

Supply under GST: Part-III



The Institute of Cost Accountants of India
(Statutory body under an Act of Parliament)

Tax Research Department

Certificate Course on GST – 17th Batch (CCGST)

Section 9 of CGST Act, 2017 & Section 5 of IGST Act, 2017

“Levy and Collection under GST”

*By
CMA Kedarnath*

Taxable Event

- ❖ Taxable Event is the foundation stone of any taxation system
 - ❖ It determines the “point at which tax” would be levied
-
- ❖ Before levying any tax, taxable event needs to be ascertained.
 - ❖ The GST laws resolve these issues by laying down **one comprehensive** taxable event i.e. “Supply”

Parameters of “Supply”:

- ❖ Supply should be of Goods or Services.
- ❖ Supply of anything other than goods or services like money, securities etc. does not attract GST.
- ❖ Supply should be made for a consideration
- ❖ Supply should be made in the course or furtherance of business

Taxable Event

- ❖ Tax becomes payable when liability to pay tax arises and
 - ❖ Liability to pay tax arises by the happening of the taxable event
-
- ❖ Tax can be imposed only on “taxable event”

Supply of goods or services or both’ is “taxable event” in GST

- ❖ Goods and Services Tax means a tax on supply of goods or services, or both, except taxes on supply of alcoholic liquor for human consumption [Article 366(12A) of Constitution of India]
- ❖ Note that the word used is ‘**Supply**’ and not ‘**sale**’ or ‘**manufacture**’.

Charging Section: S.9 of CGST Act, 2017

S.9: Levy and collection:

(1) Subject to the provisions of sub-section (2), there shall be levied a tax called the central goods and services tax on all intra-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 and at such rates, not exceeding twenty 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.

(2) 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.

Charging Section: S.9

(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 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.]

Charging Section: S.9

(5) 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:

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 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.

Key Note of S.9 of CGST Act, 2017

Subject to the provisions of sub-section (2),

there shall be levied a tax called the central goods and services tax

on all intra-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 and

at such rates, not exceeding twenty 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.

Key Note of S.5 of IGST Act, 2017

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

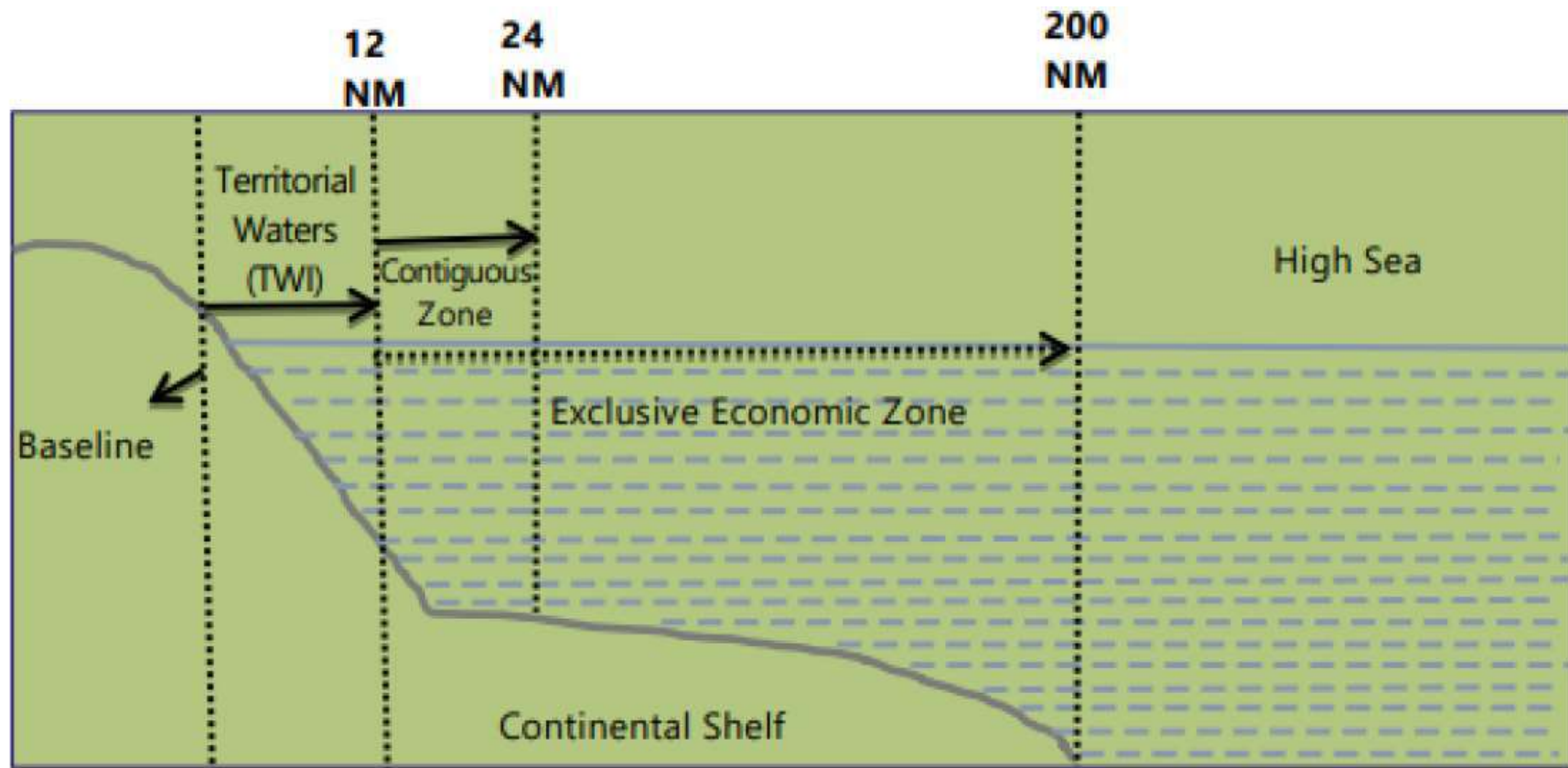
at such rates, not exceeding forty per cent.,

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

Proviso – IGST on goods imported into India – levied, collected, valued, point of levy under Customs Act, 1962

India and its extension and exclusions for the purpose of levy of GST:



India and its extension and exclusions for the purpose of levy of GST:

Sec. 1(2) It extends to the whole of India.

Sec. 2(56) "India" means the territory of India as referred to in article 1 of the Constitution, its territorial waters, seabed and sub-soil underlying such waters, continental shelf, exclusive economic zone or any other maritime zone as referred to in the Territorial Waters, Continental Shelf, Exclusive Economic Zone and other Maritime Zones Act, 1976 (80 of 1976), and the air space above its territory and territorial waters

Sec. 2(109) "taxable territory" means the territory to which the provisions of this Act apply

Sec. 2(81) "other territory" includes territories other than those comprising in a State and those referred to in sub-clauses (a) to (e) of clause (114)

Sec. 2(79) "non-taxable territory" means the territory which is outside the taxable territory

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India and its extension and exclusions for the purpose of levy of GST:

For the purpose of GST, the territorial scope of India and its exclusions/inclusions for levy and applicability of GST is defined in **Section 1(2) of the CGST Act, 2017**, as follows:

Territorial Extent:

India includes:

- The territory of India as per Article 1 of the Constitution.
- Its territorial waters extending up to 12 nautical miles.
- The airspace above and the seabed and subsoil beneath these territorial waters.
- The exclusive economic zone (EEZ) extending up to 200 nautical miles for specified purposes.

Exclusions or special scenarios:

- Certain supplies or activities undertaken in international territories may not fall under GST if they lack nexus with India.
- Supplies outside the customs frontiers of India or in bonded areas may have special treatment under the Integrated Goods and Services Tax (IGST) Act.

Actionable Claim:

- ❖ Definition of 'goods' specifically includes 'actionable claim'.
- ❖ Actionable claims, other than lottery, betting and gambling are neither as a supply of goods nor as a services – Schedule III of CGST Act read with section 7(2) (a) of CGST Act.
- ❖ Thus, only activities relating to lottery, betting and gambling will be subject to GST.
- ❖ Section 130 of Transfer of Property Act provides an actionable claim may be assigned for value.
- ❖ Basically, actionable claim means a claim or any amount received (debt) or claim for benefit of any movable property not in possession for which relief can be claimed in Civil Court. Such claim can assigned/transferred.

Actionable Claim: Illustrations:

Lottery ticket. (before draw)

Insurance policy.

Claim for arrears of rent.

Claims for future rents. (these can be assigned)

Unsecured loans.

Option to purchase securities or movable\ immovable property.

Claim for unpaid dower. (in case of Muslim woman getting divorce)

A claim in profit by partner in firm, dividend declared.

Actionable Claim: Illustrations:

Right to sue for infringement of brand or copyright (**IPR**) even when brand or copyright is not registered [Note that registration of patent is mandatory as without such registration, protection under law is not available. However, in case of copyright and brand, action for infringement can be initiated even if brand or copyright was not registered].

Reward points earned by customer on purchases made by him under loyalty programme.

Assignment or sale of secured or unsecured debt – FAQ No.40 issued by CBI&C on banking sector on 27-12-2018.

Actionable claims, other than lottery , betting and gambling are neither as a supply of goods nor a supply of services – Schedule III of CGST Act read with section 7(2)(a) of CGST Act.





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Section 10 of CGST Act, 2017

“Composition Levy under GST”

By

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Relevant Sections and Rules

❖CGST Act, 2017

✓Section 10: Composition Levy Scheme

❖CGST Rules, 2017: Composition Levy Scheme

✓Rule-3 Intimation for composition levy

✓Rule-4 Effective date for composition levy

✓Rule-5 Conditions and restrictions for composition levy

✓Rule-6 Validity of composition levy

✓Rule-7 Rate of tax of the composition levy

Taxable Event

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Taxable Event

What constitutes supply?

Supply includes:

- ✓ Sale
- ✓ Transfer
- ✓ Barter
- ✓ Exchange
- ✓ License
- ✓ Rental
- ✓ Lease
- ✓ Disposal
- ✓ Import of services for a consideration

Composition Levy Scheme

Section 10 of the Central GST Act, 2017 and Chapter 2 of the CGST Rules, 2017

❖ Introduction:

- ✓ The Composition levy scheme is a very simple,
- ✓ hassle free compliance
- ✓ Suitable for small taxpayers.
- ✓ It is a voluntary and optional scheme.

❖ Applicability:

- ✓ A registered person
- ✓ Whose aggregate turnover
- ✓ In the preceding financial year
- ✓ Does not exceed **Threshold limit**
- ✓ He may opt to pay tax under Composition scheme

Composition Levy Scheme

❖How to calculate Aggregate Turnover:

As per clause 6 of section 2 of CGST Act,2017

Aggregate turnover is computed on all India basis for a person having same PAN. It is **sum** of value of all outward supplies falling in the following four categories:

- ✓Taxable supplies
 - ✓Exempt supplies
 - ✓Exports of goods or services or both
 - ✓Inter-state supplies,
- ❑but *excludes*
- ✓The value of inward supplies on which tax is payable by a person on **RCM** basis &
 - ✓Taxes i.e., CGST, SGST & IGST including cess paid under GST law

Composition Levy Scheme

❖ Threshold limit:

- In case of Goods does not exceed Rs 1.50 Cr (Rs. 75 lakhs for special category states)
 - In case of Service does not exceed Rs 50 Lakhs
-

Benefits of composition scheme

- Easy compliance as **no** elaborate accounts and records to be maintained
- Tax is fixed percentage on the turnover
- Very less rate of Tax
- Simple Quarterly Return cum Payment i.e., CMP-08
- Quarterly payment of tax

❖ Requirements:

- Registration under GST law is compulsory for opting for the Composition scheme
- A person applies for fresh registration under Rule 8 of the CGST Rules, 2017 may opt for the scheme by providing information under part B of FORM GST REG-01.

Composition Levy Scheme

❖ Basic implications & conditions:

➤ Upon exercising the scheme

➤ Can't issue taxable invoice

➤ He shall issue Bill of Supply

➤ Pay all taxes on purchases including taxes to be paid on RCM

➤ Can't claim Input Tax credit on his purchases

➤ Can't collect GST from his customers

➤ Mention the words “**Composition Taxable Person**” on every notice board or signboard displayed at the prominent place at his every place of business.

Composition Levy Scheme

❖ Bill of Supply:

- A taxable person opting for the scheme has to issue bill of supply as he is not eligible to issue taxable invoice under GST.
- Bill of supply is a document
- Which contains all particulars similar to tax invoice
- He has to mention the words “Composition Taxable Person, not eligible to collect tax on supplies” at the top of every bill of supply issued by him.

Composition Levy Scheme

❖ Option:

- Option shall be exercised before commencement of the FY (it means prior to April)
- Once the threshold limit exceeds tax payer should exit from the scheme and should opt for regular scheme immediately **and** issue tax invoice for every supply.

❖ Regular scheme → Composition Scheme

Form GST REG-06 → GST CMP-02 → GST ITC-03 (60days)

❖ Composition Scheme → Regular scheme

Form GST REG-06 → GST CMP-04 → GST ITC-01 (30days)

Composition Levy Scheme

Persons who are not eligible for the scheme:

- ❖ A casual taxable person i.e. a person who occasionally undertakes supplies in a State or Union Territory where he has no fixed place of business.
- ❖ A non-resident Taxable person i.e. a person who occasionally undertakes supplies but has no fixed place of business or residence in India.
- ❖ A person engaged in providing inter-state supply of goods.
- ❖ A person engaged in supply of non-taxable goods i.e. goods which are not taxable under GST
- ❖ A person engaged in supply of goods through an Electronic Commerce Operator (ECO) who is required to collect Tax at source under section 52 of the CGST Act.
- ❖ The goods held in stock by him on the appointed day have not been purchased

Composition Levy Scheme:

- ❖ A person engaged in **manufacturing of goods** notified under sec 10 (2) (e) of the CGST Act.

-
- ❖ Following goods have been notified by the Government on the recommendations of the Council for which composition scheme is **not** available.

S.No.	Classification	Description
1	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa
2	2106 90 20	Pan masala
3	24	Tobacco and manufactured tobacco substitutes

Composition Levy Scheme:

Rate of Taxes: (Rule-7)

Sl.No	Category of Tax Payer	Tax Rate
1	Manufacturers, other than manufacturers of such goods as may be notified by the Government	1%
2	Suppliers making supplies referred to in clause (b) of paragraph 6 of Schedule II (i.e., supplier of Restaurant services)	5%
3	Any other Supplier eligible for composition levy	1%

Advise: Restaurant dealers shall not opt for Composition Scheme

Composition Levy Scheme

❖ Conditions which may render a person in-eligible for the scheme

A person is in-eligible for the scheme, if

- He wrongly opts for the scheme.
- His turnover exceeds Threshold limit Rs. 1.5 crore (In the case of 9 North East and special category states, namely Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Himachal Pradesh, the limit of turnover is Rs. 75 Lakhs in the preceding financial year)
- He contravenes eligibility criteria or any of the conditions of the scheme

Composition Levy Scheme

S I. N O	FORM NO	CONTENT
1	GST CMP-01	Intimation to pay tax under section 10 (composition levy) (Only for persons registered under the existing law migrating on the appointed day)
2	GST CMP-02	Intimation to pay tax under section 10 (composition levy) (for persons registered under GST Act) Extended upto 30 th June 2020
3	GST CMP-03	Intimation of details of stock on date of opting for composition levy (Only for persons registered under the existing law migrating on the appointed day)
4	GST CMP-04	Intimation/Application for withdrawal from composition Levy
5	GST CMP-05	Notice for denial of option to pay tax under section 10
6	GST CMP-06	Reply to the notice to show cause
7	GST CMP-07	Order for acceptance / rejection of reply to show cause Notice
8	GST CMP-08	Statement for payment of self-assessed tax (Quarterly)

Returns under Composition Scheme

1. Quarterly Return:

- ✓ CMP-08
- ✓ Due Date: On or before 18th of the following month end of Quarter
- ✓ Challan Payment cum Return

2. Annual Return:

- ✓ GSTR-4
- ✓ Consolidated summary of 4 Quarters transactions
- ✓ Due Date: 30th April of following FY





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Session-III

Date: 29th Dec 2024

Classification & HSN / SAC-Theory & Practical Approach

HSN

- ❖ HSN code stands for “Harmonized System of Nomenclature”
- ❖ HSN has been introduced for the systematic classification of goods all over the world.
- ❖ HSN code is a 6-digit uniform code that classifies 5000+ products and is accepted worldwide.
- ❖ It was developed by the World Customs Organization (WCO) and it came into effect from 1988.

How does HSN code work:

- ❖ Say there is 5,000 plus commodities, each identified by a six-digit code, arranged in a legal and logical structure.
- ❖ It is supported by well-defined rules to achieve uniform classification.

Why is HSN important?

- ❖ The main purpose of HSN is to classify goods from all over the World in a systematic and logical manner.
- ❖ This brings in a uniform classification of goods and facilitates international trade.

HSN Worldwide:

- ❖ The HSN system is used by more than 200 countries and for the reasons such as:
 - ✓ Uniform classification
 - ✓ Base for their Customs tariffs
 - ✓ Collection of international trade statistics
- ❖ Over 98% of the merchandise in international trade is classified in terms of the HSN.
- ❖ Harmonized System of Nomenclature number for each commodity is accepted by most of the countries.
- ❖ The HSN number remains **same** for almost all goods.
- ❖ However, HSN number used in some of the countries varies little, based on the nature of goods classified.

HSN in India:

- ❖ India is a member of World Customs Organization (WCO) since 1971.
- ❖ It was originally using 6-digit HSN codes to classify commodities for Customs and Central Excise.
- ❖ Later Customs and Central Excise added two more digits to make the codes more precise, resulting in an 8-digit classification.

Understanding the HSN Code:

❖ The HSN structure contains

- 21 sections,
- 99 Chapters,
- 1,244 headings, and
- 5,224 subheadings.

- ✓ Each Section is divided into Chapters.
- ✓ Each Chapter is divided into Headings.
- ✓ Each Heading is divided into Sub Headings.

✚ Section and Chapter titles describe broad categories of goods,

✚ While headings and subheadings describe products in detail.

For example:

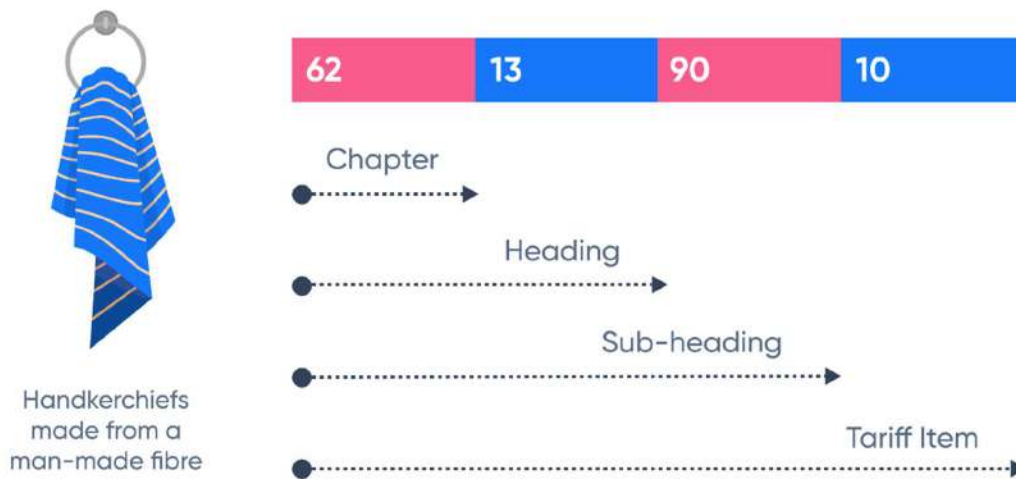
Handkerchiefs made of Textile matters 62.13.90

- ✚ First two digits (62) represent the **chapter number** for Articles of apparel and clothing accessories, not knitted or crocheted.
- ✚ Next two digits (13) represent the **heading** number for handkerchiefs.
- ✚ Finally, last two digits (90) is the product code for handkerchiefs made of other **textile materials**.

India has 2 more digits (Tariff item) for a deeper classification.

- ✚ If the handkerchiefs are made from a man-made fibre, then the HSN code is 62.13.90.10.
- ✚ If the handkerchiefs are made from silk or waste from silk., then the HSN code is 62.13.90.90.

Structure of HSN Code in India



SAC

- + SAC refers to “**Services Accounting Code**” for classification of different services.
- + Like goods, Services are also classified uniformly for
 - ✓ recognition,
 - ✓ measurement and
 - ✓ taxation.
- + Codes for services are called Services Accounting Code or SAC.

For Example:

Legal documentation and certification services concerning patents, copyrights and other intellectual property rights classified under SAC 998213

- ✓ The first two digits are same for all services i.e., (99)
- ✓ The next two digits (82) represent the major nature of service, in this case, legal services

- ✓ The last two digits (13) represent detailed nature of service, i.e., legal documentation for patents etc.

HSN in GST:

- ✚ HSN codes to be declared in the Tax Invoice up to 31st March 2021:

Turnover	No. of digits of HSN to be declared
Up to 1.5 crore	0
1.5 crore - 5 crore	2
More than 5 crores	4

✚ Declaration of HSN Code for Goods and Services

HSN codes to be declared from 1st April 2021:

(vide CGST notification number 78/2020 dated 15th October 2020)

Aggregate Turnover in the PFY	Type of Invoice document	No. of digits of HSN to be declared
Up to 5 crores	Mandatory for B2B Tax invoices	4
	Optional for B2C Tax invoices	4
More than 5 crores	Mandatory for All invoices	6

Note: Annual aggregate turnover for the previous financial year, i.e., for reporting invoice in FY 2021-22, turnover to be referred must be of FY 2020-21.

- ✚ These HSN codes must be declared in every tax invoice issued by the taxpayer under GST.
- ✚ All 8 digits of HSN code is mandatory in case of export and imports under the GST.

Important of HSN / SAC under GST:

- ✚ The purpose of HSN codes is to make GST systematic and globally accepted.
- ✚ HSN codes will **remove** the need to upload the detailed description of the goods.
- ✚ This will save time and make filing easier since GST returns are automated.
- ✚ A dealer or a service provider must provide HSN/SAC wise summary of sales in his GSTR-1 return
- ✚ HSN / SAC code details are mandatory to mention in Annexure-B i.e., “ITC Statement” while making an application for GST Refund

HSN - wise summary of outward supplies

Sections	HSN Code List for
Section 1	Live Animals, Animal Products
Section 2	Vegetable Products
Section 3	Animal or Vegetable Fats and Oils and their cleavage products, prepared edible fats, Animal or Vegetable waxes
Section 4	Prepared Foodstuffs, Beverages, Spirits and Vinegar, Tobacco and Manufactured Tobacco Substitutes
Section 5	Mineral Products
Section 6	Product of the chemicals or allied Industries
Section 7	Plastics and articles thereof, Rubber and articles thereof
Section 8	Raw hides and skins, Leather, Furskins and articles thereof, saddlery and harness, travel goods, handbags and similar containers, articles of animal gut (other than silk-worm gut)
Section 9	Wood and articles of wood, Wood charcoal, Cork and articles of cork, Manufacturers of straw, of Esparto or of other Plaiting Materials, Basketwork and Wickerwork
Section 10	Pulp of wood or of other Fibrous Cellulosic Material, Recovered (Waste and scrap) paper or paperboard, paper and paperboard and articles thereof
Section 11	Textile and textile articles
Section 12	Footwear, Headgear, Umbrellas, Sun Umbrellas, Walking-sticks, seat-sticks, whips, riding-crops and parts thereof, Prepared feathers and articles made therewith, Artificial flowers, Articles of human hair

Sections	HSN Code List for
Section 13	Articles of stone, plaster, cement, asbestos, mica, or similar materials, ceramic products, glass and glassware
Section 14	Natural or cultured pearls, Precious or semi-precious stones, precious metals, Metal clad with precious metal, and articles thereof, Imitation Jewellery, Coins
Section 15	Base Metals and articles of Base Metal
Section 16	Machinery and mechanical appliances, electrical equipment, parts thereof, sound recorders and reproducers, television image and sound recorders and reproducers, and Parts and Accessories of such article
Section 17	Vehicles, Aircraft, Vessels and Associated Transport Equipment
Section 18	Optical, Photographic, Cinematographic, measuring, checking, precision, medical or surgical instruments and apparatus, clocks and watches, musical instruments, parts and accessories thereof
Section 19	Arms and ammunition, parts and accessories thereof
Section 20	Miscellaneous Manufactured Articles

How to find Goods / Services in HSN list and its relevant HSN Code:

I. Government Portal

Step-1: Browse the GST Portal “www.gst.gov.in”

Step-2: Enter Login Credentials of the user

Step-3: Go to Services ---->>> select User Services ---->>> Search HSN Code



Step-4: Search HSN Code --→ Type Name or HSN Code

Dashboard Services GST Law Downloads Search Taxpayer Help and Taxpayer Facilities

Dashboard > Services > User Services > Search HSN Code

Search HSN Code

Search HSN Chapter by Name or Code *

8702
MOTOR VEHICLES FOR THE TRANSPORT
OF TEN OR MORE PERSONS,
INCLUDING THE DRIVER.

8703
MOTOR CARS AND OTHER MOTOR
VEHICLES PRINCIPALLY DESIGNED FOR
THE TRANSPORT OF PERSONS (OTHER
THAN THOSE OF HEADING 8702).

SEARCH

Dashboard Services GST Law Downloads Search Taxpayer Help and Taxpayer Facilities

Dashboard > Services > User Services > Search HSN Code

Search HSN Code

Search HSN Chapter by Name or Code *

870210
With only compression-ignition internal
combustion piston engine (diesel or
semi-diesel)

87021011
MOTOR VEHICLES FOR THE TRANSPORT
OF TEN OR MORE PERSONS,
INCLUDING THE DRIVER WITH
COMPRESSION-IGNITION

SEARCH

II. Private Portal: Clear Tax → <https://cleartax.in/s/gst-hsn-lookup> → HSN Finder

<

HSN Code List & GST Rate Finder

998213

Search

HSN (0)

SAC (1)

Chapter	Description	HSN Code	Rate (%)	CESS (%)	Effective Date	Rate Revision
Services (1)						
Services	LEGAL DOCUMENTATION AND CERTIFICATION SERVICES CONCERNING PATENTS, COPYRIGHTS AND OTHER INTELLECTUAL PROPERTY RIGHTS.	998213	18	Nil Provided that Director (Sports), Ministry of Youth Affairs and Sports certifies that the services are directly or indirectly related to any of the events under FIFA U-17 Women's World Cup 2020.	01/07/2017	18%

Importance of HSN & SAC in GST Registration:

Dealer needs to declare and furnish mandatorily HSN & SAC codes while doing GST Registration of the Business or Profession going to undertake

HSN: for Goods Max 5

SAC: for Services Max 5

Importance of Classification of Goods / Services under GST

- ✚ Under GST law, one of the most important elements is the classification of Goods/Services for the purpose of **determination of rate of tax** to be levied on them.
- ✚ The rate of tax to be charged on a **particular product** depends on the HSN/SAC codes specified under the GST law.

- ✚ Also, for the availability of exemptions, we need to classify the goods/services properly and accurately.

Impact & Effects of wrong classification of Goods / Services i.e., use of a wrong HSN or SAC Code?

- ✚ Wrong classification leads to **wrong valuation**
- ✚ Wrong valuation further leads to **wrong payment of taxes**
- ✚ Here are a few **cases** with their significant effects:

CASE	EFFECT
GST charged at higher rate	Loss of orders Loss of credibility with customers Extra cost of re-establishing business with the new/old customers Unavoidable loss on account of discounts given to customers
GST charged at lesser rate	Loss of non-recovery of tax from customers Interest cost and penalty paid under the Act
Wrong exemption claimed	Loss of non-availment of Input tax credit Interest cost and penalty paid along with output tax liability

Goods/services classified under Reverse Charge Mechanism where they are not supposed to be so classified OR Vice-versa	Non-payment of tax OR Unnecessary payment of tax
Non-payment of Compensation Cess on specified goods/services	Penal proceedings over and above interest cost
Wrong classification of export/import	Denial of benefits under Foreign Trade policy <ul style="list-style-type: none"> • Duty drawback • Incentives
ANY OTHER CASES of wrong classification of Goods/services	Calculation of incorrect tax liability Incorrect claim of Input tax Credit or No claim Interest cost and penalty Extra cost of dispute resolution at adjudication, appeal, court

Note: *In case of wrong classification of HSN / SAC code, Revenue officers decides classification in favour of revenue i.e., at higher rates. The same is done by the AAR.*

Factors that may lead to wrong classification of Goods/Services are as follows:

1. Lack of knowledge of the goods specifications and services.
2. Demand-Supply competition in the market.
3. Non-availability of Input tax credit.
4. Avoidance of disputes with customers.
5. Avoidance of complexities in classification.
6. Minor differences in description of goods under one HSN code and the other.

Remedy for wrong classification of Goods or Services:

- In case of **short payment of tax** due to wrong classification, such tax shall be paid through DRC-03 along with interest @ 18% p.a
- In case of **excess payment of tax** due to wrong classification, such tax may be adjusted with future output liability or may be applied for refund through GST RFD-01 as follows:

Select the Refund type:

Indicates Mandatory Fields

<input type="radio"/>	Refund of Excess Balance in Electronic Cash Ledger
<input type="radio"/>	Refund of ITC on Export of Goods & Services without Payment of Tax
<input type="radio"/>	On account of supplies made to SEZ unit/ SEZ developer (without payment of tax)
<input type="radio"/>	Refund on account of ITC accumulated due to Inverted Tax Structure
<input type="radio"/>	On account of Refund by Recipient of deemed export
<input type="radio"/>	Refund on account of Supplies to SEZ unit/ SEZ Developer (with payment of tax)
<input type="radio"/>	Export of services with payment of tax
<input type="radio"/>	Tax paid on an intra-State supply which is subsequently held to be inter-State supply and vice versa
<input type="radio"/>	On account of Refund by Supplier of deemed export
<input type="radio"/>	Any other (specify)
<input checked="" type="radio"/>	Excess payment of tax
<input type="radio"/>	On Account of Assessment/Provisional Assessment/Appeal/Any other order

Please select Tax period for which the application is to be filed:

Tax Period

Please select months starting from registration date or post registration date in month dropdown.

Financial Year ^{*}

Select

Month ^{*}

Select

CREATE REFUND APPLICATION

General Penalty u/s 125 of CGST Act, 2017 for not mentioning HSN Code:

In case of **non-mentioning** or mentioning **wrong HSN / SAC** code under the Goods and Service Tax Act, the penalty up to **Rs 50,000/-** (Rs 25,000/- for CGST and Rs 25,000/- for SGST) shall be levied.

Conclusion:

- ✚ To sum up, it's important to avoid mistakes during classification of goods and/or services,
- ✚ As this may lead to
 - ✓ **Disputes** with the customers as well as
 - ✓ **Demands** from the revenue department {differential tax + interest + penalty}
- ✚ It's better to refer to the notifications prescribed from time to time specifying the rates applicable on various products and the Advance Rulings passed in some cases to classify them accordingly, following the rules of interpretation.

-Thank You-

By

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The Institute of Cost Accountants of India
(Statutory body under an Act of Parliament)
Tax Research Department

Certificate Course on GST – 17th Batch

Session-III

Date: 29th Dec 2024

Consequences of wrong classification of type of Supply and its remedy

The following are the Consequences of wrong classification of type of Supply:

1. Tax payer may end up with paying taxes for an exempted supply
2. Tax payer may fail to pay taxes by treating as an exempted supply for a taxable supply accordingly
3. Tax payer may lose exemption benefit
4. Loss of non-availment of ITC by treating as an exempted supply
5. Fails to pay tax under reverse charge, treating as normal inward supplies
6. Missed to avail export incentives and duty drawbacks claims treating Zero-rated supply as domestic supply

7. Wrong classification of “type of supply” leads to

- **Disputes** with the customers as well as
- **Demands** from the revenue department {Tax + Interest + Penalty}

Remedy for wrong classification of type of supply:

- ✚ In case of **Non-payment** (or) **Short payment of tax** due to wrong classification of type of supply, **tax** shall be paid through **DRC-03** along with interest @ 18% p.a
- ✚ In case of **wrong / excess payment of tax** due to wrong classification of type of supply, such tax may be adjusted with future output tax liability or may be applied for refund through GST RFD-01 as follows:

Select the Refund type:

Indicates Mandatory Fields

<input type="radio"/>	Refund of Excess Balance in Electronic Cash Ledger
<input type="radio"/>	Refund of ITC on Export of Goods & Services without Payment of Tax
<input type="radio"/>	On account of supplies made to SEZ unit/ SEZ developer (without payment of tax)
<input type="radio"/>	Refund on account of ITC accumulated due to Inverted Tax Structure
<input type="radio"/>	On account of Refund by Recipient of deemed export
<input type="radio"/>	Refund on account of Supplies to SEZ unit/ SEZ Developer (with payment of tax)
<input type="radio"/>	Export of services with payment of tax
<input type="radio"/>	Tax paid on an intra-State supply which is subsequently held to be inter-State supply and vice versa
<input type="radio"/>	On account of Refund by Supplier of deemed export
<input type="radio"/>	Any other (specify)
<input checked="" type="radio"/>	Excess payment of tax
<input type="radio"/>	On Account of Assessment/Provisional Assessment/Appeal/Any other order

Please select Tax period for which the application is to be filed:

Tax Period

Please select months starting from registration date or post registration date in month dropdown.

Financial Year*

Select

Month*

Select


CREATE REFUND APPLICATION


✚ In case **Inter-State Sale is wrongly Treated as Intra-State Sale and vice versa**

Type of sale	Applicable tax	Actually Paid	Rectification	Interest/ Penalty
Intra-state	CGST & SGST	IGST	Pay CGST & SGST Refund IGST	No
Inter-state	IGST	CGST & SGST	Pay IGST Refund CGST & SGST	No

Note: No interest will need to be paid when the taxpayer pays the correct tax later on. Penalty will not apply in these scenarios.

GST RFD-01: Refund Application filed as follows

Select the Refund type: 

 Indicates Mandatory Fields

<input type="radio"/>	Refund of Excess Balance in Electronic Cash Ledger
<input type="radio"/>	Refund of ITC on Export of Goods & Services without Payment of Tax
<input type="radio"/>	On account of supplies made to SEZ unit/ SEZ developer (without payment of tax)
<input type="radio"/>	Refund on account of ITC accumulated due to Inverted Tax Structure
<input type="radio"/>	On account of Refund by Recipient of deemed export
<input type="radio"/>	Refund on account of Supplies to SEZ unit/ SEZ Developer (with payment of tax)
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<input type="radio"/>	Any other (specify)
<input type="radio"/>	Excess payment of tax
<input type="radio"/>	On Account of Assessment/Provisional Assessment/Appeal/Any other order

CREATE REFUND APPLICATION

Conclusion:



-Thank You-

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