

ITRAA



INDEPENDENT TAX RESEARCH AND ANALYSIS ASSOCIATION

Presents...

**A handbook on decoding
the GST Impact**

on

Real Estate Sector

by

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&

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IMPACT OF GST ON REAL ESTATE SECTOR



A COMPLETE GUIDE
TO
DETAILED ANALYSIS
OF
GST IMPLICATIONS AND INTRICACIES
ON
REAL ESTATE SECTOR

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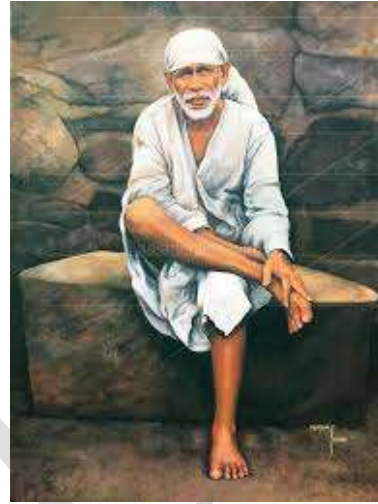
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First Edition : September 2020
Committee/Wing : Indirect Taxes Wing
E-mail : info.itraa@gmail.com
Website : www.itraa.co.in
Price : Your passion to read this publication (and we know, its priceless)

Published by : The Publication Department on behalf of the Independent Tax Research & Analysis Association

With the blessings of GOD



ITRAA

Foreword

Goods & Services Tax (GST) was introduced in India on 1st July, 2017 paving the way towards the goal of One Nation, One Tax, One Market. GST is a destination-based consumption tax providing the right of taxation to the State in which goods or services are ultimately consumed by the final consumer. It promotes the concept of common market with common tax rates and procedures, including the removal of various economic barriers, and eventually improves the ease of doing business in the country.

That's precisely where this book comes in. It's a collection of analysis, yes—but analysis designed to build understanding. Anyone can toss together a random collection of lessons. But lessons that take writers deep inside their own writing and help them understand how revision works are rare. That's what makes this carefully selected collection so special; it pays homage to the true nature of revision by giving young writers the skills and guidance they need to see their work with new eyes.

We congratulate and salute to the ITRAA Team for their efforts in bringing out this publication for the dissemination of knowledge amongst its readers.

We pray all good health to all the members along with their nears and dears of ITRAA team. It is the support of ITRAA mentor panel that we decide our vision.

We trust and hope that with the constant and unflinching endeavour of all fellow professionals, this simple tool of communication will grow into an effective and valuable knowledge base and shall help to achieve greater results.

CA. Navya Malhotra
President, ITRAA

CA. Kusum Gandhi
Vice President, ITRAA

Date: 01.09.2020

Place: New Delhi

Preface

India joined about 150 countries by implementing the destination-based consumption tax, Goods & Services Tax with effect from July 1, 2017. The objective of such implementation was to create the Common National Market for Goods & Services, by simplified tax regime and one nation one tax. In the last 3 years of its introduction the law has undergone numerous changes and kept pace with changes in economy. The pandemic COVID-19 also forced the Government to announce relaxation in various provisions of the law.

ITRAA being an Independent Tax Association is helping Businesses at GST implementation stage in ensuring that GST shall be a Good and Simple Tax. Further, through the members in the GST wing of ITRAA has been continuously undertaking several initiatives towards dissemination of knowledge and awareness through technical publications, newsletters, E-learning and organizing various programmes, Certificate courses, webcasts etc.

The HandBook on Real Estate to facilitate members and other stakeholders in understanding various provisions under GST law specifically for Real Estate Sector is before you.

This Material is basically an analysis on the GST law including Acts, rules, recent notifications, circulars or orders issued by the Government from time to time along with few FAQ's, MCQ's, Flowcharts, Diagrams and Illustrations etc. to make the reading and understanding easier and also to assist in resolving issues that the stakeholders may face while dealing with GST Specifically for Real Estate Sector.

We sincerely thank CA Navya Malhotra, Founder, ITRAA and CA. Kusum Gandhi, Co-Founder, ITRAA for their encouragement to the initiatives of the GST Committee Research Wing. We would like to acknowledge the efforts of the members of the GST Research Committee for their timely contribution and support. Special thanks to the tireless efforts of CA. Sikander Sachdeva, CA. Vikas Banka, CA. D.S. Agarwala in this Handbook who have put their rock breaking efforts and unstinted support.

We request the user of this Handbook to enhance their intellect and while doing so bring to our notice any error or mistake that may have crept in during the writing process. We welcome your suggestions for further improvements and look forward to your email on our I'd info.itraa@gmail.com and we also request you to visit our website www.ITRAA.co.in and give us your valuable feedback.

CA. Pranshu Pasrija

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About the Authors



Ca Pranshu Pasrija is a Chartered Accountant in practice from more than 5 years specialising in Indirect and Direct Taxation. He has also completed Diploma in IFRS Course from ACCA, UK. He is passionately into research in GST since its introduction and having specialisation in this Area. Apart from being a keen learner, he also believes in hard work and sharing his knowledge. He forms a core member of ITRAA Research team and is always a lead head for challenging research aspects. He has also released many videos and a series on GST Research on Real estate. He may be contacted at +91-9988755398 for any further suggestions & improvements in this edition.

CA Shiva Goyal is Chartered Accountant by Profession & has been researching on GST for more than 3 years & an MBA from Symbiosis University, Pune & also M.COM with UGC-NET qualification. He has also completed his Diploma in IFRS from ACCA(UK). He has been a Rank Holder at University Level - A young researcher, Shiva has set an example to the youth professionals and has set a benchmark for having deep knowledge of his core subject. He has been representing ITRAA at various respected forums. Shiva is also known as a “battery house” in ITRAA research teams for showing his incomparable energies when it comes to peculiar researches in GST. Apart from GST, He has also received various accolades from reputed institutions. He may be contacted at +91-8950425259 for any further suggestions & improvements in this edition.



Both the Authors have been invited as a keynote speaker in conferences/Webinars on reputed platforms & various branches of ICAI.

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Chapter 1: Introduction to Real Estate

GST ON REAL ESTATE

What is Real Estate?

As per Cambridge Dictionary – Real Estate is Property in the form of land and buildings

Meaning thereby Real Estate anything which comprises of Land in isolation or Land and buildings taken together.

“Real” comes from the Latin root res or things. Some say it’s from the Latin word rex, meaning “royal,” since kings used to own all land in their kingdoms.

Why is Real Estate Sector Important?

- Real Estate sector plays a vital role in the **nation building process** and is considered as a **key contributor** to the growth of the economy.
- It **offers employment** to different sectors of population.
- Also, it contributes **6 – 7% to the GDP** of the country.
- It also has a **strong connection with the core sectors** of the economy i.e. Cement and Steel.
- Not to forget Real Estate Sector has also a **strong linkage with the Financial Sector**.
- Almost **21% of total Loans and Advances** by Banks were related to this Sector only during December 2019.
- It also **stimulates the demand in over 250 ancillary industries** such as cement, steel, paint, brick, building materials, consumer durables and so on.

Chapter 2: Types of Real Estate Models

Different Types of Real Estate

- **Land** - It is the base of every Real Estate. It includes Vacant Land, Undeveloped Property mainly a piece of land with no construction. It also includes Working Farms and Ranches
- **Residential Real Estate** – Consisting of Residential dwellings in a Project for individuals, families. This is the most common type of state preferred by all for living.
- **Commercial Real Estate** – These refer to land and buildings used for business and to carry other relevant transactions. Mainly consisting of Offices, Business Places Hotels, Malls, etc.
- **Industrial Real Estate** – These are also a type of commercial Real Estate used for business transactions. However, used for industrial businesses such as factories, construction, productions, research and development. Commonly known as Industrial Area.
- **Mixed Real Estate** – Consisting of Residential as well as Commercial Properties in a building

Business Models in Real Estate

- Self-construction / Development by the Landowner on his own land and selling it
- Development Agreements / Joint Development Agreements / Joint Ventures
Can be further classified as under:
 - a. Area Sharing Model
 - b. Revenue Sharing Model
 - c. Mix Sharing Model
- Development of Plots (Agricultural/Residential/Commercial)
- Sale of Rights arising out of land (such as TDR)

Chapter 3: Taxability of Real Estate Transactions before GST (Pre GST)

- Before the introduction of GST, Central Government used to levy excise duty at the rate of 12.5% on manufacturing on most of the items required for construction activities. At the same time, State Governments used to charge value-added tax ('VAT') in the range of 12.5% to 14.5% on sale on the same items without providing any credit of the taxes paid in the other laws.
- Then there were two different taxes levied on the same transaction. For e.g. VAT and Service Tax levied on the Works Contract/Construction Service leading to double taxation.
- The tax rates on sale of Under Constructed Properties were levied as under:

Nature of Duty	Rate of Tax
VAT* on Construction/Works Contract Service	1 to 4%
Service Tax on Construction Service	4.50%
Registration Charges* on sale of Property	0.5 to 1.5%
Stamp Duty Charges* on sale of Property	5 to 7%

*VAT, Registration Charges, Stamp Duty Charges vary from state to state. However, VAT and Service Tax was not applicable on the sale of Completed or ready to sale Properties.

Taxability of Real Estate Transactions after GST (Post GST)

Post Implementation of GST i.e. from 1 July 2017, there has been a radical change on applicability of Indirect Taxes on the Real Estate Sector. This sector was the most affected sector but in a positive direction and major relief was provided to the developers by not only allowing Input tax credit but also by providing single levy of tax.

However, the Government on time to time basis has made amendments to improve the taxation structure of Real Estate Sector so as to boost the sector which will help to boost the economy and also to make this sector affordable enough to fulfil their objective of Housing for all.

Chapter 4: Important Notifications

Not. No.	Particulars
3/2019	Changes in GST rates and credit attributable on carpet area – Real Estate
4/2019	Exemption to TDR, FSI and Premium -Long Term Lease
5/2019	RCM for TDR, FSI and Premium for Long Term Lease
6/2019	Time of Supply for JDA~ CTR 04/2018 Notification
7/2019	RCM Rate for Services + 80% criteria 9(4) Purchases
8/2019	New Rate 18% for Unregistered purchase of Goods
16/2019 (CT)	Changes in GST Rules (Rule 42 and Rule 43)

Chapter 5: Some Important Definitions

- **Goods (Section 2(52))** – means every kind of **movable property** other than money and securities **but includes** actionable claim, growing crops, grass and things attached to or forming part of the land which are agreed to be severed before supply or under a contract of supply;
- **Services (Section 2(102))**– means **anything other than goods, money and securities** but includes activities relating to the use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;
- **Actionable Claim (Section 2(1))** – shall have the same meaning as assigned to it in section 3 of the Transfer of Property Act, 1882;
- **Capital Goods (Section 2(19))** – means **goods**, the value of which is **capitalised in the books of account** of the person claiming the input tax credit and which are used or **intended to be used** in the course or furtherance of business

Relevant remarks from the definitions:

1. Goods include only movable property hence immovable property is outside the ambit of goods
2. Services means anything other than Goods meaning immovable property can be termed as services
3. Capital Goods means goods, thereby Capital Goods also includes only movable property.

There can be an argument regarding Plant & Machinery fixed to earth being immovable, is a service and not capital goods.

Explanation to Section 17 says Plant and Machinery for the purpose of this Chapter and Chapter VI *means apparatus, equipment, and machinery fixed to earth by foundation or structural support that are used for making outward supply of goods or services or both and includes such foundation and structural supports but excludes—*

- (i) *land, building or any other civil structures;*
- (ii) *telecommunication towers; and*
- (iii) *pipelines laid outside the factory premises.*

It can be said that Plant & Machinery fixed to earth is fixed to enjoy the benefit arising out of it and to make the machinery work smoothly and efficiently. Hence termed as capital goods and not immovable properties.

Chapter 6: Concept of Composite Supply, Works Contract, Construction Service

COMPOSITE SUPPLY vs MIXED SUPPLY

Composite Supply (Section 2(30)) – means a supply made by a taxable person to a recipient consisting of two or more **taxable supplies** of goods or services or both, or any combination thereof, which are **naturally bundled** and supplied in conjunction with each other in the ordinary course of business, **one of which is a principal supply**;

e.g. – Air Conditioner installation on purchase of new air conditioner. This supply includes supply of air conditioner along with supply of installation services. However, the installation service is naturally bundled and the supply of air conditioner is a principal supply. Hence the GST rate for air conditioner will be applicable on both supplies.

Mixed Supply (Section 2(74)) – means two or more **individual supplies** of goods or services, or any combination thereof, **made in conjunction with each other** by a taxable person for a single price where such supply does not constitute a composite supply.

e.g. – Sale of gift pack including biscuits, chocolates, juices, chips etc. which can be sold separately but are sold in conjunction at a single price. In this case the GST rate of the product having highest rate will be applicable on the said price.

Principal Supply (Sec 2(90)) – means the supply of goods or services which **constitutes the predominant element** of a composite supply and to which **any other supply** forming part of that composite supply **is ancillary**

SCHEDULE II

Schedule II – Activities to be treated as supply of Goods or Supply of Services

“Para 6” - Composite supply

The following composite supplies shall be treated as a supply of services, namely: —

- (a) **works contract as defined in clause (119) of section 2**; and
- (b).....

Schedule II of the GST Act specifies supplies, which brought confusions regarding their nature in the earlier laws, to be treated as either supply of service or supply of goods.

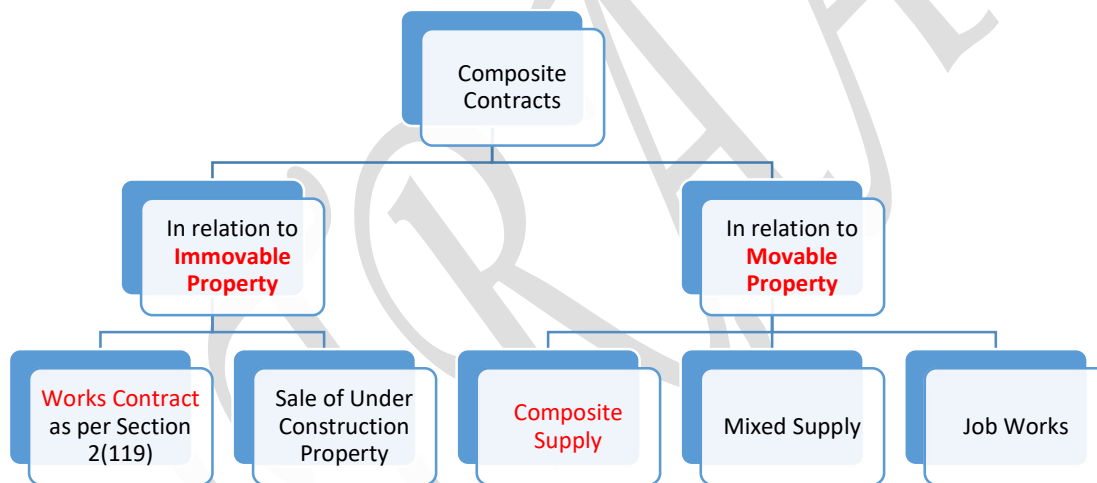
Para 6 of Schedule II has specified that Works Contract is a Composite Supply as it also includes supply of goods and supply of services or both and also specified that the principal supply for works contract to be treated as supply of services.

MEANING OF WORKS CONTRACT

Works Contract Service (Sec 2(119)) – means a contract for building, construction, fabrication, completion, erection, installation, fitting out, improvement, modification, repair, maintenance, renovation, alteration or commissioning of any **immovable property** wherein **transfer of property in goods (whether as goods or in some other form)** is involved in the execution of such contract;

The word Works Contract is very wide term and includes almost everything related to an immovable property. It is important to note here that the works contract service is only in relation to immovable property and not in relation to movable property. Prior to GST works contract was related to immovable and movable properties both. But post GST it is clearly specified in relation to immovable property only with no confusion.

Also, it is pertinent to note here that transfer of property in goods is also an important factor to be fulfilled to constitute the supply as works contract supply. Transfer of property means transfer of ownership in goods but not transfer of possession. An agent has possession of goods on behalf of principal but he is not the owner of goods. Hence transfer of ownership means transfer of property in goods and if this is involved in the contract then it can be termed as works contract service.



“Job Work” means any **treatment or process undertaken by a person on goods belonging to another registered person** and the expression “job worker” shall be construed accordingly. And as per Para 3 of Schedule II, Job Work will always be treated as Service under GST

Thus, from the above definition than it is clear that the term works contract has been restricted to contract for building construction, fabrication etc. of any **immovable property only**. Any such composite supply undertaken on product say, for example, a fabrication or paint job done on motor car won't fall under the definition of term works contract under GST. Such contracts would be still composite supply, but will not be treated as a Works Contract for the purpose of GST. But if it will be done on a motor car of a registered person then it will be treated as Job Work.

Also, Job Work is done on the goods belonging to another person and there is no transfer of property/ownership in goods. The goods already belong to the recipient. The job worker only provides services on the said goods. Hence it is different from works contract.

MAHARASHTRA AUTHORITY FOR ADVANCE RULING

M/s Jalaram Feeds (Dated –08.01.2019)

Matter – M/s. NR Energy Solutions Private Limited is engaged in the business of manufacture, export and supply of Electrical Control Panels, Power System, etc. The Company was awarded turnkey projects for certain Electrical components at various sites/ locations. **The contract involved both service as well as supply portions. The Company had charged GST @ 28% under HSN 85372000 for the value of supplies and GST @ 18% under HSN 995461 on the value of services. As per the Company's customer, GST should be levied @ 18% as the turnkey projects are essentially "works contract" involving erection and installation of goods into immovable property and transfer of ownership in goods during the course of execution of the contract.**

Held by the Maharashtra AAR – In addition to the demarcation, the **supply and service portions have been naturally bundled and in conjunction with each other. Separate payments are received for the goods and service portions.** The Company cannot render services without the goods as the goods and services are supplied being as a combination and in conjunction and in the course of their business where the principal supply is supply of goods. There is no activity undertaken in relation to any immovable property involving transfer of property in goods (whether as goods or in some other form) in the execution of the turnkey contract. Hence, the transaction would not amount to 'works contract'

MEANING OF CONSTRUCTION SERVICE

Construction Service – Construction Service is **not separately defined** in the CGST Act, but works contract service includes construction as a part of it and hence Construction Service is a subset of Works Contract Service. However, in Explanation to Section 17(5) clauses (c) and (d), the expression "construction" includes re-construction, renovation, additions or alterations or repairs, **to the extent of capitalisation, to the said immovable property;**

Meaning if the said services are capitalised in the books of accounts in relation to the immovable property only then it will be termed as construction service. However, such condition is not termed with Works Contract Service.

Also, as per Entry No. 1 of notification No. 11/2017 (CTR) valuation of construction service is defined as:

In case of supply of construction service, **involving transfer of property in land or undivided share of land,**

Value of Construction Service = Total amount charged for such supply (-) the value of land or undivided share of land*

*value of land or undivided share of land, as the case may be, in such supply **shall be deemed to be one third of the total amount charged for such supply**

e.g. Say a Flat is sold for value of Rs. 60 Lakhs.

Hence the value of construction service = Rs. 60 Lakhs – 1/3rd of Rs. 60 Lakhs (Rs. 20 Lakhs)
= Rs. 40 Lakhs

Liability to pay GST arises on Rs. 40 Lakhs. Hence the effective rate will be 2/3rd of the Rate specified.

CONFUSION REGARDING NEW CONCEPT

Circular 47/21/2018 – dated 08.06.2018

Question – How is servicing of cars involving both supply of goods (spare parts) and services (labour), where the value of goods and services are shown separately, to be treated under GST?

Answer –

1. The taxability of supply would have to be determined on a case to case basis looking at the facts and circumstances of each case.
2. Where a supply involves **supply of both goods and services** and the **value of such goods and services supplied are shown separately**, the goods and services would be **liable to tax at the rates as applicable** to such goods and services separately

31st GST Council Meeting discussion

The issue regarding GST rates where specified goods attracting 5% GST are supplied along with services of construction etc. and other goods for solar power plant. To resolve the dispute it was decided that the

1. 70% of the gross value shall be deemed as the value of supply of said goods attracting 5% rate and

The remaining portion (30%) of the aggregate value of such EPC contract shall be deemed as the value of supply of taxable service attracting standard GST rate.

Are these clarifications, circulars or discussions by the Government moving towards a better GST Law. The new concepts of Mixed Supply and Composite Supply was introduced in the GST Law to mitigate the confusions regarding nature of supply. But by providing these circulars and clarifications the new concepts are to be put to hold and will lead to more of litigations.

Chapter 7: Definitions under New Tax Regime GST on Real Estate w.e.f. 01st April 2019

New Definitions under New Tax Regime for Real Estate

- **Apartment**

shall have the same meaning as assigned to it in clause (e) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

 1. Residential Apartment – shall mean
 - a) an apartment **intended for residential use**
 - b) as **declared to the Real Estate Regulatory Authority or to competent authority;**
 2. Commercial apartment – shall mean an apartment other than a residential apartment;
- **Affordable residential apartment** shall mean, -
 - (a) in a project which commences on or after 1st April, 2019, or
 - (b) in ongoing projects in which old tax rates are not opted for, having carpet area not exceeding
 - i) 60 square meter in metropolitan cities **or**
 - ii) 90 square meter in cities or towns other than metropolitan cities **and**
 - iii) gross amount charged is not more than 45 Lakhs Rupees

Gross amount shall be the sum total of; -

 1. Consideration charged for the Construction Services;
 2. Amount charged for the transfer of land or undivided share of land, as the case may be including by way of lease or sub lease; and
 3. Any other amount charged by the promoter from the buyer of the apartment.
- **Project**

shall mean a Real Estate Project or a Residential Real Estate Project;
- **Real Estate Project (REP)** – As per section 2(zn) of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

which means

 - (a) the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments,
 - (b) or the development of land into plots or apartment,
 - (c) for the purpose of selling all or some of the said apartments or plots or building, and

(d) includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto;

- **Residential Real Estate Project (RREP)** – shall mean a REP in which the carpet area of the **commercial apartments is not more than 15 per cent** of the total carpet area of all the apartments in the REP;

- **Apartment booked on or before 31 march 2019**

shall mean an apartment which meets all the **following three conditions**, namely-

(a) part of supply of construction of which has **time of supply on or before the 31st March, 2019** and

(b) **at least one instalment has been credited** to the bank account of the registered person on or before the 31st March, 2019 and

(c) **an allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued** on or before the 31st March, 2019;

- **CARPET AREA (Section 2(k) of RERA)**

"carpet area" means the **net usable floor area** of an apartment, excluding

- a) the area covered by the external walls,
- b) areas under services shafts,
- c) exclusive balcony or verandah area and
- d) exclusive open terrace area,

but includes

- a) the area covered by the internal partition walls of the apartment.

Explanation — For the purpose of this clause, the expression "**exclusive balcony or verandah area**" means the area of the balcony or verandah, as the case may be, which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee; and "exclusive open terrace area" means the area of open terrace which is appurtenant to the net usable floor area of an apartment, meant for the exclusive use of the allottee;

- **Ongoing Project**

shall mean a project which meets **all the following conditions**, namely

(a) commencement certificate in respect of the project, where required to be issued by the competent authority, has been issued on or before 31st March, 2019, and it is certified

(b) where commencement certificate is not required to be issued by the competent authority, it is certified by any of the authorities specified

(c) completion certificate has not been issued or first occupation of the project has not taken place on or before the 31st March, 2019

(d) apartments being constructed under the project have been, partly or wholly, booked on or before the 31st March, 2019.

Explanation- For the purpose of sub- clause (a) and (b) above, construction of a project shall be considered to have started on or before the 31st March, 2019, **if the earthwork for site preparation for the project has been completed** and excavation for foundation has started on or before the 31st March, 2019

- **Commencement Certificate** – means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the competent authority **to allow or permit the promoter to begin development works on an immovable property, as per the sanctioned plan;**
- **Competent Authority** – as mentioned in definition of “commencement certificate” and “residential apartment” , means the local authority or any authority created or established under any law for the time being in force by the Central Government or State Government or Union Territory Government, which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property;
- **Project which commences on or after 1st April, 2019** – shall mean a project other than an ongoing project;
- **Floor Space Index (FSI)** – shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.

Meaning let’s say there is a land measuring 2000 Sqmt. If FSI is 2 as specified by the government authorities of the said area, then the total built up area can be 4000 Sqmt. Whether you develop 2 floors on whole land or 4 floors on half of the land. The distribution can be any ratio but not more than the FSI.

Tax liable on Sale Before and After Completion?

The Real Estate property can be sold either before completion or after completion

Before Completion means sold or any amount of the consideration received or any agreement to sell or by whatever name called any transaction relating to the property done before completion certificate has been issued. Hence if a property is sold before completion then it will not be treated as building as per Schedule III and will be liable to tax.

But on which transaction should the tax be levied?

As per entry no 49 of State List of Seventh Schedule of the Constitution of India it is stated that the power to levy tax on sale of Land and Building is specifically provided to the State. Central Government cannot levy any tax on the sale of these transactions.

Hence a completed property if sold is a sale of Building and no tax can be levied on it by the Central Government. However, the State Governments levy Registration Charges and Stamp Duty Charges on the transfer of such Buildings.

Before introduction of GST the amendment in the Constitution of India was made vide 101st Constitution amendment and Article 246A was introduced which over rides article 246 and provides power to both State and Central Government to levy taxes on Goods or Services or both subject to condition that the supply should be either goods or services. If they are neither goods nor services then the tax will be levied as per old constitution powers provided in Article 246.

Chapter 8: Schedule II & Schedule III (Para 5)

Schedule III - Activities which are neither Supply of Goods nor Supply of Services.

“Para 5” – Sale of land and, **subject to clause (b) of paragraph 5 of Schedule II, sale of building**

Schedule II – Activities to be treated as supply of Goods or Supply of Services

“Para 5” – The following shall be treated as supply of services, namely: —

(a).....;

(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the **entire consideration** has been received

a) after issuance of **completion certificate**, where required, by the competent authority or

b) after its **first occupation**, whichever is earlier

Paragraph 5 of Schedule III of the Act reads “sale of land and, subject to clause (b) of paragraph 5 of Schedule II, sale of building. We need to pay attention as to how this clause is to be read and understood. Let us now read the clause as follows:

• Sale of land; • Sale of building; • Sale of land and sale of building; • Sale of land and building in which an undivided share in land stands transferred.

It must be noted with caution that Paragraph 5 of Schedule III is ‘subject to clause (b) of Paragraph 5 of Schedule II’. It is for this reason that development contracts in the real estate sector have been a subject matter of tax only if they are not saved by the exclusion in Paragraph 5 of Schedule III.

Chapter 9: Taxability of Real Estate Transactions before & After 31.03.2019- A Comparison

Taxability of Real Estate Transactions before 31.03.2019

Type of Property	GST Rate	ITC available?
Construction Service of Affordable Residential Housing	8%*	Yes
Construction Service of Non- Affordable Residential Housing	12%*	Yes
Construction service of Commercial Property	12%*	Yes
Works Contract	18%	Yes

* These are the effective tax rates. Effective tax rates are those rates which are levied after deduction of 1/3rd of the Value of Land in the Property in Real Estate Transactions.

ITC on Inputs, Input Services and Capital Goods was available to the Builder on supply of Construction Service.

Taxability of Real Estate Transactions after 31.03.2019

- Many new concepts have been introduced and a drastic change has been done after 31.03.2019 regarding Real Estate Transactions. New Terminology and definitions have been introduced and for which Real Estate (Regulation and Development) Act, 2016 has been referred to.
- The builders/developers were provided an option to opt for the new tax regime or to stay in the old tax regime for the transactions to be done post 31.03.2019 for their ongoing project as on 31.03.2019. This option was provided to the builders and not the buyers. The builders were given a time period to stay and opt for the old tax regime till 10th May 2019 but later on which was deferred till 20th May 2019. To opt for the old tax regime, they had to fill a form and intimate to the GST Jurisdictional Commissioner. If not opted to pay the tax as per old regime within the specified time period, it was deemed that the builder has opted the new tax regime of taxation.

Type of Property	GST Rates
Affordable Residential Apartment (RREP)	1%* without ITC (except to the extent specified)
Non-Affordable Residential Apartment (RREP)	5%* without ITC (except to the extent specified)
Commercial Apartment (RREP)	5%* without ITC (except to the extent specified)
Affordable Residential Apartment (REP)	1%* without ITC (except to the extent specified)
Non-Affordable Residential Apartment (REP)	5%* without ITC (except to the extent specified)
Affordable Residential Apartments in ongoing project for which promoter has exercised old tax rates	8%* with ITC
Commercial Apartment (REP)	12%* with ITC
Non-Affordable Residential Apartments in ongoing project for which promoter has exercised old tax rates	12%* with ITC

*All GST rates are effective tax rates after deducting 1/3rd value of Land

ITC to the extent available will be discussed later as per formula provided by the Department.

Chapter 10: Taxability of Real Estate Transactions: Fundamental discussion

Is Sale of developed plots not sale of land?

Meaning of Land

an area of ground, especially when used for a **particular purpose such as farming or building** – As per Cambridge Dictionary

Section 3(a) of Land Acquisition Act, 1894: defines “Land” as it includes **benefits to arise out of land and things attached to earth or permanently fastened** to anything attached to the Earth.

Section 3(a) of the Bombay Land Revenue Code: “Land” includes **benefits to arise out of land and things attached to the Earth or permanently fastened** to anything attached to the Earth and also shares in or charges on the revenue or rent of villages or other defined portions of territory.

Safiya Bee Vs. Mohd. Vajahath Hussain (2011)2SCC94, Apex Court: and in various other cases it was held that “**land**” includes **benefits arise out of land**

MEANING OF IMMOVABLE PROPERTY

Immovable Property as per General Clause Act - shall include **land, benefits to arise out of land**, and things attached to the earth, or permanently fastened to anything attached to the earth

Immovable Property as Registration Act - includes **land**, buildings, hereditary allowances, rights to ways, lights, ferries, fisheries or any **other benefit to arise out of land**, and things attached to the earth, or permanently fastened to anything which is attached to the earth, but not standing timber, growing crops nor grass

GUJARAT AUTHORITY FOR ADVANCE RULING Shree Dipesh Anil Kumar Naik (Dated – 19.05.2020)

Matter - whether GST leviable on the sale of a plot of the land that fulfils all the requirements for approval and holding all the basic facilities like a drainage line, water supply, electricity and land levelling are to be provided by the applicant.

Held by the Gujarat AAR - “We find that the activity of the sale of developed plots would be covered under the clause ‘construction of a complex intended for sale to a buyer’. Thus, the said activity is covered under ‘construction services’ and GST is payable on the sale of developed plots in terms of CGST Act / Rules and relevant Notification issued time to time.”

Why the issue came up - Generally, the plot rates are based on the built-up and not the basis of the actual measure of the plot. A super built-up area comprises such area utilized for providing common amenities like infrastructure facilities like roads, water tanks, etc. on a proportionate basis, for which the seller charges a price for such other amenities included. Thus, the sale of land is not equivalent to the sale of a developed plot and is a completely different transaction.

**KARNATAKA AUTHORITY FOR ADVANCE RULING
M/s MAARQ Spaces Pvt Ltd (Dated – 30.09.2019)**

“There are a good number of provisions in the agreement which indicate that the applicant has no right over the land and consequently the applicant cannot claim to be engaged in the activity of sale of land as envisaged in the provisions of entry at Serial number 5 of said Schedule III. **The provisions of this entry will apply only to those persons who are the owners of the land and not to persons who are incidental to the sale of land.** Thus, the activities undertaken by the applicant amount to a supply of service and we answer the first question in the affirmative”

OUR ANALYSIS

There was no discussion regarding Composite Supply. Sale of Land is a principal Supply and services provided are done to make the land saleable. Mere basic amenities provided do not change the nature of land. Also, if the Landowner himself carries out the process of development then he is doing so only to make the Land saleable and to get a good amount of value for the sale of his Land. He is not selling any services to the buyer and it should not be treated as Service.

Further if the Landowner get some Development work done through any development agreement then only the Service Portion of the Developer should be charged as taxable Service under Construction Service and not the sale of Land to be treated the same.

Also two advance rulings provide a contradictory views on the same issues. The Government should come up with a clarification regarding non taxability of these transactions being the supply is of merely a land whether developed or undeveloped.

SALE OF PLOTS/DEVELOPED PLOTS CAN BE THROUGH FOLLOWING OPTIONS

- DIRECT REGISTRATION OF PLOTS
- AGREEMENT TO SELL COMPLETED PLOTS
- SEPARATE AGREEMENTS FOR SALE + DEVELOPMENT
- AGREEMENT OF SALE OF DEVELOPED PLOTS WHILE WORK IS IN PROGRESS

Chapter 11: Registration under GST

Person Liable for Registration (Section 22)

Every supplier shall be liable to be registered under this Act in the State or Union territory, other than special category States, **from where he makes a taxable supply of goods or services or both**, if his aggregate turnover in a financial year **exceeds 20 Lakh Rupees (Threshold increased to Rs. 40 Lakhs respectively for supplier of Goods only w.e.f 01.04.2019) and exceeds 10 Lakh Rupees for Manipur, Mizoram, Nagaland and Tripura states.**

For Supplier of Services and Both Goods and Services the limit of threshold is Rs. 20 Lakhs only.

Persons Liable to get Compulsory Registered (Section 24)

- persons making any **inter-State taxable** supply;
- **casual taxable persons** making taxable supply;
- persons who are required to pay tax under **reverse charge**;
- person who are required to pay tax under **sub-section (5) of section 9**;
- **non-resident taxable persons** making taxable supply;
- persons who are required to **deduct tax** under section 51, whether or not separately registered under this Act;
- persons who make taxable supply of goods or services or both **on behalf of other taxable persons** whether as an agent or otherwise;
- **Input Service Distributor**, whether or not separately registered under this Act;
- persons **who supply goods or services or both**, other than supplies specified under sub-section (5) of section 9, **through such electronic commerce operator** who is required to collect tax at source under section 52;
- every **electronic commerce operator**;
- every person **supplying online information and database access or retrieval services from a place outside India** to a person in India, other than a registered person; and
- **such other person or class of persons** as may be notified by the Government on the recommendations of the Council.

Persons not Liable to get Registration (Section 23)

- any person engaged **exclusively in the business of supplying goods or services or both** that are not liable to tax or wholly exempt from tax under this Act or under the Integrated Goods and Services Tax Act;
- **an agriculturist**

Some Notifications

Notification No 05/2017 (CT) – Exempts Persons only engaged in making supplies of taxable goods and services on which tax has to be paid under Reverse Charge basis u/s 9(3) from Registration

Notification No 07/2017 (IT) – Job workers making inter-state supply of services to a registered person are exempted from registration if their turnover is below 20 lakhs (10 lakhs for Special states)

Notification No 10/2017 (IT) – Exempts persons making Inter State supply of Taxable Services having turnover below 20 lakhs (10 lakhs for Special states) from Registration

Location of the supplier of services (Sec 2(71))

It means –

- (a) where a supply is made from a **place of business** for which the registration has been obtained, the location of such place of business;
- (b) where a supply is made **from a place other than the place of business** for which registration has been obtained (a fixed establishment elsewhere), the location of such fixed establishment;
- (c) where a supply is made from **more than one establishment**, whether the place of business or fixed establishment, the location of the establishment most directly concerned with the provisions of the supply; and
- (d) **in absence of such places**, the location of the usual place of residence of the supplier;

Fixed establishment (Sec 2(50))

It means a place (other than the registered place of business) which is characterised by a **sufficient degree of permanence and suitable structure in terms of human and technical resources** to supply services, or to receive and use services for its own needs;

KARNATAKA AUTHORITY FOR ADVANCE RULING M/s T & D Electricals (Dated – 31.03.2020)

The Contractor M/s Shree Cement Ltd registered in the state of Rajasthan got a contract to complete the same in the state of Karnataka. The question was regarding the registration of M/s Shree Cement Ltd in the State of Karnataka. However, the Advance Ruling Authority decided that the person is supplying services from the state of Rajasthan from the place of registration. Hence no requirement of registration in the other state.

Who is Liable to take Registration?

Since Schedule III Para 5 states that Sale of Land and Sale of Building subject to clause (b) in Schedule II para 5 are neither Goods nor Services, hence if the person is exclusively dealing in the above said sale of Land and Building then he is not liable to get registration under GST as he is not making any supply as per GST Act. And for getting Registration having a Supply is pre-approved condition. If it is not a supply then it is out of the ambit of GST.

Further if the Person sells Building before construction and is covered under the supply of Services as per Schedule II, Para 5 Clause (b), then the Registration provisions will apply on him. Even then if he is not having total aggregate turnover exceeding 20 Lakhs then also, he is not required to take registration. As it is covered under the supply of Services then notification no 10/2017 will be applicable and he can proceed with inter-state supply of services till the aggregate turnover of Rs. 20 Lakhs. And once he takes registration then all the provisions of GST will be applicable on him.

In a real estate sector Landowner himself cannot introduce capital to the extent that he can develop the flats and sell them on his own account. Therefore, there are development agreements being done and the Landowner provides Land and Development Rights to the Developer and the Developer provides construction Service to Landowner and then they sell flats according to the agreement.

Since before 31.03.2019 both the parties were providing services to each other, hence the liability to pay taxes was on both of them. Also the flats were being sold by the Landowner and the Developer before construction and hence liable to take registration and pay taxes accordingly.

But mostly the agreements were being done in such a manner that the Landowner did not take any liability of taxes on themselves. Also the developers had faced lot of issues regarding shortage of funds and blockage of funds. Hence the Government w.e.f 01.04.2019 brought the amendment in the GST Act to transfer the liability from the hands of the Landowner to the hands of the Promoter under Reverse Charge Mechanism and now the Promoter has to compulsory take registration under the GST Act.

Now the Landowner will be liable to take registration if he sells the flats before completion.

ITRAA

Chapter 12: Time Of Supply Under GST For Real Estate

Time of supply means the point in time when goods/services are considered supplied'. When the seller knows the 'time', it helps him identify due date for payment of taxes.

Time of Supply for Services (Section 13(1))

Shall be the earliest of the following dates:

- (a) Date of Issue of invoice or Date of receipt of payment if Invoice issued within time specified u/s 31(2), or
- (b) Date of Provision of Service or Date of receipt of payment if invoice not issued within time specified u/s 31(2)
- (c) Date on which recipient shows the receipt of services in his books of account where clause (a) and (b) doesn't apply.

Section 31(2) read with rule 47 of CGST Rules state that a registered person supplying taxable services shall, before or after the provision of service but within a **prescribed period of thirty days** issue a tax invoice, showing the description, value, tax charged thereon and such other particulars as may be prescribed

Example

Mr. A provides services worth Rs 20000 to Mr. B on 1st January. The invoice was issued on 20th January and the payment for the same was received on 1st February.

In the present case, we need to 1st check if the invoice was issued within the prescribed time. The prescribed time is 30 days from the date of supply i.e. 31st January. The invoice was issued on 20th January. This means that the invoice was issued within a prescribed time limit.

The time of supply will be earliest of –

1. Date of issue of invoice = 20th January
2. Date of payment = 1st February

This means that the time of supply of services will be 20th January.

Time of Supply for Construction Service: Always Continuous Supply of Service

Continuous supply (2(33)): Means a supply of services which is provided, or agreed to be provided, continuously or on a recurrent basis, under a contract, **for a period exceeding 3 months** with periodic payment obligations and includes supply of such services as the government may, subject to such conditions, as it may, by notification, specify.

S.No.	Due Date of Contract	Invoice to be issued
1	Due date of payment ascertainable from contract	When payment becomes due
2	Due date of payment is NOT ascertainable	Date of receipt of payment
3	Payment is linked to completion of event	Date of Completion of event

Time of Supply of Services under Reverse Charge (Section 13(3)) – Shall be earlier of the following:

- (a) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- (b) the date immediately following sixty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier
- (c) date of entry in the books of accounts of the recipient if clause (a) and (b) doesn't apply

Time of Supply where there is change of rate of tax (Section 14)

Goods or Services or both supplied before change of rate (A)	Date of Issue of Invoice before change of rate (B)	Date of Payment received before change of rate (C)	Time of Supply
Y	Y	N	Date of Issue of Invoice (B)
Y	N	Y	Date of Payment received (C)
Y	N	N	Earlier of (B) or (C)

Goods or Services or both supplied after change of rate (A)	Date of Issue of Invoice after change of rate (B)	Date of Payment received after change of rate (C)	Time of Supply
Y	Y	N	Date of Issue of Invoice (B)
Y	N	Y	Date of Payment received (C)
Y	N	N	Earlier of (B) or (C)

Time of Supply of Goods under Reverse Charge (Section 12(3)) – Shall be earlier of the following:

- (a) the date of receipt of goods; or
- (b) the date of payment as entered in the books of account of the recipient or the date on which the payment is debited in his bank account, whichever is earlier; or
- (c) the date immediately following thirty days from the date of issue of invoice or any other document, by whatever name called, in lieu thereof by the supplier:
- (d) date of entry in the books of accounts of the recipient if clause (a) (b) and (c) doesn't apply

However, there are specific provisions regarding Time of Supply in the GST Act in relation to Development Agreements

Particulars	Service of Transfer of Development Rights from Landowner to Developer	Service of Construction from Developer to Landowner
Before 01.04.2019	At the time of transfer of possession or right to construct (N.No.04/2018)	At the time of transfer of possession or right to construct (N.No.04/2018)
After 01.04.2019 in a Project	At the time of C/C or O/C whichever is earlier (N.No.04/2019)	At the time of C/C or O/C whichever is earlier (N.No.06/2019)

Project – means the real estate project as defined in clause (zn);

Real Estate Project – means the development of a building or a building consisting of apartments, or converting an existing building or a part thereof into apartments, or the development of land into plots or apartment, as the case may be, **for the purpose of selling** all or some of the said apartments or plots or building, as the case may be, and includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto;

Notification No 04/2019 only speaks about the Services by way of TDR or FSI for **construction of residential apartments in a project**. It doesn't talk about commercial apartments.

However, Notification No 06/2019 talks about the taxability of Service of Construction for both residential and commercial apartments in a project.

What should be the time of supply for service of Transfer of Development Rights of commercial apartments – Normal time of supply provisions

What should be the time of supply for service of Transfer of Development Rights of residential and commercial apartments if constructed without the intention of sale – No supply. Intention of sale is must

Withdrawal of Notification No 04/2018 – The said notification was withdrawn vide Notification No 23/2019 dated 30.09.2019 by providing an explanation that **“Nothing contained in this notification shall apply with respect to the development rights supplied on or after 1st April, 2019”** and notification effective from 01.10.2019. Then will the transfer of development rights for construction of residential apartments be taxable from 01.10.2019?

Chapter 13: Place Of Supply Under GST For Real Estate

Place of supply is required for determining the right tax to be charged on the invoice, whether IGST or CGST/SGST will apply

Place of Supply for Services where location of supplier **and location of recipient is in India (Section 12 of IGST)**

(3) The place of supply of services, —

- a) **directly in relation to an immovable property**, including services provided by architects, interior decorators, surveyors, engineers and other related experts or estate agents, any service provided by way of grant of rights to use immovable property or for carrying out or co-ordination of construction work;

shall be the **location at which the immovable property is situated**

Proviso – if the location of the immovable property is located or intended to be located **outside India**, the place of supply shall be the **location of the recipient**.

Explanation –Where the immovable property is located in more than one State or Union territory, the supply of services shall be treated as made in each of the respective States or Union territories

- i. in proportion to the value for services separately collected or
- ii. determined in terms of the contract or agreement entered into in this regard or,
- iii. in the absence of such contract or agreement, on such other basis as may be prescribed.

Place of Supply for Services where location of supplier **or location of recipient is **outside** India (Section 13 of IGST)**

(4) The place of supply of services supplied directly in relation to an immovable property, including services supplied in this regard by experts and estate agents, grant of rights to use immovable property, services for carrying out or co-ordination of construction work, including that of architects or interior decorators,

shall be the place where the **immovable property is located or intended to be located**.

Chapter 14: Value Of Supply Under GST For Real Estate

Value of supply is important because GST is calculated on the value of the sale. If the value is calculated incorrectly, then the amount of GST charged is also incorrect

Value of Taxable Supply (Section 15 read with CGST Rules)

- (1) The value of a supply of goods or services or both:
shall be the **transaction value**,
Transaction Value = Price actually paid or payable for the said supply of goods or services or both
Condition:
 - a) Supplier and recipient are not related
 - b) Price is the sole consideration
- (2) Value of Supply shall include:
 - a) Any taxes, duties, cesses, fees and charges levied under any other law
 - b) **Any amount that the supplier is liable to be pay in relation to such supply but which has been incurred by the recipient and not included in the price actually paid or payable.**
 - c) incidental expenses, including commission and packing, **charged by the supplier to the recipient** of a supply and any amount charged for anything done by the supplier in respect of the supply of goods or services or both **at the time of, or before delivery of goods or supply of services;**
 - d) interest or late fee or penalty for delayed payment of any consideration for any supply; and
 - e) subsidies directly linked to the price excluding subsidies provided by the Central Government and State Governments.
- (3) Exclusions of any discount given:
 - a) **before or at the time of the supply** if such discount has been **duly recorded in the invoice** issued in respect of such supply; and
 - b) **after the supply** has been effected, if –
 - i. such discount is established in terms of an agreement entered into at or before the time of such supply and specifically linked to relevant invoices; and
 - ii. input tax credit as is attributable to the discount on the basis of document issued by the supplier has been reversed by the recipient of the supply
- (4) Where the value of the supply of goods or services or both cannot be determined under sub-section (1), the same shall be determined in such manner as may be prescribed

Case I – Price is not the sole consideration (Rule 27)

- a) Open Market Value
- b) If (a) not available, sum total of consideration in money and any such further amount in money as is equivalent to the consideration not in money, if such amount is known at the time of supply;

- c) If (a) or (b) not available, value of supply of goods or services or both of like kind and quality
- d) If none above, then the sum total of consideration in money and such further amount in money that is equivalent to consideration not in money as determined by the application of rule 30 or rule 31 in that order

Case II – Related Party Transactions

- a) Between distinct and related persons other than agent (Rule 28)
 - i) Open Market Value
 - ii) Supply of like kind and quality
 - iii) Value as per Rule 30 or 31

Goods intended for further supply – At the option of supplier value may be 90% of the price charged by the recipient to his customer not being related person

Where full ITC available – Value of Invoice be the OMV

- b) Through an Agent (Rule 29)
 - i) Open Market Value
 - ii) If option exercised – 90% of the price charged by the recipient to his customer not being related person
 - iii) Value as per Rule 30 or 31

- (5) Notwithstanding anything contained in sub-section (1) or sub-section (4), the value of such supplies as may be notified by the Government on the recommendations of the Council shall be determined in such manner as may be prescribed.

Rule – 30 – Value on based of Cost

Value = 110% of the

- i) Cost of Production or
- ii) Manufacture or
- iii) Cost of Acquisition or
- iv) Cost of Provision

Rule – 31 – Residual Method

Value = determined using reasonable means consistent with the principles and the general provisions of section 15 and the provisions of this Chapter

For supply of services – the supplier may opt for this rule, ignoring rule 30

These Provisions and Rules will be applicable for all transactions pre 31.03.2019 and post 31.03.2019. But post 31.03.2019 it is not applicable for Real Estate Projects having Development Agreements.

Value of Supply specified in relation to Real Estate Projects post 01.04.2019

- **Value of Transfer of Development Rights** – Value of similar apartments charged by the promoter from the independent buyers nearest to the date on which such development rights or FSI is transferred to the promoter (Para 1A of Notification 04/2019 (CTR))
- **Value of Construction Services** – Total Amount charged for similar apartments in the project from the independent buyers, other than the person transferring the development right or FSI (including additional FSI), nearest to the date on which such development right or FSI (including additional FSI) is transferred to the promoter, less the value of transfer of land, if any, as prescribed in paragraph 2 above (Para 2A of Notification 03/2019 (CTR))

Value of Land to be deducted not specified in Para 1A of Notification No 04/2019, however Supply of Land it is not a supply of Goods nor Services hence cannot be taxable.

Value of Unbooked residential or commercial apartments on the date of C/C or O/C - value of similar apartments charged by the promoter nearest to the date of issuance of completion certificate or first occupation, as the case may be. (Para 1B of Notification 04/2019 (CTR))

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Chapter 15: Meaning Of Development Agreement

The Development agreement is a contract **between a landowner and real estate developer to build a new project** on the land of owner.

The owner of the land will provide land to construct the building. On the contrary, the real estate builder constructs the building and other things.

Moreover, there are 3 kinds of Development Agreement (JDA) and they are:

1. **Area Sharing Development Agreement**
2. **Revenue Sharing Development Agreement**
3. **Area and Revenue Sharing Development Agreement**

AREA SHARING DEVELOPMENT AGREEMENT



Chapter 16: Analysis of Notification 04/2018

PRE-AMENDMENT (BEFORE 01.04.2019)

LANDOWNER TO DEVELOPER

The Transfer of Development Rights by Landowner to Developer is treated as **Supply** in which development rights are transferred in return for Consideration that involves in kind by way of wholly or partly, in the form of Construction Service of Complex, Building or Civil Structure.

[Notification No. 4/2018-Central Tax \(Rate\), dated 25th January, 2018](#) which reads as follows:

- (a) **registered persons** who **supply development rights** to a developer, builder, construction company or any other registered person **against consideration, wholly or partly, in the form of construction service of complex, building or civil structure;**

as the registered persons in whose case the liability to pay central tax on supply of the said services, on the consideration received in the form of construction service referred to in clause (a) above....., shall arise at the **time when** the said developer, builder, construction company or any other registered person, as the case may be, **transfers possession** or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter)

From the above Notification, it can be derived that

1. The Landowner must be Registered Person to attract the Liability to Pay GST
2. **Supply in the Transaction** : Development Rights
3. **Value of Supply (Consideration)** : wholly or partly, **in the form of construction service** of complex, building or civil structure
4. **Time of Supply** : when the developer **transfers possession** or the right

DEVELOPER TO LANDOWNER

The Developer hands over the Ownership Rights of certain percentage (in the above example 40%) of the developed area i.e. Super Structures like complex, building or civil structure or flats to the landowner.

Again referring to the above **Notification No. 4/2018-Central Tax (Rate), dated 25th January, 2018**, which states as follows, is treated as supply

- (b) **registered persons** who **supply construction service** of complex, building or civil structure to supplier of development rights **against consideration**, wholly or partly, **in the form of transfer of development rights**, as the registered persons in whose case the liability to pay central tax on supply of the said services in the form of

development rights shall arise at the **time when** the said developer, builder, construction company or any other registered person, as the case may be, **transfers possession or the right** in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter).

From the above Notification, it can be derived that

1. The Developer must be Registered Person to attract the Liability to Pay GST
2. **Supply in the Transaction:** Supply of Construction Service of complex, building or civil structure etc.
3. **Value of Supply (Consideration)** : wholly or partly, wholly or partly, **in the form of transfer of development rights**
4. **Time of Supply** : when the developer **transfers possession** or the right

DEVELOPER AND LANDOWNER SELL FLATS TO THIRD PARTIES

Both the Developer and Landowner may sell their respective share of flats to third parties.

As per entry number 5 of Schedule III Sale of land and, **subject to clause (b) of paragraph 5 of Schedule II, sale of building shall be treated as neither supply of goods nor supply of services.**

Clause (b) of paragraph 5 of Schedule II, reads as follows:

“construction of a complex, building, civil structure intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate”.

With Conjoint reading of both the provisions it is clear that

Sale of Building **after receipt of Completion Certificate** is treated as neither goods nor service, that means not considered as supply and therefore GST is not applicable.

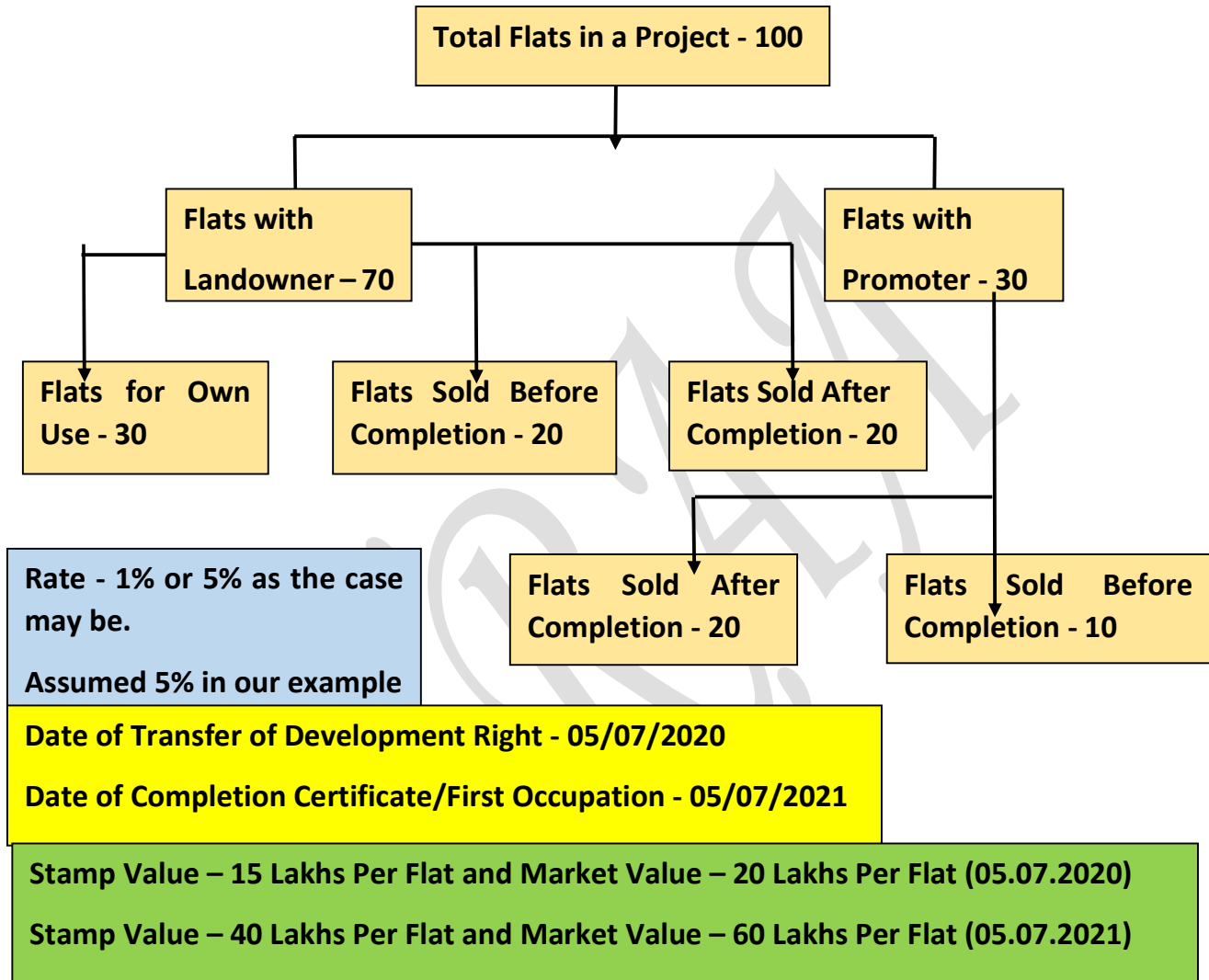
Sale of Building **before receipt of Completion Certificate** is treated as supply of Service and therefore attract GST.

ITRAA

Chapter 17: Complete Analysis of JDA with an example

POST AMENDMENT (On or after 01.04.2019)

AN EXAMPLE OF JDA :



Valuation of JDA on which GST Liability arises

Valuation of Service of Transfer of Development Rights

As per Notification No 04/2019 dated 29.03.2019

Para 1A - Value of supply of service by way of **transfer of development rights** or FSI by a person to the promoter against consideration in the form of residential or commercial apartments shall be deemed to be equal to the value of similar apartments charged by the promoter from the independent buyers nearest to the date on which such development rights or FSI is transferred to the promoter.

Valuation of Service of Construction Service

As per Notification No 03/2019 dated 29.03.2019

Para 2A - Where a **registered person (amended through Notification No 20/2019)** transfers development right or FSI (including additional FSI) to a promoter against consideration, wholly or partly, in the form of construction of apartments, **the value of construction service** in respect of such apartments **shall be deemed to be equal to the Total Amount charged for similar apartments in the project from the independent buyers, other than the person transferring the development right or FSI (including additional FSI), nearest to the date on which such development right or FSI (including additional FSI) is transferred to the promoter, less the value of transfer of land, if any, as prescribed in paragraph 2 above.**

Concluding that both the services are a barter exchange. Hence the value of both the services will be same

Valuation of Service = 70 Flats of the Landowner X 20 Lakhs per Flat (M.V. on the date of transfer of Development Right) X 2/3 (Net of less value of Land) = 933.33 Lakhs

Liability to Pay Tax by whom

As per Notification No 05/2019 dated 29.03.2019

Para 5B - Services supplied by any person **by way of transfer of development rights** or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter. **GST to be paid by the Promoter**

Hence the Liability to pay taxes on TDR was shifted from Landowner to Promoter from 01.04.2019 as per above notification. Prior to this notification the liability was on Landowner and Promoter separately on their respective services.

However as per our example the Transfer of Development Rights will be for the 30 Flats kept with the Promoter as the Land is transferred by the Landowner for the said 30 Flats only and GST liability for 30 Flats will be on Promoter under RCM

For 70 Flats which are given to the Landowner the tax will be paid only on the Construction Service in Forward Charge Mechanism by the Promoter.

Time of Supply

For the sale of Flats before completion for 20 Flats with Landowner and 10 Flats for Promoter – On the date of receipt of Advance

For the Construction Service for 70 Flats with Landowner – On the date of Completion or First Occupation whichever is earlier vide Notification No 06/2019. In this case the liability to pay tax has been postponed by the Government.

For the Transfer of Development Rights for Unbooked Flats – On the date of Completion Certificate or First Occupation whichever is earlier.

Calculation of Tax Liability

The Tax Liability on the 70 Flats of the Land Owner will be on the Promoter/Developer/Builder on Forward Charge Mechanism as Construction Services of these flats. These flats will be deemed to be booked as on the date of Completion and deemed to be sold by the Promoter to the Landowner and the Landowner will be the buyer of these flats.

Also, we can conclude that the Promoter has received Advance in kind for the supply of services and being Construction Services is a service as per Schedule II of the GST Act, then Advance received for supply of services will be liable to be taxed. Also, consideration can be in Kind or in Cash.

Hence GST Liability will be on the Promoter. The valuation of the 70 Flats will be same as above i.e. Rs. 933.33 Lakhs. However, the tax liability will be 5% or 1% as the case may be depending on the Affordable or Non-Affordable Apartments. In our example it was 5%

So the GST Liability will be Rs. 933.33 Lakhs X 5% = Rs. 46.67 Lakhs

For the 30 Flats kept with the Promoter/Developer/Builder the GST Liability will be different for Unbooked Flats and Booked Flats at the time of Completion.

For the Flats Unbooked at the time of Completion the GST Liability will be for Transfer of Development Rights which will be as follows:

GST Liability = 20 Flats X 20 Lakhs (M.V. at the time of Transfer of Development Right) X 18% = Rs. 72 Lakhs subject to maximum of 20 Flats X 60 Lakhs (M.V. on the date of completion certificate) X 5% = Rs. 60 Lakhs. Hence the liability for GST on unbooked flats will be Rs. 60 Lakhs

Tax rate on TDR = 18% (As per N.No. 11/2017)

For the remaining 10 Flats which were sold before issuance of completion certificate. The GST Liability will be paid by the Promoter -on Forward Charge Mechanism on sale of Flats.

GST Liability = 10 Flats X Actual Sale Price X 5%

Chapter 18: Input Tax Credit & RCM Provisions

INPUT TAX CREDIT & RCM (REAL ESTATE)

GST ON SALE OF FLATS OR APARTMENTS

ITC was available to Builders before 01.04.2019 on the sale of Affordable and Non-Affordable Housing Projects when the tax rate was 12% (effective rate 8%) and 18% (effective rate 12%).

However, the Government on 1st April 2019 brought amendments in the taxation of real estate and provided as below:

1. Mandatory tax Rates of 1.5% (effective rate 1%) and 7.5% (effective rate 5%) without any ITC for Affordable and Non-Affordable Housing Projects for new Projects commencing on or after 01.04.2019
2. Optional Tax Rates to be adopted by the Builders i.e. new rates of 1% or 5% without ITC or same old rates of 12% (effective rate 8%) and 18% (effective rate 12%) with full ITC on Inputs and Input Services for ongoing projects.

Construction of affordable residential apartments by a promoter in a Residential Real Estate Project which commences from 01.04.2019 or in ongoing project for which old rates have not been exercised	0.75%	Provided also that credit of input tax charged on goods and services used in supplying the service hasn't been taken except to the extent as mentioned below Provided also that eighty percent of value of input and input services, [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas] , used in supplying the service shall be received from registered supplier only;
Construction of non-affordable residential apartments by a promoter in a Residential Real Estate Project which commences from 01.04.2019 or in ongoing project for which old rates have not been exercised	3.75%	Provided also that inputs and input services on which tax is paid on reverse charge basis shall be deemed to have been purchased from registered person;
Construction of commercial apartments by a promoter in a Residential Real Estate Project which commences from 01.04.2019 or in ongoing project for which old rates have not been exercised	3.75%	Provided also that where value of input and input services received from registered suppliers during the financial year (or part of the financial year till the date of issuance of completion certificate or first occupation of the project, whichever is earlier) falls short of the said threshold of 80 per cent., tax shall be paid by the promoter on value of input and input services comprising such shortfall at the rate of eighteen percent on reverse charge basis and all the provisions of the Central Goods and Services Tax Act, 2017 (12 of 2017) shall apply to him as if he is the person liable for
Construction of affordable residential apartments by a promoter in a Real Estate Project which commences from 01.04.2019 or in ongoing project for which old rates have not been exercised	0.75%	
Construction of non-affordable residential apartments by a promoter in a Real Estate Project which commences from 01.04.2019 or in ongoing project for which old rates have not been exercised	3.75%	

<p>Construction of a complex, building, civil structure or a part thereof, including, -</p> <p>(i) commercial apartments (shops, offices, godowns etc.) by a promoter in a REP other than RREP,</p> <p>(ii) residential apartments in an ongoing project, other than affordable residential apartments, in respect of which the promoter has exercised option to pay central tax on construction of apartments at the rates as specified for this item in the manner prescribed herein,</p> <p>but excluding supply by way of services specified at items (i), (ia), (ib), (ic), (id) and (ie) above intended for sale to a buyer wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p>	<p>9%</p>	<p>paying the tax in relation to the supply of such goods or services or both;</p> <p>Provided also that notwithstanding anything contained herein above, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement at the applicable rates on reverse charge basis and all the provisions of the Central Goods and Services Tax Act, 2017 (12 of 2017), shall apply to him as if he is the person liable for paying the tax in relation to such supply of cement;</p>
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Explanation. –

1. The promoter shall maintain project wise account of inward supplies from registered and unregistered supplier and **calculate tax payments on the shortfall at the end of the financial year and shall submit the same in the prescribed form electronically on the common portal by end of the quarter following the financial year.** The tax liability on the shortfall of inward supplies from unregistered person so determined **shall be added to his output tax liability in the month not later than the month of June following the end of the financial year.**
2. Notwithstanding anything contained in Explanation 1 above, **tax on cement received from unregistered person shall be paid in the month in which cement is received.**
3. Input Tax Credit not availed shall be reported every month by reporting the same as ineligible credit in GSTR-3B [Row No. 4 (D)(2)]

Illustration 1:

A promoter has procured following goods and services [other than capital goods and services by way of grant of development rights, long term lease of land or FSI] for construction of a residential real estate project during a financial year.

Sl. No.	Name of input goods and services	Percentage of input goods and services received during the F.Y.	Whether inputs received from registered supplier? (Y/N)
1	Sand	10	Y
2	Cement	15	N
3	Steel	20	Y
4	Bricks	15	Y
5	Flooring Tiles	10	Y
6	Paints	5	Y
7	Architect/designing/CAD drawing etc.	10	Y
8	Aluminium windows, Ply, Commercial Wood	15	Y

In this example, the promoter has procured 80 per cent of goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], from a GST registered person. However, he has procured cement from an unregistered supplier. Hence the promoter has to pay GST on cement at the applicable rates on reverse charge basis on monthly basis.

Illustration 2:

A promoter has procured following goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], for construction of a residential real estate project during a financial year.

Sl. No.	Name of input goods and services	Percentage of input goods and services received during the F.Y.	Whether inputs received from registered supplier? (Y/N)
1	Sand	10	Y
2	Cement	15	Y
3	Steel	20	Y
4	Bricks	15	Y
5	Flooring Tiles	10	Y
6	Paints	5	N
7	Architect/designing/CAD drawing etc.	10	Y
8	Aluminium windows, Ply, Commercial Wood	15	N

In this example, the promoter has procured 80 per cent of goods and services including cement from a GST registered person. However, he has procured paints, aluminium windows, ply and commercial wood etc. from an unregistered supplier. Hence at the end of financial year, the promoter is not required to pay GST on inputs on reverse charge basis

Illustration 3:

A promoter has procured following goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], for construction of a residential real estate project during a financial year

Sl. No.	Name of input goods and services	Percentage of input goods and services received during the F.Y.	Whether inputs received from registered supplier? (Y/N)
1	Sand	10	N
2	Cement	15	N
3	Steel	20	Y
4	Bricks	15	Y
5	Flooring Tiles	10	Y
6	Paints	5	Y
7	Architect/designing/CAD drawing etc.	10	N
8	Aluminium windows, Ply, Commercial Wood	15	N

In this example, the promoter has procured 50 per cent of goods and services from a GST registered person. However, he has procured sand, cement and aluminium windows, ply and commercial wood etc. from an unregistered supplier. Thus, value of goods and services procured from registered suppliers during a financial year falls short of threshold limit of 80 per cent. To fulfil his tax liability on the shortfall of 30 per cent from mandatory purchase, the promoter has to pay GST on cement at the applicable rate on reverse charge basis. After payment of GST on cement, on the remaining shortfall of 15 per cent., the promoter shall pay tax @ 18 per cent under RCM.

Chapter 19: Reversal of ITC

REVERSAL OF ITC IF OPTED FOR NEW RATES OF TAXES

However, these new GST rates were available subject to certain conditions, including the unavailability of ITC for builders/developers opting in for the benefits of low GST rate. In case of ongoing projects (projects for which construction and booking began before 1st April 2019 but not completed by 31st March 2019), the builder shall be liable to reverse Input Tax Credit (ITC)

CALCULATION OF REVERSAL OF ITC

A. Percentage of Completion is not Zero and Stock is available as on 31.03.2019

$$Tx = T - Te$$

Where,

- (i) Tx is Input tax credit on inputs and input services attributable to construction of residential portion in a REP, which has time of supply on or after 1st April, 2019
- (ii) T is the total ITC availed from 01.07.2017 to 31.03.2019 including transition credit (whether or not utilised)
- (iii) Te is ITC attributable to the construction of commercial and residential portion where ToS (time of supply) is before 01/04/2019 and Te shall be calculated as Tc + Tr.
- (iv) Tc is ITC attributable to the construction of a commercial portion in the REP.
 $Tc = T * (\text{carpet area of commercial apartments in the REP} / \text{total carpet area of commercial and residential apartments in the REP})$
- (v) Tr is ITC attributable to construction of residential portion in the REP where ToS (time of supply) is before 01/04/2019
 $Tr = T * F1 * F2 * F3 * F4$
- (vi) F1 = carpet area of residential apartment / Total carpet area of the residential and commercial apartment.
- (vii) F2 = Total carpet area of residential apartment booked before 01.04.2019 / Total carpet area of a residential apartment.
- (viii) F3 = Value of supply for residential apartment booked before 01/04/2019 where ToS (time of supply) is before 01/04/2019 / Total value of supply for such booked apartments.
- (ix) F4 = 1/ % completion of construction as on 31.03.2019

S.No.	Details of REP		
	A	B	C
1	No of Apartments		100 units
2	No. of Residential Apartments		75 units
3	Carpet area of one Residential Apartment		70 Sqm
4	Total Carpet are of Residential Apartment	$C2 * C3$	5250 Sqm
5	Value of Each Residential Apartment		0.60 Crores
6	Total value of Residential Apartments	$C2 * C5$	45.00 Crores
7	No. of Commercial Apartments		25 units
8	Carpet Area of one Commercial Apartment		30 Sqm
9	Total Carpet Area of Commercial Apartments	$C7 * C8$	750 Sqm

10	Total Carpet Area of the Project	C4 + C9	6000 Sqm
11	Percentage Completion as on 31.03.2019 (as declared by RERA or by Chartered Engineer)		20%
12	No. of Residential Apartments booked before Transition		40 units
13	Total Carpet Area of Residential Apartments booked before Transition	C12 * C3	2800 Sqm
14	Value of Booked Residential Apartments	C5 * C12	24 Crores
15	Percentage invoicing of booked residential apartments before transition		20%
16	Total value of supply of residential apartment having T.O.S before transition	C14 * C15	4.8 Crores
17	ITC to be reversed on transition, Tx = T – Te		
18	T (Assumed)		1 Crore
19	Tc = T * (carpet area of commercial apartments in the REP/ total carpet area of commercial and residential apartments in the REP)	C 18 * (C9 / C10)	0.125 Crores
20	F1	C4 / C10	0.875
21	F2	C13 / C4	0.533
22	F3	C16 / C14	0.200
23	F4	1/ C11	5
24	Tr = T X F1 X F2 X F3 X F4	C18*C20*C21*C22*C23	0.467 Crores
25	Eligible ITC (Te = Tc + Tr)	C19 + C24	0.592 Crores
26	ITC to be reversed on transition, Tx = T – Te	C18 – C25	0.408 Crores

• **The Registered person shall have the option to calculate Te as under:**

$$Te = Tc + T1 + Tr$$

Where,

Tc = T3 * (carpet area of commercial apartments in the REP/ total carpet area of commercial and residential apartments in the REP)

T3 = T – (T1 + T2) **(Common Credit)**

T1 = ITC attributable exclusively to construction of commercial portion in the REP

T2 = ITC attributable exclusively to construction of residential portion in the REP

Tr is the ITC attributable to construction of residential portion in the REP which has time of supply on or before 31.03.2019 and which shall be calculated as under,

$$Tr = (T3 + T2) * F1 * F2 * F3 * F4 \text{ or}$$

$$Tr = (T - T1) * F1 * F2 * F3 * F4$$

The amounts 'Tx' and 'Te' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

Where, Tx is **positive**, i.e. Te < T, the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equal to the difference between T and Te.

Where Tx is **negative**, i.e. $T_e > T$, the registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of residential portion in the REP, for which he shall not otherwise be eligible, to the extent of difference between T_e and T .

B. Percentage of Completion is Zero but ITC has been availed and Stock is available as on 31.03.2019

Input tax credit attributable to construction of residential portion which has time of supply on or after 1st April, 2019, shall be calculated and the amount equal to T_x shall be paid or taken credit of, as the case may be, as prescribed above, with the modification that percentage completion for calculation of F4 shall be taken as the percentage completion which, as certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India), can be achieved with the input services received and inputs in stock as on 31st March, 2019.

C. Percentage of Completion is Zero and Invoicing done having Time of Supply before 01.04.2019 and no ITC has been availed as on 31.03.2019

T_e shall be calculated as $T_e = T_c + T_r$

$T_c = T_n * (\text{carpet area of commercial apartments in the REP} / \text{total carpet area of commercial and residential apartments in the REP})$

$T_r = T_n * F_1 * F_2 * F_3$

Where T_n is Tax paid on such inputs and input services on which ITC is available under the CGST Act, received in 2019-20 for construction of REP

D. Some extra points

- i) % invoicing > % Completion and difference is more than 25 percent points (25%) then % invoicing deemed to be % completion + 25%
e.g.
% invoicing = 60%
% completion = 20%
Deemed % completion = 20% + 25% = 45%
- ii) Value of invoicing (before 01.04.2019) > Consideration received (before 01.04.2019) and difference is more than 25% of consideration received then deemed value of invoicing to be actual consideration received + 25% of actual consideration
e.g.
Value of invoicing = 30 Crore
Actual Consideration Received = 20 Crore
Difference = $10/20 * 100 = 50\%$
Deemed Value of invoicing = 20 Crore + 25% of 20 Crore = 25 Crore
- iii) Value of procurement of I and IS (prior to 1.4.2019) > Value of Actual Consumption of I and IS used in percentage of construction completed by more than 25%, the Jurisdictional Commissioner may fix the T_e based on actual consumption based on certificate issued by chartered accountant or cost accountant.

REVERSAL OF ITC IN CASE OF RREP

$T_x = T - T_e$

$$Te = T * F1 * F2 * F3 * F4$$

We don't have to calculate Te as $Te = Tc + Tr$ as whole project is eligible for input as Commercial Apartments in the whole project is almost negligible which is less than 15% of total carpet area. Hence no bifurcation is done regarding the input of the same.

- (i) *F1 = carpet area of residential and commercial apartment / Total carpet area of apartments.
- (ii) F2 = Total carpet area of residential and commercial apartment booked before 01.04.2019 / Total carpet area of a residential and commercial apartment.
- (iii) F3 = Value of supply for residential and commercial apartment booked before 01/04/2019 where ToS (time of supply) is before 01/04/2019 / Total value of supply for such booked apartments.
- (iv) F4 = 1/ % completion of construction as on 31.03.2019

***Note – F1 will always be 1 for RREP**

Points B, C and D explained above in REP are same for RREP also.

S.No.	Details of RREP		
	A	B	C
1	No of Apartments		100 units
2	No. of Residential Apartments		100 units
3	Carpet area of one Residential Apartment		70 Sqm
4	Total Carpet are of Residential Apartment	$C2 * C3$	7000 Sqm
5	Value of Each Residential Apartment		0.60 Crores
6	Percentage Completion as on 31.03.2019 (as declared by RERA or by Chartered Engineer)		20%
7	No. of Apartments booked before transition		80 units
8	Total Carpet Area of Residential Apartments booked before Transition	$C3 * C7$	5600 Sqm
9	Value of Booked Residential Apartments	$C5 * C7$	48 Crores
10	Percentage invoicing of booked residential apartments before transition		20%
11	Total value of supply of residential apartment having T.O.S before transition	$C9 * C10$	9.6 Crores
12	ITC to be reversed on transition, $Tx = T - Te$		
13	T (Assumed)		1 Crore
14	F1		1
15	F2	$C8 / C4$	0.8
16	F3	$C11 / C9$	0.2
17	F4	$1 / C6$	5
18	Eligible ITC ($Te = T * F1 * F2 * F3 * F4$)	$C13 * C14 * C15 * C16 * C17$	0.8 Crores
19	ITC to be reversed on transition, $Tx = T - Te$	$C14 - C19$	0.2 Crores

RULE 42 AND RULE 43

Rule 42 – Reversal of credit in relation to Inputs and Input Services

The input tax credit in respect of inputs or input services, which attract the provisions of sub-section (1) or sub-section (2) of section 17, being partly used for the purposes of business and partly for other purposes, or partly used for effecting taxable supplies including zero rated supplies and partly for effecting exempt supplies, shall be attributed to the purposes of business or for effecting taxable supplies in the following manner, namely,-

- a) Total ITC for the period be denoted as T
- b) ITC of Inputs and Input Services exclusively used for non-business be denoted as T1
- c) ITC of Inputs and Input Services exclusively used for effecting exempt supplies be denoted as T2
- d) ITC of Inputs and Input Services for which credit not available as per section 17(5) be denoted as T3
- e) Amount of ITC credited to Electronic Credit Ledger be denoted as C1

$$\text{Hence } C1 = T - T1 - T2 - T3$$

- f) ITC of Inputs and Input Services used exclusively for effecting supplies other than exempted but including zero rated supplies (exclusively taxable supplies) be denoted as T4

For the purpose of Real Estate transactions covered by Para 5 of Schedule II, the value of T4 = 0 as inputs and input services are used commonly during construction phase.

- g) Common Credit denoted as C2 = C1 – T4
- h) Common Credit used for exempt supplies be denoted as D1 and calculated as $D1 = (E/F) \times C2$
E = Aggregate value of exempt supplies during tax period
F = Total turnover in the state of the registered person

- **However, for transactions relating to para 5 of Schedule II**

E = aggregate carpet area of the apartments, construction of which is exempt from tax plus aggregate carpet area of the apartments, construction of which is not exempt from tax, but are identified by the promoter to be sold after issue of completion certificate or first occupation, whichever is earlier;

F = aggregate carpet area of the apartments in the project;

- **E shall also include aggregate carpet area of apartments which have not been booked till the date of issuance of completion certificate or first occupation in the tax period in which completion certificate or first occupation of the project has been issued.**
- i) ITC of inputs and input services attributable to non-business purpose if commonly used, partly for business and partly for non-business purposes be denoted as D2 and calculated as:

$$D2 = 5\% \text{ of } C2$$

- j) Remaining common ITC be calculated as credit used for business purposes and for effecting taxable supplies be denoted as C3 and calculated as:

$$C3 = C2 - D1 - D2$$

- Amount of C3, D1 and D2 be calculated separately for CGST, SGST, UTGST and IGST and declare in Form GSTR 3B or through Form GST DRC 03
 - D1 and D2 shall be reversed in form GSTR 3B or through DRC 03
- k) The input tax credit determined under sub rule (1) shall be calculated finally for each ongoing project or new projects commenced after 01.04.2019 for the entire period from commencement of the project or 1st July 2017 whichever later to the date of completion or first occupation whichever is earlier before the due date of furnishing of return for the month of September following the financial year in which certificate of completion is issued or first occupation takes place.

If aggregate of D1^{final} and D2^{final} is in excess of D1 and D2 calculated as per Sub Rule (1) then pay excess

If aggregate of D1 and D2 as per sub rule (1) is in excess of aggregate of D1^{final} and D2^{final} then claim excess

- l) Input Tax Credit for Commercial Portion for projects other than RREP be calculated finally for each project which underwent transition as on 01.04.2019 for the entire period from commencement of the project or 1st July 2017 whichever is later till the date of completion or first occupation whichever is earlier before the due date of filing of return for September following the financial year in which completion certificate is issued or first occupation takes place.

$$C3_{(\text{aggregate_comm})} = \text{Prior 01.04.2019 } C3 \times (Ac / At) + \text{Post 01.04.2019 } C3$$

Rule 43 – Reversal of credit in relation to Capital Goods

- a) the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in FORM GSTR-2 and FORM GSTR3B and shall not be credited to his electronic credit ledger;
- b) the amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies but including zero rated supplies shall be indicated in FORM GSTR 2 and FORM GSTR-3B and shall be credited to the electronic credit ledger;
- c) the amount of input tax in respect of capital goods not covered under clauses (a) and (b), denoted as A, being the amount of tax as reflected on the invoice, shall credit directly to the electronic credit ledger and the validity of the useful life of such goods shall extend upto five years from the date of the invoice for such goods:
- d) the aggregate of the amounts of 'A' credited to the electronic credit ledger under clause (c) in respect of common capital goods whose useful life remains during the tax period, to be denoted as T_c shall be the common credit in respect of such capital goods
- e) $T_m = T_c / 60$
*useful life of any capital goods shall be considered as **five years** from the date of invoice and the said formula shall be applicable during the useful life of the said capital goods.*
- f) the amount of common credit attributable towards exempted supplies, be denoted as T_e, and calculated as

$$T_e = (E / F) \times T_r$$

E = aggregate value of exempt supplies during tax period

F = total turnover in the state of registered person during tax period

However, in case of supply of services covered under para 5 of Schedule II

E = aggregate carpet area of the apartments, construction of which is exempt from tax plus aggregate carpet area of the apartments, construction of which is not exempt from tax, but are identified by the promoter to be sold after issue of completion certificate or first occupation, whichever is earlier

F = aggregate carpet area of the apartments in the project;

- E shall also include aggregate carpet area of apartments which have not been booked till the date of issuance of completion certificate or first occupation in the tax period in which completion certificate or first occupation of the project has been issued
- g) the amount T_e along with the applicable interest shall, during every tax period of the useful life of the concerned capital goods, be added to the output tax liability of the person making such claim of credit.
- h) The amount T_e shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in FORM GSTR3B.
- i) For supply of services covered under para 5 of Schedule II the ITC attributable to exempt supplies shall be finally calculated for entire period from commencement of the project or 1st July 2017 whichever is later till the date of completion or first occupation whichever is earlier before the due date of filing of return for September following the financial year in which completion certificate is issued or first occupation takes place.

$$T_e^{final} = [(E1 + E2 + E3) / F] \times T_c^{final}$$

E1 = aggregate carpet area of the apartments, construction of which is exempt from tax

E2 = aggregate carpet area of the apartments, supply of which is partly exempt and partly taxable, consequent to change of rates of tax on 1st April, 2019, which shall be calculated as under

E3 = aggregate carpet area of the apartments, construction of which is not exempt from tax, but have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier

F = aggregate carpet area of the apartments in the project

$T_c^{final} = A^{final}$ in respect of all capital goods used in the project

$A^{final} = A \times (\text{number of months for which capital goods is used for the project} / 60)$

$E2 = (\text{Carpet area of such apartments}) \times (V1 / (V1 + V2))$

V1 = total value of supply of such apartments which was exempt

V2 = total value of supply of such apartments which was taxable

- j) $T_e^{final} >$ Aggregate of T_e , such excess shall be reversed in Form GSTR 3B or DRC 03
- $T_e^{final} >$ Aggregate of T_e , such excess shall be claimed as credit in his return for the month not later than September following the end of the financial year in which completion certificate has been issued or occupation has taken place.

- k) The amount T_{e}^{final} and T_{c}^{final} shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.
- l) Where any capital goods are used for more than one project, input tax credit with respect to such capital goods shall be assigned to each project on a reasonable basis and credit reversal pertaining to each project shall be carried out as per sub-rule (2).
- m) Where any capital goods used for the project have their useful life remaining on the completion of the project, input tax credit attributable to the remaining life shall be availed in the project in which the capital goods is further used

ITRAA

Chapter 20: Concept of Joint Venture

JOINT VENTURE

Joint Venture is a business arrangement in which two or more parties agree to pool their resources for the purpose of accomplishing a specific task. It is a separate legal entity which has its own standing. This agreement has a different impact on the GST implications in relation to Development Agreement (Area Sharing). Joint Venture is commonly known as Revenue Sharing Agreements.

Major elements of Joint Venture Agreement:

Purpose of the Joint Venture: The Joint venture is generally formed for some specific project. The purpose for which joint venture parties have agreed to pool their resources must be clearly specified.

Contribution: Each joint venture party has to contribute to the functioning of the joint venture. Such contribution may be in the form of money, physical assets, technology etc. The proportion and the type of contribution must be decided among the partners and the same should be specified in the agreement.

Sharing of Profit/Losses: The agreement should specify the share of profits/losses that each joint venture party is entitled to. Generally, this ratio depends upon the contribution made by them but it may also be based on some other criteria such as the number of services rendered by the partners etc.

Management: The success of joint venture depends on how effectively it is being managed. Management implies how to handle the day to day operations of the joint venture, a delegation of authority for decision making, rights and duties of each partner, fixing the accountability of the tasks etc.

Termination: The joint venture may be formed with specific time duration or on continuing basis. Whatever may be the scenario, the term of the joint venture must be provided in the agreement.

Faqir Chand Gulati vs Uppal Agencies Pvt. Ltd. & Anr

Dated 10 July, 2008

Held by Supreme Court – In a true joint venture agreement between the land-owner and another (whether a recognized builder or fund provider), **the land-owner is a true partner or co-adventurer in the venture where the land owner has a say or control in the construction and participates in the business and management of the joint venture, and has a share in the profit/loss of the venture.** In such a case, the land owner is not a consumer nor is the other co-adventurer in the joint venture, a service provider. **The land owner himself is responsible for the construction as a co-adventurer in the venture**

Therefore, the use of the words 'joint venture' or 'collaboration' in the title of an agreement or even in the body of the agreement will not make the transaction a joint venture, if there are no provisions for shared control of interest or enterprise and shared liability for losses

Conclusion – The Hon'ble Supreme Court had clearly explained the meaning of Joint Venture in the above referred case which was filed against the order passed by National Consumer Disputes Redressal Commission under Consumer Protection Act. The Hon'ble Court had

explained that if the agreement has conditions agreed to share interest, share liability, and manage resources jointly then it will be termed as joint venture and all the parties to the agreement will be liable to for the acts. The above five elements discussed must be enacted in the agreement to term it as joint venture.

GST IMPLICATIONS

As Joint Venture will be a separate legal entity then all the transactions done will be considered to be done in a joint venture jointly by all the parties. Hence there will be no separate services provided by the parties to each other as is the case in the area sharing agreements.

Further the sale of flats before completion will be liable for GST and sale after completion will not be liable to GST. There will be no liability regarding TDR or Construction Service provided by Landowner to Promoter or Promoter to Landowner respectively. The tax liability will be on the Joint Venture and not on the Landowner or Promoter individually.

Other Important Points:

- With the new tax rates, Input Tax Credit shall not be eligible and any available ITC balance (accumulated net of reversal or from other business under the same registration) also cannot be used for payment of such GST liability.
- This scheme mandatory for all new projects commencing from 1st April, 2019. However for the ongoing projects, onetime option is given to continue with the existing tax structure and mechanism.
- The option of going into new scheme or continue with the existing scheme is based on the project and the said project is as per the meaning given for Real Estate Project under Real Estate Regulation Act (RERA).
- For the purpose of this scheme projects has to be identified as Residential Real Estate Project (RREP) or others.
- RREP is a project in which carpet area of commercial premise is not more than 15%. Such project including the commercial portion shall be treated as a residential project and the concessional GST rate of 5% shall will be applicable even for commercial apartments also.
- In projects which are not RREP, the benefit of concessional rate will be applicable only to residential apartments and not for commercial apartments.

CONDITIONS WITH NEW TAX RATES W.E.F.01.04.2019

- Payment of GST in Cash: GST liability has to be discharged by debiting cash ledger only.
- No ITC: No ITC for goods and Services used in available except to the extent prescribed in Annexure-I & II to the NN-03/2019.
- Reversal of ITC attributable to construction in a project, time of supply of which is on or after 01.04.2019 in the manner prescribed in Annexure-I & II.
- At least 80% of inputs and input services (other than capital goods, TDR/ JDA, FSI, long term lease (premiums), electricity, high speed diesel, motor spirit, natural gas) shall be purchased from registered persons. On shortfall of purchases from 80%, tax

shall be paid by the builder @ 18% on RCM basis u/s 9(4). However, Tax on Cement purchased from unregistered person shall be paid @ 28% under RCM, and on capital goods under RCM at applicable rates only.

- For the purpose of Calculation of 80% of threshold limit for the payment of tax under reverse charge u/s 9(4), value of Exempted Goods/ Services shall be included in the value of purchases from unregistered persons. [CBIC Vide Circular F. No. 354/32/2019-TRU, FAQs dated 14-5-2019]

JOINT DEVELOPMENT	JOINT VENTURE	CO-OWNERSHIP	PARTNERSHIP
Profit Sharing possible	Profit Sharing done	Profit Sharing does not arise	Profit Sharing done
Restricted to Real Estate Sector	Applicable to every kind of business	Generally applicable to ancestral property	Applicable to every kind of business
Generally no Separate Legal entity	Separate Legal Entity as AOP	Individual owners are separate individual entities	Separate Legal Entity
Project Specific for limited period	Project/Goal Specific for limited period	Continues until property fully divided	Continues until dissolved
Project governed by RERA	Governed by relationship between parties	No contractual relationship	Governed by Indian Partnership Act

Question: Whether Bank Interest & Interest on unsecured loans will be covered?

Chapter 21: Other Compliance Requirements

The promoter shall maintain project wise account of inward supplies from registered and unregistered supplier and

- Calculate tax payments on the shortfall at the end of the FY and shall submit the same in the prescribed form by end of the quarter following the financial year (i.e. 30th June).
- The tax liability on the shortfall of inward supplies from unregistered person so determined shall be added to his output tax liability in the month not later than the month of June following the end of the financial year.
- Tax on cement received from unregistered person shall be paid in the month in which cement is received.
- Input Tax Credit not availed shall be reported every month by reporting the same as ineligible credit in GSTR-3B [Row No. 4 (D)(2)].

ITRAA

List of Notifications & FAQs issued by CBIC from time to time has been appended here below for ready reference of Readers

ITRAA

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 4/2018-Central Tax (Rate)

New Delhi, the 25th January, 2018

G.S.R.....(E).- In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies the following classes of registered persons, namely :-

- (a) registered persons who supply development rights to a developer, builder, construction company or any other registered person against consideration, wholly or partly, in the form of construction service of complex, building or civil structure; and
- (b) registered persons who supply construction service of complex, building or civil structure to supplier of development rights against consideration, wholly or partly, in the form of transfer of development rights,

as the registered persons in whose case the liability to pay central tax on supply of the said services, on the consideration received in the form of construction service referred to in clause (a) above and in the form of development rights referred to in clause (b) above, shall arise at the time when the said developer, builder, construction company or any other registered person, as the case may be, transfers possession or the right in the constructed complex, building or civil structure, to the person supplying the development rights by entering into a conveyance deed or similar instrument (for example allotment letter).

[F. No.354/13/2018 -TRU]

(Ruchi Bisht)
Under Secretary to the Government of India

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 03/2019-Central Tax (Rate)

New Delhi, the 29th March, 2019

G.S.R.....(E).- In exercise of the powers conferred by sub-sections (1), (3) and (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15, sub-section (1) of section 16 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.11/2017- Central Tax (Rate), dated the 28thJune, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 690(E), dated the 28thJune, 2017, namely:-

In the said notification, -

(i) in the opening paragraph,

- (a) after the word, brackets and figures “conferred by sub-section (1),” the word, brackets and figures “sub-section (3) and sub-section (4)” shall respectively be inserted;
- (b) the word “and” after the words and figures “sub-section (5) of section 15” shall be substituted by the symbol “,”;
- (c) after the word, brackets and figures “section (16)”, the words and figure “and section 148” shall be inserted;

(ii) in the Table, -

- (a) against serial number 3, for item (i), and the entries relating thereto in column (3), (4) and (5), the following items and entries shall be substituted, namely, -

Table

(3)	(4)	(5)
“(i) Construction of affordable residential apartments by a promoter in a Residential Real Estate Project (herein after referred to as RREP) which commences on or after 1 st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire	0.75	Provided that the central tax at the rate specified in column (4) shall be paid in cash, that is, by debiting the electronic cash ledger only; Provided also that credit of input tax charged on goods and services used in supplying the service hasnot been taken except to the extent as prescribed in Annexure I in the case of REP other than RREP and in Annexure II in the case of RREP;

<p>consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>		<p>Provided also that the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equivalent to the input tax credit attributable to construction in a project, time of supply of which is on or after 1st April, 2019, which shall be calculated in the manner as prescribed in the Annexure I in the case of REP other than RREP and in Annexure II in the case of RREP;</p>
<p>(ia) Construction of residential apartments other than affordable residential apartments by a promoter in an RREP which commences on or after 1st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	3.75	<p>Provided also that where a registered person (landowner- promoter) who transfers development right or FSI (including additional FSI) to a promoter (developer- promoter) against consideration, wholly or partly, in the form of construction of apartments, -</p> <p>(i) the developer- promoter shall pay tax on supply of construction of apartments to the landowner- promoter, and</p>
<p>(ib) Construction of commercial apartments (shops, offices, godowns etc.) by a promoter in an RREP which commences on or after 1st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	3.75	<p>(ii) such landowner – promoter shall be eligible for credit of taxes charged from him by the developer promoter towards the supply of construction of apartments by developer- promoter to him, provided the landowner- promoter further supplies such apartments to his buyers before issuance of completion certificate or first occupation, whichever is earlier, and pays tax on the same which is not less than the amount of tax charged from him on construction of such apartments by the developer- promoter.</p> <p>Explanation. -</p>
<p>(ic) Construction of affordable residential apartments by a promoter in a Real Estate Project (herein after referred to as REP) other than RREP, which commences on or</p>	0.75	<p>(i) “developer- promoter” is a promoter who constructs or converts a building into apartments or develops a plot for sale,</p>

<p>after 1st April, 2019 or in an ongoing REP other than RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>		<p>(ii) “landowner- promoter” is a promoter who transfers the land or development rights or FSI to a developer- promoter for construction of apartments and receives constructed apartments against such transferred rights and sells such apartments to his buyers independently.</p> <p>Provided also that eighty percent of value of input and input services, [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be received from registered supplier only;</p>
<p>(id) Construction of residential apartments other than affordable residential apartments by a promoter in a REP other than a RREP which commences on or after 1st April, 2019 or in an ongoing REP other than RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	<p>3.75</p>	<p>Provided also that inputs and input services on which tax is paid on reverse charge basis shall be deemed to have been purchased from registered person;</p> <p>Provided also that where value of input and input services received from registered suppliers during the financial year (or part of the financial year till the date of issuance of completion certificate or first occupation of the project, whichever is earlier) falls short of the said threshold of 80 per cent., tax shall be paid by the promoter on value of input and input services comprising such shortfall at the rate of eighteen percent on reverse charge basis and all the provisions of the Central Goods and Services Tax Act, 2017 (12 of 2017) shall apply to him as if he is the person liable for paying the tax in relation to the supply of such goods or services or both;</p> <p>Provided also that notwithstanding anything contained herein above, where cement is received from an unregistered person, the promoter shall pay tax on supply of such cement at the applicable</p>

	<p>rates on reverse charge basis and all the provisions of the Central Goods and Services Tax Act, 2017 (12 of 2017), shall apply to him as if he is the person liable for paying the tax in relation to such supply of cement;</p> <p>(Please refer to the illustrations in annexure III)</p> <p>Explanation. -</p> <p>1. The promoter shall maintain project wise account of inward supplies from registered and unregistered supplier and calculate tax payments on the shortfall at the end of the financial year and shall submit the same in the prescribed form electronically on the common portal by end of the quarter following the financial year. The tax liability on the shortfall of inward supplies from unregistered person so determined shall be added to his output tax liability in the month not later than the month of June following the end of the financial year.</p> <p>2. Notwithstanding anything contained in Explanation 1 above, tax on cement received from unregistered person shall be paid in the month in which cement is received.</p> <p>3. Input Tax Credit not availed shall be reported every month by reporting the same as ineligible credit in GSTR-3B [Row No. 4 (D)(2)].</p>
<p>(ie) Construction of an apartment in an ongoing project under any of the schemes specified in sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi), against serial number 3 of the Table, in respect of which the promoter has exercised option to pay central tax on construction of apartments at the rates as</p>	<p>6</p> <p>Provided that in case of ongoing project, the registered person shall exercise one time option in the Form at Annexure IV to pay central tax on construction of apartments in a project at the rates as specified for item (ie) or (if), as the case may be, by the 10th of May, 2019;</p> <p>Provided also that where the option is not exercised in Form at annexure IV by the 10th of May, 2019, option to pay tax at the</p>

<p>specified for this item.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>		<p>rates as applicable to item (i) or (ia) or (ib) or (ic) or (id) above, as the case may be, shall be deemed to have been exercised;</p>
<p>(if) Construction of a complex, building, civil structure or a part thereof, including,-</p> <p>(i) commercial apartments (shops, offices, godowns etc.) by a promoter in a REP other than RREP,</p> <p>(ii) residential apartments in an ongoing project, other than affordable residential apartments, in respect of which the promoter has exercised option to pay central tax on construction of apartments at the rates as specified for this item in the manner prescribed herein,</p> <p>but excluding supply by way of services specified at items (i), (ia), (ib), (ic), (id) and (ie) above intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>Explanation. -For the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id) and (ie) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5) and shall not be levied at the rate as specified under this entry.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	<p>9</p>	<p>Provided also that invoices for supply of the service can be issued during the period from 1st April 2019 to 10th May 2019 before exercising the option, but such invoices shall be in accordance with the option to be exercised.;</p>

- (b) against serial number 3, -
- a. item (ii) and the entries relating thereto in columns (3), (4) and (5) shall be omitted;
 - b. in item (iv) in column (3), -
 - (1) after the figures “2017”, the words, brackets, figures and letters “other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above” shall be inserted;

- c. in item (v) in column (3), -
 (1) after the figures “2017”, the words, brackets, figures and letters “other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above” shall be inserted;
- d. after item (v) and entries relating thereto in column (3), (4) and (5), the following items and entries shall be inserted, namely, -

(3)	(4)	(5)
<p>(va) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of affordable residential apartments covered by sub- clause (a) of clause (xvi) of paragraph 4 below, in a project which commences on or after 1st April, 2019, or in an ongoing project in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if), as the case may be, in the manner prescribed therein,</p>	<p>6</p>	<p>Provided that carpet area of the affordable residential apartments as specified in the entry in column (3) relating to this item, is not less than 50 per cent. of the total carpet area of all the apartments in the project;</p> <p>Provided also that for the purpose of determining whether the apartments at the time of supply of the service are affordable residential apartments covered by sub- clause (a) of clause (xvi) of paragraph 4 below or not, value of the apartments shall be the value of similar apartments booked nearest to the date of signing of the contract for supply of the service specified in the entry in column (3) relating to this item;</p> <p>Provided also that in case it finally turns out that the carpet area</p>

	<p>of the affordable residential apartments booked or sold before or after completion, for which gross amount actually charged was forty five lakhs rupees or less and the actual carpet area was within the limits prescribed in sub- clause (a) of clause (xvi) of paragraph 4 below, was less than 50 per cent. of the total carpet area of all the apartments in the project, the recipient of the service, that is, the promoter shall be liable to pay such amount of tax on reverse charge basis as is equal to the difference between the tax payable on the service at the applicable rate but for the rate prescribed herein and the tax actually paid at the rate prescribed herein”;</p>
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- e. in item (vi) in column (3), after the figures “2017”, the words, brackets, and figures “other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above” shall be inserted’;
- f. in item (xii) in column (3), for the entry, the following entry shall be substituted, namely: -
“(xii) Construction services other than (i), (ia), (ib), (ic), (id), (ie), (if), (iii), (iv), (v), (va), (vi), (vii), (viii), (ix), (x) and (xi) above.

Explanation. - For the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id), (ie) and (if) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5) and shall not be levied at the rate as specified under this entry.”;

- (c) against serial number 16, in item (ii) in column (3), for the word, brackets and letters “sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi)”, the word, brackets figures and letters “ (i) (ia), (ib), (ic), (id), (ie) and (if)” shall be substituted;
- (d) after serial number 38 in column (1) and the entries relating thereto in column (2), (3), (4) and (5) the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“39.	Chapter 99	Supply of services other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI) by an unregistered person to a promoter for construction of a project on which tax is payable by the recipient of the services under sub- section 4 of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), as prescribed in notification No. 07 / 2019- Central Tax (Rate), dated 29 th March, 2019, published in Gazette of India vide G.S.R. No. __, dated 29 th March, 2019. Explanation. - This entry is to be taken to apply to all services which satisfy the conditions prescribed herein, even though they may be covered by a more specific chapter, section or heading elsewhere in this notification.	9	-”;

(iii) in paragraph 2,-

- (a) for the words, brackets, letters and figures “sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi),” the word, brackets, letters and figures “ (i) (ia), (ib), (ic), (id), (ie) and (if)” shall be substituted;

(b) in the *Explanation*, after the words “this paragraph” the words “and paragraph 2A below” shall be inserted;

(iv) after paragraph 2, the following paragraph shall be inserted, namely, -

“2A. Where a registered person transfers development right or FSI (including additional FSI) to a promoter against consideration, wholly or partly, in the form of construction of apartments, the value of construction service in respect of such apartments shall be deemed to be equal to the Total Amount charged for similar apartments in the project from the independent buyers, other than the person transferring the development right or FSI (including additional FSI), nearest to the date on which such development right or FSI (including additional FSI) is transferred to the promoter, less the value of transfer of land, if any, as prescribed in paragraph 2 above.”

(v) in paragraph 4 relating to *Explanation*, after clause (xii), the following clauses shall be inserted, namely: -

“(xiii) an apartment booked on or before the 31st March, 2019 shall mean an apartment which meets all the following three conditions, namely- (a) part of supply of construction of which has time of supply on or before the 31st March, 2019 and (b) at least one instalment has been credited to the bank account of the registered person on or before the 31st March, 2019 and (c) an allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued on or before the 31st March, 2019;

(xiv) the term “apartment” shall have the same meaning as assigned to it in clause (e) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(xv) the term “project” shall mean a Real Estate Project or a Residential Real Estate Project;

(xvi) the term “affordable residential apartment” shall mean, -

(a) a residential apartment in a project which commences on or after 1st April, 2019, or in an ongoing project in respect of which the promoter has not exercised option in the prescribed form to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be, having carpet area not exceeding 60 square meter in metropolitan cities or 90 square meter in cities or towns other than metropolitan cities and for which the gross amount charged is not more than forty five lakhs rupees.

For the purpose of this clause, -

(i) Metropolitan cities are Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR) with their respective geographical limits prescribed by an order issued by the Central or State Government in this regard;

(ii) Gross amount shall be the sum total of; -

- A. Consideration charged for the services specified at item (i) and (ic) in column (3) against sl. No. 3 in the Table;
 - B. Amount charged for the transfer of land or undivided share of land, as the case may be including by way of lease or sub lease; and
 - C. Any other amount charged by the promoter from the buyer of the apartment including preferential location charges, development charges, parking charges, common facility charges etc.
- (b) an apartment being constructed in an ongoing project under any of the schemes specified in sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi), against serial number 3 of the Table above, in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be.

(xvii) the term “promoter” shall have the same meaning as assigned to it in in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(xviii) the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(xix) the term “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP;

(xx) the term “ongoing project” shall mean a project which meets all the following conditions, namely-

(a) commencement certificate in respect of the project, where required to be issued by the competent authority, has been issued on or before 31st March, 2019, and it is certified by any of the following that construction of the project has started on or before 31st March, 2019:-

(i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972); or

(ii) a chartered engineer registered with the Institution of Engineers (India); or

(iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority.

(b) where commencement certificate in respect of the project, is not required to be issued by the competent authority, it is certified by any of the authorities specified in sub-clause (a) above that construction of the project has started on or before the 31st March, 2019;

(c) completion certificate has not been issued or first occupation of the project has not taken place on or before the 31st March, 2019;

- (d) apartments being constructed under the project have been, partly or wholly, booked on or before the 31st March, 2019.

Explanation.- For the purpose of sub- clause (a) and (b) above , construction of a project shall be considered to have started on or before the 31st March, 2019, if the earthwork for site preparation for the project has been completed and excavation for foundation has started on or before the 31st March, 2019.

(xxi) "commencement certificate" means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the competent authority to allow or permit the promoter to begin development works on an immovable property, as per the sanctioned plan;

(xxii) "development works" means the external development works and internal development works on immovable property;

(xxiii) "external development works" includes roads and road systems landscaping, water supply, sewage and drainage systems, electricity supply transformer, sub-station, solid waste management and disposal or any other work which may have to be executed in the periphery of, or outside, a project for its benefit, as may be provided under the local laws;

(xxiv) "internal development works" means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, solid waste management and disposal, water conservation, energy management, fire protection and fire safety requirements, social infrastructure such as educational health and other public amenities or any other work in a project for its benefit, as per sanctioned plans;

(xxv) the term "competent authority" as mentioned in definition of "commencement certificate" and "residential apartment" , means the local authority or any authority created or established under any law for the time being in force by the Central Government or State Government or Union Territory Government, which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property;

(xxvi) The term "carpet area" shall have the same meaning assigned to it in in clause (k) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(xxvii) the term "Real Estate Regulatory Authority" shall mean the Authority established under sub- section (1) of section 20 (1) of the Real Estate (Regulation and Development) Act, 2016 (No. 16 of 2016) by the Central Government or State Government;

(xxviii) "project which commences on or after 1st April, 2019" shall mean a project other than an ongoing project;

(xxix) "Residential apartment" shall mean an apartment intended for residential use as declared to the Real Estate Regulatory Authority or to competent authority;

(xxx) "Commercial apartment" shall mean an apartment other than a residential apartment;

(xxx) “floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.”.

2. This notification shall come into force with effect from the 1st day of April, 2019.

[F. No.354/32/2019-TRU]

(Pramod Kumar)
Deputy Secretary to the Government of India

Note: -The principal notification No. 11/2017 - Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 690 (E), dated the 28th June, 2017 and was last amended by notification No. 30/2018-Central Tax (Rate), dated the 31st December, 2018 *vide* number G.S.R. 1271 (E), dated the 31st December, 2018.

Real estate project (REP) other than Residential Real estate project (RREP)

Input tax credit attributable to construction of residential portion in a real estate project (REP) other than residential real estate project (RREP), which has time of supply on or after 1st April, 2019, shall be calculated project wise for all projects which commence on or after 1st April, 2019 or ongoing projects in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be, in the prescribed manner, before the due date for furnishing of the return for the month of September following the end of financial year 2018-19, in the following manner:

1. Where % completion as on 31st March, 2019 is not zero or where there is inventory in stock

- (a) Input tax credit on inputs and input services attributable to construction of residential portion in a REP, which has time of supply on or after 1st April, 2019, may be denoted as Tx. Tx shall be calculated as under:

$$Tx = T - T_e$$

Where,

- (i) T is the total ITC availed (utilized or not) on inputs and input services used in construction of the REP from 1st July, 2017 to 31st March, 2019 including transitional credit taken on 1st July, 2017;
- (ii) T_e is the eligible ITC attributable to (a) construction of commercial portion and (b) construction of residential portion, in the REP which has time of supply on or before 31st March, 2019;
- (b) T_e shall be calculated as under:

$$T_e = T_c + T_r$$

Where, -

T_c is the ITC attributable to construction of commercial portion in the REP, calculated as under:

$T_c = T * (\text{carpet area of commercial apartments in the REP} / \text{total carpet area of commercial and residential apartments in the REP})$ and

T_r is the ITC attributable to construction of residential portion in the REP which has time of supply on or before 31st March, 2019 and which shall be calculated as under,

$$T_r = T * F_1 * F_2 * F_3 * F_4$$

Where, -

$$F_1 = \frac{\text{Carpet area of residential apartments in REP}}{\text{Total carpet area of commercial and residential apartments in the REP}}$$

$$F_2 = \frac{\text{Total carpet area of residential apartment booked on or before 31st March, 2019}}{\text{Total carpet area of the residential apartment in REP}}$$

$$F_3 = \frac{\text{Such Value of supply of construction of residential apartments booked on or before 31st March, 2019 which has time of supply on or before 31st March, 2019}}{\text{Total value of supply of construction of residential apartments booked on or before 31st March, 2019}}$$

(F3 is to account for percentage invoicing of booked residential apartments)

$$F_4 = \frac{1}{\% \text{ Completion of construction as on 31st March, 2019}}$$

Illustration: where one- fifth (twenty percent) of the construction has been completed, F₄ shall be $100 \div 20 = 5$.

Explanation: “% Completion of construction as on 31st March, 2019” shall be the same as declared to the Real Estate Regulatory Authority in terms of section 4 and section 11 of Real Estate (Regulation and Development) Act, 2016 (16 of 2016) and where the same is not required to be declared to the Real Estate Regulatory Authority, it shall be got determined and certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India).

(c) A registered person shall have the option to calculate ‘Te’ in the manner prescribed below instead of the manner prescribed in (b) above,-

Te shall be calculated as under:

$$Te = Tc + T1 + Tr$$

Where, -

Tc is the ITC attributable to construction of commercial portion in the REP, calculated as under:

$T_c = T_3 * (\text{carpet area of commercial apartments in the REP} / \text{total carpet area of commercial and residential apartments in the REP});$

Wherein

$$T_3 = T - (T_1 + T_2)$$

$T_1 = \text{ITC attributable exclusively to construction of commercial portion in the REP}$

$T_2 = \text{ITC attributable exclusively to construction of residential portion in the REP}$

and

T_r is the ITC attributable to construction of residential portion in the REP which has time of supply on or before 31.03.2019 and which shall be calculated as under,

$$T_r = (T_3 + T_2) * F_1 * F_2 * F_3 * F_4$$

or

$$T_r = (T - T_1) * F_1 * F_2 * F_3 * F_4$$

(d) The amounts 'Tx' and 'Te' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(e) Where, Tx is positive, i.e. $T_e < T$, the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equal to the difference between T and T_e . Such amount shall form part of the output tax liability of the registered person and the amount shall be furnished in FORM GST ITC- 03.

Explanation: The registered person may file an application in FORM GST DRC- 20, seeking extension of time for the payment of taxes or any amount due or for allowing payment of such taxes or amount in installments in accordance with the provisions of section 80. The commissioner may issue an order in FORM GST DRC- 21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly installments, not exceeding twenty-four, as he may deem fit.

(f) Where Tx is negative, i.e. $T_e > T$, the registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of residential portion in the REP, for which he shall not otherwise be eligible, to the extent of difference between T_e and T.

(g) The registered person may calculate T_c and utilize credit to the extent of T_c for payment of tax on commercial apartments, till the complete accounting of Tx is carried out and submitted.

(h) Where percentage completion is zero but ITC has been availed on goods and services received for the project on or prior to 31st March, 2019, input tax credit attributable to construction of residential portion which has time of supply on or after 1st April, 2019, shall be calculated and the amount equal to Tx shall be paid or taken credit of, as the case

may be, as prescribed above, with the modification that percentage completion for calculation of F_4 shall be taken as the percentage completion which, as certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India), can be achieved with the input services received and inputs in stock as on 31st March, 2019.

2. Where % completion as on 31st March, 2019 is zero but invoicing has been done having time of supply before 31st March, 2019, and no input services or inputs have been received as on 31st March, 2019, “Te” shall be calculated as follows: -

(a) Input tax credit on inputs and input services attributable to construction of residential portion in a REP, which has time of supply on or before 31st March, 2019 may be denoted as T_e which shall be calculated as under,

$$T_e = T_c + T_r$$

Where, -

T_c is the ITC attributable to construction of commercial portion in the REP, calculated as under:

$T_c = T_n * (\text{carpet area of commercial apartments in the REP} / \text{total carpet area of commercial and residential apartments in the REP})$ and

T_r is the ITC attributable to construction of residential portion in the REP which has time of supply on or before 31st March, 2019 and which shall be calculated as under,

$$T_r = T_n * F_1 * F_2 * F_3$$

Where, -

T_n = Tax paid on such inputs and input services on which ITC is available under the CGST Act, received in 2019-20 for construction of REP

F_1 , F_2 and F_3 shall be the same as in para 1 above

(b) The registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of residential portion in the REP, for which he shall not otherwise be eligible, to the extent of the amount of T_e .

(c) The amount ‘ T_e ’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

3. Notwithstanding anything contained in paragraph 1 or paragraph 2 above, T_e shall be determined in the following situations as under:

(i) where percentage invoicing is more than the percentage completion and the difference between percentage invoicing (per cent. points) and the percentage completion (per cent. points) of construction is more than 25 per cent. points; the

value of percentage invoicing shall be deemed to be percentage completion plus 25 percent. points;

- (ii) where the value of invoices issued on or prior to 31st March, 2019 exceeds the consideration actually received on or prior to 31st March, 2019 by more than 25 per cent. of consideration actually received; the value of such invoices for the purpose of determination of percentage invoicing shall be deemed to be actual consideration received plus 25 percent. of the actual consideration received; and
- (iii) where, the value of procurement of inputs and input services prior to 1st April, 2019 exceeds the value of actual consumption of the inputs and input services used in the percentage of construction completed as on 31st March, 2019 by more than 25 percent. of value of actual consumption of inputs and input services, the jurisdictional commissioner or any other officer authorized in this regard may fix the Te based on actual per unit consumption of inputs and input services based on the documents duly certified by a chartered accountant or cost accountant submitted by the promoter in this regard, applying the accepted principles of accounting.

Illustration 1:

Sl. No	Details of a REP (Res + Com)			
	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		75	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	5250	sqm
5	value of each residential apartment		0.60	crore
6	Total value of the residential apartments	$C2 * C5$	45.00	crore
7	No. of commercial apartments in the project		25	units
8	Carpet area of the commercial apartment		30	sqm
9	Total carpet area of the commercial apartments	$C7 * C8$	750	sqm
10	Total carpet area of the project (Resi + Com)	$C4 + C9$	6000	sqm
11	Percentage completion as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
12	No of residential apartments booked before transition		40	units
13	Total carpet area of the residential apartments booked before transition	$C12 * C3$	2800	sqm
14	Value of booked residential apartments	$C5 * C12$	24	crore
15	Percentage invoicing of booked residential apartments on or before 31.03.2019		20%	
16	Total value of supply of residential apartments having t.o.s. prior to transition	$C14 * C15$	4.8	crore
17	ITC to be reversed on transition, $T_x = T - T_e$			
18	Eligible ITC (Te)= $T_c + T_r$			
19	T (*see notes below)		1	crore
20	$T_c = T_x$ (carpet area of commercial apartments in the REP/ total carpet area of commercial and residential apartments in the REP)	$C19 * (C9 / C10)$	0.125	crore
21	$T_r = T_x F1 x F2 x F3 x F4$			
22	F1	$C4 / C10$	0.875	
23	F2	$C13 / C4$	0.533	
24	F3	$C16 / C14$	0.200	
25	F4	$1 / C11$	5	
26	$T_r = T_x F1 x F2 x F3 x F4$	$C19 * C22 * C23 * C24 * C25$	0.467	crore
27	Eligible ITC (Te)= $T_c + T_r$	$C26 + C20$	0.592	crore
28	ITC to be reversed on transition, $T_x = T - T_e$	$C19 - C27$	0.408	crore
	* Note:-			
	1. The value of T at C19 has been estimated for illustration based on weighted average tax on inputs.			
	2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.			

Illustration 2:

Sl. No	Details of a REP (Res + Com)			
	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		75	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	5250	sqm
5	value of each residential apartment		0.60	crore
6	Total value of the residential apartments	$C2 * C5$	45.00	crore
7	No. of commercial apartments in the project		25	units
8	Carpet area of the commercial apartment		30	sqm
9	Total carpet area of the commercial apartments	$C7 * C8$	750	sqm
10	Total carpet area of the project (Resi + Com)	$C4 + C9$	6000	sqm
11	Percentage completion (Pc) as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
12	No of residential apartments booked before transition		40	units
13	Total carpet area of the residential apartments booked before transition	$C12 * C3$	2800	sqm
14	Value of booked residential apartments	$C5 * C12$	24	crore
15	Percentage invoicing of booked residential apartments on or before 31.03.2019		60%	
16	Total value of supply of residential apartments having t.o.s. prior to transition	$C14 * C15$	14.4	crore
17	ITC to be reversed on transition, $T_x = T - T_e$			
18	Eligible ITC (Te)= $T_c + T_r$			
19	T (*see notes below)		1	crore
20	$T_c = T \times$ (carpet area of commercial apartments in the REP/ total carpet area of commercial and residential apartments in the REP)	$C19 * (C9/ C10)$	0.125	crore
21	$T_r = T \times F1 \times F2 \times F3 \times F4$			
22	F1	$C4 / C10$	0.875	
23	F2	$C13 / C4$	0.533	
24	F3	$C16 / C14$	0.600	
25	F4	$1/ C11$	5	
26	$T_r = T \times F1 \times F2 \times F3 \times F4$	$C19 * C22 * C23 * C24 * C25$	1.400	crore
27	Eligible ITC (Te)= $T_c + T_r$	$C26 + C20$	1.525	crore
28	ITC to be reversed/ taken on transition, $T_x = T - T_e$	$C19 - C27$	-0.525	crore
29	T_x after application of cap on % invoicing vis-a-vis Pc			
30	% completion		20%	
31	% invoicing		60%	
32	% invoicing after application of cap($P_c + 25\%$)	$C11 + 25\%$	45%	
33	Total value of supply of residential apartments having t.o.s. prior to transition	$C14 * C32$	10.80	crore
34	F3 after application of cap	$C33 / C14$	0.45	
35	$T_r = T \times F1 \times F2 \times F3 \times F4$ (after application of cap)	$C19 * C22 * C23 * C34 * C25$	1.05	crore
36	Eligible ITC (Te)= $T_c + T_r$ (after application of cap)	$C20 + C35$	1.18	crore
37	ITC to be reversed / taken on transition, $T_x = T - T_e$ (after application of cap)	$C19 - C36$	-0.18	crore
38	T_x after application of cap on % invoicing vis-a-vis Pc and payment realisation			
39	% invoicing after application of cap($P_c + 25\%$)		45%	
40	Total value of supply of residential apartments having t.o.s. prior to transition	C33	10.80	crore
41	Consideration received		8.00	crore
42	Total value of supply of residential apartments having t.o.s. prior to transition after application of cap vis-a-vis consideration received	$8 \text{ cr} + 25\% \text{ of } 8 \text{ Cr}$	10.00	crore
43	F3 after application of both the caps	$C42 / C14$	0.42	
44	$T_r = T \times F1 \times F2 \times F3 \times F4$ (after application of both the caps)	$C19 * C22 * C23 * C43 * C25$	0.97	
45	Eligible ITC (Te)= $T_c + T_r$ (after application of both the caps)	$C20 + C44$	1.10	
46	ITC to be reversed / taken on transition, $T_x = T - T_e$ (after application of both the caps)	$C19 - C45$	-0.10	crore
	* Note:-			
	1. The value of T at C19 has been estimated for illustration based on weighted average tax on inputs.			
	2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.			

[F. No.354/32/2019-TRU]

(Prmod Kumar)

Residential Real estate project (RREP)

Input tax credit attributable to construction of residential and commercial portion in a Residential Real estate project (RREP), which has time of supply on or after 1st April, 2019, shall be calculated project wise for all projects which commence on or after 1st April, 2019 or ongoing projects in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be, in the prescribed manner, before the due date for furnishing of the return for the month of September following the end of financial year 2018-19, in the following manner:

1. Where % completion as on 31st March, 2019 is not zero or where there is inventory in stock

(a) Input tax credit on inputs and input services attributable to construction of residential and commercial portion in an RREP, which has time of supply on or after 1st April, 2019, may be denoted as Tx. Tx shall be calculated as under:

$$Tx = T - T_e$$

Where,

- (i) T is the total ITC availed (utilized or not) on inputs and input services used in construction of the RREP from 1st July, 2017 to 31st March, 2019 including transitional credit taken on 1st July, 2017;
- (ii) T_e is the eligible ITC attributable to construction of commercial portion and construction of residential portion, in the RREP which has time of supply on or before 31st March, 2019;

(b) T_e shall be calculated as under:

$$T_e = T * F_1 * F_2 * F_3 * F_4$$

Where, -

$$F_1 = \frac{\text{Carpet area of residential and commercial apartments in the RREP}}{\text{Total carpet area of apartments in the RREP}}$$

(In case of a Residential Real Estate Project, value of "F1" shall be 1.)

$$F_2 = \frac{\text{Total carpet area of residential and commercial apartment booked on or before 31st March, 2019}}{\text{Total carpet area of the residential and commercial apartment in the RREP}}$$

Such value of supply of construction of residential and commercial apartments booked on or before 31st March, 2019 which has time of supply on or before 31st March, 2019

$$F_3 = \frac{\text{Such value of supply of construction of residential and commercial apartments booked on or before 31}^{\text{st}} \text{ March, 2019 which has time of supply on or before 31}^{\text{st}} \text{ March, 2019}}{\text{Total value of supply of construction of residential and commercial apartments booked on or before 31}^{\text{st}} \text{ March, 2019}}$$

(F3 is to account for percentage invoicing of booked residential apartments)

$$F_4 = \frac{1}{\% \text{ Completion of construction as on 31}^{\text{st}} \text{ March, 2019}}$$

Illustration: where one- fifth (twenty percent) of the construction has been completed, F_4 shall be $100 \div 20 = 5$.

Explanation: “% Completion of construction as on 31st March, 2019” shall be the same as declared to the Real Estate Regulatory Authority in terms of section 4 and section 11 of Real Estate (Regulation and Development) Act, 2016 and where the same is not required to be declared to the Real Estate Regulatory Authority, it shall be got determined and certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India).

(c) The amounts ‘Tx’ and ‘Te’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(d) Where, Tx is positive, i.e. $T_e < T$, the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equal to the difference between T and T_e . Such amount shall form part of the output tax liability of the registered person and the amount shall be furnished in FORM GST ITC- 03.

Explanation: The registered person may file an application in FORM GST DRC- 20, seeking extension of time for the payment of taxes or any amount due or for allowing payment of such taxes or amount in installments in accordance with the provisions of section 80. The commissioner may issue an order in FORM GST DRC- 21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly installments, not exceeding twenty-four, as he may deem fit.

(e) Where, Tx is negative, i.e. $T_e > T$, the registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of the RREP, for which he shall not otherwise be eligible, to the extent of difference between T_e and T.

(f) Where percentage completion is zero but ITC has been availed on goods and services received for the project on or prior to 31st March, 2019, input tax credit attributable to construction of residential and commercial portion which has time of supply on or after

1st April, 2019, shall be calculated and the amount equal to Tx shall be paid or taken credit of, as the case may be, as prescribed above, with the modification that percentage completion for calculation of F₄ shall be taken as the percentage completion which, as certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India), can be achieved with the input services received and inputs in stock as on 31st March, 2019.

2. Where % completion as on 31st March, 2019 is zero but invoicing has been done having time of supply before 31st March, 2019, and no input services or inputs have been received as on 31st March, 2019, “Te” shall be calculated as follows: -

(a) Input tax credit on inputs and input services attributable to construction of residential and commercial portion in an RREP, which has time of supply on or before 31st March, 2019 may be denoted as Te which shall be calculated as under,

$$Te = T_n * F_1 * F_2 * F_3$$

Where, -

T_n= Tax paid on such inputs and input services on which ITC is available under the CGST Act, received in 2019-20 for construction of residential and commercial apartments in the RREP.

F₁, F₂ and F₃ shall be the same as in para 1 above

(b) The registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of residential or commercial portion in the RREP, for which he shall not otherwise be eligible, to the extent of the amount of Te.

(c) The amount ‘Te’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

3. Notwithstanding anything contained in paragraph 1 or paragraph 2 above, Te shall be determined in the following situations as under:

- (i) where percentage invoicing is more than the percentage completion and the difference between percentage invoicing (per cent. points) and the percentage completion (per cent. points) of construction is more than 25 per cent. points; the value of percentage invoicing shall be deemed to be percentage completion plus 25 percent. points;
- (ii) where the value of invoices issued on or prior to 31st March, 2019 exceeds the consideration actually received on or prior to 31st March, 2019 by more than 25 per cent. of consideration actually received; the value of such invoices for the purpose of determination of percentage invoicing shall be deemed to be actual consideration received plus 25 per cent. of the actual consideration received; and

- (iii) where, the value of procurement of inputs and input services prior to 1st April, 2019 exceeds the value of actual consumption of the inputs and input services used in the percentage of construction completed as on 31st March, 2019 by more than 25 per cent. of value of actual consumption of inputs and input services, the jurisdictional commissioner or any other officer authorized in this regard may fix the Te based on actual per unit consumption of inputs and input services based on the documents duly certified by a chartered accountant or cost accountant submitted by the promoter in this regard, applying the accepted principles of accounting.

Illustration 1:

SI No	Details of a residential real estate project (RREP)			
	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		100	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	7000	sqm
5	value of each residential apartment		0.60	crore
6	Percentage completion as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
7	No of apartments booked before transition		80	units
8	Total carpet area of the residential apartment booked before transition	$C3 * C7$	5600	sqm
9	Value of booked residential apartments	$C5 * C7$	48	crore
10	Percentage invoicing of booked residential apartments on or before 31.03.2019		20%	
11	Total value of supply of residential apartments having t.o.s. prior to transition	$C9 * C10$	9.6	crore
12	ITC to be reversed on transition, $T_x = T - T_e$			
13	Eligible ITC ($T_e = T \times F1 \times F2 \times F3 \times F4$)			
14	T (*see notes below)		1	crore
15	F1		1	
16	F2	$C8 / C4$	0.8	
17	F3	$C11 / C9$	0.2	
18	F4	$1 / C6$	5	
19	Eligible ITC ($T_e = T \times F1 \times F2 \times F3 \times F4$)	$C14 * C15 * C16 * C17 * C18$	0.8	crore
20	ITC to be reversed on transition, $T_x = T - T_e$	$C14 - C19$	0.2	crore
<p>*Note:-</p> <p>1. The value of T at C14 has been estimated for illustration based on weighted average tax on inputs.</p> <p>2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.</p>				

Illustration 2:

SI No	Details of a residential real estate project (RREP)			
	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		100	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	7000	sqm
5	value of each residential apartment		0.60	crore
6	Percentage completion as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
7	No of apartments booked before transition		80	units
8	Total carpet area of the residential apartment booked before transition	$C3 * C7$	5600	sqm
9	Value of booked residential apartments	$C5 * C7$	48	crore
10	Percentage invoicing of booked residential apartments on or before 31.03.2019		60%	
11	Total value of supply of residential apartments having t.o.s. prior to transition	$C9 * C10$	28.8	crore
12	ITC to be reversed on transition, $T_x = T - T_e$			
13	Eligible ITC ($T_e = T \times F1 \times F2 \times F3 \times F4$)			
14	T (*see notes below)		1	crore
15	F1		1	
16	F2	$C8 / C4$	0.8	
17	F3	$C11 / C9$	0.6	
18	F4	$1 / C6$	5	
19	Eligible ITC ($T_e = T \times F1 \times F2 \times F3 \times F4$)	$C14 * C15 * C16 * C17 * C18$	2.4	crore
20	ITC to be reversed on transition, $T_x = T - T_e$	$C14 - C19$	-1.4	crore
21	T_x after application of cap on % invoicing vis-a-vis P_c			
22	% completion		20%	
23	% invoicing		60%	
24	% invoicing after application of cap ($P_c + 25\%$)	$C6 + 25\%$	45%	
25	Total value of supply of residential apartments having t.o.s. prior to transition	$C9 * C24$	21.60	crore
26	F3 after application of cap	$C25 / C9$	0.45	
27	$T_e = T \times F1 \times F2 \times F3 \times F4$ (after application of cap)	$C14 * C15 * C16 * C26 * C18$	1.80	crore
28	ITC to be reversed / taken on transition, $T_x = T - T_e$ (after application of cap)	$C14 - C27$	-0.80	crore
29	T_x after application of cap on % invoicing vis-a-vis P_c and payment realisation			
30	% invoicing after application of cap ($P_c + 25\%$)		45%	
31	Total value of supply of residential apartments having t.o.s. prior to transition	$C25$	21.60	crore
32	consideration received		16.00	crore
33	Total value of supply of residential apartments having t.o.s. prior to transition after application of cap vis-a-vis consideration received	$16 \text{ cr} + 25\% \text{ of } 16 \text{ Cr}$	20.00	crore
34	F3 after application of both the caps	$C33 / C9$	0.42	
35	$T_e = T \times F1 \times F2 \times F3 \times F4$ (after application of both the caps)	$C14 * C15 * C34 * C26 * C18$	1.67	
36	ITC to be reversed / taken on transition, $T_x = T - T_e$ (after application of both the caps)	$C14 - C35$	-0.67	crore
	*Note:-			
	1. The value of T at C14 has been estimated for illustration based on weighted average tax on inputs.			
	2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.			

[F. No.354/32/2019-TRU]

(Prmod Kumar)

Annexure III

Illustration 1:

A promoter has procured following goods and services [other than capital goods and services by way of grant of development rights, long term lease of land or FSI] for construction of a residential real estate project during a financial year.

Sl. No.	Name of input goods and services	Percentage of input goods and services received during the financial year	Whether inputs received from registered supplier? (Y/ N)
1	Sand	10	Y
2	Cement	15	N
3	Steel	20	Y
4	Bricks	15	Y
5	Flooring tiles	10	Y
6	Paints	5	Y
7	Architect/ designing/ CAD drawing etc.	10	Y
8	Aluminium windows, Ply, commercial wood	15	Y

In this example, the promoter has procured 80 per cent. of goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], from a GST registered person. However, he has procured cement from an unregistered supplier. Hence at the end of financial year, the promoter has to pay GST on cement at the applicable rates on reverse charge basis.

Illustration 2:

A promoter has procured following goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], for construction of a residential real estate project during a financial year.

Sl. No.	Name of input goods and services	Percentage of input goods and services received during the financial year	Whether inputs received from registered supplier? (Y/ N)
1	Sand	10	Y
2	Cement	15	Y
3	Steel	20	Y
4	Bricks	15	Y
5	Flooring tiles	10	Y
6	Paints	5	N

7	Architect/ designing/ CAD drawing etc.	10	Y
8	Aluminium windows, Ply, commercial wood	15	N

In this example, the promoter has procured 80 per cent. of goods and services including cement from a GST registered person. However, he has procured paints, aluminum windows, ply and commercial wood etc. from an unregistered supplier. Hence at the end of financial year, the promoter is not required to pay GST on inputs on reverse charge basis.

Illustration 3:

A promoter has procured following goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], for construction of a residential real estate project during a financial year.

Sl. No.	Name of input goods and services	Percentage of input goods and services received during the financial year	Whether inputs procured from registered supplier? (Y/ N)
1	Sand	10	N
2	Cement	15	N
3	Steel	15	Y
4	Bricks	10	Y
5	Flooring tiles	10	Y
6	Paints	5	Y
7	Architect/ designing/ CAD drawing etc.	10	Y
8	Aluminium windows	15	N
9	Ply, commercial wood	10	N

In this example, the promoter has procured 50 per cent. of goods and services from a GST registered person. However, he has procured sand, cement and aluminum windows, ply and commercial wood etc. from an unregistered supplier. Thus, value of goods and services procured from registered suppliers during a financial year falls short of threshold limit of 80 per cent. To fulfill his tax liability on the shortfall of 30 per cent. from mandatory purchase, the promoter has to pay GST on cement at the applicable rate on reverse charge basis. After payment of GST on cement, on the remaining shortfall of 15 per cent., the promoter shall pay tax @ 18 per cent. under RCM.

[F. No.354/32/2019-TRU]

(Pramod Kumar)

FORM

(Form for exercising one time option to pay tax on construction of apartments in a project by the promoters at the rate as specified for item (ie) or (if), against serial number 3 in the Table in this notification, as the case may be, by the 10th of May, 2019)

Reference No. _____

Date _____

To _____

(To be addressed to the jurisdictional Commissioner)

1. GSTIN:
2. RERA registration Number of the Project:
3. Name of the project, if any:
4. The location details of the project, with clear demarcation of land dedicated for the project along with its boundaries including the longitude and latitude of the end points of the project:
5. The number, type and the carpet area of apartments for booking or sale in the project:
6. Date of receipt of commencement certificate:

Declaration

1. I hereby exercise the option to pay tax on construction of apartments in the above mentioned project as under :

I shall pay tax on construction of the apartments: (put (√) in appropriate box)	At the rate as specified for item (ie) or (if), against serial number 3 in the Table in this notification, as the case may be	At the rate as specified for item (i) or (ia) or (ib) or (ic) or (id), against serial number 3 in the Table in this notification, as the case may be

2. I understand that this is a onetime option, which once exercised, shall not be allowed to be changed.
3. I also understand that invoices for supply of the service can be issued during the period from 1st April 2019 to 10th May 2019 before exercising the option, but such invoices shall be in accordance with the option being exercised herein.

Signature _____
Name _____
Designation _____

Place _____
Date _____

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II, SECTION
3, SUB-SECTION (i)]
Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 04/2019- Central Tax (Rate)

New Delhi, the 29th March, 2019

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 11 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on being satisfied that it is necessary in the public interest so to do, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.12/2017- Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 691(E), dated the 28th June, 2017, namely:-

In the said notification, -

(i) in the opening paragraph, for the word, brackets and figures “sub-section (1) of section 11” the word, brackets and figures “, sub-section (3) and sub-section (4) of section 9, sub-section (1) of section 11, sub-section (5) of section 15 and section 148,” shall be substituted;

(ii) in the Table, -

(a) after serial number 41 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“41A	Heading 9972	Service by way of transfer of development rights (herein refer TDR) or Floor Space Index (FSI) (including additional FSI) on or after 1 st April, 2019 for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the	Nil	Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of value of development rights, or FSI (including additional FSI), or both, as is attributable to the residential apartments, which remain un-booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner - [GST payable on TDR or FSI (including additional FSI) or both for construction of the residential apartments in the project but for the exemption contained herein] x (carpet area of the residential apartments in the project which remain un- booked on the date of issuance of completion certificate or first occupation

		<p>competent authority or after its first occupation, whichever is earlier.</p> <p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under: [GST payable on TDR or FSI (including additional FSI) or both for construction of the project] x (carpet area of the residential apartments in the project ÷ Total carpet area of the residential and commercial apartments in the project)</p>		<p>÷ Total carpet area of the residential apartments in the project)</p> <p>Provided further that tax payable in terms of the first proviso hereinabove shall not exceed 0.5 per cent. of the value in case of affordable residential apartments and 2.5 per cent. of the value in case of residential apartments other than affordable residential apartments remaining un- booked on the date of issuance of completion certificate or first occupation</p> <p>The liability to pay central tax on the said portion of the development rights or FSI, or both, calculated as above, shall arise on the date of completion or first occupation of the project, as the case may be, whichever is earlier.</p>
41B	Heading 9972	<p>Upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable in respect of service by way of granting of long term lease of thirty years, or more, on or after 01.04.2019, for construction of residential apartments by a promoter in a project, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation,</p>	Nil	<p>Provided that the promoter shall be liable to pay tax at the applicable rate, on reverse charge basis, on such proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, as is attributable to the residential apartments, which remain un- booked on the date of issuance of completion certificate, or first occupation of the project, as the case may be, in the following manner -</p> <p>[GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the residential apartments in the project but for the exemption contained herein] x (carpet area of the residential apartments in the project which remain un- booked on the date of issuance of completion certificate or first occupation ÷ Total carpet area of</p>

	<p>whichever is earlier.</p> <p>The amount of GST exemption available for construction of residential apartments in the project under this notification shall be calculated as under:</p> <p>[GST payable on upfront amount (called as premium, salami, cost, price, development charges or by any other name) payable for long term lease of land for construction of the project] x (carpet area of the residential apartments in the project ÷ Total carpet area of the residential and commercial apartments in the project).</p>		<p>the residential apartments in the project);</p> <p>Provided further that the tax payable in terms of the first proviso shall not exceed 0.5 per cent. of the value in case of affordable residential apartments and 2.5 per cent. of the value in case of residential apartments other than affordable residential apartments remaining un- booked on the date of issuance of completion certificate or first occupation.</p> <p>The liability to pay central tax on the said proportion of upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid for long term lease of land, calculated as above, shall arise on the date of issue of completion certificate or first occupation of the project, as the case may be.</p>
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(iii) after paragraph 1, the following paragraphs shall be inserted, namely, -

“1A. Value of supply of service by way of transfer of development rights or FSI by a person to the promoter against consideration in the form of residential or commercial apartments shall be deemed to be equal to the value of similar apartments charged by the promoter from the independent buyers nearest to the date on which such development rights or FSI is transferred to the promoter.

1B. Value of portion of residential or commercial apartments remaining un-booked on the date of issuance of completion certificate or first occupation, as the case may be, shall be deemed to be equal to the value of similar apartments charged by the promoter nearest to the date of issuance of completion certificate or first occupation, as the case may be.”

(iv) in paragraph 3 relating to Explanation, after clause (iv), the following clause shall be inserted, namely: -

“(v) The term “apartment” shall have the same meaning as assigned to it in clause (e) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).

(vi) The term “affordable residential apartment” shall have the same meaning as assigned to it in the notification No. 11/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 690(E) dated 28th June, 2017, as amended.

(vii) The term “promoter” shall have the same meaning as assigned to it in clause (zk) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).

(viii) The term “project” shall mean a Real Estate Project or a Residential Real Estate Project.

(ix) the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in clause (zn) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).

(x) The term “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP;

(xi) The term “carpet area” shall have the same meaning as assigned to it clause (k) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).

(xii) “an apartment booked on or before the date of issuance of completion certificate or first occupation of the project” shall mean an apartment which meets all the following three conditions, namely-

(a) part of supply of construction of the apartment service has time of supply on or before the said date; and

(b) consideration equal to at least one instalment has been credited to the bank account of the registered person on or before the said date; and

(c) an allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued on or before the said date.

(xiii) “floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.”

2. This notification shall come into force with effect from the 1st day of April, 2019.

[F. No.354/32/2019 -TRU]

(Pramod Kumar)

Deputy Secretary to the Government of India

Note: -The principal notification No. 12/2017 - Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, vide number G.S.R. 691 (E), dated the 28th June, 2017 and was last amended by notification No. 28/2018 - Central Tax (Rate), dated the 31st December, 2018 vide number G.S.R. 1272 (E), dated the 31st December, 2018.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 05/2019- Central Tax (Rate)

New Delhi, the 29th March, 2019

GSR.....(E).- In exercise of the powers conferred by sub-section (3) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.13/2017- Central Tax (Rate), dated the 28thJune, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 692(E), dated the 28thJune, 2017, namely:-

In the said notification, -

- (i) in the Table, after serial number 5A and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
“5B	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter.	Any person	Promoter.
5C	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.	Any person	Promoter.”;

(ii) in the Explanation, after clause (h), the following clauses shall be inserted, namely: -

“(i) The term “apartment” shall have the same meaning as assigned to it in clause (e) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).

(j) the term “promoter” shall have the same meaning as assigned to it in clause (zk) under section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2017).

(k) the term “project” shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP);

(l) “the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016).

(m) The term “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.

(n) “floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.”.

2. This notification shall come into force with effect from the 1st of April, 2019.

[F. No. 354/32/2019- TRU]

(Pramod Kumar)

Deputy Secretary to the Government of India

Note: -The principal notification No. 13/2017 - Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 692 (E), dated the 28th June, 2017 and was last amended by notification No.29/ 2018- Central Tax (Rate), dated the 31st December, 2018 *vide* number G.S.R. 1273 (E), dated the 31st December, 2018.

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 06/2019-Central Tax (Rate)

New Delhi, the 29th March, 2019

G.S.R.....(E).- In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), , the Central Government, on the recommendations of the Council, hereby notifies the following classes of registered persons, namely:-

- (i) a promoter who receives development rights or Floor Space Index (FSI) (including additional FSI) on or after 1st April, 2019 for construction of a project against consideration payable or paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the project or in any other form including in cash;
- (ii) a promoter, who receives long term lease of land on or after 1st April, 2019 for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name),

as the registered persons in whose case the liability to pay central tax on, -

- (a) the consideration paid by him in the form of construction service of commercial or residential apartments in the project, for supply of development rights or FSI (including additional FSI);
- (b) the monetary consideration paid by him, for supply of development rights or FSI (including additional FSI) relating to construction of residential apartments in project;
- (c) the upfront amount (called as premium, salami, cost, price, development charges or by any other name) paid by him for long term lease of land relating to construction of residential apartments in the project; and
- (d) the supply of construction service by him against consideration in the form of development rights or FSI(including additional FSI), -

shall arise on the date of issuance of completion certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier.

2. *Explanation*:- For the purpose of this notification,-

(i) The term “apartment” shall have the same meaning as assigned to it in clause (e) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(ii) the term “promoter” shall have the same meaning as assigned to it in in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(iii) the term “project” shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP);

(iv) the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);.

(v) the term “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.

(vi) the term “floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.

(vii) Tax on services covered by sub-para (i) and (ii) of paragraph 1 above is required to be paid under reverse charge basis in accordance with notification No. 13/2017- Central Tax (Rate), dated 28.06.2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* GSR No. 692 (E), dated 28.06.2017, as amended.

3. This notification shall come into force with effect from the 1st day of April, 2019.

[F. No.354/32/2019-TRU]

(Pramod Kumar)

Deputy Secretary to the Government of India

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 07/2019- Central Tax (Rate)

New Delhi, the 29th March, 2019

G.S.R.....(E).- In exercise of the powers conferred by sub-section (4) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby notifies that the registered person specified in column (3) of the table below, shall in respect of supply of goods or services or both specified in column (2) of the Table below, received from an unregistered supplier shall pay tax on reverse charge basis as recipient of such goods or services or both, namely:-

Table

Sl. No.	Category of supply of goods and services	Recipient of goods and services
(1)	(2)	(3)
1	Supply of such goods and services or both [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI)] which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 11/ 2017- Central Tax (Rate), dated 28 th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, published in Gazette of India vide G.S.R. No. 690, dated 28 th June, 2017, as amended.	Promoter.
2	Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year till the date of issuance of completion certificate or first occupation, whichever is earlier) as prescribed in notification No. 11/ 2017- Central Tax (Rate), dated 28 th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial	Promoter.

	number 3 in the Table, published in Gazette of India vide G.S.R. No. 690, dated 28 th June, 2017, as amended.	
3	Capital goods falling under any chapter in the first schedule to the Customs Tariff Act, 1975 (51 of 1975) supplied to a promoter for construction of a project on which tax is payable or paid at the rate prescribed for items (i), (ia), (ib), (ic) and (id) against serial number 3 in the Table, in notification No. 11/ 2017- Central Tax (Rate), dated 28 th June, 2017, published in Gazette of India vide G.S.R. No. 690, dated 28 th June, 2017, as amended.	Promoter

Explanation. - For the purpose of this notification, -

(i) the term “promoter” shall have the same meaning as assigned to it in in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(ii) “project” shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP);

(iii) the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(iv) “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.

(v) the term “floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.

2. This notification shall come into force with effect from the 1st of April, 2019.

[F. No. 354/32/2019- TRU]

(Pramod Kumar)
Deputy Secretary to the Government of India

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 08/2019- Central Tax (Rate)

New Delhi, the 29th March, 2019

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 9 and sub-section (5) of section 15 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following further amendments in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.1/2017-Central Tax (Rate), dated the 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 673(E), dated the 28th June, 2017, namely:-

In the said notification, in Schedule III - 9%, after serial number 452P in column (1) and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)
"452Q	Any chapter	<p>Supply of any goods other than capital goods and cement falling under chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975), by an unregistered person to a promoter for construction of the project on which tax is payable by the promoter as recipient of goods under sub-section 4 of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), as prescribed in notification No. 07 / 2019- Central Tax (Rate), dated 29th March, 2019, published in Gazette of India <i>vide</i> G.S.R. No. __, dated 29th March, 2019</p> <p><i>Explanation.</i> For the purpose of this entry,—</p> <p>(i) the term “promoter” shall have the same meaning as assigned to it in in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016).</p> <p>(ii) “project” shall mean a Real Estate Project (REP) or a Residential Real Estate Project (RREP).</p> <p>(iii) the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016).</p> <p>(iv) “Residential Real Estate Project (RREP)” shall mean a REP in</p>

		<p>which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.</p> <p>(v) This entry is to be taken to apply to all goods which satisfy the conditions prescribed herein, even though they may be covered by a more specific chapter/ heading/ sub heading or tariff item elsewhere in this notification.</p>
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2. This notification shall come into force with effect from the 1st of April, 2019.

[F. No. 354/32/2019- TRU]

(Pramod Kumar)

Deputy Secretary to the Government of India

Note: - The principal notification No.1/2017-Central Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 673(E), dated the 28th June, 2017 and last amended by notification No. 24/ 2018- Central Tax (Rate), dated the 31st December, 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R. 1261 (E), dated the 31st December, 2018.

[TO BE PUBLISHED IN THE GAZZETE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 23/2019-Central Tax (Rate)

New Delhi, the 30th September, 2019

G.S.R.....(E).- In exercise of the powers conferred by section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No.4/2018-Central Tax (Rate), dated the 25th January, 2018 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 67(E), dated the 25th January, 2018, namely:-

After paragraph, the following explanation shall be inserted, namely: -

“Explanation.-

Nothing contained in this notification shall apply with respect to the development rights supplied on or after 1st April, 2019.”.

2. This notification shall come into force with effect from the 1st day of October, 2019.

[F. No. 354/136/2019- TRU]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: -The principal notification was published in the Gazette of India, Extraordinary, *vide* notification No. 4/2018 - Central Tax (Rate), dated the 25th January, 2018, *vide* number G.S.R. 67 (E), dated the 25th January, 2018.

[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II,
SECTION 3, SUB-SECTION (i)]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 24/2019- Central Tax (Rate)

New Delhi, the 30th September, 2019

G.S.R.....(E).- In exercise of the powers conferred by sub-section (4) of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, hereby makes the following amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue), No. 07/2019-Central Tax (Rate), dated the 29th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 254 (E), dated the 29th March, 2019, namely:-

In the said notification, in the Table, against serial number 2, for the entry in column (2), the following entry shall be substituted, namely: -

“Cement falling in chapter heading 2523 in the first schedule to the Customs Tariff Act, 1975 (51 of 1975).”.

2. This notification shall come into force with effect from the 1st day of October, 2019.

[F. No. 354/136/2019- TRU]

(Ruchi Bisht)
Under Secretary to the Government of India

Note: -The principal notification was published in the Gazette of India, Extraordinary, *vide* notification No. 7/2019 - Central Tax (Rate), dated the 29th March, 2019, *vide* number G.S.R. 254 (E), dated the 29th March, 2019.

Disclaimer: This updated version of the notification as amended upto 1st April, 2019 has been prepared for convenience and easy reference of the trade and business and has no legal binding or force. Notifications as published in the official Gazette of Government of India have the force of law.

[Updated version of the Notification No. 11/2017-Central Tax (Rate)
dated the 28th June, 2017 as amended upto 1st December, 2019]

Government of India
Ministry of Finance
(Department of Revenue)

Notification No. 11/2017-Central Tax (Rate)

New Delhi, the 28th June, 2017

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1), [sub-section (3) and sub-section (4)]¹ of section 9, sub-section (1) of section 11, sub-section (5) of section 15[,]² sub-section (1) of section 16 [and section 148]³ of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government, on the recommendations of the Council, and on being satisfied that it is necessary in the public interest so to do, hereby notifies that the central tax, on the intra-State supply of services of description as specified in column (3) of the Table below, falling under Chapter, Section or Heading of scheme of classification of services as specified in column (2), shall be levied at the rate as specified in the corresponding entry in column (4), subject to the conditions as specified in the corresponding entry in column (5) of the said Table:-

Table

Sl No.	Chapter, Section or Heading	Description of Service	Rate (per cent.)	Condition
(1)	(2)	(3)	(4)	(5)
1	Chapter 99	All Services		
2	Section 5	Construction Services		
3	Heading 9954 (Construction services)	[(i) Construction of affordable residential apartments by a promoter in a Residential Real Estate Project (herein after referred to as RREP) which commences on or after 1 st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item	0.75	Provided that the central tax at the rate specified in column (4) shall be paid in cash, that is, by debiting the electronic cash ledger only; Provided also that credit of input tax charged on goods

¹ Inserted vide notification No. 03/2019– Central Tax (Rate) dt 29.03.2019

² Substituted vide notification No. 03/2019– Central Tax (Rate) dt 29.03.2019. Prior to substitution it read “and”

³ Inserted vide notification No. 03/2019– Central Tax (Rate) dt 29.03.2019

	<p>(ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>		<p>and services used in supplying the service has not been taken except to the extent as prescribed in Annexure I in the case of REP other than RREP and in Annexure II in the case of RREP;</p> <p>Provided also that the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equivalent to the input tax credit attributable to construction in a project, time of supply of which is on or after 1st April, 2019, which shall be calculated in the manner as prescribed in the Annexure I in the case of REP other than RREP and in Annexure II in the case of RREP;</p>
	<p>(ia) Construction of residential apartments other than affordable residential apartments by a promoter in an RREP which commences on or after 1st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	3.75	<p>Provided also that where a registered person (landowner- promoter) who transfers development right or FSI (including additional FSI) to a promoter (developer- promoter) against consideration, wholly or partly, in the form of construction of apartments, -</p> <p>(i) the developer-promoter shall pay tax on supply of construction of apartments to the landowner- promoter, and</p> <p>(ii) such landowner – promoter shall be eligible for credit of taxes charged</p>
	<p>(ib) Construction of commercial apartments (shops, offices, godowns etc.) by a promoter in an RREP which commences on or after 1st April, 2019 or in an ongoing RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	3.75	

		<p>shall apply for valuation of this service)</p> <p>(ic) Construction of affordable residential apartments by a promoter in a Real Estate Project (herein after referred to as REP) other than RREP, which commences on or after 1st April, 2019 or in an ongoing REP other than RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	<p>0.75</p>	<p>from him by the developer promoter towards the supply of construction of apartments by developer-promoter to him, provided the landowner- promoter further supplies such apartments to his buyers before issuance of completion certificate or first occupation, whichever is earlier, and pays tax on the same which is not less than the amount of tax charged from him on construction of such apartments by the developer- promoter.</p> <p><i>Explanation. -</i></p> <p>(i) “developer- promoter” is a promoter who constructs or converts a building into apartments or develops a plot for sale,</p>
		<p>(id) Construction of residential apartments other than affordable residential apartments by a promoter in a REP other than a RREP which commences on or after 1st April, 2019 or in an ongoing REP other than RREP in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) below, as the case may be, in the manner prescribed therein, intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>	<p>3.75</p>	<p>(ii) “landowner- promoter” is a promoter who transfers the land or development rights or FSI to a developer- promoter for construction of apartments and receives constructed apartments against such transferred rights and sells such apartments to his buyers independently.</p> <p>Provided also that eighty percent of value of input and input services, [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional</p>

			<p>FSI), electricity, high speed diesel, motor spirit, natural gas], used in supplying the service shall be received from registered supplier only;</p> <p>Provided also that inputs and input services on which tax is paid on reverse charge basis shall be deemed to have been purchased from registered person;</p> <p>Provided also that where value of input and input services received from registered suppliers during the financial year (or part of the financial year till the date of issuance of completion certificate or first occupation of the project, whichever is earlier) falls short of the said threshold of 80 per cent., central tax shall be paid by the promoter on value of input and input services comprising such shortfall at the rate of nine percent on reverse charge basis and all the provisions of the Central Goods and Services Tax Act, 2017 (12 of 2017) shall apply to him as if he is the person liable for paying the tax in relation to the supply of such goods or services or both;</p> <p>Provided also that notwithstanding anything contained herein above, where cement is received from an unregistered person,</p>
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			<p>the promoter shall pay tax on supply of such cement at the applicable rates on reverse charge basis and all the provisions of the Central Goods and Services Tax Act, 2017 (12 of 2017), shall apply to him as if he is the person liable for paying the tax in relation to such supply of cement; (Please refer to the illustrations in annexure III)</p> <p><i>Explanation. -</i></p> <p>1. The promoter shall maintain project wise account of inward supplies from registered and unregistered supplier and calculate tax payments on the shortfall at the end of the financial year and shall submit the same in the prescribed form electronically on the common portal by end of the quarter following the financial year. The tax liability on the shortfall of inward supplies from unregistered person so determined shall be added to his output tax liability in the month not later than the month of June following the end of the financial year.</p> <p>2. Notwithstanding anything contained in Explanation 1 above, tax on cement received from unregistered person shall be paid in the month in which cement is</p>
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			received.
			3. Input Tax Credit not availed shall be reported every month by reporting the same as ineligible credit in GSTR-3B [Row No. 4 (D)(2)].
		(ie) Construction of an apartment in an ongoing project under any of the schemes specified in sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi), against serial number 3 of the Table, in respect of which the promoter has exercised option to pay central tax on construction of apartments at the rates as specified for this item.	6
		(Provisions of paragraph 2 of this notification shall apply for valuation of this service)	Provided that in case of ongoing project, the registered person shall exercise one time option in the Form at Annexure IV to pay central tax on construction of apartments in a project at the rates as specified for item (ie) or (if), as the case may be, by the [20 th] ⁴ of May, 2019;
		(if) Construction of a complex, building, civil structure or a part thereof, including,-	9
		(i) commercial apartments (shops, offices, godowns etc.) by a promoter in a REP other than RREP ,	Provided also that where the option is not exercised in Form at annexure IV by the [20 th] ⁵ of May, 2019, option to pay tax at the rates as applicable to item (i) or (ia) or (ib) or (ic) or (id) above, as the case may be, shall be deemed to have been exercised;
		(ii) residential apartments in an ongoing project, other than affordable residential apartments, in respect of which the promoter has exercised option to pay central tax on construction of apartments at the rates as specified for this item in the manner prescribed herein,	Provided also that invoices for supply of the service can be issued during the period from 1 st April 2019 to [20 th] ⁶ May 2019 before exercising the option, but such invoices shall be in accordance with the option to be exercised.]; ⁷
		but excluding supply by way of services	

⁴ Substituted vide notification No. 10/2019– Central Tax (Rate) dt 10.05.2019. Prior to substitution it read “10th”

⁵ Substituted vide notification No. 10/2019– Central Tax (Rate) dt 10.05.2019. Prior to substitution it read “10th”

⁶ Substituted vide notification No. 10/2019– Central Tax (Rate) dt 10.05.2019. Prior to substitution it read “10th”

⁷ Substituted vide notification No. 03/2019 – Central Tax (Rate) dt 29.03.2019. Prior to substitution it read:

	<p>specified at items (i), (ia), (ib), (ic), (id) and (ie) above intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier.</p> <p><i>Explanation.</i> -For the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id) and (ie) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5) and shall not be levied at the rate as specified under this entry.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service</p>		
	[***	***	***] ⁸
	[(iii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, supplied to the {Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity} ⁹ by way of construction,	6	[Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union

“(i) Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, where required, by the competent authority or after its first occupation, whichever is earlier. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)	9	-“
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⁸ Omitted vide notification No. 3/2019-Central Tax(Rate) dt. 29.03.2019. The following was omitted:

“(ii) composite supply of works contract as defined in clause 119 of section 2 of Central Goods and Services Tax Act, 2017.	9	-“
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⁹ Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read “Government, a local authority or a Governmental authority”

	<p>erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, -</p> <p>(a) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);</p> <p>(b) canal, dam or other irrigation works;</p> <p>(c) pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.</p>		territory or local authority, as the case may be;] ^{10]} ¹¹
	<p>[(iv) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above]¹² supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-</p> <p>(a) a road, bridge, tunnel, or terminal for road transportation for use by general public;</p> <p>(b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv AwaasYojana;</p> <p>[(c) a civil structure or any other original works pertaining to the “In-situ redevelopment of existing slums using land as a resource, under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban)]¹³</p>	6	-] ¹⁷

¹⁰ Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read “-”.

¹¹ Inserted vide notification No. 20/2017– Central Tax (Rate) dt 22.08.2017.

¹² Inserted vide notification No. 3/2019—Central Tax(Rate) dt 29.03.2019.

¹³ Substituted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018. Prior to substitution it read “(c) a civil structure or any other original works pertaining to the “In-situ rehabilitation of existing slum dwellers using land as a

		<p>(d) a civil structure or any other original works pertaining to the “Beneficiary led individual house construction / enhancement” under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana;</p> <p>[(da) a civil structure or any other original works pertaining to the “Economically Weaker Section (EWS) houses” constructed under the Affordable Housing in partnership by State or Union territory or local authority or urban development authority under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban);]¹⁴</p> <p>[(db) a civil structure or any other original works pertaining to the “houses constructed or acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section (EWS)/ Lower Income Group (LIG)/ Middle Income Group-1 (MIG-1)/ Middle Income Group-2 (MIG-2)” under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban);]¹⁵</p> <p>(e) a pollution control or effluent treatment plant, except located as a part of a factory; or</p> <p>(f) a structure meant for funeral, burial or cremation of deceased</p> <p>[(g) a building owned by an entity registered under section 12AA of the Income Tax Act, 1961 (43 of 1961), which is used for carrying out the activities of providing, centralised cooking or distribution, for mid-day meals under the mid-day meal scheme sponsored by the Central Government, State Government, Union territory or local authorities.]¹⁶</p>		
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resource through private participation” under the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana, only for existing slum dwellers;”

¹⁷ Inserted vide notification No. 20/2017– Central Tax (Rate) dt 22.08.2017

¹⁴ Inserted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018.

¹⁵ Inserted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018.

¹⁶ Inserted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018.

		<p>[(v) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, [other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above]¹⁸ supplied by way of construction, erection, commissioning, or installation of original works pertaining to,-</p> <p>(a) railways, [including]¹⁹ monorail and metro;</p> <p>(b) a single residential unit otherwise than as a part of a residential complex;</p> <p>(c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India;</p> <p>(d) low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under- (1) the “Affordable Housing in Partnership” component of the Housing for All (Urban) Mission/Pradhan Mantri Awas Yojana; (2) any housing scheme of a State Government;</p> <p>[(da) low-cost houses up to a carpet area of 60 square metres per house in an affordable housing project which has been given infrastructure status vide notification of Government of India, in Ministry of Finance, Department of Economic Affairs vide F. No. 13/6/2009-INF, dated the 30th March, 2017;]²⁰</p>	6	-] ²¹
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¹⁸ Inserted vide notification No. 3/2019—Central Tax(Rate) dt 29.03.2019.

¹⁹ Substituted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018. Prior to substitution it read “excluding”

²⁰ Inserted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018.

²¹ Inserted vide notification No. 20/2017– Central Tax (Rate) dt 22.08.2017

		<p>(e) post-harvest storage infrastructure for agricultural produce including a cold storage for such purposes; or</p> <p>(f) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages.</p>		
		<p>[(va) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of affordable residential apartments covered by sub- clause (a) of clause (xvi) of paragraph 4 below, in a project which commences on or after 1st April, 2019, or in an ongoing project in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if), as the case may be, in the manner prescribed therein,</p>	<p>6</p>	<p>Provided that carpet area of the affordable residential apartments as specified in the entry in column (3) relating to this item, is not less than 50 per cent. of the total carpet area of all the apartments in the project;</p> <p>Provided also that for the purpose of determining whether the apartments at the time of supply of the service are affordable residential apartments covered by sub-clause (a) of clause (xvi) of paragraph 4 below or not, value of the apartments shall be the value of similar apartments booked nearest to the date of signing of the contract for supply of the service specified in the entry in column (3) relating to this item;</p> <p>Provided also that in case it finally turns out that the carpet area of the affordable residential apartments booked or sold before or after completion, for which gross amount actually charged was forty five lakhs rupees or less and the actual carpet area was</p>

			<p>within the limits prescribed in sub- clause (a) of clause (xvi) of paragraph 4 below, was less than 50 per cent. of the total carpet area of all the apartments in the project, the recipient of the service, that is, the promoter shall be liable to pay such amount of tax on reverse charge basis as is equal to the difference between the tax payable on the service at the applicable rate but for the rate prescribed herein and the tax actually paid at the rate prescribed herein]²²</p>
		<p>[[vi] [Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, {other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above}²³ provided]²⁴ to the Central Government, State Government, Union Territory, [a local authority, a Governmental Authority or a Government Entity]²⁵ by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of – (a) a civil structure or any other original works meant predominantly for use other than for commerce, industry, or any other business or profession; (b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or(iii) an art or cultural establishment; or</p>	<p>6</p> <p>{Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be}²⁷]²⁸]²⁹</p>

²² Inserted vide notification No. 3/2019—Central Tax(Rate) dt 29.03.2019.

²³ Inserted vide notification No. 3/2019—Central Tax(Rate) dt 29.03.2019.

²⁴Substituted vide notification No. 46/2017 – Central Tax (Rate) dt 14.11.2017. Prior to substitution it read “Services provided”

²⁵ Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read “a local authority or a Governmental authority”

²⁷ Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read “-”.

²⁸Substituted vide notification No. 24/2017 – Central Tax (Rate) dt 21.09.2017. Prior to substitution it read “Construction services other than (i), (ii), (iii), (iv) and (v) above.”

²⁹Inserted “Construction services other than (i), (ii), (iii), (iv) and (v) above.” vide notification No. 20/2017– Central Tax (Rate) dt 22.08.2017

	<p>(c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central Goods and Services Tax Act, 2017.</p> <p>[<i>Explanation.</i>- For the purposes of this item, the term ‘business’ shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities.]²⁶</p>		
	<p>[[vii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017, involving predominantly earth work (that is, constituting more than 75 per cent. of the value of the works contract) provided to the Central Government, State Government, Union territory, local authority, a Governmental Authority or a Government Entity.</p>	2.5	<p>Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be]^{30]}³¹</p>
	<p>[[viii) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 and associated services, in respect of offshore works contract relating to oil and gas exploration and production (E&P) in the offshore area beyond 12 nautical miles from the nearest point of the appropriate base line.</p>	6	<p>-]³²</p>
	<p>[[ix) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the main contractor providing services specified in item (iii) or item (vi) above to the Central Government, State Government, Union territory, a local authority, a Governmental</p>	6	<p>Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union</p>

²⁶ Inserted vide notification No. 17/2018 – Central Tax (Rate) dt 26.07.2018

³⁰ Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read “Construction services other than (i), (ii), (iii), (iv), (v) and (vi) above.”

³¹ Inserted “Construction services other than (i), (ii), (iii), (iv), (v) and (vi) above.” vide notification No. 24/2017- Central Tax (Rate) dt. 21.09.2017.

³² Inserted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017

		Authority or a Government Entity.		territory or local authority, as the case may be.] ³³ ³⁴
		[(x) Composite supply of works contract as defined in clause (119) of section 2 of the Central Goods and Services Tax Act, 2017 provided by a sub-contractor to the main contractor providing services specified in item (vii) above to the Central Government, State Government, Union territory, a local authority, a Governmental Authority or a Government Entity.	2.5	Provided that where the services are supplied to a Government Entity, they should have been procured by the said entity in relation to a work entrusted to it by the Central Government, State Government, Union territory or local authority, as the case may be.] ³⁵
		[(xi) Services by way of house-keeping, such as plumbing, carpentering, etc. where the person supplying such service through electronic commerce operator is not liable for registration under sub-section (1) of section 22 of the Central Goods and Services Tax Act, 2017.	2.5	Provided that credit of input tax charged on goods and services has not been taken [Please refer to <i>Explanation</i> no. (iv)]. ³⁶
		<p>[(xii) Construction services other than (i), (ia), (ib), (ic), (id), (ie), (if), (iii), (iv), (v), (va), (vi), (vii), (viii), (ix), (x) and (xi) above.</p> <p>Explanation. - For the removal of doubt, it is hereby clarified that, supply by way of services specified at items (i), (ia), (ib), (ic), (id), (ie) and (if) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5) and shall not be levied at the rate as specified under this entry.]³⁷</p>	9	-] ³⁸
4	Section 6	Distributive Trade Services; Accommodation, Food and Beverage Service; Transport Services; Gas and	9	-

³³ Substituted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018. Prior to substitution it read:

“(ix) Construction services other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) above	9	-“
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³⁴ Inserted

“(ix) Construction services other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) above	9	-“
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vide notification No. 31/2017– Central Tax (Rate) dt 13.10.2017

³⁵ Inserted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018.

³⁶ Inserted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018.

³⁷ Substituted vide notification No. 3/2019 – Central Tax (Rate) dt 29.03.2019. Prior to substitution it read:

“(xii) Construction services other than (i), (ii), (iii), (iv), (v), (vi), (vii), (viii), (ix), (x) and (xi) above {and serial number 38 below}^A.”;

A. Inserted vide notification No. 27/2018–Central Tax(Rate) dt. 31.12.2018.

³⁸ Inserted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018.

		Electricity Distribution Services		
5	Heading 9961	<p>Services in wholesale trade.</p> <p><i>Explanation</i>-This service does not include sale or purchase of goods but includes:</p> <ul style="list-style-type: none"> – Services of commission agents, commodity brokers, and auctioneers and all other traders who negotiate whole sale commercial transactions between buyers and sellers, for a fee or commission’ – Services of electronic whole sale agents and brokers, – Services of whole sale auctioning houses. 	9	-
6	Heading 9962	<p>Services in retail trade.</p> <p><i>Explanation</i>- This service does not include sale or purchase of goods</p>	9	-
7	Heading 9963 (Accommodation, food and beverage services)	<p>[(i) Supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied, other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent.</p> <p><i>Explanation</i> 1. This item includes such supply at a canteen, mess, cafeteria or dining space of an institution such as a [***]³⁹</p>	2.5	<p>Provided that credit of input tax charged on goods and services used in supplying the service has not been taken</p> <p>[Please refer to <i>Explanation</i> no. (iv)]⁴⁰⁴¹</p>

³⁹ Omitted vide notification No. 27/2018-Central Tax(Rate) dt. 31.12.2018. The following was omitted: “school, college”

⁴⁰ Substituted vide notification No. 13/2018 – Central Tax (Rate) dt 26.07.2018. Prior to substitution it read:

	<p>hospital, industrial unit, office, by such institution or by any other person based on a contractual arrangement with such institution for such supply, provided that such supply is not event based or occasional.</p> <p>Explanation 2. This item excludes the supplies covered under item 7 (v).</p> <p>Explanation 3. "declared tariff" includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.</p> <p>["(i) Supply of „hotel accommodation“ having value of supply of a unit of accommodation above one thousand rupees but less than or equal to seven thousand five hundred rupees per unit per day or equivalent.</p>	6	-] ⁴²
	<p>[(ia) Supply, of goods, being food or any other article for human consumption or any drink, by the Indian Railways or Indian Railways Catering and Tourism Corporation</p>	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been

<p>“(i) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied, other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent.</p> <p><i>Explanation.-</i> “declared tariff” includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.</p>	2.5	<p>Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]”</p>
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⁴¹Substituted vide notification No. 46/2017 – Central Tax (Rate) dt 14.11.2017. Prior to substitution it read:

<p>“(i) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, neither having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year nor having licence or permit or by whatever name called to serve alcoholic liquor for human consumption.</p>	6	-”
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⁴² Substituted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019.

	<p>[(iii) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied, located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent.</p> <p><i>Explanation.</i>—“declared tariff” includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.</p> <p>[(iii) Supply of goods, being food or any other article for human consumption or any drink, by the Indian Railways or Indian Railways Catering and Tourism Corporation Ltd. or their licensees, whether in trains or at platforms.</p>	<p>9</p> <p>2.5</p>	<p>—⁴⁷</p> <p>Provided that credit of input tax charged on goods and services used in supplying 2 the service has not been taken [Please refer to Explanation no. (iv)]⁴⁸</p>
	<p>[***]</p> <p>[(iv) Supply of ‘outdoor catering’, at premises</p>	<p>***</p> <p>2.5</p>	<p>***]⁴⁹</p> <p>Provided that credit of input</p>

⁴⁷Substituted vide notification No. 46/2017 – Central Tax (Rate) dt 14.11.2017. Prior to substitution it read:

“(iii) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, having licence or permit or by whatever name called to serve alcoholic liquor for human consumption.	9	-”
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⁴⁸ Substituted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019

⁴⁹Omitted item (iv) vide notification No. 46/2017-Central Tax(Rate) dt. 14.11.2017. The following was omitted:

“(iv) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or any drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year.	9	-”
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	<p>other than ‘specified premises’ provided by any person other than-</p> <p>(a) suppliers providing ‘hotel accommodation’ at ‘specified premises’, or</p> <p>(b) suppliers located in ‘specified premises’.</p>		tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation (iv)] ⁵⁰
	<p>[(v) Supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, at Exhibition Halls, Events, Conferences, Marriage Halls and other outdoor or indoor functions that are event based and occasional in nature.</p> <p>[(v) Composite supply of „outdoor catering“ together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) at premises other than “specified premises” provided by any person other than-</p> <p>(a) suppliers providing “hotel accommodation” at “specified premises”, or</p> <p>(b) suppliers located in „specified premises“.</p>	<p>9</p> <p>2.5</p>	<p>+⁵⁴</p> <p>Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation (iv)]⁵²</p>
	<p>(vi) Accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having [value of supply]⁵³ of a unit of accommodation of two thousand five hundred rupees and above but less than seven thousand five hundred rupees per unit per day or equivalent.</p> <p>[***]⁵⁴</p> <p>[(vi) Accommodation, food and beverage services other than (i) to (v) above</p> <p>Explanation:</p> <p>(a) For the removal of doubt, it is hereby clarified that, supplies covered by items (ii), (iii), (iv) and</p>	<p>9</p>	<p>-</p>

⁵⁰ Substituted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019

⁵¹ Substituted vide notification No. 13/2018 – Central Tax (Rate) dt 26.07.2018. Prior to substitution it read:

“(v) Supply, by way of or as part of any service or in any other manner whatsoever in outdoor catering wherein goods, being food or any other article for human consumption or any drink (whether or not alcoholic liquor for human consumption), as a part of such outdoor catering and such supply or service is for cash, deferred payment or other valuable consideration.	9	-”
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⁵² vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019

⁵³ Substituted vide notification No. 13/2018 – Central Tax (Rate) dt 26.07.2018. Prior to substitution it read “declared tariff”.

⁵⁴ Omitted *Explanation* vide notification No. 13/2018-Central Tax(Rate) dt. 26.07.2018. The following was omitted: “*Explanation.-* “declared tariff” includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.”

	<p>(v) in column (3) shall attract central tax prescribed against them in column (4) subject to conditions specified against them in column (5), which is a mandatory rate and shall not be levied at the rate as specified under this entry.</p> <p>(b) This entry covers supply of ‘restaurant service’ at ‘specified premises’</p> <p>(c) This entry covers supply of ‘hotel accommodation’ having value of supply of a unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.</p> <p>(d) This entry covers supply of ‘outdoor catering’, provided by suppliers providing ‘hotel accommodation’ at ‘specified premises’, or suppliers located in ‘specified premises’.</p> <p>(e) This entry covers composite supply of ‘outdoor catering’ together with renting of premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) provided by suppliers providing ‘hotel accommodation’ at ‘specified premises’, or suppliers located in ‘specified premises’.</p>	9	-] ⁵⁵
	<p>(vii) Supply, by way of or as part of any service or in any other manner whatsoever, of goods, including but not limited to food or any other article for human consumption or any drink (whether or not alcoholic liquor for human consumption), where such supply or service is for cash, deferred payment or other valuable consideration, in a premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organising a function) together with renting of such premises.</p>	9	-
	<p>(viii) Accommodation in hotels including five star hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having [value of supply]⁵⁶ of a unit of accommodation of seven thousand and five hundred rupees and above per unit per day or</p>	14	-

⁵⁵ Substituted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019

⁵⁶ Substituted vide notification No. 13/2018 – Central Tax (Rate) dt 26.07.2018. Prior to substitution it read “declared tariff”.

		<p>equivalent. [***]⁵⁷</p> <p>[(ix) Accommodation, food and beverage services other than (ii), (iii), (v), (vi), (vii) and (viii) above.</p> <p><i>Explanation.</i> For the removal of doubt, it is hereby clarified that, supply, by way of or as part of any service or in any other manner whatsoever, of goods, being food or any other article for human consumption or drink, where such supply or service is for cash, deferred payment or other valuable consideration, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied, other than those located in the premises of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes having declared tariff of any unit of accommodation of seven thousand five hundred rupees and above per unit per day or equivalent shall attract central tax @ 2.5% without any input tax credit under item (i) above and shall not be levied at the rate as specified under this entry.]⁵⁸</p>	9	-
8	Heading 9964 (Passenger transport services)	<p>(i) Transport of passengers, with or without accompanied belongings, by rail in first class or air conditioned coach.</p> <p>(ii) Transport of passengers, with or without accompanied belongings by-</p> <p>(a) air conditioned contract carriage other than motorcab;</p> <p>(b) air conditioned stage carriage;</p> <p>(c) radio taxi.</p> <p><i>Explanation.-</i></p>	2.5	<p>Provided that credit of input tax charged in respect of goods used in supplying the service is not utilised for paying central tax or integrated tax on the supply of the service</p> <p>Provided that credit of input tax charged on goods [and]⁵⁹ services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]</p>

⁵⁷ Omitted *Explanation* vide notification No. 13/2018-Central Tax(Rate) dt. 26.07.2018. The following was omitted: "*Explanation.-* "declared tariff" includes charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit."

⁵⁸Substituted vide notification No. 46/2017 – Central Tax (Rate) dt 14.11.2017. Prior to substitution it read: "(ix) Accommodation, food and beverage services other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viii) above."

⁵⁹ Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read "or"

	<p>(a) “contract carriage” has the meaning assigned to it in clause (7) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988);</p> <p>(b) “stage carriage” has the meaning assigned to it in clause (40) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988) ;</p> <p>(c) “radio taxi” means a taxi including a radio cab, by whatever name called, which is in two-way radio communication with a central control office and is enabled for tracking using Global Positioning System (GPS) or General Packet Radio Service (GPRS).</p>		
	(iii) Transport of passengers, with or without accompanied belongings, by air in economy class.	2.5	Provided that credit of input tax charged on goods used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
	(iv) Transport of passengers, with or without accompanied belongings, by air, embarking from or terminating in a Regional Connectivity Scheme Airport, as notified by the Ministry of Civil Aviation.	2.5	Provided that credit of input tax charged on goods used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
	[(iva) Transportation of passengers, with or without accompanied baggage, by air, by non-scheduled air transport service or charter operations, engaged by specified organisations in respect of religious pilgrimage facilitated by the Government of India, under bilateral arrangement.	2.5	Provided that credit of input tax charged on goods used in supplying the service has not been taken [Please refer to clause (iv) of paragraph 4 relating to <i>Explanation</i>]] ⁶⁰
	(v) Transport of passengers by air, with or without accompanied belongings, in other than economy class.	6	-
	[[vi) Transport of passengers by any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle), has not been

⁶⁰ Inserted vide notification No. 27/2018-Central Tax(Rate) dt. 31.12.2018.

				taken. [Please refer to Explanation no. (iv)]
				or
			6	-] ⁶¹] ⁶²
		(vii) Passenger transport services other than (i), (ii) (iii), (iv), [(iva),] ⁶³ (v) and (vi) above. (i) Transport of goods by rail (other than services specified at item no. (iv)).	9	-
9	Heading 9965 (Goods transport services)	(i) Transport of goods by rail (other than services specified at item no. (iv)).	2.5	Provided that credit of input tax charged in respect of goods in supplying the service is not utilised for paying central tax or integrated tax on the supply of the service
		(ii) Transport of goods in a vessel.	2.5	Provided that credit of input tax charged on goods (other than on ships, vessels including bulk carriers and tankers) used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
		[(iii) Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use). <i>Explanation.-</i> “goods transport agency” means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
				or
			6	Provided that the goods transport agency opting to pay central tax @ 6% under this entry shall, thenceforth, be liable to pay central tax @

⁶¹ Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read in column (3) “Transport of passengers by motorcab where the cost of fuel is included in the consideration charged from the service recipient.” and in column (5) “Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]”

⁶² Substituted vide notification No. 20/2017 – Central Tax (Rate) dt 22.08.2017. Prior to substitution there was no option to discharge CGST @6% and take full ITC.

⁶³ Inserted vide notification No. 27/2018-Central Tax(Rate) dt. 31.12.2018.

				6% on all the services of GTA supplied by it.] ⁶⁴
		(iv) Transport of goods in containers by rail by any person other than Indian Railways.	6	-
		[(v) Transportation of [natural gas, petroleum crude, motor spirit (commonly known as petrol), high speed diesel or aviation turbine fuel] ⁶⁵ through pipeline	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]
				or
			6	-] ⁶⁶
		<p>[[vi) Multimodal transportation of goods.</p> <p><i>Explanation 1.-</i></p> <p>(a) “multimodal transportation” means carriage of goods, by at least two different modes of transport from the place of acceptance of goods to the place of delivery of goods by a multimodal transporter;</p> <p>(b) “mode of transport” means carriage of goods by road, air, rail, inland waterways or sea;</p> <p>(c) “multimodal transporter” means a person who,-</p> <p>(A) enters into a contract under which he undertakes to perform multimodal transportation against freight; and</p> <p>(B) acts as principal, and not as an agent either of the consignor, or consignee or of the carrier participating in the multimodal transportation and who assumes responsibility for the performance of the said contract.</p> <p><i>[Explanation 2.-</i></p> <p>Nothing contained in this item shall apply to supply of a service other than by way of</p>	6	-] ⁶⁸ ⁶⁹

⁶⁴ Substituted vide notification No. 20/2017 – Central Tax (Rate) dt 22.08.2017. Prior to substitution there was no option to discharge CGST@6% and take full ITC subject to condition as mentioned in column (5).

⁶⁵ Substituted vide notification No. 1/2017 – Central Tax (Rate) dt 25.01.2018. Prior to substitution it read “natural gas”

⁶⁶ Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read “Goods transport services other than (i), (ii), (iii) and (iv) above”

		transport of goods from a place in India to another place in India.] ⁶⁷		
		[(vii) Goods transport services other than (i), (ii), (iii), (iv), (v) and (vi) above.	9	-] ⁷⁰
10	Heading 9966 (Rental services of transport vehicles [with operators] ⁷¹)	[[i) Renting of any motor vehicle designed to carry passengers where the cost of fuel is included in the consideration charged from the service recipient.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service, other than the input tax credit of input service in the same line of business (i.e. service procured from another service provider of transporting passengers in a motor vehicle or renting of a motor vehicle) has not been taken. [Please refer to Explanation no. (iv)]
			or	
		6	-] ⁷² ⁷³	
			[(ii) Time charter of vessels for transport of goods.	2.5
	[(iii) Rental services of transport vehicles with [* * *] ⁷⁵ operators, other than (i) and (ii) above.	9	-] ⁷⁶	

⁶⁸ Substituted vide notification No. 13/2018 – Central Tax (Rate) dt 26.07.2018. Prior to substitution it read:

“(vi) Goods transport services other than (i), (ii), (iii), (iv) and (v) above.	9	-”
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⁶⁹ Inserted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017.

⁶⁷ Inserted vide notification No. 30/2018 – Central Tax (Rate) dt 31.12.2018.

⁷⁰ Inserted vide notification No. 13/2018 – Central Tax (Rate) dt 26.07.2018.

⁷¹ Inserted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019

⁷² Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read in column (3) “Transport of passengers by motorcab where the cost of fuel is included in the consideration charged from the service recipient.” and in column (5) “Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to Explanation no. (iv)]”

⁷³ Substituted vide notification No. 20/2017 – Central Tax (Rate) dt 22.08.2017. Prior to substitution there was no option to discharge CGST @6% and take full ITC.

⁷⁴ Substituted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018. Prior to substitution it read:

“(ii) Rental services of transport vehicles with or without operators, other than (i) above.	9	-”
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⁷⁵ Omitted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019. The following was omitted “or without”

⁷⁶ Inserted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018.

11	Heading 9967 (Supporting services in transport)	[(i) Services of goods transport agency (GTA) in relation to transportation of goods (including used household goods for personal use). <i>Explanation.-</i> “goods transport agency” means any person who provides service in relation to transport of goods by road and issues consignment note, by whatever name called.	2.5	Provided that credit of input tax charged on goods and services used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
			or	
			6	Provided that the goods transport agency opting to pay central tax @ 6% under this entry shall, thenceforth, be liable to pay central tax @ 6% on all the services of GTA supplied by it.] ⁷⁷
		(ii) Supporting services in transport other than (i) above.	9	-
12	Heading 9968	Postal and courier services.	9	-
13	Heading 9969	Electricity, gas, water and other distribution services.	9	-
14	Section 7	Financial and related services; real estate services; and rental and leasing services.		
15	Heading 9971 (Financial and related services)	(i) Services provided by a foreman of a chit fund in relation to chit. <i>Explanation.-</i> (a) "chit" means a transaction whether called chit, chit fund, chitty, kuri, or by whatever name by or under which a person enters into an agreement with a specified number of persons that every one of them shall subscribe a certain sum of money (or a certain quantity of grain instead) by way of periodical instalments over a definite period and that each subscriber shall, in his turn, as determined by lot or by auction or by tender or in such other manner as may be specified in the chit agreement, be entitled to a prize amount; (b)“foreman of a chit fund” shall have the same meaning as is assigned to the expression “foreman” in clause (j) of section 2 of the Chit Funds Act, 1982 (40 of 1982).	6	Provided that credit of input tax charged on goods used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
		(ii) Transfer of the right to use any goods for any purpose (whether or not for a specified	Same rate of	-

⁷⁷Substituted vide notification No. 20/2017 – Central Tax (Rate) dt 22.08.2017. Prior to substitution there was no option to discharge CGST@6% and take full ITC subject to condition as mentioned in column (5).

	period) for cash, deferred payment or other valuable consideration.	central tax as on supply of like goods involving transfer of title in goods	
	(iii) Any transfer of right in goods or of undivided share in goods without the transfer of title thereof.	Same rate of central tax as on supply of like goods involving transfer of title in goods	-
	[*** Omitted] ⁷⁸	***	***
	[(v) Leasing of motor vehicles purchased and leased prior to 1st July 2017;	65 per cent. of the rate of	-] ⁷⁹

⁷⁸ Omitted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019. The following was omitted

(iv) Leasing of aircrafts by an operator for operating scheduled air transport service or scheduled air cargo service by way of transaction covered by clause (f) paragraph 5 of Schedule II of the Central Goods and Services Act, 2017. <i>Explanation.-</i> (a) “operator” means a person, organisation or enterprise engaged in or offering to engage in aircraft operations; (b) “scheduled air transport service” means an air transport service undertaken between the same two or more places operated according to a published time table or with flights so regular or frequent that they constitute a recognisable systematic series, each flight being open to use by members of the public; (c) “scheduled air cargo service” means air transportation of cargo or mail on a scheduled basis according to a published time table or with flights so regular or frequent that they constitute a recognisably systematic series, not open to use by passengers.	2.5	Provided that credit of input tax charged on goods used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
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⁷⁹Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read “Financial and related services other than (i), (ii), (iii), and (iv) above.”

			central tax as applicable on supply of like goods involving transfer of title in goods. Note:- Nothing contained in this entry shall apply on or after 1st July, 2020.	
		[[vi) Service of third party insurance of “goods carriage”	6	-] ⁸⁰] ⁸¹
		[(vii) Financial and related services other than (i), (ii), (iii), [* * *] ⁸² (v), and (vi) above.	9	-] ⁸³
[16	Heading 9972	(i) Services by the Central Government, State Government, Union territory or local authority to governmental authority or government entity, by way of lease of land.	Nil	-
		(ii) Supply of land or undivided share of land by way of lease or sub lease where such supply is a part of composite supply of construction of flats, etc. specified in the entry in column (3), against serial number 3, at item [(i), (ia), (ib), (ic), (id), (ie) and (if)] ⁸⁴ .	Nil	-

⁸⁰ Substituted vide notification No. 27/2018 – Central Tax (Rate) dt 31.12.2018. Prior to substitution it read:

“(vi) Financial and related services other than (i), (ii), (iii), (iv) and (v) above.	9	-”
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⁸¹ Inserted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017

⁸² Omitted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019. The following was omitted, (iv)

⁸³ Inserted vide notification No. 27/2018-Central Tax(Rate) dt. 31.12.2018.

⁸⁴ Substituted vide notification No. 3/2019-Central Tax(Rate) dt 29.03.2019. Prior to substitution it read: “sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item(d) and sub-item (da)of item (v); and sub-item (c) of item (vi)”

		Provided that nothing contained in this entry shall apply to an amount charged for such lease and sub-lease in excess of one third of the total amount charged for the said composite supply. Total amount shall have the same meaning for the purpose of this proviso as given in paragraph 2 of this notification.		
		(iii) Real estate services other than (i) and (ii) above.	9	-] ⁸⁵
17	Heading 9973 (Leasing or rental services [* * *] ⁸⁶ without operator)	(i) Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of goods other than Information Technology software.	6	-
(ii) Temporary or permanent transfer or permitting the use or enjoyment of Intellectual Property (IP) right in respect of Information Technology software. [Please refer to <i>Explanation</i> no. (v)]		9	-	
(iii) Transfer of the right to use any goods for any purpose (whether or not for a specified period) for cash, deferred payment or other valuable consideration.		Same rate of central tax as on supply of like goods involving transfer of title in goods	-	
(iv) Any transfer of right in goods or of undivided share in goods without the transfer of title thereof.		Same rate of central tax as on supply of like goods involvi	-	

⁸⁵ Substituted vide notification No. 1/2018-Central Tax (Rate) dt 25.01.2018. Prior to substitution it read:

"16	Heading 9972	Real estate services.	9	-"
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⁸⁶ Omitted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019. The following was omitted “,with or”

			ng transfe r of title in goods	
		[***	***	***Omitted] ⁸⁷
		[(vi) Leasing of motor vehicles purchased and leased prior to 1 st July 2017;	65 per cent. Of the rate of central tax as applicable on supply of like goods involving transfer of title in goods. Note:- Nothing contained in this entry shall apply on or	-] ⁸⁸

⁸⁷ Omitted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019. The following was omitted

(v) Leasing of aircrafts by an operator for operating scheduled air transport service or scheduled air cargo service by way of transaction covered by clause (f) paragraph 5 of Schedule II of the Central Goods and Services Act, 2017. <i>Explanation.-</i> (a) “operator” means a person, organisation or enterprise engaged in or offering to engage in aircraft operations; (b) “scheduled air transport service” means an air transport service undertaken between the same two or more places operated according to a published time table or with flights so regular or frequent that they constitute a recognisable systematic series, each flight being open to use by members of the public; (c) “scheduled air cargo service” means air transportation of cargo or mail on a scheduled basis according to a published time table or with flights so regular or frequent that they constitute a recognisable systematic series, not open to use by passengers.	2.5	Provided that credit of input tax charged on goods used in supplying the service has not been taken [Please refer to <i>Explanation</i> no. (iv)]
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⁸⁸Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read “Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv) and (v) above.”

			after 1 st July, 2020.	
] ⁸⁹] ⁹⁰ [Omitted] ⁹¹
		{ (viia) Leasing or renting of goods	Same rate of central tax as applica ble on supply of like goods involvi ng transfe r of title in goods.	-
		[[viii) Leasing or rental services, without operator, other than (i), (ii), (iii), (iv), (v), and (viia) above.] ⁹²	9	-] ⁹³ } ⁹⁴
18	Section 8	Business and Production Services		
19	Heading 9981	Research and development services.	9	-
20	Heading 9982	Legal and accounting services.	9	-

⁸⁹ Substituted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018. prior to substitution it read:

“(vii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v) and (vi) above.	Same rate of central tax as applicable on supply of like goods involving transfer of title in goods	-“
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⁹⁰ Inserted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017.

“(vii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v) and (vi) above.	Same rate of central tax as applicable on supply of like goods involving transfer of title in goods	-“
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⁹¹ Omitted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019. The following was omitted

[[vii) Time charter of vessels for transport of goods.	2.5	Provided that credit of input tax charged on goods (other than on ships, vessels including bulk carriers and tankers) has not been taken [Please refer to <i>Explanation</i> no. (iv)].
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⁹² Substituted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019. prior to substitution it read

[[viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi), (vii) and (viia) above.

⁹³ Inserted vide notification No. 1/2018- Central Tax (Rate) dt 25.01.2018

⁹⁴ Substituted vide notification No. 27/2018 – Central Tax (Rate) dt 31.12.2018. prior to substitution it read:

“(viii) Leasing or rental services, with or without operator, other than (i), (ii), (iii), (iv), (v), (vi) and (vii) above.	Same rate of central tax as applicable on supply of like goods involving transfer of title in goods	-“
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21	Heading 9983 (Other professional, technical and business services)	(i) Selling of space for advertisement in print media.	2.5	-
		[(ia) Other professional, technical and business services relating to exploration, mining or drilling of petroleum crude or natural gas or both	6	-] ⁹⁵
		(ii) Other professional, technical and business services other than [(i) and (ia) above] ⁹⁶ [and serial number 38 below] ⁹⁷ .	9	-
[22	Heading 9984 (Telecommunications, broadcasting and information supply services)	(i) Supply consisting only of e-book. <i>Explanation.</i> - For the purposes of this notification, “e-books” means an electronic version of a printed book (falling under tariff item 4901 in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975)) supplied online which can be read on a computer or a hand held device.	2.5	-
		(ii) Telecommunications, broadcasting and information supply services other than (i) above.	9	-] ⁹⁸
23	Heading 9985 (Support services)	(i) Supply of tour operators services. <i>Explanation.</i> - "tour operator" means any person engaged in the business of planning, scheduling, organizing, arranging tours (which may include arrangements for accommodation, sightseeing or other similar services) by any mode of transport, and includes any person engaged in the business of operating tours.	2.5	1. Provided that credit of input tax charged on goods and services used in supplying the service[, other than the input tax credit of input service in the same line of business (i.e. tour operator service procured from another tour operator)] ⁹⁹ has not been taken [Please refer to <i>Explanation</i> no. (iv)] 2. The bill issued for supply of this service indicates that it is inclusive of charges of accommodation and transportation required for such a tour and the amount charged in the bill is the gross amount charged for such a tour including the

⁹⁵ Inserted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019

⁹⁶ Substituted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019. prior to substitution it read “(i) above”

⁹⁷ Inserted vide notification No. 27/2018 – Central Tax (Rate) dt 31.12.2018.

⁹⁸ Substituted vide notification No. 13/2018-Central Tax (Rate) dt 26.07.2018. Prior to substitution it read:

“22	Heading 9984	Telecommunications, broadcasting and information supply services.	9	-“
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⁹⁹ Inserted vide notification No. 1/2018- Central Tax (Rate) dt 25.01.2018

				charges of accommodation and transportation required for such a tour.
		[(ii) Services by way of house-keeping, such as plumbing, carpentering, etc. where the person supplying such service through electronic commerce operator is not liable for registration under sub-section (1) of section 22 of the Central Goods and Services Tax Act, 2017.	2.5	Provided that credit of input tax charged on goods and services has not been taken [Please refer to <i>Explanation</i> no. (iv)]. ¹⁰⁰
		[(iii) Support services other than (i) and (ii) above.	9	-] ¹⁰¹
24	Heading 9986 [(Support services to agriculture, hunting, forestry, fishing, mining and utilities)] ¹⁰²	(i) Support services to agriculture, forestry, fishing, animal husbandry. <i>Explanation.</i> – “Support services to agriculture, forestry, fishing, animal husbandry” mean - (i) Services relating to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce by way of— (a) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or testing; (b) supply of farm labour; (c) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market; (d) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use;	Nil	-

¹⁰⁰ Substituted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018. Prior to substitution it read:

“(ii) Support services other than (i) above	9	-”
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¹⁰¹ Inserted vide notification No. 1/2018- Central Tax (Rate) dt 25.01.2018

¹⁰² Inserted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019

		<p>(e) loading, unloading, packing, storage or warehousing of agricultural produce;</p> <p>(f) agricultural extension services;</p> <p>(g) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.</p> <p>[(h) services by way of fumigation in a warehouse of agricultural produce.]¹⁰³</p> <p>(ii) Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labelling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.</p> <p>(iii) Carrying out an intermediate production process as job work in relation to cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products or agricultural produce.</p>		
		[(ii)[Support services to] ¹⁰⁴ exploration, mining or drilling of petroleum crude or natural gas or both.	6	-] ¹⁰⁵
		[(iii) Support services to mining, electricity, gas and water distribution other than (ii) above.	9	-] ¹⁰⁶
[25	Heading 9987	<p>(i) Services by way of house-keeping, such as plumbing, carpentering, etc. where the person supplying such service through electronic commerce operator is not liable for registration under sub-section (1) of section 22 of the Central Goods and Services Tax Act, 2017.</p> <p>(ii) Maintenance, repair and installation (except construction) services, other than (i) above [and serial number 38 below]¹⁰⁷.</p>	2.5	Provided that credit of input tax charged on goods and services has not been taken [Please refer to <i>Explanation</i> no. (iv)].
			9	-] ¹⁰⁸

¹⁰³ Inserted vide notification No. 1/2018- Central Tax (Rate) dt 25.01.2018

¹⁰⁴ Substituted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019. Prior to substitution it read “Service of”

¹⁰⁵ Substituted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018. Prior to substitution it read:

“(ii) Support services to mining, electricity, gas and water distribution.	9	-”
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¹⁰⁶ Inserted vide notification No. 1/2018- Central Tax (Rate) dt 25.01.2018

¹⁰⁷ Inserted vide notification No. 27/2018 – Central Tax (Rate) dt 31.12.2018.

¹⁰⁸ Substituted vide notification No. 1/2018-Central Tax (Rate) dt 25.01.2018. Prior to substitution it read:

“25	Heading 9987	Maintenance, repair and installation (except construction) services.	9	-”
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26	<p>Heading 9988 (Manufacturing services on physical inputs (goods) owned by others)</p>	<p>(i) Services by way of job work in relation to-</p> <p>(a) Printing of newspapers;</p> <p>[(b) Textiles and textile products falling under Chapter 50 to 63 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975)]¹⁰⁹;</p> <p>[(c) all products [,other than diamonds,] ¹¹⁰ falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);] ¹¹¹</p> <p>(d) Printing of books (including Braille books), journals and periodicals;</p> <p>[(da) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 2.5per cent. or Nil] ¹¹²</p> <p>(e) Processing of hides, skins and leather falling under Chapter 41 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975).</p> <p>[(ea) manufacture of leather goods or foot wear falling under Chapter 42 or 64 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975) respectively;] ¹¹³</p> <p>[(f) all food and food products falling under Chapters 1 to 22 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);</p> <p>(g) all products falling under Chapter 23 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975), except dog and cat food put up for retail sale falling under tariff item 23091000 of the said Chapter;</p> <p>(h) manufacture of clay bricks falling under tariff item 69010010 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);] ¹¹⁴</p> <p>[(i) manufacture of handicraft goods.</p> <p><i>Explanation.-</i> The expression “handicraft</p>	2.5	-
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¹⁰⁹ Substituted vide notification No. 20/2017 – Central Tax (Rate) dt 22.08.2017. Prior to substitution it read “Textile yarns (other than of man-made fibres) and textile fabrics;”

¹¹⁰ Inserted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019

¹¹¹ Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read “Cut and polished diamonds; precious and semi-precious stones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);”

¹¹² Inserted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017

¹¹³ Inserted vide notification No. 1/2018- Central Tax (Rate) dt 25.01.2018

¹¹⁴ Inserted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017

	goods” shall have the same meaning as assigned to it in the notification No. 32/2017 -Central Tax, dated the 15th September, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 1158 (E), dated the 15th September, 2017 as amended from time to time.] ¹¹⁵ [****] ¹¹⁶		
	[(ia)Services by way of job work in relation to- (a) manufacture of umbrella; (b) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 6per cent	6	-] ¹¹⁷
	[(ib) Services by way of job work in relation to diamonds falling under chapter-71 in the First Schedule to the Customs Tariff Act, 1975 (51of 1975);	0.75	-
	(ic) Services by way of job work in relation to bus body building; [“Explanation- For the purposes of this entry, the term “bus body building” shall include building of body on chassis of any vehicle falling under chapter 87 in the First Schedule to the Customs Tariff Act, 1975.”] ¹¹⁸	9	-
	(id) Services by way of job work other than (i), (ia), (ib) and (ic) above	6	-] ¹¹⁹
	[(ii) Services by way of any treatment or process on goods belonging to another person, in relation to- (a) printing of newspapers; (b) printing of books (including Braille books), journals and periodicals {(c) printing of all goods falling under Chapter 48 or 49, which attract CGST @ 2.5 per cent. or Nil.} ¹²⁰	2.5	-] ¹²¹

¹¹⁵ Inserted vide notification No. 46/2017-- Central Tax (Rate) dt. 14.11.2017

¹¹⁶ Omitted *Explanation* vide Notf 20/2017 – Central Tax (Rate) dt 22.08.2017. The following was omitted “Explanation.- “man made fibres” means staple fibres and filaments of organic polymers produced by manufacturing processes either,- (a) by polymerisation of organic monomers to produce polymers such as polyamides, polyesters, polyolefins or polyurethanes, or by chemical modification of polymers produced by this process [for example, poly(vinyl alcohol) prepared by the hydrolysis of poly(vinyl acetate)]; or (b) by dissolution or chemical treatment of natural organic polymers (for example, cellulose) to produce polymers such as cuprammonium rayon (cupro) or viscose rayon, or by chemical modification of natural organic polymers (for example, cellulose, casein and other proteins, or alginic acid), to produce polymers such as cellulose acetate or alginates”

¹¹⁷ Inserted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017

¹¹⁸ Inserted vide notification No. 26/2019 – Central Tax (Rate) dt 22.11.2019

¹¹⁹ Inserted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019

¹²⁰ Inserted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017

¹²¹ Substituted vide notification No. 20/2017 – Central Tax (Rate) dt 22.08.2017. Prior to substitution it read in column (3) “Manufacturing services on physical inputs (goods) owned by others, other than (i) above”

		[(iia) Services by way of any treatment or process on goods belonging to another person, in relation to printing of all goods falling under Chapter 48 or 49, which attract CGST @ 6per cent.	6	-] ¹²²
		[[(iii) Tailoring services.	2.5	-] ¹²³] ¹²⁴
		[(iv) Manufacturing services on physical inputs (goods) owned by others, other than (i), (ia), [(ib), (ic), (id),] ¹²⁵ (ii), (iia) and (iii) above.	9	-] ¹²⁶
27	Heading 9989	[[(i) Services by way of printing of all goods falling under Chapter 48 or 49 [including newspapers, books (including Braille books), journals and periodicals], which attract CGST @ 6 per cent. or 2.5per cent. or Nil, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer.	6	-] ¹²⁷] ¹²⁸
		[(ii) Other manufacturing services; publishing, printing and reproduction services; materials recovery services, other than (i) above.	9	-] ¹²⁹
28	Section 9	Community, Social and Personal Services and other miscellaneous services		
29	Heading 9991	Public administration and other services provided to the community as a whole; compulsory social security services.	9	-
30	Heading 9992	Education services.	9	-
31	Heading 9993	Human health and social care services.	9	-
[32	Heading 9994	(i) Services by way of treatment of effluents by a Common Effluent Treatment Plant.	6	-
		(ii) Sewage and waste collection, treatment	9	-] ¹³⁰

¹²² Inserted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017

¹²³ Substituted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018. Prior to substitution it read:

“(iii) Manufacturing services on physical inputs (goods) owned by others, other than (i) {, (ia), (ii) and (iia)} ^A above.	9	-”
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A. inserted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read “and (ii)”

¹²⁴ Inserted vide notification No. 20/2017 – Central Tax (Rate) dt 22.08.2017

¹²⁵ Inserted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019

¹²⁶ Inserted vide notification No. 1/2018- Central Tax (Rate) dt 25.01.2018

¹²⁷ Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read “Services by way of printing of newspapers, books (including Braille books), journals and periodicals, where only content is supplied by the publisher and the physical inputs including paper used for printing belong to the printer.”

¹²⁸ Inserted vide notification No. 20/2017 – Central Tax (Rate) dt 22.08. 2017

¹²⁹ Substituted vide notification No. 20/2017 – Central Tax (Rate) dt 22.08. 2017. Prior to substitution it read “Other manufacturing services; publishing, printing and reproduction services; materials recovery services.”

¹³⁰ Substituted vide notification No. 1/2018-Central Tax (Rate) dt 25.01.2018. Prior to substitution it read:

		and disposal and other environmental protection services other than (i) above.		
33	Heading 9995	Services of membership organisations.	9	-
34	Heading 9996 (Recreational, cultural and sporting services)	(i) Services by way of admission or access to circus, Indian classical dance including folk dance, theatrical performance, drama [or planetarium] ¹³¹ .	9	-
		(ii) Services by way of admission to exhibition of cinematograph films where price of admission ticket is one hundred rupees or less.	[6] ¹³²	-
		[(iia) Services by way of admission to exhibition of cinematograph films where price of admission ticket is above one hundred rupees.	9	-] ¹³³
		[(iii) Services by way of admission to amusement parks including theme parks, water parks, joy rides, merry-go rounds, go-carting and ballet.	9	-] ¹³⁴
		[(iia) Services by way of admission to entertainment events or access to amusement facilities including [***] ¹³⁵ casinos, race club, any sporting event such as Indian Premier League and the like.	14	-] ¹³⁶
		(iv) Services provided by a race club by way of totalisator or a license to bookmaker in such club.	14	-
		(v) Gambling.	14	-
		(vi) Recreational, cultural and sporting services other than (i), (ii), [(iia)] ¹³⁷ (iii), [(iia)], ¹³⁸ (iv) and (v) above.	9	-

"32	Heading 9994	Sewage and waste collection, treatment and disposal and other environmental protection services	9	-"
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¹³¹ Inserted vide notification No. 20/2017 – Central Tax (Rate) dt 22.08.2017

¹³² Substituted vide notification No. 27/2018 – Central Tax (Rate) dt 31.12.2018. Prior to substitution it read "9"

¹³³ Inserted vide notification No. 27/2018 – Central Tax (Rate) dt 31.12.2018

¹³⁴ Substituted vide notification No. 1/2018 – Central Tax (Rate) dt 25.01.2018. Prior to substitution it read:

"(iii) Services by way of admission to entertainment events or access to amusement facilities including exhibition of cinematograph films, theme parks, water parks, joy rides, merry-go rounds, go-carting, casinos, race-course, ballet, any sporting event such as Indian Premier League and the like.	14	-"
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¹³⁵ Omitted vide notification No. 27/2018 – Central Tax (Rate) dt 31.12.2018. The following was omitted: "exhibition of cinematograph films,"

¹³⁶ Inserted vide notification No. 1/2018- Central Tax (Rate) dt 25.01.2018

¹³⁷ Inserted vide notification No. 27/2018 – Central Tax (Rate) dt 31.12.2018.

35	Heading 9997	Other services (washing, cleaning and dyeing services; beauty and physical well-being services; and other miscellaneous services including services nowhere else classified).	9	-
36	Heading 9998	Domestic services.	9	-
37	Heading 9999	Services provided by extraterritorial organisations and bodies.	9	-
[38.	Heading 9954 or 9983 or 9987	<p>Service by way of construction or engineering or installation or other technical services, provided in relation of setting up of following, -</p> <p>(a) Bio-gas plant (b) Solar power based devices (c) Solar power generating system (d) Wind mills, Wind Operated Electricity Generator (WEOG) (e) Waste to energy plants / devices (f) Ocean waves/tidal waves energy devices/plants</p> <p><i>Explanation:-</i> This entry shall be read in conjunction with serial number 234 of Schedule I of the notification No. 1/2017-Central Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 673(E) dated 28th June, 2017.</p>	9	-] ¹³⁹
[39.	Chapter 99	<p>Supply of services other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI) by an unregistered person to a promoter for construction of a project on which tax is payable by the recipient of the services under sub- section 4 of section 9 of the Central Goods and Services Tax Act, 2017 (12 of 2017), as prescribed in notification No. 07 / 2019- Central Tax (Rate), dated 29th March, 2019, published in Gazette of India vide G.S.R. No. __, dated 29th March, 2019.</p> <p><i>Explanation. -</i> This entry is to be taken to apply to all</p>	9	-] ¹⁴⁰

¹³⁸ Inserted vide notification No. 1/2018- Central Tax (Rate) dt 25.01.2018

¹³⁹ Inserted vide notification No. 27/2018 – Central Tax (Rate) dt 31.12.2018.

¹⁴⁰ Inserted vide notification No. 3/2019- Central Tax (Rate) dt 29.03.2019.

		services which satisfy the conditions prescribed herein, even though they may be covered by a more specific chapter, section or heading elsewhere in this notification.		
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[2. In case of supply of service specified in column (3), in item [(i), (ia), (ib), (ic), (id), (ie) and (if)]¹⁴¹, against serial number 3 of the Table above, involving transfer of land or undivided share of land, as the case may be, the value of such supply shall be equivalent to the total amount charged for such supply less the value of transfer of land or undivided share of land, as the case may be, and the value of such transfer of land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the total amount charged for such supply.

Explanation. –For the purposes of this paragraph, “total amount” means the sum total of,-

(a) consideration charged for aforesaid service; and

(b) amount charged for transfer of land or undivided share of land, as the case may be including by way of lease or sublease.]¹⁴²

[2A. Where a [* * *]¹⁴³ person transfers development right or FSI (including additional FSI) to a promoter against consideration, wholly or partly, in the form of construction of apartments, the value of construction service in respect of such apartments shall be deemed to be equal to the Total Amount charged for similar apartments in the project from the independent buyers, other than the person transferring the development right or FSI (including additional FSI), nearest to the date on which such development right or FSI (including additional FSI) is transferred to the promoter, less the value of transfer of land, if any, as prescribed in paragraph 2 above.]¹⁴⁴

3. Value of supply of lottery shall be 100/112 of the face value or the price notified in the Official Gazette by the organising State, whichever is higher, in case of lottery run by State Government and 100/128 of the face value or the price notified in the Official Gazette by the organising State, whichever is higher, in case of lottery authorised by State Government.

4. *Explanation.* –For the purposes of this notification,-

(i) Goods includes capital goods.

¹⁴¹ Substituted vide notification No. 3/2019- Central Tax – (Rate) dt 29.03.2019. Prior to substitution it read: “sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi),”

¹⁴² Substituted vide notification No. 1/2018- Central Tax- (Rate) dt 25.01.2018. Prior to substitution it read: “2. In case of supply of service specified in column (3) of the entry [at item (i), item (iv) [sub-item (b), sub-item (c) and sub-item (d)], item (v) [sub-item (b), sub-item (c) and sub-item (d)], item (vi) [sub-item (c)]]^A against serial no. 3 of the Table above, involving transfer of property in land or undivided share of land, as the case may be, the value of supply of service and goods portion in such supply shall be equivalent to the total amount charged for such supply less the value of land or undivided share of land, as the case may be, and the value of land or undivided share of land, as the case may be, in such supply shall be deemed to be one third of the total amount charged for such supply.

Explanation. –For the purposes of paragraph 2, “total amount” means the sum total of,-

(a) consideration charged for aforesaid service; and

(b) amount charged for transfer of land or undivided share of land, as the case may be.”

A. Substituted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017. Prior to substitution it read “at item (i)”

¹⁴³ Omitted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019. The following was omitted “Registered”

¹⁴⁴ Inserted vide notification No. 3/2019- Central Tax – (Rate) dt 29.03.2019.

(ii) Reference to “Chapter”, “Section” or “Heading”, wherever they occur, unless the context otherwise requires, shall mean respectively as “Chapter”, “Section” and “Heading” in the annexed scheme of classification of services (Annexure).

(iii) The rules for the interpretation of the First Schedule to the Customs Tariff Act, 1975 (51 of 1975), the Section and Chapter Notes and the General Explanatory Notes of the First Schedule shall, so far as may be, apply to the interpretation of heading 9988.

(iv) Wherever a rate has been prescribed in this notification subject to the condition that credit of input tax charged on goods or services used in supplying the service has not been taken, it shall mean that,-

(a) credit of input tax charged on goods or services used exclusively in supplying such service has not been taken; and

(b) credit of input tax charged on goods or services used partly for supplying such service and partly for effecting other supplies eligible for input tax credits, is reversed as if supply of such service is an exempt supply and attracts provisions of sub-section (2) of section 17 of the Central Goods and Services Tax Act, 2017 and the rules made thereunder.

(v) "information technology software" means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data processing machine or any other device or equipment.

(vi) “agricultural extension” means application of scientific research and knowledge to agricultural practices through farmer education or training.

(vii) “agricultural produce” means any produce out of cultivation of plants and rearing of all life forms of animals, except the rearing of horses, for food, fibre, fuel, raw material or other similar products, on which either no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market.

(viii) “Agricultural Produce Marketing Committee or Board” means any committee or board constituted under a State law for the time being in force for the purpose of regulating the marketing of agricultural produce.

[(ix) “Governmental Authority” means 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 90per cent. or more participation by way of equity or control, to carry out any function entrusted to a Municipality under article 243 W of the Constitution or to a Panchayat under article 243 G of the Constitution.

(x) “Government Entity” means an authority or a board or any other body including a society, trust, corporation,-

(i) set up by an Act of Parliament or State Legislature; or

(ii) established by any Government,

with 90per cent. or more participation by way of equity or control, to carry out a function entrusted by the Central Government, State Government, Union Territory or a local authority.]¹⁴⁵

[(xi) “specified organisation” shall mean, -

¹⁴⁵ Inserted vide notification No. 31/2017 – Central Tax (Rate) dt 13.10.2017

(a) Kumaon Mandal Vikas Nigam Limited, a Government of Uttarakhand Undertaking; or
(b) ‘Committee’ or ‘State Committee’ as defined in section 2 of the Haj Committee Act, 2002 (35 of 2002).

(xii) “goods carriage” has the same meaning as assigned to it in clause (14) of section 2 of the Motor Vehicles Act, 1988 (59 of 1988).]¹⁴⁶

[(xiii) an apartment booked on or before the 31st March, 2019 shall mean an apartment which meets all the following three conditions, namely- (a) part of supply of construction of which has time of supply on or before the 31st March, 2019 and (b) at least one instalment has been credited to the bank account of the registered person on or before the 31st March, 2019 and (c) an allotment letter or sale agreement or any other similar document evidencing booking of the apartment has been issued on or before the 31st March, 2019;

(xiv) the term “apartment” shall have the same meaning as assigned to it in clause (e) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(xv) the term “project” shall mean a Real Estate Project or a Residential Real Estate Project;

(xvi) the term “affordable residential apartment” shall mean, -

- (a) a residential apartment in a project which commences on or after 1st April, 2019, or in an ongoing project in respect of which the promoter has not exercised option in the prescribed form to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be, having carpet area not exceeding 60 square meter in metropolitan cities or 90 square meter in cities or towns other than metropolitan cities and for which the gross amount charged is not more than forty five lakhs rupees.

For the purpose of this clause, -

- (i) Metropolitan cities are Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR) with their respective geographical limits prescribed by an order issued by the Central or State Government in this regard;

(ii) Gross amount shall be the sum total of; -

- A. Consideration charged for the services specified at item (i) and (ic) in column (3) against sl. No. 3 in the Table;
- B. Amount charged for the transfer of land or undivided share of land, as the case may be including by way of lease or sub lease; and
- C. Any other amount charged by the promoter from the buyer of the apartment including preferential location charges, development charges, parking charges, common facility charges etc.

(b) an apartment being constructed in an ongoing project under any of the schemes specified in sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub-item (da) of item (v); and sub-item (c) of item (vi), against serial number 3 of the Table above, in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be.

(xvii) the term “promoter” shall have the same meaning as assigned to it in in clause (zk) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(xviii) the term “Real Estate Project (REP)” shall have the same meaning as assigned to it in in clause (zn) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

¹⁴⁶ Inserted vide notification No. 27/2018 – Central Tax (Rate) dt 31.12.2018.

(xix) the term “Residential Real Estate Project (RREP)” shall mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP;

(xx) the term “ongoing project” shall mean a project which meets all the following conditions, namely-

- (a) commencement certificate in respect of the project, where required to be issued by the competent authority, has been issued on or before 31st March, 2019, and it is certified by any of the following that construction of the project has started on or before 31st March, 2019:-
 - (i) an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972); or
 - (ii) a chartered engineer registered with the Institution of Engineers (India); or
 - (iii) a licensed surveyor of the respective local body of the city or town or village or development or planning authority.
- (b) where commencement certificate in respect of the project, is not required to be issued by the competent authority, it is certified by any of the authorities specified in sub- clause (a) above that construction of the project has started on or before the 31st March, 2019;
- (c) completion certificate has not been issued or first occupation of the project has not taken place on or before the 31st March, 2019;
- (d) apartments being constructed under the project have been, partly or wholly, booked on or before the 31st March, 2019.

Explanation.- For the purpose of sub- clause (a) and (b) above , construction of a project shall be considered to have started on or before the 31st March, 2019, if the earthwork for site preparation for the project has been completed and excavation for foundation has started on or before the 31st March, 2019.

(xxi) "commencement certificate" means the commencement certificate or the building permit or the construction permit, by whatever name called issued by the competent authority to allow or permit the promoter to begin development works on an immovable property, as per the sanctioned plan;

(xxii) "development works" means the external development works and internal development works on immovable property;

(xxiii) "external development works" includes roads and road systems landscaping, water supply, sewage and drainage systems, electricity supply transformer, sub-station, solid waste management and disposal or any other work which may have to be executed in the periphery of, or outside, a project for its benefit, as may be provided under the local laws;

(xxiv) "internal development works" means roads, footpaths, water supply, sewers, drains, parks, tree planting, street lighting, provision for community buildings and for treatment and disposal of sewage and sullage water, solid waste management and disposal, water conservation, energy management, fire protection and fire safety requirements, social infrastructure such as educational health and other public amenities or any other work in a project for its benefit, as per sanctioned plans;

(xxv) the term "competent authority" as mentioned in definition of “commencement certificate” and “residential apartment” , means the local authority or any authority created or established under any law for the time being in force by the Central Government or State Government or

Union Territory Government, which exercises authority over land under its jurisdiction, and has powers to give permission for development of such immovable property;

(xxvi) The term “carpet area” shall have the same meaning assigned to it in in clause (k) of section 2 of the Real Estate (Regulation and Development) Act, 2016 (16 of 2016);

(xxvii) the term “Real Estate Regulatory Authority” shall mean the Authority established under sub- section (1) of section 20 (1) of the Real Estate (Regulation and Development) Act, 2016 (No. 16 of 2016) by the Central Government or State Government;

(xxviii) “project which commences on or after 1st April, 2019” shall mean a project other than an ongoing project;

(xxix) “Residential apartment” shall mean an apartment intended for residential use as declared to the Real Estate Regulatory Authority or to competent authority;

(xxx) “Commercial apartment” shall mean an apartment other than a residential apartment;

(xxxi) “floor space index (FSI)” shall mean the ratio of a building’s total floor area (gross floor area) to the size of the piece of land upon which it is built.]¹⁴⁷

[(xxxii) “Restaurant service” means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, provided by a restaurant, eating joint including mess, canteen, whether for consumption on or away from the premises where such food or any other article for human consumption or drink is supplied.

(xxxiii) “Outdoor catering” means supply, by way of or as part of any service, of goods, being food or any other article for human consumption or any drink, at Exhibition Halls, Events, Conferences, Marriage Halls and other outdoor or indoor functions that are event based and occasional in nature.

(xxxiv) “Hotel accommodation” means supply, by way of accommodation in hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes including the supply of time share usage rights by way of accommodation.

(xxxv) “Declared tariff” means charges for all amenities provided in the unit of accommodation (given on rent for stay) like furniture, air conditioner, refrigerators or any other amenities, but without excluding any discount offered on the published charges for such unit.

(xxxvi) “Specified premises” means premises providing ‘hotel accommodation’ services having declared tariff of any unit of accommodation above seven thousand five hundred rupees per unit per day or equivalent.”.]¹⁴⁸

5. This notification shall come into force with effect from 1st day of July, 2017.

[F.No. 334/1/2017-TRU]

(Ruchi Bisht)

Under Secretary to the Government of India

¹⁴⁷ Inserted vide notification No. 3/2019- Central Tax (Rate) dated 29.03.2019.

¹⁴⁸ Inserted vide notification No. 20/2019 – Central Tax (Rate) dt 30.09.2019.

[Real estate project (REP) other than Residential Real estate project (RREP)

Input tax credit attributable to construction of residential portion in a real estate project (REP) other than residential real estate project (RREP), which has time of supply on or after 1st April, 2019, shall be calculated project wise for all projects which commence on or after 1st April, 2019 or ongoing projects in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be, in the prescribed manner, before the due date for furnishing of the return for the month of September following the end of financial year 2018-19, in the following manner:

1. Where % completion as on 31st March, 2019 is not zero or where there is inventory in stock

(a) Input tax credit on inputs and input services attributable to construction of residential portion in a REP, which has time of supply on or after 1st April, 2019, may be denoted as Tx. Tx shall be calculated as under:

$$Tx = T - T_e$$

Where,

- (i) T is the total ITC availed (utilized or not) on inputs and input services used in construction of the REP from 1st July, 2017 to 31st March, 2019 including transitional credit taken on 1st July, 2017;
- (ii) T_e is the eligible ITC attributable to (a) construction of commercial portion and (b) construction of residential portion, in the REP which has time of supply on or before 31st March, 2019;

(b) T_e shall be calculated as under:

$$T_e = T_c + T_r$$

Where, -

T_c is the ITC attributable to construction of commercial portion in the REP, calculated as under:

$T_c = T * (\text{carpet area of commercial apartments in the REP} / \text{total carpet area of commercial and residential apartments in the REP})$ and

T_r is the ITC attributable to construction of residential portion in the REP which has time of supply on or before 31st March, 2019 and which shall be calculated as under,

$$T_r = T * F_1 * F_2 * F_3 * F_4$$

Where, -

$$F_1 = \frac{\text{Carpet area of residential apartments in REP}}{\text{Total carpet area of commercial and residential apartments in the REP}}$$

$$F_2 = \frac{\text{Total carpet area of residential apartment booked on or before 31st March, 2019}}{\text{Total carpet area of the residential apartment in REP}}$$

$$F_3 = \frac{\text{Such Value of supply of construction of residential apartments booked on or before 31st March, 2019 which has time of supply on or before 31st March, 2019}}{\text{Total value of supply of construction of residential apartments booked on or before 31st March, 2019}}$$

(F3 is to account for percentage invoicing of booked residential apartments)

$$F_4 = \frac{1}{\% \text{ Completion of construction as on 31st March, 2019}}$$

Illustration: where one- fifth (twenty percent) of the construction has been completed, F_4 shall be $100 \div 20 = 5$.

Explanation: “% Completion of construction as on 31st March, 2019” shall be the same as declared to the Real Estate Regulatory Authority in terms of section 4 and section 11 of Real Estate (Regulation and Development) Act, 2016 (16 of 2016) and where the same is not required to be declared to the Real Estate Regulatory Authority, it shall be got determined and certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India).

(c) A registered person shall have the option to calculate ‘Te’ in the manner prescribed below instead of the manner prescribed in (b) above,-

Te shall be calculated as under:

$$Te = Tc + T1 + Tr$$

Where, -

Tc is the ITC attributable to construction of commercial portion in the REP, calculated as under:

$Tc = T3 * (\text{carpet area of commercial apartments in the REP} / \text{total carpet area of commercial and residential apartments in the REP});$

Wherein

$$T3 = T - (T1 + T2)$$

T1 = ITC attributable exclusively to construction of commercial portion in the REP

T2 = ITC attributable exclusively to construction of residential portion in the REP

and

Tr is the ITC attributable to construction of residential portion in the REP which has time of supply on or before 31.03.2019 and which shall be calculated as under,

$$Tr = (T3 + T2) * F_1 * F_2 * F_3 * F_4$$

or

$$Tr = (T - T1) * F_1 * F_2 * F_3 * F_4$$

(d) The amounts 'Tx' and 'Te' shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(e) Where, Tx is positive, i.e. $Te < T$, the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equal to the difference between T and Te. Such amount shall form part of the output tax liability of the registered person and the amount shall be furnished in FORM GST DRC- 03.

Explanation: The registered person may file an application in FORM GST DRC- 20, seeking extension of time for the payment of taxes or any amount due or for allowing payment of such taxes or amount in installments in accordance with the provisions of section 80. The commissioner may issue an order in FORM GST DRC- 21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly installments, not exceeding twenty-four, as he may deem fit.

(f) Where Tx is negative, i.e. $Te > T$, the registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of residential portion in the REP, for which he shall not otherwise be eligible, to the extent of difference between Te and T.

(g) The registered person may calculate Tc and utilize credit to the extent of Tc for payment of tax on commercial apartments, till the complete accounting of Tx is carried out and submitted.

(h) Where percentage completion is zero but ITC has been availed on goods and services received for the project on or prior to 31st March, 2019, input tax credit attributable to construction of residential portion which has time of supply on or after 1st April, 2019, shall be calculated and the amount equal to Tx shall be paid or taken credit of, as the case may be, as prescribed above, with the modification that percentage completion for calculation of F₄ shall be taken as the percentage completion which, as certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India), can be achieved with the input services received and inputs in stock as on 31st March, 2019.

2. Where % completion as on 31st March, 2019 is zero but invoicing has been done having time of supply before 31st March, 2019, and no input services or inputs have been received as on 31st March, 2019, “Te” shall be calculated as follows: -

(a) Input tax credit on inputs and input services attributable to construction of residential portion in a REP, which has time of supply on or before 31st March, 2019 may be denoted as Te which shall be calculated as under,

$$Te = Tc + Tr$$

Where, -

Tc is the ITC attributable to construction of commercial portion in the REP, calculated as under:

$Tc = Tn * (\text{carpet area of commercial apartments in the REP} / \text{total carpet area of commercial and residential apartments in the REP})$ and

Tr is the ITC attributable to construction of residential portion in the REP which has time of supply on or before 31st March, 2019 and which shall be calculated as under,

$$Tr = Tn * F_1 * F_2 * F_3$$

Where, -

Tn= Tax paid on such inputs and input services on which ITC is available under the CGST Act, received in 2019-20 for construction of REP

F1, F2 and F3 shall be the same as in para 1 above

(b) The registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of residential portion in the REP, for which he shall not otherwise be eligible, to the extent of the amount of Te.

(c) The amount ‘Te’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

3. Notwithstanding anything contained in paragraph 1 or paragraph 2 above, Te shall be determined in the following situations as under:

- (i) where percentage invoicing is more than the percentage completion and the difference between percentage invoicing (per cent. points) and the percentage completion (per cent. points) of construction is more than 25 per cent. points; the value of percentage invoicing shall be deemed to be percentage completion plus 25 percent. points;
- (ii) where the value of invoices issued on or prior to 31st March, 2019 exceeds the consideration actually received on or prior to 31st March, 2019 by more than 25 per cent. of consideration actually received; the value of such invoices for the purpose of determination of percentage invoicing shall be deemed to be actual consideration received plus 25 percent. of the actual consideration received; and

- (iii) where, the value of procurement of inputs and input services prior to 1st April, 2019 exceeds the value of actual consumption of the inputs and input services used in the percentage of construction completed as on 31st March, 2019 by more than 25 percent. of value of actual consumption of inputs and input services, the jurisdictional commissioner or any other officer authorized in this regard may fix the Te based on actual per unit consumption of inputs and input services based on the documents duly certified by a chartered accountant or cost accountant submitted by the promoter in this regard, applying the accepted principles of accounting.

Illustration 1:

Sl. No	Details of a REP (Res + Com)			
	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		75	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	5250	sqm
5	value of each residential apartment		0.60	crore
6	Total value of the residential apartments	$C2 * C5$	45.00	crore
7	No. of commercial apartments in the project		25	units
8	Carpet area of the commercial apartment		30	sqm
9	Total carpet area of the commercial apartments	$C7 * C8$	750	sqm
10	Total carpet area of the project (Resi + Com)	$C4 + C9$	6000	sqm
11	Percentage completion as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
12	No of residential apartments booked before transition		40	units
13	Total carpet area of the residential apartments booked before transition	$C12 * C3$	2800	sqm
14	Value of booked residential apartments	$C5 * C12$	24	crore
15	Percentage invoicing of booked residential apartments on or before 31.03.2019		20%	
16	Total value of supply of residential apartments having t.o.s. prior to transition	$C14 * C15$	4.8	crore
17	ITC to be reversed on transition, $T_x = T - T_e$			
18	Eligible ITC (Te) = $T_c + T_r$			
19	T (*see notes below)		1	crore
20	$T_c = T_x$ (carpet area of commercial apartments in the REP/ total carpet area of commercial and residential apartments in the REP)	$C19 * (C9 / C10)$	0.125	crore
21	$T_r = T_x F1 \times F2 \times F3 \times F4$			
22	F1	$C4 / C10$	0.875	
23	F2	$C13 / C4$	0.533	
24	F3	$C16 / C14$	0.200	
25	F4	$1 / C11$	5	
26	$T_r = T_x F1 \times F2 \times F3 \times F4$	$C19 * C22 * C23 * C24 * C25$	0.467	crore
27	Eligible ITC (Te) = $T_c + T_r$	$C26 + C20$	0.592	crore
28	ITC to be reversed on transition, $T_x = T - T_e$	$C19 - C27$	0.408	crore
	* Note:-			
	1. The value of T at C19 has been estimated for illustration based on weighted average tax on inputs.			
	2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.			

Illustration 2:

Sl. No	Details of a REP (Res + Com)			
	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		75	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	5250	sqm
5	value of each residential apartment		0.60	crore
6	Total value of the residential apartments	$C2 * C5$	45.00	crore
7	No. of commercial apartments in the project		25	units
8	Carpet area of the commercial apartment		30	sqm
9	Total carpet area of the commercial apartments	$C7 * C8$	750	sqm
10	Total carpet area of the project (Resi + Com)	$C4 + C9$	6000	sqm
11	Percentage completion (Pc) as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
12	No of residential apartments booked before transition		40	units
13	Total carpet area of the residential apartments booked before transition	$C12 * C3$	2800	sqm
14	Value of booked residential apartments	$C5 * C12$	24	crore
15	Percentage invoicing of booked residential apartments on or before 31.03.2019		60%	
16	Total value of supply of residential apartments having t.o.s. prior to transition	$C14 * C15$	14.4	crore
17	ITC to be reversed on transition, $T_x = T - T_e$			
18	Eligible ITC (Te) = $T_c + T_r$			
19	T (*see notes below)		1	crore
20	$T_c = T * x$ (carpet area of commercial apartments in the REP/ total carpet area of commercial and residential apartments in the REP)	$C19 * (C9 / C10)$	0.125	crore
21	$T_r = T * F1 * F2 * F3 * F4$			
22	F1	$C4 / C10$	0.875	
23	F2	$C13 / C4$	0.533	
24	F3	$C16 / C14$	0.600	
25	F4	$1 / C11$	5	
26	$T_r = T * F1 * F2 * F3 * F4$	$C19 * C22 * C23 * C24 * C25$	1.400	crore
27	Eligible ITC (Te) = $T_c + T_r$	$C26 + C20$	1.525	crore
28	ITC to be reversed/ taken on transition, $T_x = T - T_e$	$C19 - C27$	-0.525	crore
29	T_x after application of cap on % invoicing vis-a-vis Pc			
30	% completion		20%	
31	% invoicing		60%	
32	% invoicing after application of cap ($P_c + 25\%$)	$C11 + 25\%$	45%	
33	Total value of supply of residential apartments having t.o.s. prior to transition	$C14 * C32$	10.80	crore
34	F3 after application of cap	$C33 / C14$	0.45	
35	$T_r = T * F1 * F2 * F3 * F4$ (after application of cap)	$C19 * C22 * C23 * C34 * C25$	1.05	crore
36	Eligible ITC (Te) = $T_c + T_r$ (after application of cap)	$C20 + C35$	1.18	crore
37	ITC to be reversed / taken on transition, $T_x = T - T_e$ (after application of cap)	$C19 - C36$	-0.18	crore
38	T_x after application of cap on % invoicing vis-a-vis Pc and payment realisation			
39	% invoicing after application of cap ($P_c + 25\%$)		45%	
40	Total value of supply of residential apartments having t.o.s. prior to transition	C33	10.80	crore
41	Consideration received		8.00	crore
42	Total value of supply of residential apartments having t.o.s. prior to transition after application of cap vis-a-vis consideration received	$8 \text{ cr} + 25\% \text{ of } 8 \text{ Cr}$	10.00	crore
43	F3 after application of both the caps	$C42 / C14$	0.42	
44	$T_r = T * F1 * F2 * F3 * F4$ (after application of both the caps)	$C19 * C22 * C23 * C43 * C25$	0.97	
45	Eligible ITC (Te) = $T_c + T_r$ (after application of both the caps)	$C20 + C44$	1.10	
46	ITC to be reversed / taken on transition, $T_x = T - T_e$ (after application of both the caps)	$C19 - C45$	-0.10	crore
	* Note:-			
	1. The value of T at C19 has been estimated for illustration based on weighted average tax on inputs.			
	2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.			

Residential Real estate project (RREP)

Input tax credit attributable to construction of residential and commercial portion in a Residential Real estate project (RREP), which has time of supply on or after 1st April, 2019, shall be calculated project wise for all projects which commence on or after 1st April, 2019 or ongoing projects in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be, in the prescribed manner, before the due date for furnishing of the return for the month of September following the end of financial year 2018-19, in the following manner:

1. Where % completion as on 31st March, 2019 is not zero or where there is inventory in stock

(a) Input tax credit on inputs and input services attributable to construction of residential and commercial portion in an RREP, which has time of supply on or after 1st April, 2019, may be denoted as Tx. Tx shall be calculated as under:

$$Tx = T - T_e$$

Where,

- (i) T is the total ITC availed (utilized or not) on inputs and input services used in construction of the RREP from 1st July, 2017 to 31st March, 2019 including transitional credit taken on 1st July, 2017;
- (ii) T_e is the eligible ITC attributable to construction of commercial portion and construction of residential portion, in the RREP which has time of supply on or before 31st March, 2019;

(b) T_e shall be calculated as under:

$$T_e = T * F_1 * F_2 * F_3 * F_4$$

Where, -

$$F_1 = \frac{\text{Carpet area of residential and commercial apartments in the RREP}}{\text{Total carpet area of apartments in the RREP}}$$

(In case of a Residential Real Estate Project, value of “F1” shall be 1.)

$$F_2 = \frac{\text{Total carpet area of residential and commercial apartment booked on or before 31st March, 2019}}{\text{Total carpet area of the residential and commercial apartment in the RREP}}$$

Such value of supply of construction of residential and commercial apartments booked on or before 31st March, 2019 which has time of supply on or before 31st March, 2019

$$F_3 = \frac{\text{Such value of supply of construction of residential and commercial apartments booked on or before 31}^{\text{st}} \text{ March, 2019}}{\text{Total value of supply of construction of residential and commercial apartments booked on or before 31}^{\text{st}} \text{ March, 2019}}$$

(F3 is to account for percentage invoicing of booked residential apartments)

$$F_4 = \frac{1}{\% \text{ Completion of construction as on 31}^{\text{st}} \text{ March, 2019}}$$

Illustration: where one- fifth (twenty percent) of the construction has been completed, F_4 shall be $100 \div 20 = 5$.

Explanation: “% Completion of construction as on 31st March, 2019” shall be the same as declared to the Real Estate Regulatory Authority in terms of section 4 and section 11 of Real Estate (Regulation and Development) Act, 2016 and where the same is not required to be declared to the Real Estate Regulatory Authority, it shall be got determined and certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India).

(c) The amounts ‘Tx’ and ‘Te’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(d) Where, Tx is positive, i.e. $T_e < T$, the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equal to the difference between T and T_e . Such amount shall form part of the output tax liability of the registered person and the amount shall be furnished in FORM GST DRC- 03.

Explanation: The registered person may file an application in FORM GST DRC- 20, seeking extension of time for the payment of taxes or any amount due or for allowing payment of such taxes or amount in installments in accordance with the provisions of section 80. The commissioner may issue an order in FORM GST DRC- 21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly installments, not exceeding twenty-four, as he may deem fit.

(e) Where, Tx is negative, i.e. $T_e > T$, the registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of the RREP, for which he shall not otherwise be eligible, to the extent of difference between T_e and T.

(f) Where percentage completion is zero but ITC has been availed on goods and services received for the project on or prior to 31st March, 2019, input tax credit attributable to construction of residential and commercial portion which has time of supply on or after 1st April, 2019, shall be calculated and the amount equal to Tx shall be paid or taken credit of, as the case may be, as prescribed above, with the modification that percentage completion for calculation of F_4 shall be taken as the percentage completion which, as certified by an architect registered with the Council of

Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India), can be achieved with the input services received and inputs in stock as on 31st March, 2019.

2. Where % completion as on 31st March, 2019 is zero but invoicing has been done having time of supply before 31st March, 2019, and no input services or inputs have been received as on 31st March, 2019, “Te” shall be calculated as follows: -

(a) Input tax credit on inputs and input services attributable to construction of residential and commercial portion in an RREP, which has time of supply on or before 31st March, 2019 may be denoted as Te which shall be calculated as under,

$$Te = Tn * F_1 * F_2 * F_3$$

Where, -

Tn= Tax paid on such inputs and input services on which ITC is available under the CGST Act, received in 2019-20 for construction of residential and commercial apartments in the RREP.

F1, F2 and F3 shall be the same as in para 1 above

(b) The registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of residential or commercial portion in the RREP, for which he shall not otherwise be eligible, to the extent of the amount of Te.

(c) The amount ‘Te’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

3. Notwithstanding anything contained in paragraph 1 or paragraph 2 above, Te shall be determined in the following situations as under:

- (i) where percentage invoicing is more than the percentage completion and the difference between percentage invoicing (per cent. points) and the percentage completion (per cent. points) of construction is more than 25 per cent. points; the value of percentage invoicing shall be deemed to be percentage completion plus 25 percent. points;
- (ii) where the value of invoices issued on or prior to 31st March, 2019 exceeds the consideration actually received on or prior to 31st March, 2019 by more than 25 per cent. of consideration actually received; the value of such invoices for the purpose of determination of percentage invoicing shall be deemed to be actual consideration received plus 25 per cent. of the actual consideration received; and
- (iii) where, the value of procurement of inputs and input services prior to 1st April, 2019 exceeds the value of actual consumption of the inputs and input services used in the percentage of construction completed as on 31st March, 2019 by more than 25 per cent. of value of actual consumption of inputs and input services, the jurisdictional commissioner or any other officer authorized in this regard may fix the Te based on actual per unit consumption of inputs and input services based on the documents duly certified by a

chartered accountant or cost accountant submitted by the promoter in this regard, applying the accepted principles of accounting.

Illustration 1:

SI No	Details of a residential real estate project (RREP)			
	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		100	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	7000	sqm
5	value of each residential apartment		0.60	crore
6	Percentage completion as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
7	No of apartments booked before transition		80	units
8	Total carpet area of the residential apartment booked before transition	$C3 * C7$	5600	sqm
9	Value of booked residential apartments	$C5 * C7$	48	crore
10	Percentage invoicing of booked residential apartments on or before 31.03.2019		20%	
11	Total value of supply of residential apartments having t.o.s. prior to transition	$C9 * C10$	9.6	crore
12	ITC to be reversed on transition, $T_x = T - T_e$			
13	Eligible ITC (T_e)= $T \times F1 \times F2 \times F3 \times F4$			
14	T (*see notes below)		1	crore
15	F1		1	
16	F2	$C8 / C4$	0.8	
17	F3	$C11 / C9$	0.2	
18	F4	$1 / C6$	5	
19	Eligible ITC (T_e)= $T \times F1 \times F2 \times F3 \times F4$	$C14 * C15 * C16 * C17 * C18$	0.8	crore
20	ITC to be reversed on transition, $T_x = T - T_e$	$C14 - C19$	0.2	crore
<p>*Note:-</p> <p>1. The value of T at C14 has been estimated for illustration based on weighted average tax on inputs.</p> <p>2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.</p>				

Illustration 2:

SI No	Details of a residential real estate project (RREP)			
	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		100	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	7000	sqm
5	value of each residential apartment		0.60	crore
6	Percentage completion as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
7	No of apartments booked before transition		80	units
8	Total carpet area of the residential apartment booked before transition	$C3 * C7$	5600	sqm
9	Value of booked residential apartments	$C5 * C7$	48	crore
10	Percentage invoicing of booked residential apartments on or before 31.03.2019		60%	
11	Total value of supply of residential apartments having t.o.s. prior to transition	$C9 * C10$	28.8	crore
12	ITC to be reversed on transition, $T_x = T - T_e$			
13	Eligible ITC ($T_e = T \times F1 \times F2 \times F3 \times F4$)			
14	T (*see notes below)		1	crore
15	F1		1	
16	F2	$C8 / C4$	0.8	
17	F3	$C11 / C9$	0.6	
18	F4	$1 / C6$	5	
19	Eligible ITC ($T_e = T \times F1 \times F2 \times F3 \times F4$)	$C14 * C15 * C16 * C17 * C18$	2.4	crore
20	ITC to be reversed on transition, $T_x = T - T_e$	$C14 - C19$	-1.4	crore
21	T_x after application of cap on % invoicing vis-a-vis P_c			
22	% completion		20%	
23	% invoicing		60%	
24	% invoicing after application of cap ($P_c + 25\%$)	$C6 + 25\%$	45%	
25	Total value of supply of residential apartments having t.o.s. prior to transition	$C9 * C24$	21.60	crore
26	F3 after application of cap	$C25 / C9$	0.45	
27	$T_e = T \times F1 \times F2 \times F3 \times F4$ (after application of cap)	$C14 * C15 * C16 * C26 * C18$	1.80	crore
28	ITC to be reversed / taken on transition, $T_x = T - T_e$ (after application of cap)	$C14 - C27$	-0.80	crore
29	T_x after application of cap on % invoicing vis-a-vis P_c and payment realisation			
30	% invoicing after application of cap ($P_c + 25\%$)		45%	
31	Total value of supply of residential apartments having t.o.s. prior to transition	$C25$	21.60	crore
32	consideration received		16.00	crore
33	Total value of supply of residential apartments having t.o.s. prior to transition after application of cap vis-a-vis consideration received	$16 \text{ cr} + 25\% \text{ of } 16 \text{ Cr}$	20.00	crore
34	F3 after application of both the caps	$C33 / C9$	0.42	
35	$T_e = T \times F1 \times F2 \times F3 \times F4$ (after application of both the caps)	$C14 * C15 * C34 * C26 * C18$	1.67	
36	ITC to be reversed / taken on transition, $T_x = T - T_e$ (after application of both the caps)	$C14 - C35$	-0.67	crore
<p>*Note:-</p> <p>1. The value of T at C14 has been estimated for illustration based on weighted average tax on inputs.</p> <p>2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.</p>				

Illustration 1:

A promoter has procured following goods and services [other than capital goods and services by way of grant of development rights, long term lease of land or FSI] for construction of a residential real estate project during a financial year.

Sl. No.	Name of input goods and services	Percentage of input goods and services received during the financial year	Whether inputs received from registered supplier? (Y/ N)
1	Sand	10	Y
2	Cement	15	N
3	Steel	20	Y
4	Bricks	15	Y
5	Flooring tiles	10	Y
6	Paints	5	Y
7	Architect/ designing/ CAD drawing etc.	10	Y
8	Aluminium windows, Ply, commercial wood	15	Y

In this example, the promoter has procured 80 per cent. of goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], from a GST registered person. However, he has procured cement from an unregistered supplier. Hence at the end of financial year, the promoter has to pay GST on cement at the applicable rates on reverse charge basis.

Illustration 2:

A promoter has procured following goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], for construction of a residential real estate project during a financial year.

Sl. No.	Name of input goods and services	Percentage of input goods and services received during the financial year	Whether inputs received from registered supplier? (Y/ N)
1	Sand	10	Y
2	Cement	15	Y
3	Steel	20	Y
4	Bricks	15	Y
5	Flooring tiles	10	Y

6	Paints	5	N
7	Architect/ designing/ CAD drawing etc.	10	Y
8	Aluminium windows, Ply, commercial wood	15	N

In this example, the promoter has procured 80 per cent. of goods and services including cement from a GST registered person. However, he has procured paints, aluminum windows, ply and commercial wood etc. from an unregistered supplier. Hence at the end of financial year, the promoter is not required to pay GST on inputs on reverse charge basis.

Illustration 3:

A promoter has procured following goods and services [other than services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI), electricity, high speed diesel, motor spirit, natural gas], for construction of a residential real estate project during a financial year.

Sl. No.	Name of input goods and services	Percentage of input goods and services received during the financial year	Whether inputs procured from registered supplier? (Y/ N)
1	Sand	10	N
2	Cement	15	N
3	Steel	15	Y
4	Bricks	10	Y
5	Flooring tiles	10	Y
6	Paints	5	Y
7	Architect/ designing/ CAD drawing etc.	10	Y
8	Aluminium windows	15	N
9	Ply, commercial wood	10	N

In this example, the promoter has procured 50 per cent. of goods and services from a GST registered person. However, he has procured sand, cement and aluminum windows, ply and commercial wood etc. from an unregistered supplier. Thus, value of goods and services procured from registered suppliers during a financial year falls short of threshold limit of 80 per cent. To fulfill his tax liability on the shortfall of 30 per cent. from mandatory purchase, the promoter has to pay GST on cement at the applicable rate on reverse charge basis. After payment of GST on cement, on the remaining shortfall of 15 per cent., the promoter shall pay tax @ 18 (9 + 9) per cent. under RCM.

FORM

(Form for exercising one time option to pay tax on construction of apartments in a project by the promoters at the rate as specified for item (ie) or (if), against serial number 3 in the Table in this notification, as the case may be, by the [20th]¹⁴⁹ of May, 2019)

Reference No. _____

Date _____

To _____

(To be addressed to the jurisdictional Commissioner)

1. GSTIN:
2. RERA registration Number of the Project:
3. Name of the project, if any:
4. The location details of the project, with clear demarcation of land dedicated for the project along with its boundaries including the longitude and latitude of the end points of the project:
5. The number, type and the carpet area of apartments for booking or sale in the project:
6. Date of receipt of commencement certificate:

Declaration

1. I hereby exercise the option to pay tax on construction of apartments in the above mentioned project as under :

I shall pay tax on construction of the apartments: (put (✓) in appropriate box)	At the rate as specified for item (ie) or (if), against serial number 3 in the Table in this notification, as the case may be	At the rate as specified for item (i) or (ia) or (ib) or (ic) or (id), against serial number 3 in the Table in this notification, as the case may be

2. I understand that this is a onetime option, which once exercised, shall not be allowed to be changed.
3. I also understand that invoices for supply of the service can be issued during the period from 1st April 2019 to [20th]¹⁵⁰ May 2019 before exercising the option, but such invoices shall be in accordance with the option being exercised herein.

Signature _____

Name _____

Designation _____

Place _____
Date _____]¹⁵¹

¹⁴⁹ Substituted vide notification No. 10/2019– Central Tax (Rate) dt 10.05.2019. Prior to substitution it read “10th “

¹⁵⁰ Substituted vide notification No. 10/2019– Central Tax (Rate) dt 10.05.2019. Prior to substitution it read “10th “

¹⁵¹ Inserted vide notification No. 3/2019- Central Tax (Rate) dated 29.03.2019.

F. No. 354/32/2019-TRU
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)

Dated the 7th May, 2019, New Delhi

Subject: FAQs on real estate- reg.

A number of issues have been raised regarding the new GST rate structure notified for real estate sector effective from 01-04-2019. A compilation of Frequently Asked Questions (FAQs) is presented below. The answers to the FAQs have been given in simple language for guidance and easy understanding of all stakeholders in the real estate sector. They do not have force of law. In case of conflict, the gazette notifications, which have legal force, shall have precedence.

S. No.	Question	Answer						
1.	What are the rates of GST applicable on construction of residential apartments?	<p>With effect from 01-04-2019, effective rate of GST applicable on construction of residential apartments by promoters in a real estate project are as under:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center;">Description</th> <th style="text-align: center;">Effective rate of GST (after deduction of value of land)</th> </tr> </thead> <tbody> <tr> <td style="text-align: center;">Construction of affordable residential apartments</td> <td style="text-align: center;">1% without ITC on total consideration.</td> </tr> <tr> <td style="text-align: center;">Construction of residential apartments other than affordable residential apartments</td> <td style="text-align: center;">5% without ITC on total consideration.</td> </tr> </tbody> </table> <p>The above rates are effective from 01-04-2019 and are applicable to construction of residential apartments in a project which commences on or after 01-04-2019 as well as in on-going projects. However, in case of on-going project, the promoter has an option to pay GST at the old rates, i.e. at the effective rate of 8% on affordable residential apartments and effective rate of 12% on other than affordable residential apartments and, consequently, to avail permissible credit of inputs taxes; in such cases the promoter is also expected to pass the benefit of the credit availed by him to</p>	Description	Effective rate of GST (after deduction of value of land)	Construction of affordable residential apartments	1% without ITC on total consideration.	Construction of residential apartments other than affordable residential apartments	5% without ITC on total consideration.
Description	Effective rate of GST (after deduction of value of land)							
Construction of affordable residential apartments	1% without ITC on total consideration.							
Construction of residential apartments other than affordable residential apartments	5% without ITC on total consideration.							

		the buyers.
2.	What is an affordable residential apartment?	<p>Affordable residential apartment is a residential apartment in a project which commences on or after 01-04-2019, or in an ongoing project in respect of which the promoter has opted for new rate of 1% (effective from 01-04-2019) having carpet area upto 60 square meter in metropolitan cities and 90 square meter in cities or towns other than metropolitan cities and the gross amount charged for which, by the builder is not more than forty five lakhs rupees. [Cities or towns in the notification shall include all areas other than metropolitan city as defined, such as villages.]</p> <p>In an ongoing project in respect of which the promoter has opted for new rates, the term also includes apartments being constructed under the specified housing schemes of Central or State Governments.</p> <p>[Metropolitan cities are Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR) with their geographical limits prescribed by Government.]</p>
3.	What is an on-going project?	<p>A project which meets the following conditions shall be considered as an ongoing project.</p> <p>(a) Commencement certificate for the project, where required, has been issued by the competent authority on or before 31stMarch, 2019, and it is certified by a registered architect, chartered engineer or a licensed surveyor that construction of the project has started (i.e. earthwork for site preparation for the project has been completed and excavation for foundation has started) on or before 31st March, 2019.</p> <p>(b) Where commencement certificate in</p>

		<p>respect of the project, is not required to be issued by the competent authority, it is to be certified by any of the authorities specified in (a) above that construction of the project has started on or before the 31st March, 2019.</p> <p>(c) Completion certificate has not been issued or first occupation of the project has not taken place on or before the 31st March, 2019.</p> <p>(d) Apartments of the project have been, partly or wholly, booked on or before 31st March, 2019.</p>				
4.	Does a promoter or a builder has option to pay tax at old rates of 8% & 12% with ITC?	<p>Yes, but such an option is available in the case of an ongoing project. In case of such a project, the promoter or builder has option to pay GST at old effective rate of 8% and 12% with ITC.</p> <p>To continue with the old rates, the promoter/ builder has to exercise one time option in the prescribed form and submit the same manually to the jurisdictional Commissioner by the 10th of May, 2019.</p> <p>However, in case where a promoter or builder does not exercise option in the prescribed form, it shall be deemed that he has opted for new rates in respect of ongoing projects and accordingly new rate of GST i.e. 5% / 1% shall be applicable and all the provisions of new scheme including transitional provisions shall be applied.</p> <p>There is no such option available in case of projects which commence on or after 01.04.2019. Construction of residential apartments in projects commencing on or after 01.04.2019 shall compulsorily attract new rate of GST @ 1% or 5% without ITC.</p>				
5.	What is the rate of GST applicable on construction of commercial apartments [shops, godowns, offices etc.] in a real estate project?	<p>With effect from 01-04-2019, effective rate of GST, after deduction of value of land or undivided share of land, on construction of commercial apartments [shops, godowns, offices etc.] by promoter in real estate project are as under:</p> <table border="1"> <thead> <tr> <th>Description</th> <th>Effective rate of GST</th> </tr> </thead> <tbody> <tr> <td></td> <td></td> </tr> </tbody> </table>	Description	Effective rate of GST		
Description	Effective rate of GST					

			(after deduction of value of land)
		Construction of commercial apartments in a Residential Real Estate Project (RREP), as explained in question no. 6 below, which commences on or after 01-04-2019 or in an ongoing project in respect of which the promoter has opted for new rates effective from 01-04-2019	5% without ITC on total consideration.
		Construction of commercial apartments in a Real Estate Project (REP) other than Residential Real Estate Project (RREP) or in an ongoing project in respect of which the promoter has opted for old rates	12% with ITC on total consideration.
6.	What is a Residential Real Estate Project?	A “Residential Real Estate Project” means a ‘Real Estate Project’ in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the project.	
7.	What is the criteria to be used by an architect, a chartered engineer or a licensed surveyor for certifying that construction of the project has started by 31 st March, 2019	Construction of a project shall be considered to have been started on or before 31 st March, 2019, if the earthwork for site preparation for the project has been completed, and excavation for foundation has started on or before the 31 st March, 2019.	
8.	Does a promoter/ builder have to purchase all goods and services from registered suppliers only?	A promoter shall purchase at least eighty percent. of the value of input and input services, from registered suppliers. For calculating this threshold, the value of services by way of grant of development rights, long term lease of land, floor space index, or the value of electricity, high speed diesel, motor spirit and natural gas used in	

		construction of residential apartments in a project shall be excluded.
9.	If value of purchases as prescribed above from registered supplier is less than 80%, what would be the applicable GST rate on such purchases?	Promoter has to pay GST @ 18% on reverse charge basis on all such inward supplies (to the extent short of 80% of inward supplies from registered supplier) except cement on which tax has to be paid (by the promoter on reverse charge basis) at the applicable rate, which at present is 28% (CGST 14% + SGST 14%)
10.	In case of new rate of 5% / 1%, whether the conditions of payment of tax through Cash Ledger, payment of tax under RCM subject to 80% limit, non-availing of Input Tax Credit, reversal of credit, maintenance of project wise account, reporting of ITC not availed in corresponding GSTR-3B etc. are required to be complied mandatorily by the Developer ?	Yes. All the specified conditions against clause (i) to (id) of Sl. No 3 of Notification No. 11/2017-CTR are mandatory.
11.	What is the rate of GST applicable on transfer of development rights, FSI and long term lease of land?	<p>Supply of TDR or FSI or long term lease of land used for the construction of residential apartments in a project that are booked before issue of completion certificate or first occupation is exempt.</p> <p>Supply of TDR or FSI or long term lease of land, on such value which is proportionate to construction of residential apartments that remain un-booked on the date of issue of completion certificate or first occupation, would attract GST at the rate of 18%, but the amount of tax shall be limited to 1% or 5% of value of apartment depending upon whether the residential apartments for which such TDR or FSI is used, in the affordable residential apartment category or in other than affordable residential apartment.</p> <p>TDR or FSI or long term lease of land used for construction of commercial apartments shall attract GST of 18%.</p> <p>The above shall be applicable to supply of TDR or</p>

		FSI or long term lease of land used in the new projects where new rate of 1% or 5% is applicable.
12.	Who is liable to pay GST on TDR and floor space index?	The promoter is liable to pay GST on TDR or floor space index supplied on or after 01-04-2019 on reverse charge basis.
13.	At what point of time, the promoter should discharge its tax liability on TDR.	The liability to pay GST on development rights shall arise on the date of completion or first occupation of the project, whichever is earlier. Therefore, promoter shall be liable to pay tax on reverse charge basis, on supply of TDR on or after 01-04-2019, which is attributable to the residential apartments that remain un-booked on the date of issuance of completion certificate, or first occupation of the project.
14.	At what point of time, the promoter should discharge its tax liability on FSI (including additional FSI).	On FSI received on or after 1.4.2019, the promoter should discharge his tax liability on FSI as under: (i) In case of supply of FSI wherein consideration is in form of construction of commercial or residential apartments, liability to pay tax shall arise on date of issuance of Completion Certificate. (ii) In case of supply of FSI wherein monetary consideration is paid by promoter, liability to pay tax shall arise on date of issuance of Completion Certificate only if such FSI is relatable to construction of residential apartments. However, liability to pay tax shall arise immediately if such FSI is relatable to construction of commercial apartments.
15.	At what point of time, the promoter should discharge its tax liability on supply of long term lease.	On long term lease received on or after 1.4.2019, the promoter should discharge his tax liability on long term lease as under: In case of supply of long term lease of land for construction of commercial apartments, tax shall be paid by the promoter immediately. However, for construction of residential apartment, liability to pay tax on the upfront amount payable for long term lease shall arise on the date of issuance of Completion Certificate.
16.	Land development corporation of Orissa has provided land on long term lease for 99 years, for	The liability to pay tax on Long term lease of land (30 years or more) received against consideration in the form of upfront amount and periodic licence

	<p>construction of a real estate project. As per the lease agreement, promoter has to pay an upfront amount of Rs. 10 Crore and annual/ monthly licence fee of 5 lakhs. Does the promoter has to pay GST on these amounts?</p>	<p>fee is on the promoter. The promoter has to discharge tax liability on the same on RCM basis. However, the upfront amount payable for the long term lease (known as premium, salami, cost, price, development charges etc.) is exempt to the extent it is used for construction of residential apartments that are booked before issuance of completion certificate or first occupation.</p> <p>Annual/ monthly rent or licence fee payable for long term lease is taxable under GST.</p>
17.	<p>Someone booked a flat from XYZ Developers in June, 2018. As of 31-03-2019, he had paid 40 % of the value of the flat. What shall be the GST rate applicable on the remaining portion of value of the flat?</p>	<p>GST on the remaining portion of the value of flat payable to the promoter on or after 01-04-2019 as per the contract between the promoter and buyer shall be payable at effective rate of 1% or 5%, subject to the condition that the builder has not exercised the option to pay tax on construction of apartments at the old rates of 12% or 18%. If the XYZ developer exercises option to continue to pay tax at old effective rate of 8% or 12% by 10th May, 2019, then GST has to be paid @ 8% or 12% on remaining portion of the value of the flat; in such cases, the promoter would be entitled to permissible credit of input taxes and, as such, the price that he charges from the buyer should appropriately reflect this credit.</p>
18.	<p>I am a beneficiary of PMAY-CLSS and carpet area of my house being constructed in an ongoing project is 150 sqm. Am I eligible for new rate of 1% on same?</p>	<p>You are eligible for new GST rate of 1%, subject to the condition that the developer-promoter with whom you have booked the house has not exercised option to pay tax on construction of apartments at the old rate of 8%.</p>
19.	<p>I am planning to purchase an apartment in a newly launched project. The project has been launched after 31.03.2019 by XYZ Developers at Noida. Price of the apartment having carpet area of 80 sqm is 48 lakhs. What is the rate of GST applicable on construction of this apartment?</p>	<p>The tax rate applicable on construction of the apartments in a project that commences on or after 01.04.2019 would be 5%.</p>
20.	<p>I have already paid tax of 12% (effective) on instalments paid before 01.04.2019. I wish to get</p>	<p>The buyer cannot exercise option to pay tax at the new or old rates. It is the builder, who has to exercise the option to pay tax on construction of</p>

	<p>the benefit of new rate of 1% or 5%. Whether it is the builder or the buyer who has the option to pay tax at the new or old rates?</p>	<p>apartments at the old rate of 12% latest by 10th May, 2019. If the builder doesn't exercises his option to continue to pay tax at the old rate by the said date, then the effective GST rate applicable on all your instalments payable to the builder on or after 01.04.2019 as per the contract shall be either 1% or 5%, depending on whether the apartment is an affordable or other than affordable residential apartment.</p>
21.	<p>In respect of supply made in an ongoing Project covered by clauses (ie) and (if) of Entry 3 of Notification No. 3/2019, CT (R), an option is required to be exercised by the Promoter in Annexure IV by 10th May 2019. At the same time, it is permissible for him to issue invoices between 1st April 2019 to 9th May 2019 which shall, however, be in conformity with the option to be exercised. Whether it is permissible for the Promoter to revise the invoice as provided in Section 34 of CGST Act, 2017, including by way of issuance of Credit/Debit Notes so as to bring the transaction in conformity with the option exercised by the Promoter ultimately by 10th May 2019?</p>	<p>Where the GST rate at which tax has been charged in the invoices issued by the promoter prior to 10th May, 2019 are not in accordance with the option required to be exercised by him on or before 10th May, 2019 to pay GST on construction of apartments in an ongoing project at either the new or old rates, the promoter may issue debit or credit notes in accordance with Section 34 of CGST Act, 2017.</p>
22.	<p>How to compute adjustment of tax in a Credit Note to be issued u/s 34 by Real Estate Developer in case unit was booked prior to 1st April, 2019 on which GST was paid on part consideration received at the time of booking, but cancelled after 1st April, 2019.</p>	<p>Developer shall be able to issue a Credit Note to the buyer as per provisions of section 34 in case of change in price or cancellation of booking provided that the amount received in excess if any, consequent to issuance of Credit Note, is refunded to the Buyer by the Developer before September following the end of the financial year. Developer shall be able to take adjustment of tax paid in respect of the amount of such Credit Note. For example, a Developer who paid GST of Rs. 1,20,000 at the rate of 12% (effectively) in respect of a gross amount of booking of Rs. 10,00,000</p>

		<p>before 1st April, 2019 shall be entitled to take adjustment of tax of Rs. 1,20,000 upon cancellation of the said booking on or after 1st April, 2019 against other liability of GST including liability arising at the rate of 5% / 1% provided that the entire amount received from the buyer is refunded by the Developer.</p> <p>Further, in case apartments booked prior to 1.04.2019 on which GST has been paid till 31.03.2019 at the old rates of 8%/ 12% with ITC, are cancelled and rebooked at the new rates of 1% / 5% without ITC or sold after issuance of completion certificate, the credit taken in respect of such apartments for supply of service till 31.03.2019 on which tax was paid @ 8%/ 12% with ITC shall be required to be reversed.</p>
23.	Whether the option to pay tax at the applicable effective rate of 12% or 8% (with ITC) is available to the Promoter in respect of the New Project, which has been commenced on or after 1 st April 2019?	No, there is no option to pay tax at the effective rate of 12% or 8% with ITC on construction of residential apartments in projects which commences on or after 01-04-2019.
24.	From the plain reading of the provisions and the definitions of the various terms as defined in the Notification No. 3/2019-CT(R), it appears that the one-time option is required to be exercised for the entire REP or RREP. Does this mean that a Promoter can opt for old rates or new rates, as the case may be, for different projects being undertaken by him under the same entity?	Yes.The option to pay tax on construction of apartments in the ongoing projects at the effective old rates of 8% and 12% with ITC has to be exercised for each ongoing project separately. As per RERA, 2016, project wise registration is allowed. So, the promoter may exercise different options for different ongoing projects being undertaken by him.
25.	In respect of the construction and supply of premises under specific schemes like PMAY, Housing for All (Urban), RAY etc. as mentioned in sub items (b), (c), (d), (da), (db) of item (iv) and sub items (c), (d), (da) of item (v)	No.The rate of 8% and 12% with ITC is not available for construction of apartments in a project that commences on or after 01-04-2019. It makes no difference whether or not the apartments are being constructed under PMAY or any other housing schemes of the Central or State Government.

	of Entry 3 of Notification 11/2017 – CT (R), whether the pre-existing effective rate of 8%, with ITC benefit continues to be available in case of any New Project that has commenced under any such scheme after 1/4/2019?	
26.	In respect of any ongoing project undertaken under the specific schemes like PMAY, Housing for All(Urban), RAY etc. as mentioned in items(iv) and (v) of Entry 3 of Notification 11/2017-CT (R), prior to 31/3/2019, whether an option is available to the Promoter to pay the tax at the new rates of 1% or 5% (without ITC) or at the existing rates of 8% (with ITC)?	Yes. The promoter has the option to pay tax either at the old rate of 8% (with ITC) or at 1% (without ITC) on construction of residential apartments in ongoing projects being constructed under PMAY and other specified housing schemes of the Central or State Governments in items (iv) and (v) of Entry 3 of Notification 11/2017- Central Tax (Rate) dated 28-06-2017. The option to pay tax on construction of apartments in the ongoing projects at the old rates of 8% with ITC has to be exercised by the promoter for ongoing project.
27.	In case where the Development rights are supplied by the Landowner to the Promoter, under an area sharing arrangement between 1 st July 2017 and 31/3/19, but the allotment of constructed area in an ongoing project is made by the Promoter to the Landowner on or after 1/4/2019, whether the tax liability, if any, is required to be discharged in terms of the Notification No. 4/2018 – CT (R)?	Yes. Tax liability on service by way of transfer of development rights prior to 01-04-2019 is required to be discharged in terms of Notification No. 4/2018-CentralTax (Rate) dated 25.01.2018.
28.	Whether the GST is leviable on the output supply of Transferrable Development rights by a developer (usually evidenced by TDR Certificate issued by the authorities). If yes, under which entry and at what rate?	Yes, GST is payable on transfer of development rights by a developer to another developer or promoter or to any other person under reverse charge mechanism @ 18% with ITC under Sl. No. 16, item (iii) of Notification No. 11/2017 - Central Tax (Rate) dated 28-06-2017 (heading 9972).
29.	What is the meaning of the term	The term “first occupation” appearing in Schedule

	<p>“first occupation” referred to in clauses (i) to (id) of Entry 3 of Notification No. 3/2019? Whether, in case of an ongoing project, where part occupation certificate has been received in respect of some of the premises comprised in the ongoing project, the Promoter is entitled to exercise the option of 1% / 5% (without ITC) or @ 8%/12% (with ITC) available in terms of Notification No. 3/2019 CT (R), in respect of the balance ongoing project?</p>	<p>II para 5 (b) and in notification No. 11/2017 – Central Tax (Rate) dated 29-03-2019 means the first occupation of the project in accordance with the laws, rules and regulations laid down by the Central Government, State Government or any other authority in this regard. Where occupation certificate has been issued for part (s) of the project but not for the entire project by 31-03-2019, the first occupation of the project shall not be considered to have taken place on or before 31-03-2019 and the project shall be considered ongoing project provided it satisfies the other requirements of the definition of the term ongoing project. Promoter shall be entitled to exercise option to pay tax @ 1%/5% (without ITC) or @ 8%/12% (with ITC) on construction of apartments in such project.</p>
30.	<p>(a) In case of a single building registered as 2 (two) separate projects under the provisions of RERA viz. 1st to 10th floor as one Project and 11th to 20th floor as another project, whether the Developer can consider the entire building as single ongoing project, since all the three conditions to be complied with for classifying a project as an ongoing project can be satisfied only if the entire building is considered as a single project?</p> <p>(b) Furthermore, if different towers in a single layout are registered as separate projects under the provisions of RERA but where the approvals are common for all the towers, whether the Developer can consider entire layout as a single Ongoing project ?</p>	<p>(a) Both the projects registered as separate projects under RERA, 2016 shall be treated as distinct projects for the purpose of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017 as amended by Notification No. 3/2019-Central Tax (Rate) dated 29-03-2019. Both the projects will have to independently satisfy the requirements of the definition of ongoing projects.</p> <p>(b) No. All the towers registered as different projects under RERA shall be treated as distinct projects. Only such towers registered as distinct projects for which commencement certificate has been issued on or before 31-03-2019, construction has started on or before 31-03-2019 and for which apartments have been booked on or before 31-03-2019 but completion certificate has not been issued or first occupation has not taken place by the said date shall be treated as ongoing projects.</p>
31.	<p>Whether TDR purchased on or after 1.4.2019 to be consumed by</p>	<p>Yes. Portion of such TDR transferred on or after 01-04-2019 which is used in an ongoing project in</p>

	<p>a developer-promoter in an ongoing project, in respect of which the promoter has opted for the new rate of tax, shall be liable to be taxed at the applicable rate, but limited to 1% or 5%, as the case may be, of the unsold area at the time of issuance of completion certificate?</p>	<p>respect of which the promoter has opted for new rate of tax on construction of apartment @ 1% or 5% without ITC which remained un-booked on the date of issuance of completion certificate or first occupation of the project shall be liable to tax at the applicable rate not exceeding 1% of the value in case of affordable residential apartments and 5% of the value in case of other than affordable residential apartments.</p>
32.	<p>What shall be the classification of and rate of tax applicable to works contract service provided by a contractor to a developer or promoter under the new dispensation effective from 01-04-2019 for</p> <p>(a) New project after 1.4.2019 and ongoing projects where option has been exercised for new rate and</p> <p>(b) Ongoing projects where option has not been exercised for new rate?</p>	<p>The rate of tax applicable on the work contract service provided by a contractor to a promoter for construction of a real estate project shall be 12% or 18% depending upon whether such work contract service is provided for construction of affordable residential apartments or residential apartments other than affordable residential apartments. Rate of tax applicable on such work contract service provided by a contractor to a promoter on construction of commercial apartments shall be 18% (irrespective of option exercised by developer-promoter). The relevant entries of the notification are at items (iv), (v), (va) and (vi) against sl. no. 3 of the table in Notification No. 11/2017-Central Tax (rate) dated 28-06-2017 prescribing rate of 12% for works contract services of construction of affordable apartments/ apartments being constructed under schemes specified therein. In case of works contract services for construction of other apartments, rate of 18% as prescribed in item (xii) against sl. no. 3 of the table in Notification No. 11/2017-Central Tax (rate) dated 28-06-2017 shall be applicable.</p>
33.	<p>A registered project has three blocks and Completion Certificate has been received for one block prior to 1st April, 2019 and for two blocks will be received after that date.</p> <p>Will such a project for which multiple completion certificates are received partly before 1st April, 2019 and partly after that</p>	<p>Where more than one completion certificate is issued for one project, for the purpose of definition of ongoing project as defined in the clause (xx) in the paragraph 4 of the notification No. 11/ 2017-CTR, dated 28.06.2017, completion certificate issued for part of the project shall not be considered to have been issued for the project on or before 31-03-2019 unless completion certificate(s) have been issued for the entire project. Therefore, if completion certificate has not been issued for part of the project on or before 31-</p>

	date, constitute an ongoing project?	03-2019, the project shall still be considered as ongoing project provided other conditions of the definition of 'ongoing project' are met.
34.	It is a prevalent practice that more than one commencement certificate is issued by competent authority for single project. For example, in case of a single tower comprising of 50 floors and registered as single project, separate commencement certificates may be issued by the competent authority for (i) basement and parking which is common to entire building (ii) first twenty floors (iii) next thirty floors. If one or two commencement certificates are received by the Developer prior to 1st April, 2019 and remaining on or after that date, will such a project be considered as an ongoing project?	Where commencement certificate has been issued even for part of the project on or before 31-03-2019, it shall be treated as an ongoing project provided other requirements of the definition of ongoing project are met.
35.	There are many projects of redevelopment/slumrehabilitation in pipeline as on 1st April, 2019. It is possible that in such projects the development rights have been conferred upon the developer and pursuant to which the development process has been initiated such as receipt of commencement certificate, excavation for foundation etc., but booking against units for sale has not been received prior to 1st April, 2019. However, allotment of units to the existing dwellers (in respect of free supply units) which will yield no monetary consideration has been done. Clause (xiii) of Para 4 of Notification No.	In case of redevelopment or slum rehabilitation projects, the original inhabitants or the slum dwellers are not required to pay any monetary consideration to the promoter for the residential apartments allotted to them. Therefore, the residential apartments allotted to the original inhabitants in case of redevelopment project or slum dwellers in case of slum rehabilitation or redevelopment project, the requirement that at least one instalment has been credited to the bank account of the promoter shall not be required to be met for such apartments to be considered as having been booked on or before 31-03-2019 provided other requirements for considering an apartment booked on or before 31.03.2019 have been met. The consideration for such apartments is receipt in the form of transfer of development rights from the original inhabitants in case of redevelopment projects or the government in case of slum rehabilitation projects. Hence, the condition

	11/2017-CTR as amended by Notification No. 3/2019-CTR requires credit of at least one instalment in the bank account prior to 1st April, 2019 for a project to be considered as ongoing project. It may please be clarified whether in such cases, apartments being constructed in the project shall be deemed to have been booked prior to 1st April, 2019 in case development agreement is executed prior to that date and whether accordingly such projects shall be considered as an ongoing project?	relating to credit of at least one instalment in the bank account of the promoter for the apartments being constructed in a slum redevelopment project to have been partly or wholly booked shall be deemed to have been satisfied in order to consider the project as an ongoing project, provided all other conditions for considering an apartment as booked are met in case of apartments allotted to slum dwellers; as there is no cash payment to be made by the slum dwellers.
36.	Can a developer take deduction of actual value of Land involved in sale of unit instead of taking deduction of deemed value of Land as per Paragraph 2 to Notification No. 11/2017-CTR ?	No. Valuation mechanism prescribed in paragraph 2 of the notification No. 11/2017- CTR dated 28.06.2017 clearly prescribes one- third abatement towards value of land.
37.	Para 3 of Annexure I and II to Notification No. 3/2019-CTR dated 29.03.02019, stipulate three different conditions. Clause (i) and (ii) of the said Para 3 are relating to percentage of invoicing. It is requested to clarify as to how and where the percentage of invoicing is to be taken into consideration while determining quantum of ITC reversal.	The illustrations given in the said annexure clearly explain how the provisions given in the clause (i) and (ii) of para 3 of the said annexure relating to percentage of invoicing shall operate. The same may be referred to.
38.	It may be clarified whether exemption granted on transfer of development right or FSI for residential construction and reverse charge mechanism prescribed for payment of tax on TDR, FSI or long term lease (premium) in the new	The new dispensation has been prescribed for real estate sector vide notifications issued on 29.03.2019. The same are effective prospectively from 01.04.2019. They shall apply only to development rights or FSI transferred on or after 01.04.2019. They shall not apply to development rights transferred by way of an agreement prior to 01.04.2019 even if the consideration for the same,

	dispensation is applicable where development rights were transferred by way of an agreement executed prior to 1st April, 2019 but consideration, whether in cash or other form, flowed to the land owner, in full or part, on or after 1st April, 2019.	in cash or kind, is paid in part or full on or after 01.04.2019.
39.	Land Owner being an individual is not engaged in the business of land relating activities and thus whether the transfer of development rights by an individual to a promoter is liable for GST and whether the same will fall within the scope of 'Supply' as defined in Section 7 of CGST / SGST Act, 2017? Position of such a transaction may be clarified in light of amendments recently made.	The term business has been assigned a very wide meaning in the CGST Act and it includes any trade, commerce, manufacture, profession, vacation, adventure, or any other similar activity whether or not it is for a pecuniary benefit irrespective of the volume, frequency, continuity or regularity of such activity or transaction. Therefore, the activity of transfer of development rights by a land owner, whether an individual or not, to a promoter is a supply of service subject to GST.
40.	In certain projects, developers have started construction on or before 31-03-2019. However, bookings in the project have not started. One of the conditions prescribed for a project to qualify as an ongoing project is that apartments being constructed should have been partly or wholly booked. Whether such project where bookings have not started but construction has started, would be eligible for the new rates of 1% or 5% without ITC?	As per explanation in clause (xxviii) of para 4 of the notification No. 11/2017- CTR dated 28.06.2017, "project which commences on or after 01.04.2019" shall mean a project other than an ongoing project. A project, in which bookings for the apartments have not started, would not be covered under definition of "ongoing project". The same would accordingly be treated as a project which commences on or after 01.04.2019 subject to the new rates of 1% or 5% without ITC, as the case may be.
41.	Whether the Form as per Annexure IV of the Notification No. 3/2019-CTR is to be filed with both the jurisdictional commissioner i.e. Central Tax, State Tax.	No. The Form shall be filed manually with the office of the Commissioner in whose jurisdiction the registration of the promoter is assigned. No modification / amendment of the option is allowed in the Form once submitted.

	Whether modification / amendments in such Form are allowed subsequent to filing of the form, after 10 th May, 2019?	
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F. No. 354/32/2019-TRU

F. No. 354/32/2019-TRU
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)

Dated the 14th May, 2019, New Delhi

Subject: FAQs (Part II) on real estate- reg.

A number of issues have been raised regarding the new GST rate structure notified for real estate sector effective from 01-04-2019. A compilation of Frequently Asked Questions (FAQs) containing 41 questions was issued on 7th May, 2019. Part II of the FAQ is presented below. The answers to the FAQs have been given in simple language for guidance and easy understanding of all stakeholders in the real estate sector. They do not have force of law. In case of conflict, the gazette notifications, which have legal force, shall have precedence.

Sl. No.	Question	Answer
1.	In case of an area sharing arrangement between a Landowner-Promoter and a Developer-Promoter, where the Project qualifies to be considered an “Ongoing Project”, whether an option of 1% or 5% (without ITC) vis-à-vis 8% or 12% (with ITC) as prescribed in Notification No. 3/2019 can be exercised by the Developer-Promoter and Landowner-Promoter independently?	The legal and operational harmony necessitates that both the Landowner-Promoter and the Developer-Promoter exercise identical option for a project.
2.	In case of an area sharing arrangement between a Landowner-Promoter and a Developer-Promoter in a New Project undertaken on or after 1/4/2019, whether the new rate of 1% or 5% is applicable in case of the Landowner-Promoter who sells the under-construction premises before completion of the project? Will the Landowner-Promoter be entitled to ITC in respect of tax	The new effective rates of 1% and 5% without ITC are applicable to the apartments booked by the land owner promoter in an ongoing project as well as a new project which commences on or after 01-04-2019. The land owner promoter shall be entitled to ITC in respect of tax charged to him by the developer promoter on construction of such apartments. However, the land owner promoter shall not be entitled to avail ITC on any other services or goods used by him.

	<p>charged to him by the Developer-Promoter on such supply?</p> <p>Whether the Landowner-Promoter shall be entitled to avail ITC on any other services or goods used by him in furtherance of his business (such as brokerage on sales etc.)?</p>	
3.	<p>Residential Real Estate Project (RREP) shall mean a REP in which the carpet area of the commercial apartments is not more than 15% of the total carpet area of all the apartments in the REP (Clause xix). “Carpet area” shall have the same meaning as assigned to it in clause (k) of Section 2 of the RERA, 2016. Whether non-saleable areas such as society office, club house, etc., are to be taken into consideration for determining 15% for deciding whether the project is RREP or not?</p>	<p>The term “Residential Real Estate Project (RREP) has been defined in the notification to mean a REP in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the REP.</p> <p>Apartments shall be taken as commercial or residential apartments as declared to RERA authority.</p>
4.	<p>For the purpose of determining the threshold of Rs.45 lakhs in case of “affordable residential apartment”, whether the following charges generally recovered by the developer from the buyer shall be included?</p> <ul style="list-style-type: none"> • Amenity Charges • Society formation charges • Advance maintenance • Legal Charges 	<p>For the purpose of determining the threshold of the gross amount of Rs.45.00 lakh for affordable residential apartments, all the charges or amounts charged by the promoter from the buyer of the apartments shall form part of the gross amount charged. Clause xvi, sub-clause (a)(ii)(C) of paragraph 4 of notification No. 11/2017-CT(R) dated 28.06.2017, reproduced below, refers.</p> <p><i>“C. Any other amount charged by the promoter from the buyer of the apartment including preferential location charges, development charges, parking charges, common facility charges etc.”</i></p> <p>However the value shall not include stamp duty payable to the statutory authority, maintenance</p>

		charges / deposits for maintenance of apartment or maintenance of common infrastructure.
5.	In case of a Real Estate Project, comprising of Residential as well as Commercial portion (more than 15%), how is the minimum procurement limit of 80% to be tested, evaluated and complied with where the Project has single RERA Registration and a single GST Registration and it is not practically feasible to get separate registrations due to peculiar nature of building(s)?	The promoter shall apportion and account for the procurements for residential and commercial portion on the basis of the ratio of the carpet area of the residential and commercial apartments in the project.
6.	In an area sharing model, a promoter has to handover constructed flats/ apartments to the land owner who supplied TDR for the project. Value of TDR at the time when the landowner transferred it to the promoter is not known. How would the promoter determine GST on TDR?	Value of TDR, shall be equal to the amount charged by the promoter for similar apartments from the independent buyers booked on the date that is nearest to the date on which such development rights or FSI is transferred by the land owner to the promoter.
7.	In the formula prescribed under first proviso to Entry 41A of the Notification 12/2017- CT (R), as amended by Notification 4/2019 CT (R), what rate shall be taken to determine the value to be ascribed to the “GST Payable on TDR or FSI or both for construction of the residential apartments in the project but for exemption contained therein” as no specific rate has been prescribed in Notification 11/2017 CT-Rate or any other notification? What is the rate applicable to output supply of TDR or FSI? Whether the quantum of TDR or	The GST on transfer of development rights or FSI (including additional FSI) is payable at the rate of 18% (9% + 9%) with ITC under Sl. No. 16, item (iii) of Notification No. 11/2017 - Central Tax (Rate) dated 28-06-2017 (heading 9972). There is no exemption on TDR or FSI (Addl. FSI) for construction of commercial apartments. Therefore, GST shall be payable on TDR or FSI (including additional FSI) or both used in respect of (i) carpet area of commercial apartment and (ii) un-booked residential apartments as on the date of issuance of Completion Certificate or first occupation of the project for the purpose of formula.

	FSI (including additional FSI) or both shall be taken only in respect of un-booked apartments as on the date of issuance of Completion Certificate or first occupation of the project for the purpose of formula?	
8.	In case of Redevelopment, Slum Rehabilitation or similar arrangements, the Developer will be constructing two types of units i.e. one which is allotted to existing occupiers for no monetary consideration and second which is sold in the market to outside buyer. Price at which the unit is being sold to the outsider is determined in a manner to factor cost of construction of both type of units so that the unit to existing occupiers may be allotted free of monetary consideration. It may be clarified whether the Input Tax Credit in relation to construction of units to be allotted to existing occupiers, in case of residential project opted for old rates or commercial projects, shall be allowed to the Developer.	<p>The apartments given to the original inhabitants or the slum dwellers in redevelopment project or slum rehabilitation project are given by the promoter against consideration received by them in the form of TDR/ FSI/ monetary consideration from the original inhabitants in case of redevelopment projects and from the Government in case of slum rehabilitation projects. The supply of service by way of construction of such apartments against construction wholly or partly in the form of TDR/FSI is a taxable supply subject to GST.</p> <p>Wherever tax is paid on construction of such apartments at the effective rates of GST of 8%/ 12% with ITC, the promoters shall be eligible for ITC, including ITC in relation to construction of units to be allotted to the existing occupiers even though there may not be a monetary consideration but the consideration is in the form of grant of TDR/FSI.</p>
9.	In case of redevelopment or slum rehabilitation project, (new or an existing project) whether the constructed units supplied to existing occupiers by the developer free of monetary consideration are taxable? In case of ongoing project in respect of which the promoter has opted for new rates of 1% / 5%, it may be clarified whether	<p>Yes, units supplied free of cost also attract GST as their consideration is not money but TDR/ FSI or rights relating to land on which construction takes place.</p> <p>In such an ongoing project, the units sold in open market would be eligible for GST rate of 1% (without ITC), if such units are covered under Credit Linked Subsidy Scheme, as provided in the definition of “affordable residential apartments” given in notification no 11/ 2017- CTR dated 28.06.2017 as amended by notification No. 3/2019- CTR dated 29.03.2019 .</p>

	<p>the units being supplied free of monetary consideration to existing dwellers will fall within the definition of affordable housing when certain units being sold in the open market are eligible for concessional rates under the category of Credit Linked Subsidy Scheme i.e. sub-item (da) of item (iv) of Sl. No. 3 of notification No. 11/2017-CTR?</p>	<p>The apartments being constructed in such ongoing project, for existing slum dwellers/ occupiers shall be eligible for 1% rate if they meet the definition of affordable residential apartment, as under-</p> <p>(a) They have carpet area of less than 60 sqm in specified metropolitan cities or 90 sqm in places other than the specified metropolitan cities and the gross amount charged for similar apartments from independent buyers is not more than rupees 45 lakhs. (Please refer to para 2A of notification No. 11/2017- CTR dated 28.06.2019 as amended vide notification No. 3/2019- CTR dated 29.03.2019), or</p> <p>(b) They are being constructed under any of the schemes specified in sub-item (b), sub-item (c), sub-item (d), sub-item (da) and sub-item (db) of item (iv); sub-item (b), sub-item (c), sub-item (d) and sub item (da) of item (v); and sub-item (c) of item (vi), against serial number 3 of the said notification.</p>
10.	<p>What shall be the rate of GST applicable on projects in respect of which OC has been issued prior to 01.04.2019, but the balance demands are pending? Such projects are neither projects which commence on or after 01.04.2019 nor ongoing projects.</p>	<p>Time of supply of the service by way of construction of apartments in such projects falls prior to 01.04.2019 and accordingly the rates as existed prior to 01.04.2019 would apply to such balance demands.</p>
11.	<p>The affordable residential apartment should not have a carpet area exceeding 60 sqm in metropolitan cities and 90 sqm in other places. Will the internal walls of the apartment, balcony or verandah be included 60/90 sq meter?</p>	<p>"Carpet area" is defined in clause (k) of section 2 of the RERA, 2016 and the same has been adopted in the notification.</p>
12.	<p>If an un-registered person transfers development right to a developer-promoter, then it is apparently not covered by the fourth proviso applicable to</p>	<p>Promoter shall be liable to pay GST on TDR transferred by any person whether registered or not on RCM basis.</p>

	clause (i) to clause (id) of serial 3 of Notification No. 11/2017 (as amended). Will the promoter be liable to pay GST on TDR received from an unregistered land owner?	
13.	Whether the ITC availed as per the second proviso applicable to clause (i) to clause (id) of serial 3 of Notification No. 11/2017 (as amended) can be adjusted against the output liability of 5% / 1%?	No. GST on services of construction of an apartment by a promoter at the rate of 1%/ 5% is to be discharged in cash only. ITC, if any, may be used for discharging any other supply of service.
14.	If a developer-promoter opts to pay tax for the ongoing project of affordable residential apartment at the new rate, can he use the ITC available to him under the second proviso applicable to clause (i) to clause (id) of serial 3 of Notification No. 11/2017 (as amended) for payment of tax at 1%/5%?	Reply as in Q. No. 13 above.
15.	The condition in Notification No. 3/2019 specifies that 80% of inputs and input services should be procured from registered person. What about expenditure such as salaries, wages, etc. These are not supplies under GST [Sl. 1 of Schedule III]. Now, my question is, whether such services will be included under input services for considering 80% criteria?	Services by an employee to the employer in the course of or in relation to his employment are neither a goods nor a service as per clause 1 of the Schedule III of CGST Act, 2017. Therefore, salaries and wages paid by promoter to his employees will not be relevant for the minimum purchase requirement of 80% .
16.	A buyer has booked an apartment prior to 1st April, 2019 and paid part consideration to the developer. The developer decides to opt for the new scheme for this ongoing project. Will the buyer be required to pay	No. For the past payments made before the transition date (01.04.2019), no additional GST is required to be paid.

	any additional tax for such payment he has made prior to 31st march, 2019?	
17.	Whether the condition of receiving 80% of inputs and input services from the registered person shall be applicable if the developer opts to continue to pay tax at the old rates of 12%/8% in respect of an ongoing project?	No, if the developer opts to continue to pay tax at the old rates of 12%/8% in respect of an ongoing project, the condition of receiving 80% of inputs and input services from the registered person doesn't apply.
18.	Whether the inward supplies of exempted goods / services shall be included in the value of supplies from unregistered persons while calculating 80% threshold?	Yes. Inward supplies of exempted goods / services shall be included in the value of supplies from unregistered persons while calculating 80% threshold.
19.	Whether the purchase of Land from an unregistered person shall be required to be included in the value of Input and Input Services for the purpose of calculation of 80% threshold?	No. As per Schedule III, Entry No 5, of CGST Act, sale of land is not a supply. In addition, as per 5th proviso to entries at Sl. No. (i), (ia), (ib), (ic) and (id) against Serial No 3 in the Notification No.11 / 2017-CTR dated 28.06.2017 as amended by Notification No. 3 / 2019-CTR dated 30/03/2019, transactions by way of grant of development rights, long term lease, FSI etc. are not required to be included in the value of Input and Input Services for evaluation of criteria of 80% from registered persons.
20.	When a developer prefers the option of paying tax at 1%/ 5%, without ITC, for an ongoing project, whether the apartments which were not considered as affordable in the earlier scheme (though certain apartments in such project were considered as affordable in the earlier scheme) will be considered as affordable after 1st April, 2019, if such apartments fit the definition of affordable residential apartments as provided in notification No. 3/2019- CT(R) dated 29.03.2019?	Yes, in case of an ongoing project in respect of which the promoter has not opted to pay GST at the old rate, he shall pay tax at the effective rate of 1% without ITC on apartments which meet the new definition of affordable residential apartment.

21.	Whether the amended rule 42 shall apply to all RREPs including ongoing projects?	In case of an ongoing RREP, in respect of which promoter opts for the new rates of 1% / 5% and which underwent transition of ITC consequent to change of rates of tax on 01.04.2019, ITC determined under sub- rule (1) of rule 42 shall not be required to be calculated finally on the completion or first occupation of the RREP.
22.	Whether separate Form (Annexure IV) shall be filed by the Developer in respect of each of the Ongoing Projects?	Yes. The promoter has to exercise the option for payment of tax at the old rates of 8%/ 12% with ITC for each of the ongoing projects separately.
23.	On what basis a Contractor / Sub-contractor executing a composite supply of works contract in terms of clause (va) i.e. 12% for affordable residential apartments, shall satisfy himself as regards condition of 50% of the total carpet area?	The contractor may charge tax on the works contract service provided by him to a promoter at the concessional rate of 12% under notification No. 11/2017- CTR dated 28.06.2019, S. No.3, entry (va) on the basis of a declaration by the promoter to the contractor that the project meets the conditions prescribed for concessional rate of GST on works contract service prescribed under the said entry.
24.	Whether the condition to make payment within 180 days by Land Owner – Promoter to Developer – Promoter as provided in second proviso to section 16 (2), shall be applicable for reversal of input tax credit ?	The apartments given to the Land Owner – Promoter are given by the Developer – Promoter against consideration received by him in the form of TDR from the Land Owner – Promoter. Therefore, the payment by Land Owner – Promoter for service of construction of apartments received from the Developer – Promoter is made even before the service is provided. Therefore, Land Owner – Promoter shall not be required to reverse input tax credit of tax charged from him by the Developer – Promoter on the ground that he has not made payment for the service received from the Developer – Promoter.
25.	Whether the exemption given by way of Entry 41A / 41B of Notification No. 12/2017-CTR shall be available in respect of development rights etc. transferred to a person other than promoter? Please clarify whether	The exemption is available only on TDR/ FSI transferred on or after 1 st April, 2019 for construction of residential apartments by a promoter in a real estate project.

	sub-clause (v) in clause (zk) in section 2 in RERA Act, 2016 covers a person who purchases TDR as developer?	
26.	How to determine value of construction services provided by the promoter to land owner in lieu of transfer of development rights, when land owner is not registered?	Value of construction services provided by the promoter to land owner in such cases shall be determined based on the total amount charged by the promoter for similar apartments in the project from independent buyers, other than the land owner, nearest to the date on which such development right etc. is transferred to the promoter, less the value of transfer of land, if any, as prescribed in paragraph 2 of Notification No. 11/2017-CT(R) dated 28.06.2017.
27.	In case of a project, where completion certificate has been received prior to 31-03-2019 but some part of the consideration in relation to the apartment is due after 31-03-2019, it appears that such project will not qualify as ongoing project. What will be the applicable tax rate on such amount received on or after 01.04.2019 – old rate or new rate?	Time of supply of service of construction of such apartments is prior to 01.04.2019 and the same shall be subject to tax at the old rates of 12%/8%.

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