.5% of the turnover in a State or Union territory. These rates are under one Act, and same rate would be applicable in the other Act also. So, effectively, the composition rates (combined rate under CGST and SGST/UTGST) are 1%, 2% and 5% for normal supplier, manufacturer and restaurant service respectively.

**Q 15. A person availing composition scheme during a financial year crosses the turnover of Rs.50 Lakhs during the course of the year i.e. say he crosses the turnover of Rs.50 Lakhs in December? Will he be allowed to pay tax under**

**composition scheme for the remainder of the year i.e. till 31st March?**

Ans. No. The option availed shall lapse from the day on which his aggregate turnover during the financial year exceeds Rs.50 Lakhs.

**Q 16. Will a taxable person, having multiple registrations, be eligible to opt for composition scheme only for a few of registrations?**

Ans. All registered persons having the same Permanent Account Number (PAN) have to opt for composition scheme. If one registered person opts for normal scheme, others become ineligible for composition scheme.

**Q 17. Can composition scheme be availed of by a manufacturer and a service supplier?**

Ans. Yes, a manufacturer can opt for composition scheme generally. However, a manufacturer of goods, which would be notified on the recommendations of the GST Council, cannot opt for this scheme. This scheme is not available for services sector, except restaurants.

**Q 18. Who are not eligible to opt for composition scheme?**

Ans. Broadly, five categories of registered person are not eligible to opt for the composition scheme. These are:

(i) supplier of services other than supplier of restaurant service;

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(ii)supplier of goods which are not taxable under the CGST Act/SGST Act/UTGST Act.

(iii)an inter-State supplier of goods;

(iv)person supplying goods through an electronic commerce operator;

(v)manufacturer of certain notified goods.

**Q 19. Can the registered person under composition scheme claim input tax credit?**

Ans. No, registered person under composition scheme is not eligible to claim input tax credit.

**Q 20. Can the customer who buys from a registered person who is under the composition scheme claim composition tax as input tax credit?**

Ans. No, customer who buys goods from registered person who is under composition scheme is not eligible for composition input tax credit because a composition scheme supplier cannot issue a tax invoice.

**Q 21. Can composition tax be collected from customers?**

Ans. No, the registered person under composition scheme is not permitted to collect tax. It means that a composition scheme supplier cannot issue a tax invoice.



**Q 22. How to compute 'aggregate turnover' to determine eligibility for composition scheme?**

Ans. The methodology to compute aggregate turnover is given in Section 2(6). Accordingly, 'aggregate turnover' means value of all outward supplies (taxable supplies +exempt supplies +exports + inter-state supplies) of a person having the same PAN and it excludes taxes levied

under central tax (CGST), State tax (SGST), Union territory tax (UTGST), integrated tax(IGST) and compensation cess. Also, the value of inward supplies on which tax is payable under reverse charge is not taken into account for calculation of 'aggregate turnover'.

**Q 23. What are the penal consequences if a person opts for the composition scheme in violation of the conditions?**

Ans. If a taxable person has paid tax under the composition scheme though he was not eligible for the scheme then the person would be liable to penalty and the provisions of section 73 or 74 shall be applicable for determination of tax and penalty.

**Q 24. Does the GST Law empower the Government to exempt supplies from the levy of GST?**

Ans. Yes. In the public interest, the Central or the State Government can exempt either wholly or partly, on the recommendations of the GST council, the supplies of goods or services or both from the levy of GST either absolutely or subject to conditions. Further the Government can exempt, under circumstances of an exceptional nature, by special order any goods or services or both. It has also been provided in the SGST Act and UTGST Act that any exemption granted under CGST Act shall be deemed to be exemption under the said Act.

**Q 25. When exemption from whole of tax collected on goods or services or both has been granted absolutely, can a person pay tax?**

Ans. No, the person supplying exempted goods or services or both shall not collect the tax in excess of the effective rate.

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