

## **GOODS & SERVICES TAX / IDT UPDATE – 70**

### **Extension of due date of furnishing declaration in Form GST ITC-04**

The Central Government vide *N No. 15/2019-CT dated 28<sup>th</sup> March, 2019* has notified that the due date of furnishing **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 is extended to 30th June, 2019.

*Comment: Intimation of job-work status of stocks has been extended several times now and compliance has been poor. It will be no surprise if Government commences enforcement of Sec.19 (3) / 19(6) in respect of job-work activities shortly.*

### **Amendment in Central Goods and Services Tax Rules, 2017**

The Central Government vide *N No. 16/2019- CT dated 29<sup>th</sup> March, 2019* has amended Central Goods and Services Tax Rules, 2017. Amendments made are explained below:

<b>Rule</b>	<b>Revised Provision</b>	<b>Comment</b>
<b>Rule 41: (Transfer of credit on sale, merger, amalgamation, lease or transfer of a business)</b>	<b>Insertion of Explanation:</b> - 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.	<i>Comment: With the insertion of this explanation it is clarified that for the purpose of apportionment of ITC in case of demerger on the basis of ratio of assets of the new units as specified in the demerger scheme value of assets means value of all assets whether ITC claimed or not .</i>
<b>Insertion in Rule 42: (Manner of determinati</b>	<b>Insertion of Explanation in clause (f):</b> For the purpose of calculation of T4, it is hereby clarified that in case of supply of services covered by clause (b) of	<i>Comment: In case of service of Construction of complex, building,</i>

**on of input tax credit in respect of inputs or input services and reversal thereof)**

paragraph 5 of Schedule II (Construction of complex , building, civil structure or part thereof except where entire consideration received after issuance of completion certificate), 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.

**Insertion in clause (g):** T1', 'T2', 'T3' and 'T4' shall be determined and declared by the registered person at the invoice level in FORM GSTR-2 **and at summary level in FORM GSTR-3B**

**Insertion of proviso in clause (i):** 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 plus but are identified to be sold after issue of completion certificate or first occupation, whichever is earlier

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

Further as per explanation, value of E shall also include aggregate carpet area of the apartments, which have not been booked.

*civil structure or part thereof except where entire consideration received after issuance of completion certificate value of T4 shall be zero during the construction phase.*

*Comment: Now, a taxpayer shall declare T1', 'T2', 'T3' and 'T4' at summary level in FORM GSTR-3B as well earlier this information was only required in GSTR- 2 at the invoice level.*

*Comment: A proviso has been inserted to provide that in case of service of Construction of complex , building, civil structure or part thereof except where entire consideration received after issuance of completion certificate, value of 'E/F' for a tax period shall be calculated for each project separately.*

	<p><b>Substitution in Sub Rule (1) clause (l):</b> 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 <b>and declared in FORM GSTR-3B or through FORM GST DRC-03</b></p>	<p><i>Comment: This now gives teeth the instructions from CBIC to carry out reversals (for earlier years) through DRC03. It was seen that reversals for earlier year were made through GSTR 3B which resulted in double counting of reversal in subsequent financial year.</i></p>
	<p><b>Substitution Sub Rule (1) clause (m):</b> the amount equal to aggregate of 'D1' and 'D2' shall be <b>reversed by the registered person in FORM GSTR-3B or through FORM GST DRC-03</b></p>	
	<p><b>Substitution in sub rule (2):</b> 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 44 determined under sub-rule (1) shall be calculated finally for the financial year before the due date for furnishing of the return for the month of September following the end of the financial year to which such credit relates, in the manner specified in the said sub-rule</p>	
	<p><b>Substitution in sub rule (2) clause (a) :</b> 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 <b>reversed by the registered person in FORM GSTR-3B or through FORM GST DRC-03</b> 45 in the month not later than the month of September following the end of the financial year to which such credit</p>	<p><i>Comment: This is consequential effect that is required to accommodate previous rule changes.</i></p>

	relates.....	
	<p><b>Insertion of Sub Rule (3) :</b> 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 the manner prescribed in the said sub-rule.</p>	<p><i>Comment: Where transition adjustment has been made (into new rate-regime), the reversal effect needs to be treated without allowing these adjustments to unduly impact the reversal.</i></p>
<p><b>Rule 43: Manner of determination of input tax credit in respect of capital goods and reversal thereof in certain cases.</b></p>	<p><b>Insertion in sub rule 1 clause (a):</b> the amount of input tax in respect of capital goods used or intended to be used exclusively for non-business purposes or used or intended to be used exclusively for effecting exempt supplies shall be indicated in FORM GSTR-2 and FORM GSTR-3B and shall not be credited to his electronic credit ledger.</p>	<p><i>Comment: Earlier the ITC on capital goods used for non-business purpose and used for effecting exempt supplies was required to be indicated in GSTR 2 only. Now, it shall be indicated in GSTR 3B as well. Further, ITC in respect of capital goods used for effecting supplies other than exempted but including zero rated shall also be indicated in GSTR 3B now.</i></p>
	<p><b>Insertion in sub rule 1 clause (b):</b> he amount of input tax in respect of capital goods used or intended to be used exclusively for effecting supplies other than exempted supplies shall be indicated in FORM GSTR-2 and FORM GSTR-3B and shall be credited to the electronic credit ledger.</p>	
	<p><b>Insertion of explanation in clause (b):</b> For the purpose for calculating ITC on capital goods used for effecting supplies other that exempted , 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</p>	<p><i>Comment: This is welcome as difficulty in determining reversal during year of construction which would have impacted the correctness of reversal which could be favorable or unfavorable to RPs and subverts correct</i></p>

	<p>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.</p>	<p><i>determination of reversal required.</i></p>
	<p><b>Insertion in clause (g) :</b> 'F' is the total turnover in the State of the registered person during the tax period:</p>	<p><i>Comment: Earlier the clause defining abbreviation "F" is modified in a way to provide that total turnover only within a state will be considered.</i></p>
	<p><b>Insertion of proviso in clause (g) :</b></p> <p>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</p> <p>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.</p> <p>F= aggregate carpet area of the apartments in the project</p>	<p><i>Comment: A proviso has been inserted to provide that in case of service of Construction of complex , building, civil structure or part thereof except where entire consideration received after issuance of completion certificate, value of 'E/F' for a tax period shall be calculated for each project separately.</i></p>
	<p><b>Insertion of clause (i) :</b> 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</p>	<p><i>Comment: A new clause has been inserted to provide that calculation of the amount of common credit attributable towards exempted supplies</i></p>

	<p><b>Substitution of sub rule 2:</b> 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 commencement to completion or occupation whichever earlier) as under:</p> <p>Te final= [(E1 + E2 + E3) /F] x Tc final,</p> <p>where value of Te final exceeds the aggregate of amounts of Te 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 and the said person shall be liable to pay interest on the said excess amount.</p> <p>Such excess amount shall be claimed as credit by the registered person in his return</p>	<p><i>shall be computed separately for each tax type.</i></p> <p><i>Comment: This is welcome as it takes into consideration the timing-difference of projects executed over more than one financial year.</i></p>
<p><b>Insertion of Rule 88A (Order of utilization of input tax credit)</b></p>	<p>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:</p> <p>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</p>	<p><i>Comment: As per Section 49 ITC can be utilised in a particular series and 49 a provides that credit of CGST/SGST/UTGST can be utilised only after IGST ITC has been utilised fully. Therefore combine reading of sec 49 and 49 A, IGST shall be utilised in a given series only.</i></p>

		<i>However with this rule it has been provided that IGST shall be utilised for IGST first than in any order convenient to taxpayer.</i>
<b>Substitution of Rule 100: (Assessment in certain cases)</b>	<p>(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.</p> <p>(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 15 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 DRC07.</p> <p>(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.</p> <p>(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.</p> <p>(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.</p>	<p><i>Comment: This is a welcome measure to allow transparency in the proceedings which until now were not expressly brought to RPs attention. Instances have come to light where RPs have come to know about an order after the additional time to file first appeal u/s 107 has passed.</i></p> <p><i>With the relevant ASMT form being uploaded online, it will be expressly clear to RP to take necessary action of redressal.</i></p>
<b>Substitutio</b>	(1) The proper officer shall serve, along	<i>Comment: With</i>

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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

**Further sub rules has been amended in a way to allow:**

(2) 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 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 DRC03

(4) 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.

(7) 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.

*email service being enabled in GST, online notification of the issuance of these notices will serve industry well to take necessary action to reply to the same.*

*Payments made outside of GSTR 3B were now left to be discovered by the revenue authorities. Procedure for issuing an acknowledgement takes care of intimation of such payments under DRC03.*

*Care must be taken not only to file detailed reply physically but also upload in DRC06.*

Further, the amended Form GSTR DRC-01 has also been provided vide this notification.

**CGST Rates for Real Estate**

The Central Government vide N. No. 03/2019-Central Tax ( R) dated 29th March, 2019 has amended the rates of various services provided by promoters in a Residential real estate projects with effect from 1<sup>st</sup> April, 2019 . New rates are as follows:

Service	Rate	Condition
(i) Construction of <b>affordable residential apartments</b> which commences on or after 1 st April, 2019 or in an ongoing RREP intended for sale to a buyer, wholly or partly, except where the entire consideration has been received after issuance of completion certificate, after its first occupation, whichever is earlier.	0.75	Provided that the central tax at the rate specified 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 Annexures to notification.
(ia) Construction of <b>residential apartments</b> other than affordable residential apartments.	3.75	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 1 st April, 2019,
(ib) Construction of commercial apartments (shops, offices, godowns etc.)	3.75	
(ic) Construction of affordable residential apartments by a promoter in a Real Estate Project other than Residential REP	0.75	
(id) Construction of residential apartments other than affordable residential apartments by a promoter in a REP other than a RREP	3.75	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, -
(ie) Construction of an apartment in an ongoing project under any of the schemes specified above	6	(i) the developer- promoter shall pay tax on supply of construction of
(if) Construction of a complex, building, civil structure or a part thereof, including,- (i) commercial apartments (shops, offices,	9	

<p>godowns etc.) by a promoter in a REP other than RREP, (ii) residential apartments in an ongoing project, other than affordable residential apartments</p>		<p>apartments to the land owner promoter, and</p> <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>(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 any other clause.</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 % 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</p>

		completion, for which gross amount actually charged was 45 lakhs rupees or less and the actual carpet area was within the limits, was less than 50%. 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
39. Supply of services other than services by way of grant of development rights, long term lease of land or FSI by an unregistered person to a promoter for construction of a project on which tax is payable by the recipient of the services	9	-

*Comments: (a) As there are several comments that are needed in respect of this notification, very briefly, Promoters will be forced into new rate-regime unless the option is not exercised (by filing Annexure III) within 10 May, 2019;*

*(b) This new rate-regime is very user friendly except for the transition concerns which also seems to be firmly addressed;*

*(c) With a total ban on input tax credit (first proviso in conditions), specially credit is allowed (fourth proviso). It may need to be clarified if Landowner will need to satisfy conditions of s.16(2) to claim this credit or it is a merely a "special set-off" in case Landowner offers units for sale before 'date of OC/CC'; and*

*(d) Although time of supply for supply of construction service by Developer to Landowner, where this fourth proviso comes into operation, it appears that percentage-of-completion method may need to be followed by Developer.*

#### **Exemption from GST on certain services**

The Central Government vide [N. No.04/2019- Central Tax \(R\) dated 29th March, 2019](#) has notified following services are exempt from tax subject to certain conditions specified.

Service	Condition
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<p>Service by way of transfer of development rights or Floor Space Index on or after 1<sup>st</sup> April, 2019 for construction of residential apartments.</p> <p>The amount of GST exemption available shall be calculated as under:</p> <p>[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>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 unbooked 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>Upfront amount payable in respect of service by way of granting of long term lease of 30 years, or more, on or after 01.04.2019, for construction of residential apartments</p>	

*Comment: (a) This notification grants exemption on residential apartments to the extent Landowner's share of units are sold before 'date of OC/CC'. This gives much need relief to Landowners who are involved in 'once only' JDA and face the likelihood of attracting registration and other compliances under GST;*

*(b) It is interesting that this notification is not only issued under s.11(1) but it is upgraded to be a notification under s.15(5). As such, to the extent of unsold units of Landowners, Developer will be liable to pay tax (RCM) on 'deemed value'*

*(c) To pay tax on development rights to the extent of unsold units from Landowner's share, contemporaneous price from Developer's inventory is required to be applied; and*

*(d) Although par 1A and 1B inserted refers to 'residential or commercial apartments', #41A and #41B are limited to 'residential apartments'. If this is not inadvertent, commercial apartments will continue to be liable to tax (RCM) but at 18% (#16(iii) of 11/2017-CT(R)) and on 'cost of construction' as deemed value is not made applicable.*

**Services under Reverse Charge**

The Central Government vide N. No. 05/2019- Central Tax (R) dated 29th March,

2019 has notified following services tax on which is to be paid by recipient on reverse charge basis.

Sl. No	Category of Supply of Services	Supplier of service	Supplier of service
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.

*Comment:*(a) With the definition of 'project' and 'promoter' borrowed from RERA, applicability of RCM on supply of development rights is only in respect of development 'for-sale' and where it is 'not-for-sale' like leasing property;

(b) Unlike 4/2018-CT(R), 5/2019-CT(R) is applies to Landowners (any person) whether registered or unregistered to claim advantage of exclusion from forward charge;

(c) Again, unlike 4/2018-CT(R), GST on development rights in a JDA whether on area-sharing model or revenue-sharing model will come under RCM;

(d) This advantage of tax payment on RCM basis, is available to Landowner only in respect of new JDA signed after 1 Apr, 2019; and

(e) Due to the clarity on taxability of development rights vide this notification, JDAs signed before 1 Apr, 2019 is like to come under scrutiny for compliance with 'timely' discharge of applicable GST.

### **Special Procedure to be followed**

The Central Government vide [N. No. 06/2019-Central Tax \(R\) dated 29th March, 2019](#) has notified time of supply provision for the following classes of registered persons:

- (i) a promoter who receives development rights or Floor Space Index (FSI) (including additional FSI) on or after 1<sup>st</sup> 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 1<sup>st</sup> 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)

For such registered persons liability to pay central tax on the consideration paid in the form of:

- construction service,
- monetary consideration
- The upfront amount called as premium etc. paid for long term lease of land; for supply of development rights or FSI

and consideration in the form of development rights or FSI for the supply of construction service

The liability to pay central tax 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.

*Comment: (a) This notification is in addition to and in substitution of 4/2018-CT(R) and more specific to cases listed here to which the special dispensation of 'time of supply' is applicable*

*(b) The deferment of 'time of supply' applies only when Landowner's share of units are not offered for sale before time of supply of this inward supply (date of OC/CC). Where Landowner sells units before inward supply (vide this notification), it would be an anomalous situation. Fourth proviso (in conditions) #(i) to #(1d) of 3/2019-CTR will become applicable to Developer who will need to invoice for 'construction service' on percentage-of-completion basis to Landowner*

*(c) Please note that clause (b) and (c) interestingly refers to 'residential apartments' whereas clauses (a) refers to 'residential and commercial apartments'. If this is not inadvertent, this implies that 'non-refundable deposit' is subsumed in the 'deemed value' (in terms of para 2A inserted to 11/2017-CT(R)) of residential apartments and not commercial apartments. And commercial apartments is likely to be taxed at 18% on 'cost of construction' (being the value of exchange) even although on RCM basis in hands of Developer (see harmony in 4/2019-CT(R) which is also applicable only to residential apartments); and*

*(d) Please note that this notification seems to be applicable only to JDA on area-sharing model and not revenue-sharing model. JDAs on revenue-sharing model do not appear to have been given equal treatment, even though tax is payable on RCM basis.*

**Notified services taken from unregistered person liable to tax on reverse charge basis w.e.f 1<sup>st</sup> April, 2019**

The Central Government vide *N No. 07/2019- Central Tax (R) dated 29th March, 2019* has notified that the registered person specified below shall in respect of supply of specified goods or services or both received from an unregistered supplier shall pay tax on reverse charge basis as recipient of such goods or services

Sl. No.	Category of supply of goods and services	Recipient of goods and services
1.	Supply of such goods and services or both other than services by way of grant of development rights, long term lease of land or 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.	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)	Promoter
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	Promoter

*Comment: (a) Very interesting 'shortfall-tax' is introduced where total inward supplies by a Promoter are less than 80% of total inward supplies (excluding development rights, electricity and 3 petro-products);*

*(b) To discharge this tax (RCM), in respect of goods, a special rate has been introduced in sch III to 1/2017-CT(R), namely, #452Q at a flat-rate of 18%. But, this rate will not apply to Cement and Capital Goods, which will be subject to their respective rates of tax;*

*(c) To discharge this tax (RCM), in respect of services, another special rate has been introduced in #39 to 11/2018-CT(R), at a flat-rate of 18%;*

*(d) This shortfall-tax is to be discharge by June of the following year in all cases except on Cement which is to be discharge in the month of inward supply;*

*(e) Without input tax credit, RCM paid by Promoter will add to costs in this new rate-regime.*

**Amendment in scheme for supplier of services with a tax rate of 6%**

The Central Government vide *Notification No. 9/2019-Central Tax (R) dated 29<sup>th</sup> March, 2019* has made following amendments in the Composition scheme in case of intra-State supply of goods or services or both :

- One more condition to avail the scheme has been provided 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 or cash ledger, equivalent to the credit of ITC in respect of inputs held in stock and inputs contained in semi-finished or finished goods in stock and on capital goods as if the supply made under this notification attracts the provisions of section 18(4) of the 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.
- Further explanation has been inserted to provide that 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.

*Comment: This is a very important correction made in time because closing balance of input tax credit on 31 Mar, 2019 could have been used to pay-up the tax payable under 2/2019-CT(R). Introducing treatment similar to section 18(4) is welcome. Making rules applicable to Composition RPs applicable to 2/1019 is quite draconian as any slip-up in complying with the conditions can cost dearly to RPs.*

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**ICAI Feedback**

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