**Composition Scheme in Revised Model GST Law**

**Background:**

It is expected that [Goods and Service Tax (GST)](http://www.caclubindia.com/articles/benefits-of-goods-and-services-tax--28170.asp) will replace and subsume many indirect taxes at Central and State level w.e.f 1.04.2017 or sometime later. It intends to widen the tax base and cover larger number of assessees under the tax net. There are many small tax payers who may not have adequate knowledge and may not understand the complexities of tax law and procedures. Further, many such assessees cannot afford to spend amounts on software, accountants, training, book-keeping, consultancy, auditors etc. To overcome this and as a facilitation measure, tax laws till now provide for alternatives to such small tax payers. The decision may not be in line with tax optimization in most cases. GST law is not an exception and provides limited options. Section 9 of the [Model GST law (revised)](http://www.caclubindia.com/articles/government-releases-revised-model-gst-law-along-with-draft-gst-compensation-bill-28349.asp) prescribes the composition scheme.

The Model GST Law proceeds on the basis that all businesses need to inculcate discipline and systematic approach and to that extent would deter one from opting for the composition scheme when doing business to business transactions.

**Composition scheme - Service tax:**

In Service Tax law, the composition scheme was introduced from 1.06.2007.Initially a rate of 2% was prescribed and later it was increased to 4%. This scheme was offered only w.r.t works contract service covering limited activities as defined under section 65(105) (zzzza) of the [Finance Act, 1994](http://www.caclubindia.com/judiciary/as-per-sec-66-under-chapter-v-of-finance-act-1994-service-tax-is-leviable-on-all-service-mentioned-under-sec-65-of-the-act-1678.asp) (Service Tax law).Later a similar effect was given through the Valuation Rules.

**Composition scheme -VAT**

Composition scheme under VAT law provides an option for prescribed dealers to pay tax at specified rate in different States. Some alternatives like claiming deduction or a low flat rate on gross value have been provided. In all these cases the dealer is not required to maintain elaborate records.

**Who are eligible for the composition scheme?**

VAT laws allow certain dealers to specifically opt for the composition scheme:

• Based on total turnover; or
• Specified businesses like works contract, crushing of jelly, hotelier, restaurateur, caterer or dealer running a sweetmeat stall or an ice cream parlour or bakery.

**Composition options contain conditions (varies from State to State) such as:**

(a) such dealer maintains separate account of each type of his business;
(b) the total turnover is limited/ in some cases not limited;
(c) the amount payable by way of composition is lower;
(d) dealer has to exercise the option for the whole year;
(e) dealer would not be able to avail the credit of inputs;
(f) in some States he cannot collect tax from his customers.

[**Composition Levy under GST**](http://www.caclubindia.com/articles/compounding-scheme-under-gst-27660.asp)

**Section 9 of the CGST/SGST Act:**

The Proper Officer would permit a registered taxable person whose aggregate turnover in the previous year was less than Rs. 50 lakhs to pay:

• Not less than 2.5% of the turnover in a State, in case of a manufacturer,
• Not less than 1% in other cases (in case of others i.e. traders),

**Conditions:**

a. A service supplier cannot opt for this scheme.

b. Permission will not be granted to a person, who makes any supply of goods, which does not attract GST levy.

c. Such a person should not have Inter-State supply of goods.

d. He should not make supply through an e-commerce operator, who is required to collect tax at source in terms of section 56.

e. The aggregate turnover should be upto Rs. 50 lakhs.

f. He should not avail any credit.

g. Permission would be refused to a manufacturer of notified goods upon recommendation by [GST Council](http://www.caclubindia.com/articles/gst-council-gst-rate-slabs-28066.asp).

h. The scheme should also be opted by all taxable persons having the same PAN as held by the taxable person.

**Salient features:**

1. The option of composition levy is available to a registered taxable person but it may make him less competitive when dealing with businesses due to the restriction on availing and passing on the tax burden.

2. Tax payable under reverse charge mechanism would still be payable.

3. Permission of the proper officer is required for availing the option of composition scheme. This could pose difficulties considering the past experience.

4. If the proper officer has reason to believe that such a person is not eligible for this scheme then he may impose penalty. This would be in addition to the tax payable under other provisions and interest liability.

5. In such an event admissibility of credit is not clearly spelt out in the proposed provisions.

**Benefits of scheme:**

The advantages or benefits of the scheme should be examined should be analyzed on a case to case basis. Following are the illustrative benefits:

• It is simple to understand.
• The person opting for the scheme has to file returns and make payments on quarterly basis.
• Cost saving benefits would accrue.
• Minimum records are required to be maintained as compared to a regular assessee.
• It is more suitable for making direct supplies to consumer/customer.

The major disadvantage is that no GST can be charged in the invoice and credit chain is lost.GST paid on inputs will become a cost and hence it is difficult to sustain competition in the industry, considering the high tax rates, which would prevail in GST regime.

**Transitional provision- Section 172;**

As per this transition provision, credit of eligible duties and taxes on inputs held in stock is allowed to a taxable person switching over from composition scheme voluntarily or on crossing of Rs. 50 lakhs. The conditions prescribed are (i) such inputs/goods are intended for making taxable supplies under GST law; (ii) he is eligible for input credit on inputs under the GST law; (iii) has tax paid/ prescribed documents which were issued not earlier than one year before the effective date of GST law (iv) the eligible credit should be calculated in a prescribed manner.

**Relevant Definitions:**

a. Aggregate turnover.

Section 2(6) of the CGST / SGST Act, 2016 ‘aggregate turnover’ means ‘value of all (taxable, exempt and export supplies and inter-State supplies) - (Taxes + Value of inward supplies + Value of supplies taxable under reverse charge) of a person having the same PAN and has to be computed on all India basis for the relevant financial year.

b. [Integrated Goods and Services Tax (IGST)](http://www.caclubindia.com/articles/igst-model-in-goods-service-tax-gst--22716.asp) - Section 2(14) of IGST Act

IGST means the tax levied under the IGST Acton the supply of any goods and/or services in the course of inter-State trade or commerce.

**Impact**

• Composition dealer is not eligible to avail the credit of input tax paid.
• He is not entitled to effect inter-state supply of goods.
• Composition dealer is not eligible to collect tax.
• It would be applicable for all the business verticals / registrations which are separately held by the person with same PAN.

**Relaxation in Procedures:**

• Tax & return period would be on quarterly basis.
• Due date for payment and filing of return would be in month succeeding the particular quarter.
• It is beneficial only for those who are making direct supply to end consumers/customers.

**Conclusion:**

The restrictions imposed by the scheme do not make it an attractive alternative for the tax payers. Further the tax payers should take a measured decision by weighing the pros and cons of opting for the scheme including financial viability.

Source Courtesy: CA Club India