

# Composition levy, TDS ,TCS and RCM under GST

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# Agenda

- **Composition Schemes**
- **TDS**
- **TCS**
- **RCM**

# Composition levy

- What is Composition Scheme?
- Who can opt for Composition Scheme?
- When can option be availed?
- What is the rate of tax to be paid?
- Which returns are required to be filed by a taxable person registered under Composition Scheme?
- Issues
- Composition sch. for suppliers of services & Real Estate Sector
- Glossary of CMP FORMS

>>> Based on **Amendment in the CGST Act, 2017 vide Finance (No.2) Act, 2019 i.e. union Budget 2019** & CGST Rules as amended from time to time

# Composition levy

- A scheme under which there is an option to pay tax at lower rate than the normal rate. Many start-ups and Small and Medium Enterprises (SMEs) may struggle to comply with these provisions of this act therefore under this provision, compliance burden is reduced.
- Under MVAT Act, composition scheme was as per nature of business> works contract, retailer, second hand motor car dealers, bakers, restaurants etc.
- Under Service tax, composition levy on selected heads like works contract, Restaurants, air travel agent, chit related services, accommodation booking service by tour operators

# Section 10

- 10. (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 him, an amount calculated at such rate~~ “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..

# Section 10

- ....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:

# Section 10

- 10. (1) Provided that the Government may, by notification, increase the said limit of fifty lakh rupees to such higher amount, not exceeding one crore rupees, as may be recommended by the Council.
- >>> (ii) in the proviso, for the words “one crore rupees”, the words “one crore and fifty lakh rupees” shall be substituted;
- >> after the proviso, the following proviso shall be inserted, namely:— **“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.”**;

# Section 10

- **WEF 01/01/2020**
- after the second proviso, the following Explanation shall be inserted, namely:— “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.”;



# Section 10

- 10. (2) The registered person shall be eligible to opt under sub-section (1), if:—
- ~~(a) he is not engaged in the supply of services other than supplies referred to in clause (b) of paragraph 6 of Schedule II;~~
- **“(a) save as provided in sub-section (1), he is not engaged in the supply of services;”**.
- (b) he is not engaged in making any supply of goods which are not leviable to tax under this Act;
- (c) he is not engaged in making any inter-State outward supplies of goods;
- (d) he is not engaged in making any supply of goods through an electronic commerce operator who is required to collect tax at source under section 52; ~~and~~ **WEF 01/01/2020**
- (e) he is not a manufacturer of such goods as may be notified by the Government on the recommendations of the Council:

# Section 10

- 10. (2) ...
- after clause (e), the following clause shall be inserted, namely:—  
“(f) he is neither a casual taxable person nor a non-resident taxable person:”; **[WEF 01/01/2020]**
- Provided that where more than one registered persons 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.

# Section 10

- WEF 01/01/2020
- “(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—
- (a) engaged in making any supply of goods or services which are not leviable to tax under this Act;
- (b) engaged in making any inter-State outward supplies of goods or services;

# Section 10

- WEF 01/01/2020
- “(2A) ..
- (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;
- (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
- (e) a casual taxable person or a non-resident taxable person:
- 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 sub-section.”

# Section 10

- (3) The option availed of by a registered person under sub-section (1) shall lapse with effect from the day on which his aggregate turnover during a financial year exceeds the limit specified under sub-section (1)/ (2A).
- (4) A taxable person to whom the provisions of sub-section (1)/(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.

# Section 10

- (5) If the proper officer has reasons to believe that a taxable person has paid tax under sub-section (1) or (2A) 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.
- Sec. 73 Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised for any reason other than fraud or any wilful misstatement or suppression of facts.
- Sec. 74 Determination of tax not paid or short paid or erroneously refunded or input tax credit wrongly availed or utilised by reason of fraud or any wilful misstatement or suppression of facts.

# Section 10

- **Wef 01/01/2020**>> after sub-section (5), the following Explanations shall be inserted, namely:— ‘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 up to 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.
- 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:— (i) supplies from the first day of April of a financial year up to the date when such person becomes liable for registration under this Act; and (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.’.

# Noti. 46/2017- CT dt. 13/10/17

- Turnover limits enhanced
- for the words “seventy-five lakh rupees”, the words, “one crore rupees” shall be substituted;
- (ii) for the words “fifty lakh rupees”, the words, “seventy-five lakh rupees” shall be substituted;



# Noti.14/2019 – CT dt. 07/03/19

- With effect from 01/04/2019
- An eligible registered person, whose aggregate turnover in the preceding financial year did not exceed 1.5 cr rupee to be eligible.
- The aggregate turnover in the preceding financial year shall be seventy five lakh rupees 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:

Noti. 8/2017-CT dt. 27/06/17

Noti.18/2019-CT dt. 30/09/19

- Provided further that the registered person shall not be eligible to opt for composition levy under sub-section (1) of section 10 of the said Act if such person is a manufacturer of the goods,
- 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
- **2A. 2202 10 10 Aerated Water. This notification shall come into force on the 1st day of October, 2019.**

# Noti. 1/2018- CT dt. 01/01/18

- ~~• (i) one per cent. of the turnover in State in case of a manufacturer~~
- in clause (i), for the words “one per cent.”, the words “half per cent.” shall be substituted;
- ~~• (iii) half per cent. of the turnover in State in case of other suppliers:~~
- in clause (iii), for the words “half per cent. of the turnover”, the words “half per cent. of the turnover of taxable supplies of goods” shall be substituted.
- Noti.05/2019 – CT-29/01/2019 the words and figures, “an amount of tax calculated at the rate specified in rule 7 of the Central Goods and Services Tax Rules, 2017:” shall be substituted. 2. This notification shall come into force with effect from the 1st day of February, 2019.

# Rule 7

- 7. Rate of tax of the composition levy.-

Sl. No. (1)	Category of registered persons (2)	Rate of tax (3)
1.	Manufacturers, other than manufacturers of such goods as may be notified by the Government	half per cent. of the turnover in the State or Union territory
2.	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II	two and a half per cent. of the turnover in the State or Union territory
3.	Any other supplier eligible for composition levy under section 10 and the provisions of this Chapter	half per cent. of the turnover of taxable supplies of <b>[goods and services]</b> in the State or Union territory> Wef 01/02/2019

# Rule 3

- (1) Any person who has been granted registration on a provisional basis under clause (b) of sub-rule (1) of rule 24 and who opts to pay tax under section 10, shall electronically file an intimation in FORM GST CMP-01 within 30 days
- **\*\*As per Notification No. 45/2017 – Central Tax dated 13th October 2017> Rule 3A inserted**
- Option to opt for composition scheme as been extended to 31st Mar 2018.
- with effect from the first day of the month immediately succeeding the month in which he files an intimation in FORM GST CMP-02
- Other aspects discussed @ relevant place

# Rule 3

- (2) Any person who applies for registration under sub-rule (1) of rule 8 may give an option to pay tax under section 10 in Part B of FORM GST REG-01, which shall be considered as an intimation to pay tax under the said section.
- (3) Any registered person who opts to pay tax under section 10 shall electronically file an intimation in FORM GST CMP-02, prior to the commencement of the financial year for which the option to pay tax under the aforesaid section is exercised and shall furnish the statement in FORM GST ITC-03 in accordance with the provisions of sub-rule (4) of rule 44 within a period of sixty days from the commencement of the relevant financial year.

# Rule 3

- (3A) Notwithstanding anything contained in sub-rules (1), (2) and (3), a person who has been granted registration on a provisional basis under rule 24 or who has been granted certificate of registration under sub-rule (1) of rule 10 may opt to pay tax 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 the 31st day of March, 2018, and shall furnish the statement in FORM GST ITC-03 in accordance with the provisions of sub-rule (4) of rule 44 within a period of ~~90 days~~ one hundred and eighty days from the day on which such person commences to pay tax under section 10:
- Provided that the said persons shall not be allowed to furnish the declaration in FORM GST TRAN-1 after the statement in FORM GST ITC-03 has been furnished.

# Rule 3

- (4) Any person who files an intimation under sub-rule (1) to pay tax under section 10 shall furnish the details of stock, including the inward supply of goods received from unregistered persons, held by him on the day preceding the date from which he opts to pay tax under the said section, electronically, in FORM GST CMP-03, on the common portal, either directly or through a Facilitation Centre notified by the Commissioner, within a period of ~~60 days~~ ninety days 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.



# Rule 3

- (5) Any intimation under sub-rule (1) or sub-rule (3) or sub-rule (3A) in respect of any place of business in any State or Union territory shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.

# Rule 4

- Effective date for composition levy.
- (1) The option to pay tax under section 10 shall be effective from the beginning of the financial year, where the intimation is filed under sub rule (3) of rule 3 and the appointed day where the intimation is filed under sub-rule (1) of the said rule.
- (2) The intimation under sub-rule (2) of rule 3, shall be considered only after the grant of registration to the applicant and his option to pay tax under section 10 shall be effective from the date fixed under sub-rule (2) or (3) of rule 10

# Rule 5

- Conditions and restrictions for composition levy.
- (a) he is neither a casual taxable person nor a non-resident taxable person;
- (b) 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 sub-rule (1) of rule 3;
- (c) the goods held in stock by him have not been purchased from an unregistered supplier and where purchased, he pays the tax under sub-section (4) of section 9;
- (d) he shall pay tax under sub-section (3) or sub-section (4) of section 9 on inward supply of goods or services or both;

# Rule 5

- (e) he was not engaged in the manufacture of goods as notified under clause (e) of sub-section (2) of section 10, during the preceding financial year;
- (f) 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
- (g) he 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.
- (2) The registered person paying tax under section 10 may not file a fresh intimation every year and he may continue to pay tax under the said section subject to the provisions of the Act and these rules.

# Rule 6

- Validity of composition levy.- (1)The option exercised by a registered person to pay tax under section 10 shall remain valid so long as he satisfies all the conditions mentioned in the said section and under these rules.
- (2) The person shall be liable to pay tax under sub-section (1) of section 9 from the day he ceases to satisfy any of the conditions mentioned in section 10 or the provisions of this Chapter and shall issue tax invoice for every taxable supply made thereafter and he shall also file an intimation for withdrawal from the scheme in FORM GST CMP-04 within seven days of the occurrence of such event.
- (3) The registered person who intends to withdraw from the composition scheme shall, before the date of such withdrawal, file an application in FORM GST CMP-04, duly signed or verified through electronic verification code, electronically on the common portal.

# Rules 6

- (4) Where the 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 provisions of this Chapter, he may issue a notice to such person in FORM GST CMP-05 to show cause within fifteen days of the receipt of such notice as to why the option to pay tax under section 10 shall not be denied.
- (5) Upon receipt of the reply to the show cause notice issued under sub-rule (4) from the registered person in FORM GST CMP-06, the proper officer shall issue an order in FORM GST CMP-07 within a period of thirty days of the receipt of such reply, either accepting the reply, or denying the option to pay tax under section 10 from the date of the option or from the date of the event concerning such contravention, as the case may be.

# Rule 6

- (6) Every person who has been out of composition scheme, may electronically furnish a statement in FORM GST ITC-01 containing details of the stock of inputs and inputs contained in semi-finished or finished goods held in stock by him on the date on which the option is withdrawn or denied, within a period of thirty days from the date from which the option is withdrawn or from the date of the order passed in FORM GST CMP-07, as the case may be.
- (7) Any intimation or application for withdrawal under sub-rule (2) or (3) or denial of the option to pay tax under section 10 in accordance with sub-rule (5) in respect of any place of business in any State or Union territory, shall be deemed to be an intimation in respect of all other places of business registered on the same Permanent Account Number.

# Returns by the composition supplier

- 62. Form and manner of submission of quarterly return.-
- (1) Every registered person paying tax under section 10 shall, on the basis of details contained in FORM GSTR-4A, and where required, after adding, correcting or deleting the details, furnish the quarterly return in FORM GSTR-4 electronically.
- Provided that the registered person who opts to pay tax under section 10 with effect from the first day of a month which is not the first month of a quarter shall furnish the return in FORM GSTR-4 for that period of the quarter for which he has paid tax under section 10 and shall furnish the returns as applicable to him for the period of the quarter prior to opting to pay tax under section 10.
- (3) The return furnished under sub-rule (1) shall include the- (a) invoice wise inter-State and intra-State inward supplies received from registered and un-registered persons; and (b) consolidated details of outward supplies made.



# Returns by the composition supplier

- 17-April-2018 : **Clarification on the manner of filing the Quarterly Return by Composition Dealers in FORM GSTR-4**
- Doubts are being raised about the manner of filing the quarterly return by composition dealers in **FORM GSTR-4**. Esp. a doubt with respect to the instruction at Sl. No. 10 appended to the said FORM which reads as below: For the tax periods July, 2017 to September, 2017 and October, 2017 to December, 2017, serial 4A of Table 4 shall not be furnished.
- Clarified that since auto-population of the details of the inward supplies including supplies on which tax is to be paid on reverse charge is not taking place, taxpayers who have opted to pay tax under the composition levy shall not furnish the data in serial number 4A of Table 4 of **FORM GSTR-4** for the tax periods January, 2018 to March, 2018 and subsequent tax periods.

# Returns

- 62. (4) A registered person who has opted to pay tax under section 10 from the beginning of a financial year shall, where required, furnish the details of outward and inward supplies and return under rules 59, 60 and 61 relating to the period during which the person was liable to furnish such details and returns till the due date of furnishing the return for the month of September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier.
- Explanation.— For the purposes of this sub-rule, it is hereby declared that the person shall not be eligible to avail of input tax credit on receipt of invoices or debit notes from the supplier for the period prior to his opting for the composition scheme.

# Returns

- 62. (5) A registered person opting to withdraw from the composition scheme at his own motion or where option is withdrawn at the instance of the proper officer shall, where required, furnish the details relating to the period prior to his opting for payment of tax under section 9 in FORM GSTR- 4 till the due date of furnishing the return for the quarter ending September of the succeeding financial year or furnishing of annual return of the preceding financial year, whichever is earlier.
- Rule 80: Provided that a person paying tax under section 10 shall furnish the annual return in FORM GSTR-9A.

# Latest position of Returns

- Composition tax payers are exempted from the levy of Kerala Flood Cess including tax payers who have opted for composition for service as per Section 14(1)(i) of Finance Act,2019
- Form GST CMP-08 : Quarterly Statement by Composition taxpayers for purpose of payment of tax. It is a one page statement containing the outward supplies value, applicable tax; inward supplies with RCM and applicable tax till the 18th day of the month succeeding the quarter in which the date of withdrawal falls
- Due date for furnishing FORM GST CMP-08, for the quarter April, 2019 to June, 2019, or part thereof has been extended from 31.07.2019 to 31.08.2019. (Notification No. 35/2019 – Central Tax dated 29th July, 2019)
- Now, Composition taxpayers are required to make quarterly tax payment in GST CMP 08 and file GSTR-4 annually.

# Income from exempt services

- ORDER No. 01/2019-Central Tax New Delhi, the 1 st February, 2019 S.O. (E).
- WHEREAS, sub-section (1) of section 10 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this Order referred to as the said Act) provides that- (i) a registered person engaged in the supply of services, other than supply of service referred to in clause (b) of paragraph 6 of Schedule II to the said Act, may opt for the scheme under the said sub-section; (ii) a person who opts for the said scheme may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II to the said Act), 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;

- AND WHEREAS, clause (a) of sub-section (2) of section 10 of the said Act provides that the registered person shall be eligible to opt under sub-section (1), if, save as otherwise provided in sub-section (1), he is not engaged in the supply of services; AND WHEREAS, rendering of services as part of the savings and investment practice of business, by way of extending deposits, loans or advances, in so far as the consideration is represented by way of interest or discount, is resulting in their ineligibility for the aforesaid scheme, causing hardships to a lot of small businesses and because of that, certain difficulties have arisen in giving effect to the provisions of section 10
- This Order may be called the Central Goods and Services Tax (Removal of Difficulties) Order, 2019. 2. For the removal of difficulties, it is hereby clarified that the value of supply of exempt 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 - (i) for determining the eligibility for composition scheme under second proviso to sub-section (1) of section 10; (ii) in computing aggregate turnover in order to determine eligibility for composition scheme.

# Issues

- Miniscule Income from display services
- On withdrawal of option after issue of SCN, whether ITC would be considered while working out tax payable?
- Composition [erstwhile law] to Composition [GST]> Tax on stock? Amendment to set off rules [MVAT]

# Composition sch. for suppliers of services

- Composition scheme to those who are not eligible for the presently available Composition Scheme with a tax rate of 6% (3% CGST +3% SGST) having an annual turnover in the preceding FY up to Rs. 50 lakhs. They would be liable to file one Annual Return with quarterly payment of taxes. This has been made effective from 01.04.2019
- A taxpayer who wants to opt for Composition Scheme for a financial year or during the middle of a financial year has to inform the government about his choice by filing FORM GST CMP-02.
- The GST Council in its 36th meeting held on 27.07.2019 decided that the last date for filing of intimation, in FORM GST CMP-02, for availing the option of payment of tax under notification No. 2/2019-Central Tax (Rate) dated 07.03.2019 (by exclusive supplier of services), be extended from 31.07.2019 to 30.09.2019.



# Notification No. 2/2019 Central Tax (Rate)[07/03/19]

- First supplies of goods or services or both upto an aggregate turnover of fifty lakh rupees made on or after the 1st day of April in any financial year, by a registered person.
- Conditions:
- 1. Supplies are made by a registered person, - (i) whose aggregate turnover in the preceding financial year was fifty lakh rupees or below; (ii) who is not eligible to pay tax under sub-section (1) of section 10 of the said Act; (iii) who is not engaged in making any supply which is not leviable to tax under the said Act; (iv) who is not engaged in making any inter-State outward supply; (v) who is neither a casual taxable person nor a non-resident taxable person; (vi) who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52; and (vii) who is not engaged in making supplies of the goods, the description of which is specified in column (3) of the Annexure below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said annexure.

# Notification No. 2/2019 contd

- 2. Where more than one registered persons are having the same PAN, central tax on supplies by all such registered persons is paid under this notification.
- 3. The registered person shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.
- 4. The registered person shall issue, instead of tax invoice, a bill of supply as referred to in clause (c) of sub-section (3) of section 31 of the said Act with particulars as prescribed in rule 49 of Central Goods and Services Tax Rules.
- 5. The registered person shall mention the following words at the top of the bill of supply, namely: - 'taxable person paying tax in terms of notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies'.
- 6. The registered person opting to pay central tax at the rate of three percent under this notification shall be liable to pay central tax at the rate of three percent on all outward supplies specified in column (1) notwithstanding any other notification issued under sub-section (1) of section 9 or under section 11 of said Act.

# Notification No. 2/2019 contd

- 7. The registered person opting to pay central tax at the rate of three percent under this notification shall be liable to pay central tax on inward supplies on which he is liable to pay tax under sub-section (3) or, as the case may be, under sub-section (4) of section 9 of said Act at the applicable rates.
- Explanation.-For the purposes of this notification, the expression “first supplies of goods or services or both” shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

# Real Estate Sector: 01/04/19 onwards

- Affordable housing properties: *New effective rate of 1% without input tax credit (ITC) on construction of affordable houses shall be available for,*
  1. all houses which meet the definition of affordable houses as decided by GSTC (area 90 sqm in non- metros / 60 sqm in metros and value upto RS. 45 lakhs), and
  2. affordable houses being constructed in on going projects under the existing central and state housing schemes presently eligible for concessional rate of 8% GST (after 1/3rd land abatement).
- Residential properties outside affordable segment: *New effective rate of 5% without input tax credit shall be applicable on construction of,*
  1. All houses other than affordable houses in on going projects whether booked prior to or after 01.04.2019. In case of houses booked prior to 01.04.2019, new rate shall be available on instalments payable on or after 01.04.2019.
  2. All houses other than affordable houses in new projects.
  3. Commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments.

# Real Estate Sector

- **Option in respect of on going projects**
- 'Option' only for existing projects. For new projects, new rates will be applicable.
- One-time option (to be exercised once by 10th May, 2019) to continue to pay tax at the old rates (effective rate of 8% or 12% with ITC) on on-going projects (buildings where construction and actual booking have both started before 01.04.2019) and which have not been completed by 31.03.2019.
- **Definition of affordable housing:**
- A residential house/flat of carpet area of up to 90 sqm in non-metropolitan cities/towns and 60 sqm in metropolitan cities having value up to Rs. 45 lacs (both for metropolitan and non-metropolitan cities).
- Metropolitan Cities are Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR).

FORM REQUIRED	PURPOSE
CMP-01	To opt for scheme by prov. Regd. dealer
CMP-02	Intimation of willingness to opt for scheme
CMP-03	Details of stock and inward supplies from URP
CMP-04	Intimation to opt out of scheme
CMP-05	SCN on contravention of Rules or Act
CMP-06	Reply to SCN
CMP-07	Issue of final order
REG-01	Opt in @ time of registration
ITC-01	Details of input in stocks, semi finished and finished goods
ITC-03	Intimation of ITC Available

# Tax deduction at source.

- 51. (1) Notwithstanding anything to the contrary contained in this Act, the Government may mandate,—
- (a) a department or establishment of the Central Government or State Government; or (b) local authority; or (c) Governmental agencies; or (d) such persons or category of persons as may be notified by the Government on the recommendations of the Council,
- to deduct tax at the rate of one per cent. from the payment made or credited to the supplier of taxable goods or services or both, where the total value of such supply, under a contract, exceeds two lakh and fifty thousand rupees: [2% for IGST]
- Provided that no deduction shall be made if the location of the supplier and the place of supply is in a State or Union territory which is different from the State or as the case may be, Union territory of registration of the recipient.
- Explanation.—For the purpose of deduction of tax, the value of supply shall be taken as the amount excluding the central tax, State tax, Union territory tax, integrated tax and cess indicated in the invoice.

# Tax deduction at source.

- 51. (2) The amount deducted as tax under this section shall be paid to the Government by the deductor within ten days after the end of the month in which such deduction is made, in such manner as may be prescribed.
- (3) The deductor shall furnish to the deductee a certificate mentioning therein the contract value, rate of deduction, amount deducted, amount paid to the Government and such other particulars in such manner as may be prescribed. [**within 5 days**]
- (4) If any deductor fails to furnish to the deductee the certificate, after deducting the tax at source, within five days of crediting the amount so deducted to the Government, the deductor shall pay, by way of a late fee, a sum of one hundred rupees per day from the day after the expiry of such five days period until the failure is rectified, subject to a maximum amount of five thousand rupees.



# Tax deduction at source.

- 51. (5) The deductee shall claim credit, in his electronic cash ledger, of the tax deducted and reflected in the return of the deductor furnished under sub-section (3) of section 39, in such manner as may be prescribed.
- (6) If any deductor fails to pay to the Government the amount deducted as tax under sub-section (1), he shall pay interest in accordance with the provisions of sub-section (1) of section 50, in addition to the amount of tax deducted.
- (7) The determination of the amount in default under this section shall be made in the manner specified in section 73 or section 74.
- (8) The refund to the deductor or the deductee arising on account of excess or erroneous deduction shall be dealt with in accordance with the provisions of section 54: Provided that no refund to the deductor shall be granted, if the amount deducted has been credited to the electronic cash ledger of the deductee.

# Notification No. 50/2018 – Central Tax

- Dated 13th September, 2018
- in supercession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 33/2017-Central Tax, dated the 15th September, 2017 [18/09/2017> Registration as deductor]
- the Central Government hereby appoints the 1 st day of October, 2018, as the date on which the provisions of section 51 of the said Act shall come into force with respect to persons specified under clauses (a), (b) and (c) of sub-section (1) of section 51 of the said Act and the persons specified below under clause (d) of sub-section (1) of section 51 of the said Act, namely:-
  - (a) an authority or a board or any other body, - (i) set up by an Act of Parliament or a State Legislature; or (ii) established by any Government, with fifty-one per cent. or more participation by way of equity or control, to carry out any function;
  - (b) Society established by the Central Government or the State Government or a Local Authority under the Societies Registration Act, 1860 (21 of 1860);
  - (c) public sector undertakings.

# TDS RETURN

- Form GSTR-7 WITHIN 10 DAYS FROM END OF THE MONTH.
- Supplier can take credit of the amount of TDS in his electronic cash ledger and use the same for payment of tax or any other liability.

# Collection of tax at source. Sec. 52

- Notwithstanding anything to the contrary contained in this Act, every electronic commerce operator (hereafter in this section referred to as the “operator”), not being an agent, shall collect an amount calculated at such rate not exceeding one per cent., as may be notified by the Government on the recommendations of the Council, of the net value of taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the operator.
- Explanation.—For the purposes of this sub-section, the expression “net value of taxable supplies” shall mean the aggregate value of taxable supplies of goods or services or both, other than services notified under sub-section (5) of section 9, made during any month by all registered persons through the operator reduced by the aggregate value of taxable supplies returned to the suppliers during the said month.

# Collection of tax at source. Sec. 52

- (2) The power to collect the amount specified in sub-section (1) shall be without prejudice to any other mode of recovery from the operator.
- (3) The amount collected under sub-section (1) shall be paid to the Government by the operator within ten days after the end of the month in which such collection is made, in such manner as may be prescribed.
- (4) Every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month.
- (5) Every operator who collects the amount specified in sub-section (1) shall furnish an annual statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under the said sub-section during the financial year, in such form and manner as may be prescribed, before the thirty first day of December following the end of such financial year.

# Collection of tax at source. Sec. 52

- (6) If any operator after furnishing a statement under sub-section (4) discovers any omission or incorrect particulars therein, other than as a result of scrutiny, audit, inspection or enforcement activity by the tax authorities, he shall rectify such omission or incorrect particulars in the statement to be furnished for the month during which such omission or incorrect particulars are noticed, subject to payment of interest, as specified in sub-section (1) of section 50: Provided that no such rectification of any omission or incorrect particulars shall be allowed after the due date for furnishing of statement for the month of September following the end of the financial year or the actual date of furnishing of the relevant annual statement, whichever is earlier.
- (7) The supplier who has supplied the goods or services or both through the operator shall claim credit, in his electronic cash ledger, of the amount collected and reflected in the statement of the operator furnished under sub-section (4), in such manner as may be prescribed.
- (8) The details of supplies furnished by every operator under sub-section (4) shall be matched with the corresponding details of outward supplies furnished by the concerned supplier registered under this Act in such manner and within such time as may be prescribed

# Collection of tax at source. Sec. 52

- (9) Where the details of outward supplies furnished by the operator under sub-section (4) do not match with the corresponding details furnished by the supplier under section 37, the discrepancy shall be communicated to both persons in such manner and within such time as may be prescribed.
- (10) The amount in respect of which any discrepancy is communicated under sub-section (9) and which is not rectified by the supplier in his valid return or the operator in his statement for the month in which discrepancy is communicated, shall be added to the output tax liability of the said supplier, where the value of outward supplies furnished by the operator is more than the value of outward supplies furnished by the supplier, in his return for the month succeeding the month in which the discrepancy is communicated in such manner as may be prescribed.
- (11) The concerned supplier, in whose output tax liability any amount has been added under sub-section (10), shall pay the tax payable in respect of such supply along with interest, at the rate specified under sub-section (1) of section 50 on the amount so added from the date such tax was due till the date of its payment.

# Collection of tax at source. Sec. 52

- (12) Any authority not below the rank of Deputy Commissioner may serve a notice, either before or during the course of any proceedings under this Act, requiring the operator to furnish such details relating to— (a) supplies of goods or services or both effected through such operator during any period; or (b) stock of goods held by the suppliers making supplies through such operator in the godowns or warehouses, by whatever name called, managed by such operator and declared as additional places of business by such suppliers, as may be specified in the notice.
- (13) Every operator on whom a notice has been served under sub-section (12) shall furnish the required information within fifteen working days of the date of service of such notice.
- (14) Any person who fails to furnish the information required by the notice served under sub-section (12) shall, without prejudice to any action that may be taken under section 122, be liable to a penalty which may extend to twenty-five thousand rupees.

Explanation.—For the purposes of this section, the expression “concerned supplier” shall mean the supplier of goods or services or both making supplies through the operator.



# Collection of tax at source. Sec. 52

- Vide Notification No. 51/2018 – Central Tax dated 13th September, 2018
- TCS provisions are effective from 01/10/2018.
- Notification No. 52/2018 – Central Tax dated 20th September, 2018 > In exercise of the powers conferred by sub-section (1) of section 52 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, notified that every electronic commerce operator, not being an agent, shall collect an amount calculated at a rate of half per cent. of the net value of intra-State taxable supplies made through it by other suppliers where the consideration with respect to such supplies is to be collected by the said operator. [IGST RATE: 1% >> 02/2018-Integrated Tax,dt. 20-09-2018]

# RCM

- There are two type of reverse charge scenarios provided in law.
- First is dependent on the nature of supply and/or nature of supplier. This scenario is covered by section 9 (3) of the CGST/SGST (UTGST) Act and section 5 (3) of the IGST Act.
- Second scenario is covered by section 9 (4) of the CGST/SGST (UTGST) Act and section 5 (4) of the IGST Act where taxable supplies by any unregistered person to a registered person is covered.
- Registration: A person who is required to pay tax under reverse charge has to compulsorily register under GST and the threshold limit is not applicable to them.

# RCM

- As per the provisions of section 9(3) of CGST / SGST (UTGST) Act, 2017 / section 5(3) of IGST Act, 2017, 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.
- EG: GTA
- ADVOCATE FEES
- SPONSORSHIP FOR EVENT
- SECURITY AGENCY SERVICES

# RCM

- Section 9(4) of CGST / SGST (UTGST) Act, 2017 / section 5(4) of IGST Act, 2017 provides that the 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.
- Wherever a registered person procures supplies from an unregistered supplier, he need to pay GST on reverse charge basis.
- However, supplies where the aggregate value of such supplies of goods or service or both received by a registered person from any or all the unregistered suppliers is less than five thousand rupees in a day are exempted. ( Noti. 8/2017-Central Tax (Rate) dated 28.06.17). However, vide noti. no. 38/2017-Central Tax (Rate) dated 13.10.2017, (IGST noti. no.32/2017-Integrated Tax (Rate) dated 13.10.2017) all categories of registered persons are exempted from the provisions of reverse charge under 9(4) of CGST / SGST (UTGST) Act, 2017 / section 5(4) of IGST Act, 2017, till 31.03.2018. At present this provision is kept in abeyance

*Thank*  
**YOU**