

GST UPDATE

(March, 2019)

Directorate of Training, Excise and Taxation Department, Punjab

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(I) GIST OF GST NOTIFICATIONS

1. Higher Exemption Threshold Limit for Supplier of Goods:

Notification No. 10/2019 exempts person from obtaining registration and payment of tax who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed Forty lakhs rupees. This benefit will not be applicable to

- a) persons required to take compulsory registration,
- b) persons engaged in making supplies of goods such as ice cream and other edible ice, pan masala, tobacco and manufactured tobacco substitutes,
- c) persons engaged in making intra state supplies in the State of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura and Uttarakhand,
- d) persons obtaining voluntary registration under Section 25(3).

[Notification No. 10/2019 – Central Tax dated 07.03.2019]

2. Special procedure for Statement of outward supplies (GSTR-1) for Small taxpayers

Notification No. 11/2019 notifies that the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year shall furnish the details of outward supply of goods or services or both in FORM GSTR-1 effected during quarter April-June 2019 till 31st July, 2019.

[Notification No. 11/2019 – Central Tax dated 07.03.2019]

3. GSTR 1 Return System further extended till June 2019

Notification No. 12/2019 extends the time limit for furnishing the details of outward supplies in FORM GSTR-1 under the Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from April, 2019 to June, 2019 till the eleventh day of the month succeeding such month.

[Notification No. 12/2019 – Central Tax dated 07.03.2019]

4. GSTR 3B Return System further extended till June 2019

Notification No. 13/2019 specifies that the return in FORM GSTR-3B of for each of the months from April, 2019 to June, 2019, shall be furnished electronically through the common portal, on or before the twentieth day of the month succeeding such month.

[Notification No. 13/2019 – Central Tax dated 07.03.2019]

5. Increase in Turnover Limit for Existing Composition Scheme

As per notification no. 14/2019, an eligible registered person whose aggregate turnover in the preceding financial year did not exceed Rs. 1.50 crore may opt to pay tax under composition levy. In case of states that is Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, Tripura and Uttarakhand the turnover limit is 75 lakhs for opting composition levy for eligible registered person. Further, the registered person shall not be eligible to opt for composition levy under sub-section (1) of section 10 of the said Act if such person is a manufacturer of the goods that is ice cream and other edible ice, pan masala, tobacco and manufactured tobacco substitutes.

[Notification No. 14/2019 – Central Tax dated 07.03.2019]

6. Extension in due date for furnishing ITC-04

The time limit for furnishing the declaration in FORM GST ITC-04 in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to March, 2019 has been extended till the 30th June, 2019.

[Notification No. 15/2019 – Central Tax dated 28.03.2019]

7. Making Second Amendment (2019) to CGST Rules

This notification has been issued to amend the rules in accordance with the recent changes in the law.

i. Reversal of credit for flats sold after OC – Rule 42 & 43:

Rule 42 & 43 has been amended w.e.f. 19 to set the new procedure for reversal of credit related to construction services, where certain flats of the project are / would be sold after obtaining the Completion Certificate or Occupancy certificate.

In short, the turnover based procedures have been shifted to the area based procedure.

Thereby, the supplier has to reverse the credit on monthly basis in the proportion of estimated SFT, which could be sold after OC and the same to be trued up at the time of completion of the project.

Projects, which have not been completed up to 31.03.2019 has to follow such area based reversals, whereas the projects which has completed on or before 31.03.2019 has to follow earlier rule 42 and 43 reversals (based on turnover).

ii. Rule 88A – Order of utilization of credit has been inserted in accordance with the amendment act. There by the credit utilisation shall be as followed:

Type of liability	Order of the credit to be used		
IGST	IGST	CGST	SGST
CGST	IGST	CGST	
SGST	IGST	SGST	

iii. Rule 100 – Assessment in certain cases has been amended to include the forms for uploading the summary of the Order or the Assessments passed in FORM GST DRC-01 & 07.

iv. Rule 142 – Notice and order for demand of amounts payable under the act has been amended to widen the scope of applicability of the Summary of the Assessment orders / Replies etc. in FORM GST DRC-01, 03,06 and 07.

v. Also formats of few forms DRC-01, 02, 07, 08, ASMT-13, 15 and 16 have been amended w.e.f. 04 Apr, 2019.

[Notification No. 16/2019 – Central Tax dated 29.03.2019]

8. Composition Scheme for Services and Mix Supplies

Notification No. 2/2019 Central Tax (Rate) has made available composition scheme for suppliers of services (or Mix suppliers) with a rate of 6% (3% CGST and 3% SGST) having first supplies of goods or services or both upto an aggregate turnover of fifty lakh rupees made on or after the 1st day of April in any financial year, by a registered person. This benefit shall not be available to a persons engaged in making interstate outward supply.

For the purposes of this notification, the expression “first supplies of goods or services or both” shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.

[Notification No. 2/2019 Central Tax (Rate) dated 07.03.2019]

9. Amending Notification No. 11/2017- Central Tax (Rate) to notify CGST rates of various services for real estate sector.

This notification has been issued to prescribe the new rates for the Real estate sector. The summary of the same are as followed:

Type of apartment	Category	New Rate of tax	Comparison effective rate after 1/3rd ded.n		Conditions
			Old rate	New rate	
Residential	Construction of > affordable residential apartments >by a promoter in RREP / REP – to a buyer a. Newb. Ongoing – not opted for old rates	1.50%	8% or 12%	1%	i. Tax Should be paid in Cash ii. No ITC – To be reported in GSTR-3B-4D(2) iii. Reverse the credit availed, relevant for future Income iv. 1/3rd deduction for land value v. Promoter includes Developer & Land owner
	Other than affordable Residential apartments of above category	7.50%	12%	5%	vi. 80% regd. Procurements – >Short fall – 18% RCM Payment on Fin.year basis – Return by 30th Jun. >Cement URD – 28% RCM – Monthly basis >Capital goods URD – applicable rate, compulsory RCM 9(4)
Commercial	Construction of Commercial apartments by a promoter in RREP a. New b. Ongoing – not opted for old rates	7.50%	12%	5%	vii. Affordable – > Area – 60/90 sqm in Metro/non-metro and > Gross value – <45L vii. Tax should be paid on construction services provided to land owner Viii. TOS for the above shall be at CC or OC whichever is earlier and the value will be the first sale value of similar flat sold near to date of JDA less land value (1/3 rd) viii. Landowner would be eligible for credit of tax charged by the developer.
Residential	Residential Ongoing project- Covered under 8% earlier Old affordable housing schemes & Opted for old rates	12%	8%	8%	Option should be exercised by 10.May.19
Residential / Commercial	> Commercial in REP / RREP > Residential Other than those covered above & opted for old	18%	12%	12%	

The tax treatment for the new transactions related to the land owner shall be as followed:

Service	Parties involved	Treatment
Development rights	Land owner to Builder	Residential: Exempted, if all the flats were sold before OC. Otherwise, liable under RCM, on value in proportion of flats remained unsold as on date of OC. Commercial: Developer would be liable to pay GST under RCM
Construction services	Builder to land owner	Taxable
Construction services	Land owner to Buyer	Taxable if sold prior to OC

[Notification No. 3/2019 Central Tax (Rate) dated 29.03.2019]

10. Amending Notification No. 12/2017- Central Tax (Rate) so as to exempt certain services for real estate sector.

The exemption **notification 12/2017** has been amended to include the services provided by the land owner to the developer by way of Transfer of development rights/ FSI/ Long term lease for the residential projects.

The above exemption shall be subject to the conditions that all the flats are sold prior to OC.

[Notification No. 4/2019 Central Tax (Rate) dated 29.03.2019]

11. Amending Notification No. 13/2017- Central Tax (Rate) so as to specify services to be taxed under Reverse Charge Mechanism (RCM) for real estate sector.

The RCM **notification 13/2017** has been amended to notify the services provided by the land owner to the developer by way of Transfer of development rights/ FSI/ Long term lease for the residential projects as specified services under reverse charge i.e. under Sec 9(3).

[Notification No. 5/2019 Central Tax (Rate) dated 29.03.2019]

12. Notifying certain class of persons by exercising powers conferred under section 148 of CGST Act, 2017.

This notification has been issued to specify the time of supply for

- discharging the liability under RCM on TDR/FSI/Long term lease received and
- construction services provided to landowner

- On or after 1st April 2019 would be the date of issuance of completion certificate or occupancy certificate whichever is earlier.

[Notification No. 6/2019 Central Tax (Rate) dated 29.03.2019]

13. Notifying certain services to be taxed under RCM under section 9(4) of CGST Act for real estate sector.

This notification has been issued to specify that the builder shall be liable to pay tax under RCM on the following:

Type of Expense	Rate of GST	Value
Inputs & Input services other than cement	18%	Short fall to 80%
	(Notification No. 07/2019-CTR)	
Cement	Applicable rate i.e. 28%	All unregd. Procurements
Capital Goods	Applicable rates	All unregd. Procurements

Note: There is a small difference w.r.t. taxability of cement under RCM on short fall vs on entire unregistered procurements, between the **Notification No. 3/2019** and **Notification No. 7/2019**.

[Notification No. 7/2019 Central Tax (Rate) dated 29.03.2019]

14. Amending Notification No. 1/2017- Central Tax (Rate) so as to notify CGST rate of certain goods for real estate sector.

This notification has been issued to prescribe the rate of tax for the shortfall Inputs & Input services other than cement as 18%.

[Notification No. 8/2019 Central Tax (Rate) dated 29.03.2019]

15. Amending Notification No. 02/2019- Central Tax (Rate) so as to provide for application of Composition rules to persons opting to pay tax under Notification No. 2/2019- Central Tax (Rate).

This notification has been issued amend the notification no. 2/2019-CTR (composition scheme for service providers) to

- Specify the credit reversal for the ITC on Inputs & Capital goods as on date of opting for the scheme in accordance with 18(4)
- Specify the lapse of the credit balance after above reversal

- Extend the applicability of Rules of Composition scheme of goods to the Special rate (Called as composition scheme) of services.

[Notification No. 9/2019 Central Tax (Rate) dated 29.03.2019]

16. Sales Promotion Schemes in GST

There have been several doubts in the Industry on sales promotion schemes as well as samples and gifts distributed. There has been industry practice to provide Post sales discounts which was not known at the time of sale. CBIC has issued a clarification on the aforesaid issues related to treatment of sales promotion schemes:

A. Free Samples and gifts:

It is clarified that samples which are supplied free of cost, without any consideration, do not qualify as “supply” under GST, except where the activity falls within the ambit of Schedule I of the said Act.

ITC shall not be available on Inputs, Input Services and Capital Goods in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. ITC so availed shall have to be reversed as per Sec 17(5)(h) of the CGST Act, 2017. Where the activity of distribution of gifts or free samples falls within the scope of “supply” as per Schedule I of the Act, the supplier would be eligible to avail of the ITC.

B. Buy one get one free offer:

It is prevalent in FMCG, Pharma and some industry to offer such schemes of providing free quantities along with taxable supplies. Many companies offer either Buy one, Get one Free offer or provide free item along with the product.

CBIC has clarified that in the aforesaid cases, the items are not offered free of cost but single price is charged for all the goods.

Such supplies may not be treated as an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply.

Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply. In case of composite supply, same shall be taxed at the rate charged for principal supply. However, in case of mixed supply, all the goods shall be taxed at the rate of the product which attracts highest rate of tax.

ITC shall be available on inputs, input services and capital goods to the supplier for such offers.

C. Discounts including ‘Buy more, save more’ offers:

It is Industry practice to offer more discount with the increase as volume, sometimes termed as “Quantity discount”, “Volume Discount” or “Lifting Discount”, etc. Such discounts are passed on by the supplier through credit notes.

Such discounts offered by the suppliers to customers (including staggered discount under “Buy more, save more” scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided that conditions as laid down in Section 15(3) of the CGST Act, 2017 is satisfied including reversal of ITC by the recipient.

D. Secondary Discounts:

In some cases, discounts are not known at the time of supply or are offered post such supply is over.

Section 34(1) – Credit or Debit Notes – where post issuance of tax invoice, taxable value or tax payable has exceeded the taxable value or tax charged in that invoice or goods are returned or supply is deficient, the registered person may issue a credit note to the recipient for supplies made in financial year.

Further, it is clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply. This shall not impact any input tax credit availability in the hands of supplier provided conditions laid down in Section 15(3) (b) of the CGST Act, 2017.

[Circular No. 92/12/2019-GST dated 07-03-2019]

17. Nature of Supply of Priority Sector Lending Certificates (PSLC)

Circular No. 93/12/2019 seeks to clarify that the nature of supply of Priority Sector Lending Certificates (PSLC) between banks may be treated as a supply of goods in the course of inter-State trade or commerce. Accordingly, IGST shall be payable on the supply of PSLC traded over e-Kuber portal of RBI.

However, where the bank liable to pay GST has already paid CGST/SGST or CGST/UTGST as the case may be, such banks for payment already made, shall not be required to pay IGST towards such supply.

[Circular No. 93/12/2019-GST dated 08-03-2019]

18. Clarifications on refund related issues under GST

Sl. No	Relevant for	Issue	Clarification
1	a. Person claiming refund of ITC under Inverted duty structure and b. Reversed lapsed credit related to wooven fabrics, in view of Notification no. 20/2018-CTR dated 26.07.2018	Since the old credit is reversed in current month GSTR-3B and the GSTN has calculated the eligible refund for the month on the basis of net ITC, there is a shortfall in the refund processed.	The balance can be availed in the current month RFD-01A under category of "Any other"
2	Liabe to reverse lapsed credit related to wooven	How to do that now?	Do it through DRC-03
3	fabrics, in view of Notification no. 20/2018-CTR dated 26.07.2018 but not reversed.	What are the consequences of delay?	Interest @ 18% p.a. Should be paid from the due date of Aug'18 return till the date of reversing the same.

What is Notification No. 20/2018-CTR?

Earlier, vide **Notification No. 5/2017-CTR**, it was notified that the ITC on certain goods shall not be eligible for refund under inverted duty structure.

Later, vide **Notification No. 20/2018 & Notification no. 5/2017** was amended to provide certain exclusions (wooven fabrics) w.e.f. 01.Aug.18. It was also specified that any credit balance w.r.t. such goods, as on 31st July 2017, shall lapse.

4	Merchant exporter, a. Availing benefits of Notification No. 40/2017 and b. Claiming refund of accumulated ITC	How to claim the refund of the credit accumulated in respect of transaction covered under notification no. 40/2017 ?	a. Eligible as per Rule 89(4B) b. The same should be claimed in RFD-01A, under category of "Any other" c. Same should be supported by all documents require for "refund of unutilized ITC on account of exports without payment of tax".
5	Cases where a. Person submitted RFD-01A for refund of ITC under, credit ledger was debited and b. The ITC was re-credited due to the deficiency memo issued by officer	Such persons are unable to file the fresh refund application for the same period.	a. Submit a manual application with rectifications under same ARN b. Up on request form officer, debit the credit ledger using DRC-03 c. Up on receipt of that proof of debit, the proper officer shall process the refund

[Circular No. 94/12/2019-GST dated 28-03-2019]

19. Verification of applications for grant of new registration

Issue:

- Recently, the departmental officers have cancelled many registrations due to their non-compliance.
- Such persons should discharge all the pending liabilities and apply for the revocation of registration.
- It is observed that many such tax payers are applying for fresh registration, instead of applying for revocation.

Clarification:

This circular has been issued to guide the departmental officers to cross check the registration applications properly, to ensure that no such tax payers are provided with a new GSTIN.

[Circular No. 95/13/2019-GST dated 28-03-2019]

20. Clarification in respect of transfer of input tax credit in case of death of sole proprietor**Issue:**

Clarifications have been sought w.r.t.

- Eligibility to transfer the credit and
- The procedure in case of death of a sole proprietor

Clarification:

- The credit transfer shall be eligible. The transferee / successor shall be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business due to death of sole proprietor.
- Transfer/change in ownership referred in Sec 18(3), 22(3), 29(1)(a) and 85(1) of the CGST act, includes the transfer or change in the ownership of business due to death of the sole proprietor.

Process:

- New registration – Transferee / successor should get registered w.e.f. date of transfer
- Cancellation of old registration – Legal heirs should apply for the cancellation in Form Reg-16
- In both the cases, mention the reason as “death of sole proprietor”.
- File ITC-02 in the registration required to be cancelled, before cancellation
- Accept the ITC-02 in the new GSTIN.

[Circular No. 96/14/2019-GST dated 28-03-2019]

(II) PUNJAB GST NOTIFICATIONS/ORDERS

PUNJAB GOVT. GAZ. (EXTRA), MARCH 20, 2019
(PHGN 29, 1940 SAKA)

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PART III

GOVERNMENT OF PUNJAB

DEPARTMENT OF EXCISE AND TAXATION
(EXCISE AND TAXATION BRANCH-II)

ORDER No.2

The 18th March, 2019

No. S.O.26/P.A.5/2017/S.172/2019.- WHEREAS, sub-section (4) of section 52 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017) (hereafter in this Order referred to as the said Act) provides that every operator who collects the amount specified in sub-section (1) shall furnish a statement, electronically, containing the details of outward supplies of goods or services or both effected through it, including the supplies of goods or services or both returned through it, and the amount collected under sub-section (1) during a month, in such form and manner as may be prescribed, within ten days after the end of such month;

AND WHEREAS, certain operators, were unable to obtain registration because of technical issues being faced by them on the common portal but they collected the amount for the months of October, November and December 2018, as a result whereof, the statement under sub-section (4) of section 52 of the said Act could not be furnished and because of that certain difficulties have arisen in giving effect to the provisions of the said sub-section;

NOW, THEREFORE, in exercise of the powers conferred by section 172 of the said Act and all other powers enabling him in this behalf, the Governor of Punjab, on recommendations of the Council, hereby makes the following Order, to remove the difficulties, namely: —

1. (1) Short title. —This Order may be called the Punjab Goods and Services Tax (Second Removal of Difficulties) Order, 2019.
(2) This order shall be deemed to have come into force on and with effect from the 01st day of February, 2019.
2. In section 52 of the Punjab Goods and Services Tax Act, 2017, in sub-section (4), in the Explanation, for the figures, letters and word “31st January, 2019”, the figures, letters and word “07th February, 2019” shall be substituted.

M.P. SINGH,

Additional Chief Secretary-cum-
Financial Commissioner (Taxation) to
Government of Punjab,
Department of Excise and Taxation.

PART III

GOVERNMENT OF PUNJAB

DEPARTMENT OF EXCISE AND TAXATION
(EXCISE AND TAXATION-II BRANCH)

ORDER

The 22nd March, 2019

No. S.O.28/P.A.5/2017/S.172/2019.-WHEREAS, sub-section (1) of section 10 of the Punjab Goods and Services Tax Act, 2017 (Punjab Act No.5 of 2017) (hereafter in this Order referred to as the said Act) provides that-

- (i) a registered person engaged in the supply of services, other than supply of service referred to in clause (b) of paragraph 6 of Schedule II to the said Act, may opt for the scheme under the said sub-section;
- (ii) a person who opts for the said scheme may supply services (other than those referred to in clause (b) of paragraph 6 of Schedule II to the said Act), of value not exceeding ten per cent of turnover in a State or Union territory in the preceding financial year or five lakh rupees, whichever is higher;

AND WHEREAS, clause (a) of sub-section (2) of section 10 of the said Act provides that the registered person shall be eligible to opt under sub-section (1), if, save as otherwise provided in sub-section(1), he is not engaged in the supply of services;

AND WHEREAS, rendering of services as part of the savings and investment practice of business, by way of extending deposits, loans or advances, in so far as the consideration is represented by way of interest or discount, is resulting in their ineligibility for the aforesaid scheme,causing hardships to a lot of small businesses and because of that, certain difficulties have arisen in giving effect to the provisions of section 10;

NOW, THEREFORE, in exercise of the powers conferred by section 172 of the Punjab Goods and Services Tax Act, 2017 and in supersession of the Punjab Goods and Services Tax (Removal of Difficulties) Order, 2018 published vide No.S.O. 02/P.A.5/2017/S.172/2018, dated the 10th January, 2018, published in the Punjab Government Gazette, (Extraordinary), Part-III, dated the 17th January, 2017, except as respects things done or omitted to be done before such supersession, and all other powers enabling him in this behalf, the Governor of Punjab, on recommendations of the Council, is pleased to make the following Order, namely: —

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1. (1) Short title. —This Order may be called the Punjab Goods and Services Tax (Removal of Difficulties) Order, 2019.
(2) This order shall be deemed to have come into force on and with effect from the 1st day of the February, 2019.
 2. For the removal of difficulties.-it is hereby clarified that the value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account-
 - (i) for determining the eligibility for composition scheme under second proviso to sub-section (1) of section 10;
 - (ii) in computing aggregate turnover in order to determine eligibility for composition scheme.

M.P. SINGH,

Additional Chief Secretary-cum-
Financial Commissioner (Taxation)
to Government of Punjab,
Department of Excise and Taxation.

1738/3-2019/Pb. Govt. Press, S.A.S. Nagar

(III) CENTRAL TAX NOTIFICATIONS

[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. 10/2019-Central Tax

New Delhi, the 7th March, 2019

G.S.R (E).- In exercise of the powers conferred by sub-section (2) of section 23 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter referred to as the “said Act”), the Central Government, on the recommendations of the Council, hereby specifies the following category of persons, as the category of persons exempt from obtaining registration under the said Act, namely,-

Any person, who is engaged in exclusive supply of goods and whose aggregate turnover in the financial year does not exceed forty lakh rupees, except, -

- (a) persons required to take compulsory registration under section 24 of the said Act;
- (b) persons engaged in making supplies of the goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table;
- (iii) persons engaged in making intra-State supplies in the States of Arunachal Pradesh, Manipur, Meghalaya, Mizoram, Nagaland, Puducherry, Sikkim, Telangana, Tripura, Uttarakhand; and
- (iv) persons exercising option under the provisions of sub-section (3) of section 25, or such registered persons who intend to continue with their registration under the said Act.

Table

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description
(1)	(2)	(3)
1	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2	2106 90 20	Pan masala
3	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

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

[F.No.354/25/2019-TRU]

(Gunjan Kumar Verma)
Under 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)
Central Board of Indirect Taxes and Customs

Notification No. 11/2019 – Central Tax

New Delhi, the 7th 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) (hereafter in this notification referred to as the said Act), the Central Government, on the recommendations of the Council, hereby notifies the registered persons having aggregate turnover of up to 1.5 crore rupees in the preceding financial year or the current financial year, as the class of registered persons, who shall follow the special procedure as mentioned below for furnishing the details of outward supply of goods or services or both.

2. The said registered persons shall furnish the details of outward supply of goods or services or both in **FORM GSTR-1** under the Central Goods and Services Tax Rules, 2017, effected during the quarter as specified in column (2) of the Table below till the time period as specified in the corresponding entry in column (3) of the said Table, namely: -

Table

Sl. No.	Quarter for which details in FORM GSTR-1 are furnished	Time period for furnishing details in FORM GSTR-1
(1)	(2)	(3)
1	April –June, 2019	31 st July, 2019

3. The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 and sub-section (1) of section 39 of the said Act, for the months of July, 2017 to June, 2019 shall be subsequently notified in the Official Gazette.

[F. No. 20/06/16/2018-GST]

(Dr. Sreeparvathy S.L.)
Under 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)
Central Board of Indirect Taxes and Customs

Notification No. 12/2019 – Central Tax

New Delhi, the 7th March, 2019

G.S.R.....(E). - In exercise of the powers conferred by the second proviso to sub-section (1) of section 37 read with section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act), the Commissioner, on the recommendations of the Council, hereby extends the time limit for furnishing the details of outward supplies in **FORM GSTR-1** under the Central Goods and Services Tax Rules, 2017, by such class of registered persons having aggregate turnover of more than 1.5 crore rupees in the preceding financial year or the current financial year, for each of the months from April, 2019 to June, 2019 till the eleventh day of the month succeeding such month.

2. The time limit for furnishing the details or return, as the case may be, under sub-section (2) of section 38 and sub-section (1) of section 39 of the said Act, for the months of July, 2017 to June, 2019 shall be subsequently notified in the Official Gazette.

[F. No. 20/06/16/2018-GST]

(Dr. Sreeparvathy S.L.)
Under 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)
Central Board of Indirect Taxes and Customs

Notification No. 13/2019 – Central Tax

New Delhi, the 7th March, 2019

G.S.R...(E).- In exercise of the powers conferred by section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereafter in this notification referred to as the said Act) read with sub-rule (5) of rule 61 of the Central Goods and Services Tax Rules, 2017 (hereafter in this notification referred to as the said rules), the Commissioner, on the recommendations of the Council, hereby specifies that the return in **FORM GSTR-3B** of the said rules for each of the months from April, 2019 to June, 2019, shall be furnished electronically through the common portal, on or before the twentieth day of the month succeeding such month.

2. Payment of taxes for discharge of tax liability as per FORM GSTR-3B.– Every registered person furnishing the return in **FORM GSTR-3B** of the said rules shall, subject to the provisions of section 49 of the said Act, discharge his liability towards tax, interest, penalty, fees or any other amount payable under the said Act by debiting the electronic cash ledger or electronic credit ledger, as the case may be, not later than the last date, as specified in the first paragraph, on which he is required to furnish the said return.

[F. No. 20/06/16/2018-GST]

(Dr. Sreeparvathy S.L.)
Under 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)
Central Board of Indirect Taxes and Customs

Notification No. 14/2019 – Central Tax

New Delhi, the 7th March, 2019

G.S.R. (E).- In exercise of the powers conferred under the proviso to sub-section (1) of section 10 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (hereinafter referred to as the said Act), and in supersession of the notification no 8/2017- Central Tax, dated the 27th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 647 (E), dated the 27th June, 2017, except as things done or omitted to be done before such supersession, the Central Government, on the recommendations of the Council, hereby specifies that an eligible registered person, whose aggregate turnover in the preceding financial year did not exceed one crore and fifty lakh rupees, may opt to pay, in lieu of the tax payable by him under sub-section (1) of section 9 of the said Act, an amount of tax as prescribed under rule 7 of the Central Goods and Services Tax Rules, 2017:

Provided that the said aggregate turnover in the preceding financial year shall be seventy-five lakh rupees in the case of an eligible registered person, registered under section 25 of the said Act, in any of the following States, namely: –

- (i) Arunachal Pradesh,
- (ii) Manipur,
- (iii) Meghalaya,
- (iv) Mizoram,
- (v) Nagaland,
- (vi) Sikkim,
- (vii) Tripura,
- (viii) Uttarakhand:

Provided further that the registered person shall not be eligible to opt for composition levy under sub-section (1) of section 10 of the said Act if such person is a manufacturer of the goods, the description of which is specified in column (3) of the Table below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said Table, namely:-

TABLE

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description
(1)	(2)	(3)
1.	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2.	2106 90 20	Pan masala.
3.	24	All goods, i.e. Tobacco and manufactured tobacco substitutes.

Explanation. –

(i) In this Table, “tariff item”, “sub-heading”, “heading” and “chapter” shall mean respectively a tariff item, sub-heading, heading and chapters as specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(ii) The rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975 (51 of 1975), including 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 this notification.

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

[F. No. 20/06/16/2018-GST (Pt. II)]

(Dr. Sreeparvathy S.L.)
Under 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)
Central Board of Indirect Taxes and Customs

Notification No. 15/2019 – Central Tax

New Delhi, the 28th March ,2019

G.S.R... (E). - In pursuance of section 168 of the Central Goods and Services Tax Act, 2017 (12 of 2017) and sub-rule (3) of rule 45 of the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), and in supercession of the notification of the Government of India in the Ministry of Finance, Department of Revenue No. 78/2018-Central Tax, dated the 31st December 2018, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide number G.S.R.1255(E), dated the 31st December 2018, except as respects things done or omitted to be done before such supercession, the Commissioner, hereby extends the time limit for furnishing the declaration in **FORM GST ITC-04** of the said rules, in respect of goods dispatched to a job worker or received from a job worker, during the period from July, 2017 to March, 2019 till the 30th day of June, 2019.

[F. No. 20/06/12/2018-GST]

(Gaurav Singh)
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)
Central Board of Indirect Taxes and Customs

Notification No. 16/2019 – Central Tax

New Delhi, the 29th March, 2019

G.S.R.....(E). - In exercise of the powers conferred by section 164 of the Central Goods and Services Tax Act, 2017 (12 of 2017), the Central Government hereby makes the following rules further to amend the Central Goods and Services Tax Rules, 2017, namely:-

1. (1) These rules may be called the Central Goods and Services Tax (Second Amendment) Rules, 2019.

(2) Save as otherwise provided in these rules, they shall come into force on the date of their publication in the official gazette.

2. In the Central Goods and Services Tax Rules, 2017 (hereinafter referred to as the said rules), in rule 41, in sub-rule (1), after the proviso, the following explanation shall be inserted, namely: -

“Explanation: - For the purpose of this sub-rule, it is hereby clarified that the “value of assets” means the value of the entire assets of the business, whether or not input tax credit has been availed thereon.”.

3. With effect from 1st April, 2019, in Rule 42 of the said rules,-

(a) in sub rule (1),-

a. in clause (f), the following Explanation shall be inserted, namely:-

“*Explanation:* For the purpose of this clause, it is hereby clarified that in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the said Act, value of T₄ shall be zero during the construction phase because inputs and input services will be commonly used for construction of apartments booked on or before the date of issuance of completion certificate or first occupation of the project, whichever is earlier, and those which are not booked by the said date.”

- b. in clause (g), after the letter and figure “**FORM GSTR-2**”, the words, letters and figure “**and at summary level in FORM GSTR-3B**” shall be inserted;
- c. in clause (h),-
- i. for the brackets and letter “(g)”, the brackets and letter “(f)” shall be substituted;
- d. in clause (i),-
- i. before the proviso, the following proviso shall be inserted, namely:-
“Provided that in case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the Act, the value of ‘E/F’ for a tax period shall be calculated for each project separately, taking value of E and F as under:-

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;

Explanation 1: In the tax period in which the issuance of completion certificate or first occupation of the project takes place, value of E shall also include aggregate carpet area of the apartments, which have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier;

Explanation 2: Carpet area of apartments, tax on construction of which is paid or payable at the rates specified for items (i), (ia), (ib), (ic) or (id), against serial number 3 of the Table 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, shall be taken into account for calculation of value of ‘E’ in view of Explanation (iv) in paragraph 4 of 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.

- ii. in the proviso, for the word “Provided”, the words “Provided further” shall be substituted;
- e. for the clause (l), the following clause shall be substituted, namely:-

“(l) the amount ‘C3’, ‘D1’ and ‘D2’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in **FORM GSTR-3B** or through **FORM GST DRC-03**.”;
- f. in the clause (m), for the words “added to the output tax liability of the registered person”, the words, letters and figures “reversed by the registered person in **FORM GSTR-3B** or through **FORM GST DRC-03**” shall be substituted;
- (b) in sub rule (2), for the words “The input tax credit”, the words, figures and bracket “Except in case of supply of services covered by clause (b) of paragraph 5 of the Schedule II of the Act, the input tax credit” shall be substituted;
- (c) in the clause (a) of sub-rule (2), for the words “added to the output tax liability of the registered person”, the words, letters and figures “reversed by the registered person in **FORM GSTR-3B** or through **FORM GST DRC-03**” shall be substituted;
- (d) after sub rule (2), the following sub rules shall be inserted, namely:-

“(3) In case of supply of services covered by clause (b) of paragraph 5 of the Schedule II of the Act, the input tax determined under sub-rule (1) shall be calculated finally, for each ongoing project or project which commences on or after 1st April, 2019, which did not undergo or did not require transition of input tax credit consequent to change of rates of tax on 1st April, 2019 in accordance with notification No. 11/2017- Central Tax (Rate), dated the 28th June, 2017, published *vide* GSR No. 690(E) dated the 28th June, 2017, as amended for the entire period from the commencement of the project or 1st July, 2017, whichever is later, to the completion or first occupation of the project, whichever is earlier, before the due date for furnishing of the return for the month of September following the end of financial year in which the completion certificate is issued or first occupation takes place of the project, in the manner prescribed in the said sub-rule, with the modification that value of E/F shall be calculated taking value of E and F as under:

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 which 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;

and,-

(a) where the aggregate of the amounts calculated finally in respect of 'D1' and 'D2' exceeds the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2', such excess shall be reversed by the registered person in **FORM GSTR-3B** or through **FORM GST DRC-03** in the month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation of the project takes place and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment; or

(b) where the aggregate of the amounts determined under sub-rule (1) in respect of 'D1' and 'D2' exceeds the aggregate of the amounts calculated finally in respect of 'D1' and 'D2', such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the project.

(4) In case of supply of services covered by clause (b) of paragraph 5 of Schedule II of the Act, the input tax determined under sub-rule (1) shall be calculated finally, for commercial portion in each project, other than residential real estate project (RREP), which underwent transition of input tax credit consequent to change of rates of tax on the 1st April, 2019 in accordance with notification No. 11/2017- Central Tax (Rate), dated the 28th June, 2017, published *vide* GSR No. 690(E) dated the 28th June, 2017, as amended for the entire period from the commencement of the project or 1st July, 2017, whichever is later, to the completion or first occupation of the project, whichever is earlier, before the due date for furnishing of the return for the month of September following the end of financial year in which the

completion certificate is issued or first occupation takes place of the project, in the following manner.

- (a) The aggregate amount of common credit on commercial portion in the project ($C3_{\text{aggregate_comm}}$) shall be calculated as under,

$$C3_{\text{aggregate_comm}} = [\text{aggregate of amounts of C3 determined under sub- rule (1) for the tax periods starting from 1}^{\text{st}} \text{ July, 2017 to 31}^{\text{st}} \text{ March, 2019, x } (A_C / A_T)] + [\text{aggregate of amounts of C3 determined under sub- rule (1) for the tax periods starting from 1}^{\text{st}} \text{ April, 2019 to the date of completion or first occupation of the project, whichever is earlier}]$$

Where, -

A_C = total carpet area of the commercial apartments in the project

A_T = total carpet area of all apartments in the project

- (b) The amount of final eligible common credit on commercial portion in the project ($C3_{\text{final_comm}}$) shall be calculated as under

$$C3_{\text{final_comm}} = C3_{\text{aggregate_comm}} \times (E / F)$$

Where, -

E = total carpet area of commercial apartments which have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier.

F = A_C = total carpet area of the commercial apartments in the project

- (c) where, $C3_{\text{aggregate_comm}}$ exceeds $C3_{\text{final_comm}}$, such excess shall be reversed by the registered person in **FORM GSTR-3B** or through **FORM GST DRC-03** in the month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the project and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment;
- (d) where, $C3_{\text{final_comm}}$ exceeds $C3_{\text{aggregate_comm}}$, such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the project.

(5) Input tax determined under sub- rule (1) shall not be required to be calculated finally on completion or first occupation of an RREP which underwent transition of input tax credit consequent to change of rates of tax on 1st April, 2019 in accordance with notification No. 11/2017- Central Tax (Rate), dated the 28th June, 2017, published *vide* GSR No. 690(E) dated the 28th June, 2017, as amended.

(6) Where any input or input service are used for more than one project, input tax credit with respect to such input or input service 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 (3).”.

4. With effect from 1st April, 2019, in rule 43 of the said rules,-

(i) in sub rule (1),-

(a) in clause (a), after the words, letters and figures “**FORM GSTR-2**”, the words, letters and figure “and **FORM GSTR-3B**” shall be inserted;

(b) in clause (b), after the letters and figure “**FORM GSTR-2**”, the words, letters and figures “and **FORM GSTR-3B**” shall be inserted;

(c) after clause (b), the following explanation shall be inserted, namely: -

“Explanation: For the purpose of this clause, it is hereby clarified that in case of supply of services covered by clause (b) of paragraph 5 of the Schedule II of the said Act, 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 zero during the construction phase because capital goods will be commonly used for construction of apartments booked on or before the date of issuance of completion certificate or first occupation of the project, whichever is earlier, and those which are not booked by the said date.”;

(d) in clause (g),-

(A) after the letter and words “‘F’ is the total turnover”, the words “in the State” shall be inserted;

(B) Before the proviso the following proviso shall be inserted, namely,-

“Provided that in case of supply of services covered by clause (b) of paragraph 5 of the Schedule II of the Act, the value of ‘E/F’ for a tax

period shall be calculated for each project separately, taking value of E and F as under:

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;

Explanation 1: In the tax period in which the issuance of completion certificate or first occupation of the project takes place, value of E shall also include aggregate carpet area of the apartments, which have not been booked till the date of issuance of completion certificate or first occupation of the project, whichever is earlier.

Explanation 2: Carpet area of apartments, tax on construction of which is paid or payable at the rates specified for items (i), (ia), (ib), (ic) or (id), against serial number 3 of the Table in 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 No. 690 (E) dated 28th June, 2017, as amended, shall be taken into account for calculation of value of 'E' in view of Explanation (iv) in paragraph 4 of the notification No. 11/2017-Central Tax (Rate) published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated the 28th June, 2017 *vide* GSR No. 690 (E) dated 28th June, 2017, as amended.”;

(C) in the proviso, for the word “Provided”, the words “Provided further” shall be substituted;

(e) after clause (h), the following clause shall be inserted, namely,-

“(i) The amount Te shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax and declared in **FORM GSTR-3B.**”;

(ii) for sub rule (2) the following sub rules shall be substituted, namely:-

“(2) In case of supply of services covered by clause (b) of paragraph 5 of schedule II of the Act, the amount of common credit attributable towards exempted supplies (Te^{final}) shall be calculated finally for the entire period from the commencement of the project or 1st July, 2017, whichever is later, to the completion or first occupation of the project, whichever is earlier, for each project separately, before the due date for furnishing of the return for the month of September following the end of financial year in which the completion certificate is issued or first occupation takes place of the project, as under:

$$Te^{final} = [(E1 + E2 + E3) / F] \times Tc^{final},$$

Where,-

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, -

$$E2 = [\text{Carpet area of such apartments}] \times [V_1 / (V_1 + V_2)],$$

Where,-

V_1 is the total value of supply of such apartments which was exempt from tax;

and

V_2 is the total value of supply of such apartments which was taxable

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;

Tc^{final} = aggregate of A^{final} in respect of all capital goods used in the project and A^{final} for each capital goods shall be calculated as under,

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

and,-

(a) where value of T_e^{final} exceeds the aggregate of amounts of T_e determined for each tax period under sub-rule (1), such excess shall be reversed by the registered person in **FORM GSTR-3B** or through **FORM GST DRC-03** in the month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the project and the said person shall be liable to pay interest on the said excess amount at the rate specified in sub-section (1) of section 50 for the period starting from the first day of April of the succeeding financial year till the date of payment; or

(b) where aggregate of amounts of T_e determined for each tax period under sub-rule (1) exceeds T_e^{final} , such excess amount shall be claimed as credit by the registered person in his return for a month not later than the month of September following the end of the financial year in which the completion certificate is issued or first occupation takes place of the project.

Explanation.- For the purpose of calculation of T_c^{final} , part of the month shall be treated as one complete month.

(3) 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.

(4) 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).

(5) 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;”;

(iii) the Explanation shall be numbered as “*Explanation 1*” thereof and after *Explanation 1* as so numbered the following *Explanation* shall be inserted, namely:-

“*Explanation 2:* For the purposes of rule 42 and this rule,-

(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 “project” shall mean a real estate project or a residential real estate project;

(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) 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;

(v) 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);

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

(vii) “Commercial apartment” shall mean an apartment other than a residential apartment;

(viii) the term "competent authority" as mentioned in definition of “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;

(ix) 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;

(x) 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);

(xi) “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 installment 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.

(xii) The term “ongoing project” shall have the same meaning as assigned to it in notification No. 11/2017- Central Tax (Rate), dated the 28th June, 2017, published vide GSR No. 690(E) dated the 28th June, 2017, as amended;

(xiii) The term “project which commences on or after 1st April, 2019” shall have the same meaning as assigned to it in notification No. 11/2017- Central Tax (Rate), dated the 28th June, 2017, published vide GSR No. 690(E) dated the 28th June, 2017, as amended;”.

5. In the said rules, after rule 88, the following rule shall be inserted, namely: -

“Rule 88A. Order of utilization of input tax credit.- Input tax credit on account of integrated tax shall first be utilised towards payment of integrated tax, and the amount remaining, if any, may be utilised towards the payment of central tax and State tax or Union territory tax, as the case may be, in any order:

Provided that the input tax credit on account of central tax, State tax or Union territory tax shall be utilised towards payment of integrated tax, central tax, State tax or Union territory tax, as the case may be, only after the input tax credit available on account of integrated tax has first been utilised fully.”.

6. With effect from 1st April, 2019, in the said rules, for rule 100, the following rule shall be substituted, namely:—

“**100. Assessment in certain cases.-** (1) The order of assessment made under sub-section (1) of section 62 shall be issued in **FORM GST ASMT-13** and a summary thereof shall be uploaded electronically in **FORM GST DRC-07**.

(2) The proper officer shall issue a notice to a taxable person in accordance with the provisions of section 63 in **FORM GST ASMT-14** containing the grounds on which the assessment is proposed to be made on best judgment basis and shall also serve a summary thereof electronically in **FORM GST DRC-01**, and after allowing a time of fifteen days to such person to furnish his reply, if any, pass an order in **FORM GST ASMT-15** and summary thereof shall be uploaded electronically in **FORM GST DRC-07**.

(3) The order of assessment under sub-section (1) of section 64 shall be issued in **FORM GST ASMT-16** and a summary of the order shall be uploaded electronically in **FORM GST DRC-07**.

(4) The person referred to in sub-section (2) of section 64 may file an application for withdrawal of the assessment order in **FORM GST ASMT-17**.

(5) The order of withdrawal or, as the case may be, rejection of the application under sub-section (2) of section 64 shall be issued in **FORM GST ASMT-18**.”

7. With effect from 1st April, 2019, in the said rules, for rule 142, the following rule shall be substituted, namely:—

“**142. Notice and order for demand of amounts payable under the Act.-** (1) The proper officer shall serve, along with the

(a) notice issued under section 52 or section 73 or section 74 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130, a summary thereof electronically in **FORM GST DRC-01**,

(b) statement under sub-section (3) of section 73 or sub-section (3) of section 74, a summary thereof electronically in **FORM GST DRC-02**, specifying therein the details of the amount payable.

(2) Where, before the service of notice or statement, the person chargeable with tax makes payment of the tax and interest in accordance with the provisions of sub-section (5) of section 73 or, as the case may be, tax, interest and penalty in accordance with the provisions of sub-section (5) of section 74, or where any person makes payment of tax, interest, penalty or any other amount due in accordance with the provisions of the Act he shall inform the

proper officer of such payment in **FORM GST DRC-03** and the proper officer shall issue an acknowledgement, accepting the payment made by the said person in **FORM GST DRC-04**.

(3) Where the person chargeable with tax makes payment of tax and interest under sub-section (8) of section 73 or, as the case may be, tax, interest and penalty under sub-section (8) of section 74 within thirty days of the service of a notice under sub-rule (1), or where the person concerned makes payment of the amount referred to in sub-section (1) of section 129 within fourteen days of detention or seizure of the goods and conveyance, he shall intimate the proper officer of such payment in **FORM GST DRC-03** and the proper officer shall issue an order in **FORM GST DRC-05** concluding the proceedings in respect of the said notice.

(4) The representation referred to in sub-section (9) of section 73 or sub-section (9) of section 74 or sub-section (3) of section 76 or the reply to any notice issued under any section whose summary has been uploaded electronically in **FORM GST DRC-01** under sub-rule (1) shall be furnished in **FORM GST DRC-06**.

(5) A summary of the order issued under section 52 or section 62 or section 63 or section 64 or section 73 or section 74 or section 75 or section 76 or section 122 or section 123 or section 124 or section 125 or section 127 or section 129 or section 130 shall be uploaded electronically in **FORM GST DRC-07**, specifying therein the amount of tax, interest and penalty payable by the person chargeable with tax.

(6) The order referred to in sub-rule (5) shall be treated as the notice for recovery.

(7) Where a rectification of the order has been passed in accordance with the provisions of section 161 or where an order uploaded on the system has been withdrawn, a summary of the rectification order or of the withdrawal order shall be uploaded electronically by the proper officer in **FORM GST DRC-08**.”.

8. With effect from 1st April, 2019, in the said rules, for **FORM GST DRC-01**, the following FORM shall be substituted, namely:–

“FORM GST DRC - 01

[See rule 100 (2) & 142(1)(a)]

Reference No:

Date:

To

_____ GSTIN/Temp. ID

----- Name

_____ Address

Tax Period -----

F.Y. -----

Act -

Section / sub-section under which SCN is being issued -

SCN Reference No. ----

Date ----

Summary of Show Cause Notice

Brief facts of the case :

Grounds :

Tax and other dues :

(Amount in Rs.)

Sr. No.	Tax rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Others	Total
			From	To							
1	2	3	4	5	6	7	8	9	10	11	12
Total											

Signature

Name

Designation

Jurisdiction

Address

Note -

1. Only applicable fields may be filled up.
2. Column nos. 2, 3, 4 and 5 of the above Table i.e. tax rate, turnover and tax period are not mandatory.
3. Place of Supply (POS) details shall be required only if the demand is created under the IGST Act.”.

9. With effect from 1st April, 2019, in the said rules, for **FORM GST DRC-02**, the following FORM shall be substituted, namely:–

“FORM GST DRC -02

[See rule 142(1)(b)]

Reference No:

Date:

To

_____ GSTIN/ID

----- Name

_____ Address

Tax Period :

F.Y. :

Section /sub-section under which statement is being issued :

SCN Ref. No. ----- Date –

Statement Ref. No. ---- Date –

Summary of Statement :

(a) Brief facts of the case :

(b) Grounds :

(c) Tax and other dues :

(Amount in Rs.)

Sr. No.	Tax rate	Turnover	Tax Period		Ac t	POS (Place of Supply)	Tax	Interes t	Penalt y	Other s	Tota l
			From	To							
1	2	3	4	5	6	7	8	9	10	11	12
Tota l											

Signature
Name
Designation
Jurisdiction
Address

Note -

1. Only applicable fields may be filled up.
2. Column nos. 2, 3, 4 and 5 of the above Table i.e. tax rate, turnover and tax period are not mandatory.
3. Place of Supply (POS) details shall be required only if the demand is created under the IGST Act.”.

10. With effect from 1st April, 2019, in the said rules, for **FORM GST DRC-07**, the following FORM shall be substituted, namely:-

“FORM GST DRC-07	
<i>[See rule 100(1), 100(2), 100(3) & 142(5)]</i>	
Summary of the order	
Reference No. -	Date –
1. Details of order :	
(a) Order No. :	

(b) Order date :

(c) Financial year :

(d) Tax period: From --- To -----

2. Issues involved :

3. Description of goods / services (if applicable):

Sr. No.	HSN code	Description

4. Section(s) of the Act under which demand is created:

5. Details of demand :

(Amount in Rs.)

Sr. No.	Tax Rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Others	Total
			From	To							
1	2	3	4	5	6	7	8	9	10	11	12
Total											

You are hereby directed to make the payment by <Date> failing which proceedings shall be initiated against you to recover the outstanding dues.

Signature

Name

Designation

Jurisdiction

Address

To

_____ (GSTIN/ID)

-----Name

_____ (Address)

Note –

1. Only applicable fields may be filled up.
2. Column nos. 2, 3, 4 and 5 of the Table at serial no. 5 i.e. tax rate, turnover and tax period are not mandatory.
3. Place of Supply (POS) details shall be required only if the demand is created under the IGST Act.”.

11. With effect from 1st April, 2019, in the said rules, for **FORM GST DRC-08**, the following FORM shall be substituted, namely:–

“FORM GST DRC - 08

[See rule 142(7)]

Reference No.:

Date:

Summary of Rectification /Withdrawal Order

1. Particulars of order:	
(a) Financial year, if applicable	
(b) Tax period, if any	From --- To ----
c) Section under which order is passed	
(d) Original order no.	
(e) Original order date	
(f) Rectification order no.	
(g) Rectification order date	

ARN, if applied for rectification	
(i) Date of ARN	

2. Your application for rectification of the order referred to above has been examined

3. It has come to my notice that the above said order requires rectification
(Reason for rectification as per attached annexure)

4. The order referred to above (issued under section 129) requires to be withdrawn

5. Description of goods / services (if applicable) :

Sr. No.	HSN code	Description

6. Section of the Act under which demand is created:

7. Details of demand, if any, after rectification :

(Amount in Rs.)

Sr. No.	Tax Rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Others	Total
			From	To							
1	2	3	4	5	6	7	8	9	10	11	12
Total											

You are hereby directed to make the payment by <Date> failing which proceedings shall be initiated against you to recover the outstanding dues.

Signature

Name

Designation

Jurisdiction

Address
To
_____ (GSTIN/ID)
_____ Name
_____ (Address)
Note –
1. Only applicable fields may be filled up.
2. Column nos. 2, 3, 4 and 5 of the Table at serial no. 7 i.e. tax rate, turnover and tax period are not mandatory.
3. Place of Supply (POS) details shall be required only if the demand is created under the IGST Act.
4. Demand table at serial no. 7 shall not be filled up if an order issued under section 129 is being withdrawn.”.

12. With effect from 1st April, 2019, in the said rules, for **FORM GST ASMT-13**, the following FORM shall be substituted, namely:–

“FORM GST ASMT- 13			
<i>[See rule 100(1)]</i>			
Reference No.:		Date:	
To			
_____ (GSTIN/ID)			
_____ Name			
_____ (Address)			
Tax Period :	F.Y. :	Return Type :	
Notice Reference No.:		Date :	
<table border="1" style="margin: 0 auto; width: 40%; height: 40px;"> <tr> <td>Act/ Rules Provisions:</td> </tr> </table>			Act/ Rules Provisions:
Act/ Rules Provisions:			
Assessment order under section 62			
(Assessment order under Section 62)			

Preamble - << standard >>

The notice referred to above was issued to you under section 46 of the Act for failure to furnish the return for the said tax period. From the records available with the department, it has been noticed that you have not furnished the said return till date.

Therefore, on the basis of information available with the department, the amount assessed and payable by you is as under:

Introduction :

Submissions, if any :

Discussions and Findings :

Conclusion :

Amount assessed and payable (Details at Annexure):

(Amount in Rs.)

Sr. No.	Tax rate	Turnover	Tax period		Act	POS (Place of supply)	Tax	Interest	Penalty	Other	Total
			From	To							
1	2	3	4	5	6	7	8	9	10	11	12
Total											

Please note that interest has been calculated up to the date of passing the order. While making payment, interest for the period between the date of order and the date of payment shall also be worked out and paid along with the dues stated in the order.

You are also informed that if you furnish the return within a period of 30 days from the date of service of this order, the order shall be deemed to have been withdrawn; otherwise, proceedings shall be initiated against you, after the aforesaid period, to recover the outstanding dues.

Signature

Name
Designation
Jurisdiction
Address

Note –

1. Only applicable fields may be filled up.
2. Column nos. 2, 3, 4 and 5 of the above Table i.e. tax rate, turnover and tax period are not mandatory.
3. Place of Supply (POS) details shall be required only if demand is created under IGST Act.”.

13. With effect from 1st April, 2019, in the said rules, for **FORM GST ASMT-15**, the following FORM shall be substituted, namely:–

“FORM GST ASMT - 15

[See rule 100(2)]

Reference No.:

Date:

To

_____ (GSTIN/ID)

_____ Name

_____ (Address)

Tax Period :

F.Y. :

SCN reference no. :

Date :

Act/ Rules Provisions:

Assessment order under section 63

Preamble - << standard >>

The notice referred to above was issued to you to explain the reasons for continuing to conduct business as an un-registered person, despite being liable to be registered under the

Act.

OR

The notice referred to above was issued to you to explain the reasons as to why you should not pay tax for the period as your registration has been cancelled under sub-section (2) of section 29 with effect from-----

Whereas, no reply was filed by you or your reply was duly considered during proceedings held on ----- date(s).

On the basis of information available with the department / record produced during proceedings, the amount assessed and payable by you is as under:

Introduction :

Submissions, if any :

Conclusion (to drop proceedings or to create demand) :

Amount assessed and payable :

(Amount in Rs.)

Sr. No.	Tax Rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Others	Total
			From	To							
1	2	3	4	5	6	7	8	9	10	11	12
Total											

Please note that interest has been calculated upto the date of passing the order. While making payment, interest for the period between the date of order and the date of payment shall also be worked out and paid along with the dues stated in the order.

You are hereby directed to make the payment by << date >> failing which proceedings shall be initiated against you to recover the outstanding dues.

Signature

Name

Designation

Jurisdiction

Address

Note –

1. Only applicable fields may be filled up.
2. Column nos. 2, 3, 4 and 5 of the above Table i.e. tax rate, turnover and tax period are not mandatory.
3. Place of Supply (POS) details shall be required only if demand is created under IGST Act.”.

14. With effect from 1st April, 2019, in the said rules, for **FORM GST ASMT-16**, the following FORM shall be substituted, namely:–

“FORM GST ASMT – 16

[See rule 100(3)]

Reference No.:

Date:

To

_____ (GSTIN/ID)

_____ Name

_____ (Address)

Tax Period :

F.Y. :

Act/ Rules Provisions:

Assessment order under section 64

Preamble - << standard >>

It has come to my notice that un-accounted for goods are lying in stock at godown-----
---- (address) or in a vehicle stationed at ----- (address & vehicle detail) and you were
not able to, account for these goods or produce any document showing the detail of the
goods.

Therefore, I proceed to assess the tax due on such goods as under:

Introduction :

Discussion & finding :

Conclusion :

Amount assessed and payable (details at Annexure) :

(Amount in Rs.)

Sr. No.	Tax Rate	Turnover	Tax Period		Act	POS (Place of Supply)	Tax	Interest	Penalty	Others	Total
			From	To							
1	2	3	4	5	6	7	8	9	10	11	12
Total											

Please note that interest has been calculated upto the date of passing the order. While making payment, interest for the period between the date of order and the date of payment shall also be worked out and paid along with the dues stated in the order.

You are hereby directed to make the payment by << date >> failing which proceedings shall be initiated against you to recover the outstanding dues.

Signature

Name

Designation

Jurisdiction

Address

Note –

Only applicable fields may be filled up.

Column nos. 2, 3, 4 and 5 of the above Table i.e. tax rate, turnover and tax period are not mandatory.

Place of Supply (POS) details shall be required only if demand is created under IGST Act.”.

15. With effect from 1st April, 2019, in the said rules, in **FORM GST CPD-02**, for the table and Note below the table, the following table and Note shall be substituted, namely:–

“Sr. No.	Offence	Act	Compounding amount (Rs.)
(1)	(2)	(3)	(4)

Note:- (1) In case the offence committed by the taxable person falls in more than one category specified in Column (2), the compounding amount shall be the amount specified in column (3), which is the maximum of the amounts specified against the categories in which the offence sought to be compounded can be categorized.

(2) This amount will be deposited under minor head "Other".

[F. No. 20/06/17/2018-GST]

(Pramod Kumar)
Deputy Secretary to the Government of India

Note: The principal rules were published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) *vide* notification No. 3/2017-Central Tax, dated the 19th June, 2017, published *vide* number G.S.R 610 (E), dated the 19th June, 2017 and last amended *vide* notification No. 3/2019 - Central Tax, dated the 29th January, 2019, published *vide* number G.S.R 63 (E), dated the 29th January, 2019.

(IV) CENTRAL TAX (RATE) NOTIFICATIONS

[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. 2/2019-Central Tax (Rate)

New Delhi, the 7th March, 2019

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 9, sub-section (1) of section 11, sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (herein after referred to as the "said Act"), 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 goods or services or both as specified in column (1) of the Table below, shall be levied at the rate specified in the corresponding entry in column (2), subject to the conditions as specified in the corresponding entry in column (3) of the said table below, namely:-

Table

Description of supply	Rate (per cent.)	Conditions
(1)	(2)	(3)
First supplies of goods or services or both upto an aggregate turnover of fifty lakh rupees made on or after the 1 st day of April in any financial year, by a registered person.	3	1. Supplies are made by a registered person, - (i) whose aggregate turnover in the preceding financial year was fifty lakh rupees or below; (ii) who is not eligible to pay tax under sub-section (1) of section 10 of the said Act; (iii) who is not engaged in making any supply which is not leviable to tax under the said Act; (iv) who is not engaged in making any inter-State outward supply; (v) who is neither a casual taxable person nor a non-resident taxable person; (vi) who is not engaged in making any supply through an electronic commerce operator who is required to collect tax at source under section 52; and (vii) who is not engaged in making supplies of the goods, the description of which is specified in column (3) of the Annexure below and falling under the tariff item, sub-heading, heading or Chapter, as the case may be, as specified in the corresponding entry in column (2) of the said annexure. 2. Where more than one registered persons are having

	<p>the same Permanent Account Number, issued under the Income Tax Act, 1961(43 of 1961), central tax on supplies by all such registered persons is paid at the rate specified in column (2) under this notification.</p> <p>3. The registered person shall not collect any tax from the recipient on supplies made by him nor shall he be entitled to any credit of input tax.</p> <p>4. The registered person shall issue, instead of tax invoice, a bill of supply as referred to in clause (c) of sub-section (3) of section 31 of the said Act with particulars as prescribed in rule 49 of Central Goods and Services Tax Rules.</p> <p>5. The registered person shall mention the following words at the top of the bill of supply, namely: - ‘taxable person paying tax in terms of notification No. 2/2019-Central Tax (Rate) dated 07.03.2019, not eligible to collect tax on supplies’.</p> <p>6. The registered person opting to pay central tax at the rate of three percent under this notification shall be liable to pay central tax at the rate of three percent on all outward supplies specified in column (1) notwithstanding any other notification issued under sub-section (1) of section 9 or under section 11 of said Act.</p> <p>7. The registered person opting to pay central tax at the rate of three percent under this notification shall be liable to pay central tax on inward supplies on which he is liable to pay tax under sub-section (3) or, as the case may be, under sub-section (4) of section 9 of said Act at the applicable rates.</p> <p>Explanation.-For the purposes of this notification, the expression “first supplies of goods or services or both” shall, for the purposes of determining eligibility of a person to pay tax under this notification, include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the said Act but for the purpose of determination of tax payable under this notification</p>
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		shall not include the supplies from the first day of April of a financial year to the date from which he becomes liable for registration under the Act.
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ANNEXURE

Sl. No.	Tariff item, sub-heading, heading or Chapter	Description
(1)	(2)	(3)
1	2105 00 00	Ice cream and other edible ice, whether or not containing cocoa.
2	2106 90 20	Pan masala
3	24	All goods, i.e. Tobacco and manufactured tobacco substitutes

2. In computing aggregate turnover in order to determine eligibility of a registered person to pay central tax at the rate of three percent under this notification, value of supply of exempt services by way of extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount, shall not be taken into account.

3. *Explanation.* –For the purpose of this notification, -

(i) “tariff item”, “sub-heading”, “heading” and “chapter” shall mean respectively a tariff item, sub-heading, heading and chapters specified in the First Schedule to the Customs Tariff Act, 1975 (51 of 1975).

(ii) the rules for the interpretation of the First Schedule to the said Customs Tariff Act, 1975 (51 of 1975), including 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 this notification.

4. This notification shall come into force on the 1st day of April, 2019.

[F. No.354/25/2019-TRU]

(Gunjan Kumar Verma)
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	<p>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;</p> <p>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>

<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. (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. (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;

(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.”.

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:

$$Tx = T - Te$$

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) Te 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) Te 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:

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

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

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:

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

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 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 T_e 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 (T_e) = $T_c + T_r$			
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 (T_e) = $T_c + T_r$	$C26 + C20$	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	IITC to be reversed on transition, $Tx = T - Te$			
18	Eligible IITC (Te) = $Tc + Tr$			
19	T (*see notes below)		1	crore
20	$Tc = T \times$ (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	$Tr = T \times F1 \times F2 \times F3 \times F4$			
22	F1	$C4 / C10$	0.875	
23	F2	$C13 / C4$	0.533	
24	F3	$C16 / C14$	0.600	
25	F4	$1 / C11$	5	
26	$Tr = T \times F1 \times F2 \times F3 \times F4$	$C19 * C22 * C23 * C24 * C25$	1.400	crore
27	Eligible IITC (Te) = $Tc + Tr$	$C26 + C20$	1.525	crore
28	IITC to be reversed/ taken on transition, $Tx = T - Te$	$C19 - C27$	-0.525	crore
29	Tx after application of cap on % invoicing vis-a-vis Pc			
30	% completion		20%	
31	% invoicing		60%	
32	% invoicing after application of cap ($Pc + 25\%$)	$C11 + 25\%$	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	$Tr = T \times F1 \times F2 \times F3 \times F4$ (after application of cap)	$C19 * C22 * C23 * C34 * C25$	1.05	crore
36	Eligible IITC (Te) = $Tc + Tr$ (after application of cap)	$C20 + C35$	1.18	crore
37	IITC to be reversed / taken on transition, $Tx = T - Te$ (after application of cap)	$C19 - C36$	-0.18	crore
38	Tx after application of cap on % invoicing vis-a-vis Pc and payment realisation			
39	% invoicing after application of cap ($Pc + 25\%$)		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	$Tr = T \times F1 \times F2 \times F3 \times F4$ (after application of both the caps)	$C19 * C22 * C23 * C43 * C25$	0.97	
45	Eligible IITC (Te) = $Tc + Tr$ (after application of both the caps)	$C20 + C44$	1.10	
46	IITC to be reversed / taken on transition, $Tx = T - Te$ (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 IITC 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.)

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

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

(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 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 per cent. 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:

Sl 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, $Tx = T - Te$			
13	Eligible ITC ($Te = T * F1 * F2 * F3 * F4$)			
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 ($Te = T * F1 * F2 * F3 * F4$)	$C14 * C15 * C16 * C17 * C18$	2.4	crore
20	ITC to be reversed on transition, $Tx = T - Te$	$C14 - C19$	-1.4	crore
21	Tx after application of cap on % invoicing vis-a-vis Pc			
22	% completion		20%	
23	% invoicing		60%	
24	% invoicing after application of cap ($Pc + 25%$)	$C6 + 25\%$	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	$Te = T * F1 * F2 * F3 * F4$ (after application of cap)	$C14 * C15 * C16 * C26 * C18$	1.80	crore
28	ITC to be reversed / taken on transition, $Tx = T - Te$ (after application of cap)	$C14 - C27$	-0.80	crore
29	Tx after application of cap on % invoicing vis-a-vis Pc and payment realisation			
30	% invoicing after application of cap ($Pc + 25%$)		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	$Te = T * F1 * F2 * F3 * F4$ (after application of both the caps)	$C14 * C15 * C34 * C26 * C18$	1.67	
36	ITC to be reversed / taken on transition, $Tx = T - Te$ (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]

(Pramod Kumar)

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]

(Prmod 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 28th June, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 692(E), dated the 28th June, 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 28thJune, 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 28thJune, 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. 9/2019-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, sub-section (1) of section 11, sub-section (1) of section 16 of the Central Goods and Services Tax Act, 2017 (12 of 2017) (herein after referred to as the “said Act”), 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 amendments in the notification of the Government of India, in the Ministry of Finance (Department of Revenue) No.02/2019- Central Tax (Rate), dated the 7th March, 2019, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* number G.S.R. 189(E), dated the 7th March, 2019, namely:-

In the said notification, -

(i) in the Table, in column 3, after clause 7, the following clause shall be inserted, namely: -

“8. Where any registered person who has availed of input tax credit opts to pay tax under this notification, he shall pay an amount, by way of debit in the electronic credit ledger or electronic cash ledger, equivalent to the credit of input tax in respect of inputs held in stock and inputs contained in semi-finished or finished goods held in stock and on capital goods as if the supply made under this notification attracts the provisions of section 18(4) of the said Act and the rules made there-under and after payment of such amount, the balance of input tax credit, if any, lying in his electronic credit ledger shall lapse.”;

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

“(iii) the Central Goods and Services Tax Rules, 2017, as applicable to a person paying tax under section 10 of the said Act shall, *mutatis mutandis*, apply to a person paying tax under this notification.”.

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

[F.No.354/25/2019-TRU]

(Pramod Kumar)
Deputy Secretary to the Government of India

Note: -The principal notification No. 02/2019 - Central Tax (Rate), dated the 7th March, 2019 was published in the Gazette of India, Extraordinary, *vide* number G.S.R. 189 (E), dated the 7th March, 2019.

(V) IGST TAX RATE NOTIFICATIONS

[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- Integrated 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 5, subsection (1) of section 6 and clauses (iii), (iv) and (xxv) of section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with sub-section (5) of section 15, subsection (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. 8/2017- Integrated 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. 683(E), dated the 28th June, 2017, namely:-

In the said notification, -

(i) in the opening paragraph,

- (a) after the words, brackets and figures “conferred by sub-section (1),”, the words, brackets and figures “sub-section (3) and sub-section (4)” shall respectively be inserted;
- (b) for the words, brackets and figures “clause (iii) and clause (iv)”, the words, brackets and figures “clauses (iii), (iv) and (xxv)” shall be substituted;
- (c) the word “and” after the words and figures “sub-section (5) of section 15” shall be substituted by the symbol “;”;
- (d) 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 integrated tax on construction of apartments at the rates as specified for item	1.5	Provided that the integrated 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 has not been taken except to the extent as prescribed in

<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. (Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>		<p>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 integrated 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>	7.5	<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 integrated 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>	7.5	<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. - (i) “developer- promoter” is a promoter who constructs or converts a building</p>
<p>(ic) Construction of affordable residential</p>	1.5	

<p>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 integrated 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>into apartments or develops a plot for sale,</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 integrated 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>7.5</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 Integrated Goods and Services Tax Act, 2017 (13 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</p>

	<p>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 Integrated Goods and Services Tax Act, 2017 (13 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</p>	<p>12</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 integrated 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</p>

<p>exercised option to pay integrated tax on construction of apartments at the rates as specified for this item.</p> <p>(Provisions of paragraph 2 of this notification shall apply for valuation of this service)</p>		<p>exercised in Form at annexure IV by the 10th 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;</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 integrated tax on construction of apartments at the rates as specified for this item in the manner prescribed herein, 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 integrated 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>18</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 integrated 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>12</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 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 integrated 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	<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 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), as prescribed in notification No. 07/2019- Integrated Tax (Rate), dated 29th March, 2019, published in Gazette of India vide G.S.R. No. __, dated 29th March, 2019.</p> <p>Explanation. -</p> <p>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.</p>	18	-”;

(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 5 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 integrated 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 integrated 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;

(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;

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. 8/2017 - Integrated Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, vide number G.S.R. 683 (E), dated the 28th June, 2017 and was last amended by notification No. 31/2018-Integrated Tax (Rate), dated the 31st December, 2018 vide number G.S.R. 1278 (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 integrated 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:

$$Tx = T - Te$$

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) Te 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) Te 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:

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

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

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:

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

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 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 (T_e)= $T_c + T_r$			
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 (T_e)= $T_c + T_r$	$C26 + C20$	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, $Tx = T - Te$			
18	Eligible ITC (Te) = $Tc + Tr$			
19	T (*see notes below)		1	crore
20	$Tc = T \times$ (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	$Tr = T \times F1 \times F2 \times F3 \times F4$			
22	F1	$C4 / C10$	0.875	
23	F2	$C13 / C4$	0.533	
24	F3	$C16 / C14$	0.600	
25	F4	$1 / C11$	5	
26	$Tr = T \times F1 \times F2 \times F3 \times F4$	$C19 * C22 * C23 * C24 * C25$	1.400	crore
27	Eligible ITC (Te) = $Tc + Tr$	$C26 + C20$	1.525	crore
28	ITC to be reversed/ taken on transition, $Tx = T - Te$	$C19 - C27$	-0.525	crore
29	Tx after application of cap on % invoicing vis-a-vis Pc			
30	% completion		20%	
31	% invoicing		60%	
32	% invoicing after application of cap ($Pc + 25\%$)	$C11 + 25\%$	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	$Tr = T \times F1 \times F2 \times F3 \times F4$ (after application of cap)	$C19 * C22 * C23 * C34 * C25$	1.05	crore
36	Eligible ITC (Te) = $Tc + Tr$ (after application of cap)	$C20 + C35$	1.18	crore
37	ITC to be reversed / taken on transition, $Tx = T - Te$ (after application of cap)	$C19 - C36$	-0.18	crore
38	Tx after application of cap on % invoicing vis-a-vis Pc and payment realisation			
39	% invoicing after application of cap ($Pc + 25\%$)		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	$Tr = T \times F1 \times F2 \times F3 \times F4$ (after application of both the caps)	$C19 * C22 * C23 * C43 * C25$	0.97	
45	Eligible ITC (Te) = $Tc + Tr$ (after application of both the caps)	$C20 + C44$	1.10	
46	ITC to be reversed / taken on transition, $Tx = T - Te$ (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]

(Pramod 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 integrated 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.)

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

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

(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 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. $Te < T$, 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 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. $Te > T$, the registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of the RREP, for which he shall not otherwise be eligible, to the extent of difference between Te 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:

Details of a residential real estate project (RREP)				
Sl No	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:

Sl 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	IIC to be reversed on transition, $T_x = T - T_e$			
13	Eligible IIC (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 IIC (T_e)= $T \times F1 \times F2 \times F3 \times F4$	$C14 * C15 * C16 * C17 * C18$	2.4	crore
20	IIC 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	IIC 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	IIC 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 IIC 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>				

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

(Prmod Kumar)

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]

(Prmod 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- Integrated Tax (Rate)

New Delhi, the 29th March, 2019

G.S.R.....(E).- In exercise of the powers conferred by sub-section (1) of section 6 of the Integrated Goods and Services Tax Act, 2017 (13 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.9/2017- Integrated 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. 684 (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 6” the word, brackets and figures “, sub-section (3) and sub-section (4) of section 5, sub-section (1) of section 6 and clause (xxv) section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), read with sub-section (5) of section 15 and section 148 of the Central Goods and Services Tax Act, 2017 (12 of 2017);

(ii) in the Table, -

(a) after serial number 43 and the entries relating thereto, the following serial numbers and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)	(5)
“43A	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	Nil	<p>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 -</p> <p style="text-align: center;">[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</p>

		<p>certificate, where required, by the 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>un- booked on the date of issuance of completion certificate or first occupation ÷ 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 1 per cent. of the value in case of affordable residential apartments and 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 integrated 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>
43B	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</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</p>

		<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:</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>date of issuance of completion certificate or first occupation ÷ Total carpet area of the residential apartments in the project);</p> <p>Provided further that the tax payable in terms of the first proviso shall not exceed 1 per cent. of the value in case of affordable residential apartments and 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 integrated 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. 8/2017- Integrated Tax (Rate), published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) dated 28th June, 2017 vide GSR number 683(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. 9/2017 - Integrated Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, vide number G.S.R. 684 (E), dated the 28th June, 2017 and was last amended by notification No. 2/2019 – Integrated Tax (Rate), dated the 4th February, 2019 vide number G.S.R. 86(E), dated the 4th February, 2019.

[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- Integrated Tax (Rate)

New Delhi, the 29th March, 2019

GSR.....(E).- In exercise of the powers conferred by sub-section (3) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 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.10/2017- Integrated 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. 685(E), dated the 28th June, 2017, namely:-

In the said notification, -

(i) in the Table, after serial number 6A and the entries relating thereto, the following serial number and entries shall be inserted, namely: -

(1)	(2)	(3)	(4)
“6B	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.
6C	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. 10/2017 - Integrated Tax (Rate), dated the 28th June, 2017 was published in the Gazette of India, Extraordinary, vide number G.S.R. 685 (E), dated the 28th June, 2017 and was last amended by notification No. 30/2018 - Integrated Tax (Rate), dated the 31st December, 2018 vide number G.S.R. 1277 (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-Integrated Tax (Rate)

New Delhi, the 29th March, 2019

G.S.R.....(E).- In exercise of the powers conferred by section 20 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with 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 integrated 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. 10/2017- Integrated Tax (Rate), dated the 28th June, 2017 published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), *vide* GSR No. 685 (E), dated the 28th June, 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- Integrated Tax (Rate)

New Delhi, the 29th March, 2019

G.S.R.....(E).- In exercise of the powers conferred by sub-section (4) of section 5 of the Integrated 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. 8/ 2017- Integrated Tax (Rate), dated 28 th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial No. (3), published in Gazette of India vide G.S.R. No. 683 (E), 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. 8/ 2017- Integrated Tax (Rate), dated 28 th June, 2017, at items (i), (ia), (ib), (ic) and (id) against serial	Promoter.

	No. (3), published in Gazette of India vide G.S.R. No. 683 (E), 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. 8/ 2017- Integrated Tax (Rate), dated 28 th June, 2017, published in Gazette of India vide G.S.R. No. 683, 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) “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- Integrated Tax (Rate)

New Delhi, the 29th March, 2019

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) of section 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017) read with 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- Integrated 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. 666 (E), dated the 28th June, 2017, namely:-

In the said notification, in Schedule III - 18%, 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 5 of the Integrated Goods and Services Tax Act, 2017 (13 of 2017), as prescribed in notification No. 07 / 2019- Integrated 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> 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 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-Integrated 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. 666(E), dated the 28th June, 2017 and last amended by notification No. 25/2018-Integrated 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. 1264(E), dated the 31st December, 2018.

(VI) CGST CIRCULARS

Circular No. 92/11/2019-GST

**F. No. 20/16/04/2018-GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing**

New Delhi, Dated the 7th March, 2019

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /
Commissioners of Central Tax (All)

The Principal Director Generals/Director Generals (All)

Madam/Sir,

**Subject: Clarification on various doubts related to treatment of sales
promotion schemes under GST - Reg.**

Various representations have been received seeking clarification on issues raised with respect to tax treatment of sales promotion schemes under GST. To ensure uniformity in the implementation of the law across the field formations, the Board, in exercise of its powers conferred under section 168(1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “the said Act”) hereby clarifies the issues in succeeding paragraphs.

2. It has been noticed that there are several promotional schemes which are offered by taxable persons to increase sales volume and to attract new customers for their products. Some of these schemes have been examined and clarification on the aspects of taxability, valuation, availability or otherwise of Input Tax Credit in the hands of the supplier (hereinafter referred to as the “ITC”) in relation to the said schemes are detailed hereunder:

A. Free samples and gifts:

- i. It is a common practice among certain sections of trade and industry, such as, pharmaceutical companies which often provide drug samples to their stockists, dealers, medical practitioners, etc. without charging any consideration. As per sub-clause (a) of sub-section (1) of section 7 of the said Act, the expression “supply”

Circular No. 92/11/2019-GST

includes all forms of supply of goods or services or both such as sale, transfer, barter, exchange, licence, rental, lease or disposal made or agreed to be made for a consideration by a person in the course or furtherance of business. Therefore, the goods or services or both which are supplied free of cost (without any consideration) shall not be treated as 'supply' under GST (except in case of activities mentioned in Schedule I of the said Act). Accordingly, it is clarified that samples which are supplied free of cost, without any consideration, do not qualify as 'supply' under GST, except where the activity falls within the ambit of Schedule I of the said Act.

- ii. Further, clause (h) of sub-section (5) of section 17 of the said Act provides that ITC shall not be available in respect of goods lost, stolen, destroyed, written off or disposed of by way of gift or free samples. Thus, it is clarified that input tax credit shall not be available to the supplier on the inputs, input services and capital goods to the extent they are used in relation to the gifts or free samples distributed without any consideration. However, where the activity of distribution of gifts or free samples falls within the scope of 'supply' on account of the provisions contained in Schedule I of the said Act, the supplier would be eligible to avail of the ITC.

B. Buy one get one free offer:

- i. Sometimes, companies announce offers like '**Buy One, Get One free**' For example, 'buy one soap and get one soap free' or 'Get one tooth brush free along with the purchase of tooth paste'. As per sub-clause (a) of sub-section (1) of section 7 of the said Act, the goods or services which are supplied free of cost (without any consideration) shall not be treated as 'supply' under GST (except in case of activities mentioned in Schedule I of the said Act). It may appear at first glance that in case of offers like 'Buy One, Get One Free', one item is being 'supplied free of cost' without any consideration. In fact, it is not an individual supply of free goods but a case of two or more individual supplies where a single price is being charged for the entire supply. It can at best be treated as *supplying two goods for the price of one*.
- ii. Taxability of such supply will be dependent upon as to whether the supply is a composite supply or a mixed supply and the rate of tax shall be determined as per the provisions of section 8 of the said Act.

- iii. It is also clarified that ITC shall be available to the supplier for the inputs, input services and capital goods used in relation to supply of goods or services or both as part of such offers.

C. Discounts including ‘Buy more, save more’ offers:

- i. Sometimes, the supplier offers staggered discount to his customers (increase in discount rate with increase in purchase volume). For example- Get 10 % discount for purchases above Rs. 5000/-, 20% discount for purchases above Rs. 10,000/- and 30% discount for purchases above Rs. 20,000/-. Such discounts are shown on the invoice itself.
- ii. Some suppliers also offer periodic / year ending discounts to their stockists, etc. For example- Get additional discount of 1% if you purchase 10000 pieces in a year, get additional discount of 2% if you purchase 15000 pieces in a year. Such discounts are established in terms of an agreement entered into at or before the time of supply though not shown on the invoice as the actual quantum of such discounts gets determined after the supply has been effected and generally at the year end. In commercial parlance, such discounts are colloquially referred to as “volume discounts”. Such discounts are passed on by the supplier through credit notes.
- iii. It is clarified that discounts offered by the suppliers to customers (including staggered discount under ‘Buy more, save more’ scheme and post supply / volume discounts established before or at the time of supply) shall be excluded to determine the value of supply provided they satisfy the parameters laid down in sub-section (3) of section 15 of the said Act, including the reversal of ITC by the recipient of the supply as is attributable to the discount on the basis of document (s) issued by the supplier.
- iv. It is further clarified that the supplier shall be entitled to avail the ITC for such inputs, input services and capital goods used in relation to the supply of goods or services or both on such discounts.

D. Secondary Discounts

- i. These are the discounts which are not known at the time of supply or are offered after the supply is already over. For example, M/s A supplies 10000 packets of

Circular No. 92/11/2019-GST

biscuits to M/s B at Rs. 10/- per packet. Afterwards M/s A re-values it at Rs. 9/- per packet. Subsequently, M/s A issues credit note to M/s B for Rs. 1/- per packet.

ii. The provisions of sub-section (1) of section 34 of the said Act provides as under:

“Where one or more tax invoices have been issued for supply of any goods or services or both and the taxable value or tax charged in that tax invoice is found to exceed the taxable value or tax payable in respect of such supply, or where the goods supplied are returned by the recipient, or where goods or services or both supplied are found to be deficient, the registered person, who has supplied such goods or services or both, may issue to the recipient one or more credit notes for supplies made in a financial year containing such particulars as may be prescribed.”

iii. Representations have been received from the trade and industry that whether credit notes(s) under sub-section (1) of section 34 of the said Act can be issued in such cases even if the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. It is hereby clarified that financial / commercial credit note(s) can be issued by the supplier even if the conditions mentioned in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied. In other words, credit note(s) can be issued as a commercial transaction between the two contracting parties.

iv. It is further clarified that such secondary discounts shall not be excluded while determining the value of supply as such discounts are not known at the time of supply and the conditions laid down in clause (b) of sub-section (3) of section 15 of the said Act are not satisfied.

v. In other words, value of supply shall not include any discount by way of issuance of credit note(s) as explained above in para 2 (D)(iii) or by any other means, except in cases where the provisions contained in clause (b) of sub-section (3) of section 15 of the said Act are satisfied.

vi. There is no impact on availability or otherwise of ITC in the hands of supplier in this case.

3. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

Circular No. 92/11/2019-GST

4. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version will follow.

(Upender Gupta)
Principal Commissioner (GST)

F. No. 354/124/2018-TRU
Government of India
Ministry of Finance
Department of Revenue
Tax research Unit

**Room No. 156, North Block,
New Delhi, 8th March, 2019**

To,

The Principal Chief Commissioners/ Chief Commissioners/ Principal Commissioners/
Commissioner of Central Tax (All) /
The Principal Director Generals/ Director Generals (All)

Madam/Sir,

Subject: Nature of Supply of Priority Sector Lending Certificates (PSLC) – regarding

Representations have been received requesting to clarify whether IGST or CGST/SGST is payable for trading of PSLC by the banks on e-Kuber portal of RBI.

2. In this regard, it is stated that Circular No. 62/36/2018-GST dated 12.09.2018 was issued clarifying that GST on PSLCs for the period 1.7.2017 to 27.05.2018 will be paid by the seller bank on forward charge basis and GST rate of 12% will be applicable on the supply. Further, Notification No. 11/2018-Central Tax (Rate) dated 28.05.2018 was issued levying GST on PSLC trading on reverse charge basis from 28.05.2018 onwards to be paid by the buyer bank.

3. It is further clarified that nature of supply of PSLC between banks may be treated as a supply of goods in the course of inter-State trade or commerce. Accordingly, IGST shall be payable on the supply of PSLC traded over e-Kuber portal of RBI for both periods i.e 01.07.2017 to 27.05.2018 and from 28.05.2018 onwards. However, where the bank liable to pay GST has already paid CGST/SGST or CGST/UTGST as the case may be, such banks for payment already made, shall not be required to pay IGST towards such supply.

4. Difficulty, if any, in the implementation of this circular may be brought to the notice of the Board immediately.

Yours Sincerely,

(Harish Y N)
Technical Officer, TRU
E-mail: harish.yn@gov.in

**F. No. CBEC-20/16/04/2018 – GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 28th March, 2019

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners / Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Clarifications on refund related issues under GST– Reg.

Various representations have been received seeking clarifications on certain issues relating to refund. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as “CGST Act”), hereby clarifies the issues as detailed hereunder:

Sl. No.	Issue	Clarification
1.	Certain registered persons have reversed, through return in FORM GSTR-3B filed for the month of August, 2018 or for a subsequent month, the accumulated input tax credit (ITC) required to be lapsed in terms of notification No. 20/2018-Central Tax (Rate) dated 26.07.2018 read with circular No. 56/30/2018-GST dated 24.08.2018 (hereinafter referred to as the “said notification”). Some of these registered persons, who have attempted to claim refund of accumulated ITC on account of inverted tax structure for the same period in which the ITC required to be lapsed in terms of the said notification	a) As a one-time measure to resolve this issue, refund of accumulated ITC on account of inverted tax structure, for the period(s) in which there is reversal of the ITC required to be lapsed in terms of the said notification, is to be claimed under the category “any other” instead of under the category “refund of unutilized ITC on account of accumulation due to inverted tax structure” in FORM GST RFD-01A . It is emphasized that this application for refund should relate to the same tax period in which such reversal has

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	<p>has been reversed, are not able to claim refund of accumulated ITC to the extent to which they are so eligible. This is because of a validation check on the common portal which prevents the value of input tax credit in Statement 1A of FORM GST RFD-01A from being higher than the amount of ITC availed in FORM GSTR-3B of the relevant period minus the value of ITC reversed in the same period. This results in registered persons being unable to claim the full amount of refund of accumulated ITC on account of inverted tax structure to which they might be otherwise eligible. What is the solution to this problem?</p>	<p>been made.</p> <p>b) The application shall be accompanied by all statements, declarations, undertakings and other documents which are statutorily required to be submitted with a “refund claim of unutilized ITC on account of accumulation due to inverted tax structure”. On receiving the said application, the proper officer shall himself calculate the refund amount admissible as per rule 89(5) of Central Goods and Services Tax Rules, 2017 (hereinafter referred to as “CGST Rules”), in the manner detailed in para 3 of Circular No. 59/33/2018-GST dated 04.09.2018. After calculating the admissible refund amount, as described above, and scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment advice in FORM GST RFD-05.</p> <p>c) All refund applications for unutilized ITC on account of accumulation due to inverted tax structure for subsequent tax period(s) shall be filed in FORM GST RFD-01A under the category “refund of unutilized ITC on account of accumulation due to inverted tax structure”.</p>
<p>2.</p>	<p>The clarification at Sl. No. 1 above applies to registered persons who have already</p>	<p>It is hereby clarified that all those registered persons required to make the</p>

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	<p>reversed the ITC required to be lapsed in terms of the said notification through return in FORM GSTR-3B. What about those registered persons who are yet to perform this reversal?</p>	<p>reversal in terms of the said notification and who have not yet done so, may reverse the said amount through FORM GST DRC-03 instead of through FORM GSTR-3B.</p>
<p>3.</p>	<p>What shall be the consequence if any registered person reverses the amount of credit to be lapsed, in terms the said notification, through the return in FORM GSTR-3B for any month subsequent to August, 2018 or through FORM GST DRC-03 subsequent to the due date of filing of the return in FORM GSTR-3B for the month of August, 2018?</p>	<p>a) As the registered person has reversed the amount of credit to be lapsed in the return in FORM GSTR-3B for a month subsequent to the month of August, 2018 or through FORM GST DRC-03 subsequent to the due date of filing of the return in FORM GSTR-3B for the month of August, 2018, he shall be liable to pay interest under sub-section (1) of section 50 of the CGST Act on the amount which has been reversed belatedly. Such interest shall be calculated starting from the due date of filing of return in FORM GSTR-3B for the month of August, 2018 till the date of reversal of said amount through FORM GSTR-3B or through FORM GST DRC-03, as the case may be.</p> <p>b) The registered person who has reversed the amount of credit to be lapsed in the return in FORM GSTR-3B for any month subsequent to August, 2018 or through FORM GST DRC-03 subsequent to the due date of filing of the return in FORM GSTR-3B for the month of August, 2018 would remain eligible to claim refund of unutilized ITC on account of accumulation due to inverted tax structure w.e.f. 01.08.2018. However, such refund shall be granted only after the reversal of the amount of credit to be lapsed, either through FORM GSTR-3B or FORM GST DRC-03, along with payment of interest, as applicable.</p>

<p>4.</p>	<p>How should a merchant exporter claim refund of input tax credit availed on supplies received on which the supplier has availed the benefit of the Government of India, Ministry of Finance, notification No. 40/2017-Central Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1320 (E), dated the 23rd October, 2017 or notification No. 41/2017-Integrated Tax (Rate), dated the 23rd October, 2017, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R 1321(E), dated the 23rd October, 2017 (hereinafter referred to as the “said notifications”)?</p>	<p>a) Rule 89(4B) of the CGST Rules provides that where the person claiming refund of unutilized input tax credit on account of zero-rated supplies without payment of tax has received supplies on which the supplier has availed the benefit of the said notifications, the refund of input tax credit, availed in respect of such inputs received under the said notifications for export of goods, shall be granted.</p> <p>b) This refund of accumulated ITC under rule 89(4B) of the CGST Rules shall be applied under the category “any other” instead of under the category “refund of unutilized ITC on account of exports without payment of tax” in FORM GST RFD-01A and shall be accompanied by all supporting documents required for substantiating the refund claim under the category “refund of unutilized ITC on account of exports without payment of tax”. After scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the proper officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment advice in FORM GST RFD-05.</p>
<p>5.</p>	<p>Vide Circular No. 59/33/2018-GST dated 04.09.2018, it was clarified that after issuance of a deficiency memo, the input tax credit is required to be re-credited</p>	<p>In such cases, the claimant may re-submit the refund application manually in FORM GST RFD-01A after correction of deficiencies pointed out in</p>

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<p>through FORM GST RFD-01B and the taxpayer is expected to file a fresh application for refund. Accordingly, in several cases, the ITC amounts were re-credited after issuance of deficiency memo. However, it was later represented that the common portal does not allow a taxpayer to file a fresh application for the same period after issuance of a deficiency memo. Therefore, the matter was re-examined and it was subsequently clarified, vide Circular No. 70/44/2018-GST dated 26.10.2018 that no re-credit should be carried out in such cases and taxpayers should file the rectified application, after issuance of the deficiency memo, under the earlier ARN only. It was also further clarified that a suitable clarification would be issued separately for cases in which such re-credit has already been carried out. However, no such clarification has yet been issued and several refund claims are pending on this account.</p>	<p>the deficiency memo, using the same ARN. The proper officer shall then proceed to process the refund application as per the existing guidelines. After scrutinizing the application for completeness and eligibility, if the proper officer is satisfied that the whole or any part of the amount claimed is payable as refund, he shall request the taxpayer, in writing, to debit the said amount from his electronic credit ledger through FORM GST DRC-03. Once the proof of such debit is received by the officer, he shall proceed to issue the refund order in FORM GST RFD-06 and the payment advice in FORM GST RFD-05.</p>
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2. It is requested that suitable trade notices may be issued to publicize the contents of this Circular.

3. Difficulty, if any, in implementation of this Circular may please be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Principal Commissioner (GST)

F. No. CBEC-20/16/04/2018 – GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 28th March, 2019

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /
Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Verification of applications for grant of new registration – Reg.

Recently, a large number of registrations have been cancelled by the proper officer under the provisions of sub-section (2) of section 29 of the Central Goods and Services Act, 2017 (hereinafter referred to as 'CGST Act') read with rule 21 of the Central Goods and Services Rules, 2017 (hereinafter referred to as 'CGST Rules') on account of non-compliance of the said statutory provisions. In this regard, instances have come to notice that such persons, who continue to carry on business and therefore are required to have registration under GST, are not applying for revocation of cancellation of registration as specified in section 30 of the CGST Act read with rule 23 of the CGST Rules. Instead, such persons are applying for fresh registration. Such new applications might have been made as such person may not have furnished requisite returns and not paid tax for the tax periods covered under the old/cancelled registration. Further, such persons would be required to pay all liabilities due from them for the relevant period in case they apply for revocation of cancellation of registration. Hence, to avoid payment of the tax liabilities, such persons may be using the route of applying for fresh registration. It is pertinent to mention that as per the provisions contained in proviso to sub-section (2) of section 25 of the CGST Act, a person may take separate registration on same PAN in the same State.

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2. In order to ensure uniformity in the implementation of the provisions of law across the field formations, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby issues the following instructions.

3. Sub-section (10) of section 25 of the CGST Act read with rule 9 of the CGST Rules provide for rejection of application for registration if the information or documents submitted by the applicant are found to be deficient. It is possible that the applicant may suppress some material information in relation to earlier registration. Some of the information that may be concealed in the application for registration in **FORM GST REG -01** are S. No. 7 'Date of Commencement of Business', S. No. 8 'Date on which liability to register arises', S. No. 14 'Reason to obtain registration' etc. Such persons may also not furnish the details of earlier registrations, if any, obtained under GST on the same PAN.

4. It is hereby instructed that the proper officer may exercise due caution while processing the application for registration submitted by the taxpayers, where the tax payer is seeking another registration within the State although he has an existing registration within the said State or his earlier registration has been cancelled. It is clarified that not applying for revocation of cancellation of registration along with the continuance of the conditions specified in clauses (b) and (c) of sub-section (2) of section 29 of the CGST Act shall be deemed to be a "deficiency" within the meaning of sub-rule (2) of rule 9 of the CGST Rules. The proper officer may compare the information pertaining to earlier registrations with the information contained in the present application, the grounds on which the earlier registration(s) were cancelled and the current status of the statutory violations for which the earlier registration(s) were cancelled. The data may be verified on common portal by fetching the details of registration taken on the PAN mentioned in the new application vis-a-vis cancellation of registration obtained on same PAN. The information regarding the status of other registrations granted on the same PAN is displayed on the common portal to both the applicant and the proper officer. Further, if required, information submitted by applicant in S. No. 21 of **FORM GST REG-01** regarding details of proprietor, all partner/Karta/Managing Directors and whole time Director/Members of Managing Committee of Associations/Board of Trustees etc. may be analysed vis-à-vis any cancelled registration having same details.

5. While considering the application for registration, the proper officer shall ascertain if the earlier registration was cancelled on account of violation of the provisions of clauses (b)

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and (c) of sub-section (2) of section 29 of the CGST Act and whether the applicant has applied for revocation of cancellation of registration. If proper officer finds that application for revocation of cancellation of registration has not been filed and the conditions specified in clauses (b) and (c) of sub-section (2) of section 29 of the CGST Act are still continuing, then, the same may be considered as a ground for rejection of application for registration in terms of sub-rule (2) read with sub-rule (4) of rule 9 of CGST Rules. Therefore, it is advised that where the applicant fails to furnish sufficient convincing justification or the proper officer is not satisfied with the clarification, information or documents furnished, then, his application for fresh registration may be considered for rejection.

6. It is requested that suitable trade notices may be issued to publicise the contents of these instructions.

7. Difficulty, if any, in the implementation of these instructions may be brought to the notice of the Board. Hindi version will follow.

(Upender Gupta)
Principal Commissioner (GST)

F. No. CBEC-20/16/04/2018 – GST
Government of India
Ministry of Finance
Department of Revenue
Central Board of Indirect Taxes and Customs
GST Policy Wing

New Delhi, Dated the 28th March, 2019

To,

The Principal Chief Commissioners / Chief Commissioners / Principal Commissioners /
Commissioners of Central Tax (All)

The Principal Director Generals / Director Generals (All)

Madam/Sir,

Subject: Clarification in respect of transfer of input tax credit in case of death of sole proprietor – Reg.

Doubts have been raised whether sub-section (3) of section 18 of the Central Goods and Services Tax Act, 2017 (hereinafter referred to as ‘CGST Act’) provides for transfer of input tax credit which remains unutilized to the transferee in case of death of the sole proprietor. As per sub-rule (1) of rule 41 of the Central Goods and Services Rules, 2017 (hereinafter referred to as ‘CGST Rules’), the registered person (transferor of business) can file **FORM GST ITC-02** electronically on the common portal along with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee. Further, clarification has also been sought regarding procedure of filing of **FORM GST ITC-02** in case of death of the sole proprietor. In order to clarify these issues and to ensure uniformity in the implementation of the provisions of the law, the Board, in exercise of its powers conferred by section 168 (1) of the CGST Act, hereby clarifies the issues raised as below.

2. Clause (a) of sub-section (1) of section 29 of the CGST Act provides that reason of transfer of business includes “death of the proprietor”. Similarly, for uniformity and for the purpose of sub-section (3) of section 18, sub-section (3) of section 22, sub-section (1) of section

85 of the CGST Act and sub-rule (1) of rule 41 of the CGST Rules, it is clarified that transfer or change in the ownership of business will include transfer or change in the ownership of business due to death of the sole proprietor.

3. In case of death of sole proprietor if the business is continued by any person being transferee or successor, the input tax credit which remains un-utilized in the electronic credit ledger is allowed to be transferred to the transferee as per provisions and in the manner stated below –

- a. **Registration liability of the transferee / successor:** As per provisions of sub-section (3) of section 22 of the CGST Act, the transferee or the successor, as the case may be, shall be liable to be registered with effect from the date of such transfer or succession, where a business is transferred to another person for any reasons including death of the proprietor. While filing application in **FORM GST REG-01** electronically in the common portal the applicant is required to mention the reason to obtain registration as “death of the proprietor”.
- b. **Cancellation of registration on account of death of the proprietor:** Clause (a) of sub-section (1) of section 29 of the CGST Act, allows the legal heirs in case of death of sole proprietor of a business, to file application for cancellation of registration in **FORM GST REG-16** electronically on common portal on account of transfer of business for any reason including death of the proprietor. In **FORM GST REG-16**, reason for cancellation is required to be mentioned as “death of sole proprietor”. The GSTIN of transferee to whom the business has been transferred is also required to be mentioned to link the GSTIN of the transferor with the GSTIN of transferee.
- c. **Transfer of input tax credit and liability:** In case of death of sole proprietor, if the business is continued by any person being transferee or successor of business, it shall be construed as transfer of business. Sub-section (3) of section 18 of the CGST Act, allows the registered person to transfer the unutilized input tax credit lying in his electronic credit ledger to the transferee in the manner prescribed in rule 41 of the CGST Rules, where there is specific provision for transfer of liabilities. As per sub-section (1) of section 85 of the CGST Act, the transferor and the transferee / successor shall jointly and severally be liable to pay any tax, interest or any penalty due from the transferor in cases

of transfer of business “in whole or in part, by sale, gift, lease, leave and license, hire *or in any other manner whatsoever*”. Furthermore, sub-section (1) of section 93 of the CGST Act provides that where a person, liable to pay tax, interest or penalty under the CGST Act, dies, then the person who continues business after his death, shall be liable to pay tax, interest or penalty due from such person under this Act. It is therefore clarified that the transferee / successor shall be liable to pay any tax, interest or any penalty due from the transferor in cases of transfer of business due to death of sole proprietor.

- d. **Manner of transfer of credit:** As per sub-rule (1) of rule 41 of the CGST Rules, a registered person shall file **FORM GST ITC-02** electronically on the common portal with a request for transfer of unutilized input tax credit lying in his electronic credit ledger to the transferee, in the event of sale, merger, de-merger, amalgamation, lease or *transfer or change in the ownership of business for any reason*. In case of transfer of business on account of death of sole proprietor, the transferee / successor shall file **FORM GST ITC-02** in respect of the registration which is required to be cancelled on account of death of the sole proprietor. **FORM GST ITC-02** is required to be filed by the transferee/successor before filing the application for cancellation of such registration. Upon acceptance by the transferee / successor, the un-utilized input tax credit specified in **FORM GST ITC-02** shall be credited to his electronic credit ledger.
4. It is requested that suitable trade notices may be issued to publicize the contents of this circular.
5. Difficulty if any, in the implementation of this Circular may be brought to the notice of the Board. Hindi version would follow.

(Upender Gupta)
Principal Commissioner (GST)