

8th floor, Vikrikar Bhavan,
Mazgaon, Mumbai – 400 010.

TRADE CIRCULAR.

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No.VAT-2005/Act/VD-1
Trade Cir.- 20 T of 2005

Mumbai Dt :20.07.05

Sub : Composition Scheme under Section 42 of the Maharashtra Value Added Tax Act, 2002.

Ref : 1] VAT-2005/Act/VD-1 Cir-2T dt.28.4.2005.

2] VAT-2005/Act/VD-1 Cir-14T dt.13th June 2005.

Gentlemen/Sir/Madam,

Under section 42 of the Maharashtra Value Added Tax Act, 2002, the State Government is authorised to prescribe composition schemes for different types of dealers. The State Government had accordingly issued a Notification bearing number VAT-1505/CR-105/Taxation-1 dated the 1st April 2005 for the purposes of the said Section. The scheme was revised in important details with effect from the 1st June 2005 under notification number VAT-1505/CR-105/Taxation-1, dated 1st June 2005.

Certain queries have been received regarding the Notifications issued under Section 42 and their implementation. The queries and clarification thereon are as below :-

<u>Sr.No.</u>	<u>Question</u>	<u>Clarification</u>
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- [a] Whether the composition scheme notified vide notification dated 1.6.2005 would be effective from 1.4.2005 or from 1.6.2005 ?
- The Composition Scheme published under the Notification dated the 1st June 2005 would be effective from the 1st June 2005. In other words, the revised tax rates, change in procedures etc. would all be effective from the 1st June and not from any earlier date.
- [b] Whether application for composition is required to be made separately at the beginning of each year or whether the application once made will continue to be in force perpetually?
- Once a dealer is under Composition, then he will continue to be under composition unless he decides to opt out of the Composition Scheme or unless his eligibility for Composition Scheme is cancelled by the Department. In other words, it is not necessary to make a fresh application for Composition Scheme at the beginning of each year.
- [c] During the intervening period 1.4.2005 to 31.5.2005, some dealers eligible for composition may have collected tax on their sales. However, in view of the revised composition schemes, how should such dealers opt for the scheme now ?
- If any dealer has collected tax during the period 1st April 2005 to 31st May 2005, even then he may still opt for the composition scheme with effect from the 1st June 2005. For the period of two months, namely, April and May 2005, he would be a normal VAT dealer while for the subsequent periods, he would be under Composition.
- [d] Some dealers may have filed application for composition. How can such dealers opt out of the scheme at the stage
- If any dealer wishes to opt out of the composition scheme in view of the revision of the nature of the scheme, then he may do so by making an application to the

in view of the revised notification?

authority to whom he had made an application for composition. The cancellation would take effect from the date mentioned by him in this regard in his application. Such applications, however, should be made before the 16th of August 2005. If the application is not made by this date, then it will be presumed that the dealer does not wish to opt out of the composition scheme in the current year. His eligibility for composition in such a case can only be cancelled with effect from the 1st April 2006.

[e] Caterers have been included in the scheme for restaurants, eating house, hotels, etc. Accordingly, the composition amount payable by such caterers stands increased from 6% to 8%. Such caterers may not have factored the tax of 8% into the catering charges for the period 1.4.2005 to 31.5.2005.

[i] Whether caterers are required to pay

[i] For the first query, the answer is that for the period 1st April 2005 to 31 May 2005, the caterers would be required to pay composition at the then prevalent rate of 6%. However, from 1st June 2005 onwards they will have to pay tax at the rate of 8%.

[ii] As explained in the reply to the query at [d] above, such caterers may opt out of the composition scheme by making an application for cancellation, before the 16th August 2005.

composition at higher rate of 8% also for the period 1.4.2005 to 31.5.2005 ?

[ii] Whether caterers who have applied for composition earlier can opt out from 1.6.2005 onwards ?

7. The composition schemes are voluntary and the eligible dealers wishing to join the schemes were required to apply before the 30th April 2005. This date had been extended under the circular at reference No.1 to 15th June 2005. It was further extended upto 15th July 2005 vide circular at reference No.2. It is now decided to further extend the date to 16th August 2005.

8. This circular cannot be made use of for legal interpretation of provisions of law, as it is clarificatory in nature. If any member of the trade has any doubt, he may refer the matter to this office for further clarification.

9. You are requested to bring the contents of this circular to the notice of all the members of your association.

Yours faithfully,

(B.C.KHATUA.)

Commissioner of Sales Tax
Maharashtra State, Mumbai