



GST IMPACT ON REAL ESTATE INDUSTRY

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OVERVIEW – NEW RATE AND OLD RATE REGIME

A. New Scheme

GST is applicable with effect from April 1st 2019 at the rate of:

- Rate of 1% in case of apartments under affordable housing;
- Rate of 5% for residential apartments which are non – affordable housing;
- Rate of 5% for commercial apartments in projects with commercial area not more than 15%.

Input Tax Credit

W.e.f 1.4.2019 under new scheme, the Input Tax Credit is not be eligible and any available ITC balance cannot be used for payment of such GST liability.

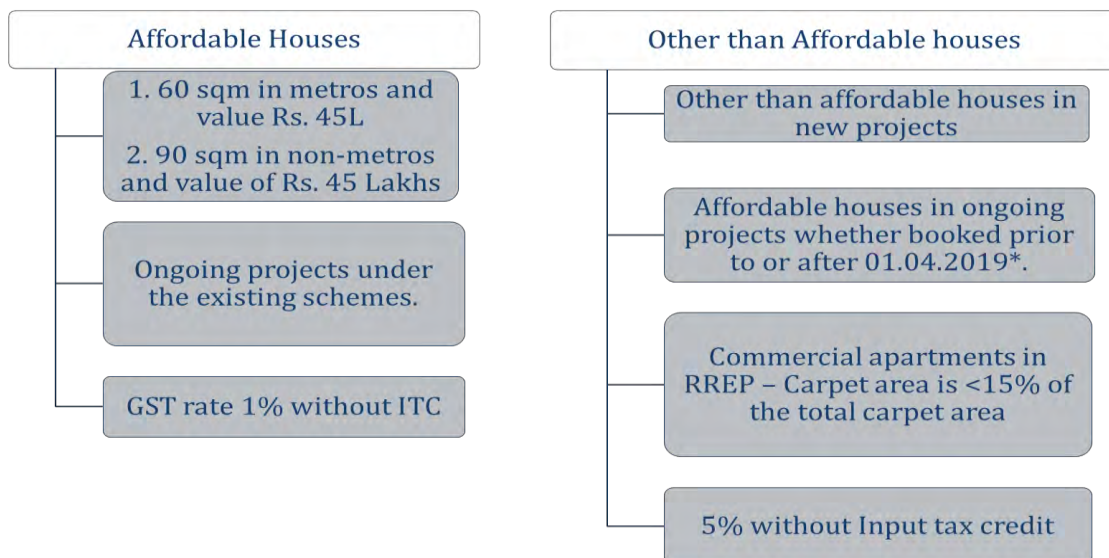
Disclosure in GSTR 3B

To be disclosed in ‘Ineligible ITC’ column during the month.

B. Old Scheme

In case the developer wishes to continue with the existing scheme, he has to opt for the same by filing the prescribed form - IV on or before 20th May 2019. 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).

C. Points to ponder



Note: Booked prior to 01.04.2019, new rate shall be applicable on installments payable on or after 01.04.2019.

DEVELOPMENT RIGHTS

For Residential and Commercial apartments:

JDA – Development rights provided by Landowner to Developer					
Scenario 1	JDA Before 1.4.2019	SA Before 1.4.2019	18% (Effective rate of tax 12% with 1/3 rd Land value deduction)	GST Payable by Landowner	Forward Charge/Reverse Charge
Scenario 2	JDA After 1.4.2019	SA After 1.4.2019	18%	GST payable by Builder/Developer	Forward charge
Scenario 3	JDA Before 1.4.2019	SA After 1.4.2019	18%	GST payable by Builder/Developer	Reverse Charge

Note 1: In case of Residential: The developer is liable to pay GST under Reverse Charge Mechanism. For units remaining unsold on Completion Certificate (CC) at the rate of 18%. However it is restricted to 5% on the Value of flat sold closer to the CC date.

Note 2: In case of Commercial: It is exempt.

D. Time of supply and Valuation in case of Development rights:

The Time of Supply will be the 'date of completion / occupancy certificate in the case where tax is to be remitted by the Builder/Developer.

Time of supply would be earlier of (a) percentage of completion or (b) date of OC/CC for project. Rate of tax and value of supply (of development rights) would be 18% on deemed value on RCM basis.

The Value of supply to be derived from the valuation method in explanation 1A of 04/2019 on the date when development rights were transferred, i.e, date of joint-development agreement.

E. Point to ponder:

In respect of all projects the DRs supply which are 'intended for sale' is fallen under reverse Charge mechanism whether Landowner is registered or unregistered (05/2019);

In respect of residential projects for supply of DRs that are 'intended for sale' is fully exempted from under RCM where units are sold by date of OC/CC.

For Residential and Commercial apartments falling RREP:

Scenario 1 (Residential)	JDA Before 1.4.2019	SA Before 1.4.2019	18% (Effective rate of tax 12% with 1/3 rd Land value deduction)	GST Payable by Builder/Developer
Scenario 2 (Residential)	JDA After 1.4.2019	SA After 1.4.2019	5%	GST payable by Builder/Developer
Scenario 3 (Residential)	JDA Before 1.4.2019	SA After 1.4.2019	5%	Opted for New scheme GST payable by Builder/Developer
Scenario 4 (Residential)	JDA Before 1.4.2019	SA After 1.4.2019	18% (Effective rate of tax 12% with 1/3 rd Land value deduction)	Opted for Old scheme GST payable by Builder/Developer
Scenario 5 (Residential)	For Commercial units in REP other than RREP		18% (Effective rate of tax 12% with 1/3 rd Land value deduction)	GST payable by Builder/Developer

Relevant definitions extract for reference

RREP: 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% of the total carpet area of all the apartments in the REP.

REP: Real Estate Project (REP) as per explanation 4(xviii) of notification No. 3/2019 ibid, the definition would be as per section 2(zn) of the RERA which defines the term REP as: 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 also includes the common areas, the development works, all improvements and structures thereon, and all easement, rights and appurtenances belonging thereto.

Carpet area: It is defined in clause (k) of section 2 of the RERA, 2016 and the same has been adopted in the notification.

Project: As per paragraph 4 (xv) of notification No. 3/2019 ibid, “Project” shall mean a Real Estate Project (REP) or Residential Real Estate Project (RREP).

Affordable residential apartment has been defined to extend the scope to include apartments having carpet area of 60 sqm / 90 sqm and where consideration does not exceed Rs. 45 lakhs. The definition is as per explanation 4(xvi) of notification No. 3/2019.