Amendments to

REAL ESTATE

In GST

Input Tax Credit Reversal
+
Other Procedures

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Notifications 29th March 2019

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

For Ongoing Projects + New

04/2019 – TDR,

ITC Reversal – New Projects

ITC Reversal – On going Projects

Transition Reversal - On Going Project

Eligible Credit

- Credit to Avail or Reverse Tx
  - 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-Te
- 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;
- Te 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;
- Te shall be calculated as under:
  - $Te= T* F_1 * F_2 * F_3* F_4$

Reversal where work Done > 0

ITC Reversal – On going Projects

Total ITC 10 Cr

Commercial 25%
Eligible = 2.50 Cr

Residential say 75% = 7.5Cr **F1**

Work done say 25% **F4**

Pending 75%

~ if 100% done, then ITC = 30 Cr

Booked Apts Say 60%
ITC = 18 Cr **F2**

Not Booked 40%

Billed for say 30%
ITC = 5.40 Cr **F3**

Not Billed 70%

Total ITC = 10 Cr

Eligible ITC (Te)=Tc + Tr
Tc = 2.50 Cr
Tr = 5.40 Cr

ITC Reverse = 2.10

Tr= T x F1 x F2 x F3 x F4

When Billing % > 25% of Work done

Total ITC 10 Cr

Commercial 25%
Eligible = 2.50 Cr

Residential say 75% =
7.5Cr **F1**

Work done say 25%
F4

Pending 75%

~ if 100% done, then
ITC = 30 Cr

Booked Apts Say 60%
ITC = 18 Cr **F2**

Not Booked 40%

Billed for say 60%
ITC = 9.00 Cr **F3**

Not Billed 40%

Total ITC = 10 Cr

Eligible ITC (Te)=Tc + Tr
Tc = 2.50 Cr
Tr = 9.00 Cr

ITC Avail = 1.50

18 * 60% =	10.80 Cr	✗
18 * (25+25) 50% =	9.00 Cr	✓

Eligible Credit

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- Te 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;
- Te shall be calculated as under:
  - $Te= T* F_1 * F_2 * F_3* F_4$

Eligible ITC

- Tx=T-Te
- T = Availed Credit till 31st March 2019
  - What has been Availed already 1st July 2017 to 31st March 2019
  - Sum of GSTR 3B and Transition Credits
- Te = Credit Eligible for the project
  - Basis your % completion of work done so far
  - Basis % of Sales made etc etc

Reversal / Availment

- Te < T, (**Eligible < Availed**) ->> Reverse / Pay Cash
  - the registered person(RP) **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 RP and
  - the amount shall be furnished in FORM GST ITC- 03
  - can file application in FORM GST DRC-20, for installment facility

- Te>T (**Eligibility > Actual Availment**) - >> Avail in Future
  - 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.

How to Arrive % Completion

- % completion as on **31st March 2019** shall be same as declared to the RERA authority.
- Where such declaration is not required to be made to RERA, such % shall be determined & certified by Architects or Chartered Engineer

Adjustments in Te Computation

Additional Adjustments to Te

- If , % Invoice > % Completion by 25%
  - Then % Invoicing = % Completion + 25%,
  - Example
    - % Invoice = 43% ; % Completion = 12% then
    - % Invoice shall be deemed to be 37% i.e 12% + 25%

- Value of invoice issued > consideration actually received by 25%, then
  - % invoicing = actual consideration received + 25% of consideration received
  - Example
    - Invoice issued = 45 Lacs ; Consideration Received = 10LAcs
    - Value of Invoice issued = 12.50 lacs (10 lacs + 10 *25%)

Gap in ITC Procurement & % Completion

- where, the value of
  - Procurement of inputs and input services till 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 % 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.
- Example
  - Purchases Made till March 2019 = 50 Lacs; Project Cost 100 Lacs
  - Work Certified till date is 15% ~ 15 Lacs
  - Gap 50 -15 = 35 Lacs; 25% of 15 Lacs = 3.75 Lacs

Treatment for RREP Project

- Apply the Same formulae
- Commercial is deemed as Residential
- Hence
  - Te = Tc + Tr to be read as Te= Tr
  - So Te= T* F_1 * F_2 * F_3* F_4
- “F1” will always be 1

Reversal where work Done > 0

Avail Future Credit

- Tn = Inputs & Input services received in 2019-20
  - Tc=Tn*(CA of Commercial / Total Carpet Area)
  - Tr=Tn*F1*F2*F3
  - Where Tn is tax paid on such inputs & input services received in 2019-20 for construction of REP.
  - F1, F2 & F3 shall be the same as before

Common Credit Reversal

Rule 42 n Rule 43

On Going Project + Commercial

- Rule 42 – Project Credits
  - All Credits to be considered as Common
  - Project based reversal
  - On the date of CC
  - Reverse
    - Total Credit * Unsold carpet area / total Carpet Area
- Rule 43 – Capital Goods
  - Reverse Commonly used
  - Used for Residential projects
  - Used for Commercial projects unsold

Rule 42

Total ITC = T
Ineligible Credit
Eligible Credit (C1)
T1
T2
T3
T4
C2
other than business
Exempt supplies
Blocked Credit
Taxable n Zero rated supply
Common credit (C2) = C1 – T4
D1= (E÷F) × C2
D2 = 5% of C2
C3 = C2 - (D1+D2)

Change in Rule 42

- T4 = 0 For Construction Industry , because

  Inputs and input services will be mcommonly used for

  - construction of apartments booked on or before OC and
  - those which are not booked by the said date.

- For Common Credit Reversal C2

  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;

For REP where Transition Happened – Sub Rule 4

- common credit on commercial portion (C3 Aggregate_comm)
- shall be calculated as under

C3aggregate_comm =

[Past Common Credits x (AC / AT)]

+

[Future Common Credits as per Sub Rule 1]

- Where, -
  - AC = total carpet area of the commercial apartments in the project
  - AT = total carpet area of all apartments in the project

Re-Compute on Closure of the Project

- The amount of final eligible common credit on commercial portion in the project ($C3_{final_comm}$) shall be calculated as under
  - $C3_{final_comm} = C3_{aggregate_comm} \times (E/F)$
  - E = Unsold commercial apartments Carpet Area on the date of OCT
  - F = AC (Total carpet area of the commercial apartments in the project)
- If $C3_{final_comm} > C3_{aggregate_comm}$
  - Re claim the difference in 3B till sept of Subsequent year of OC
- If $C3_{final_comm} < C3_{aggregate_comm}$
  - Reverse thru GSTR 3B or pay through DRC 03
  - Interest u/s 50(1) is also applicable

Rule 43 Reversal Computation

Rule 43

Total **Capital goods** credit
used exclusively for **Exempt supply** or **non business** purpose
used exclusively for **Taxable supply** + **Zero rated**
used **partly** for Taxable and partly for exempted
Denoted as "**A**"
Ineligible credit
Eligible Credit
On Purchase Fully Credited to Electronic credit ledger
Considered as 0 for construction services
Reverse over useful **life as 5 years**

…Rule 43

A

- Capital goods used **partly** for Taxable and partly for exempted denoted as "**A**" – **Tc**

Tm

- Common capital goods credit **for a tax period** during their useful life (**Tm**) = **Tc÷60**

Tr

- Common capital goods credit **at the beginning of tax period**, whose **useful life remains during the tax period** (**Tr**) = **∑Tm** (aggregate of Tm)

Te

- Common capital goods credit attributable towards **exempted supplies**
- (**Te**) = E ÷ **F * Tr**
- **Exempt Turnover÷ Total Turnover * Tr**

Example

Capital Goods Procured

Asset	Purchase	ITC	Tm	Bought
1	23,50,000	4,23,000	7,050	Month 1
2	42,10,000	7,57,800	12,630	Month 2
3	2,50,000	45,000	750	Month 2
4	7,20,000	1,29,600	2,160	Month 3

Computation for Monthly Reversal>>>

Asset	Month 1	Month 2	Month 3	Month 4
1	7,050	7,050	7,050	7,050
2	0	12,630	12,630	12,630
3	0	750	750	750
4	0	0	2,160	2,160
Tr	**7,050**	**20,430**	**22,590**	**22,590**

Insertion of clause ‘g’

- New Proviso
  - “E/F” for a tax period shall be calculated for each project separately
  - E= aggregate carpet area of the apartments, which is **exempt** from tax + 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
- Explanation1
  - In the tax period in which the issuance of CC or 1st occupation of the project takes place,
  - E = aggregate CA of the apartments, which have not been booked till the date of issuance of CC
- Explanation 2:
  - CA of apartments, tax on construction of which is paid or payable at the new rates shall be taken into account for calculation of E in view of Explanation (iv) in paragraph 4 of the notification No.

...Rule 43 in General

Insertion of clause (i)

- The amount Te shall be computed
  - separately for ITC of C/S/UT/I and
  - declared in FORM GSTR-3B

Substitution of Sub-Rule 2

- Te final = common credit attributable towards exempted supplies
  - shall be calculated finally for the entire period for **each project** separately,
  - before the due date for furnishing of the return for **September** following the end of FY in which the completion certificate is issued or first occupation takes place of the project
    - From the commencement of the project or 1st July, 2017, whichever is later
    - To completion or first occupation, whichever is earlier,

- Te final= [(E1 + E2 + E3) /F] x Tcfinal
  - 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= [Carpet area of such apartments] x [V1/ (V1+V2)],-
    - V1 ---total value of supply of apartments exempt from tax
    - V2 ---total value of supply of apartments 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;

...Substitution of Sub-Rule 2

- Common Usage
  - CG used for more than one project, ITC be assigned to each project on a reasonable basis and credit reversal pertaining to each project shall be carried out
- Unused after Project Completion
  - CG used for the project have their useful life remaining on the completion of the project, ITC attributable to the remaining life shall be availed in the project in which the capital goods is further used

Miscellaneous

Procedures

1. File Form as per Annexure IV the option of choice by **10th May 2019**

2. Unregistered Purchase calculation and payment
   1. Other than Cement by **June** of next Financial year @18%
   2. Cement Monthly – Applicable Rate

3. ITC Reversal for ongoing project under new scheme
   1. By **Sept 2019**
   2. Instalment Scheme application in DRC 20

4. ITC Reversal for ongoing project under Old Scheme
   1. Application of Rule 42 & 43 on a monthly basis.
   2. Final computation and Reversal , by Sept of the subsequent year in which OC /CC received

Thank You

For Clarifications, mail to
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