

F. No. 354/32/2019-TRU
Government of India
Ministry of Finance
Department of Revenue
(Tax Research Unit)

5/1

Dated the 7th May, 2019, New Delhi

Subject: FAQs on real estate- reg.

A number of issues have been raised regarding the new GST rate structure notified for real estate sector effective from 01-04-2019. A compilation of Frequently Asked Questions (FAQs) is presented below. The answers to the FAQs have been given in simple language for guidance and easy understanding of all stakeholders in the real estate sector. They do not have force of law. In case of conflict, the gazette notifications, which have legal force, shall have precedence.

S. No.	Question	Answer							
1.	What are the rates of GST applicable on construction of residential apartments?	<p>With effect from 01-04-2019, effective rate of GST applicable on construction of residential apartments by promoters in a real estate project are as under:</p> <table border="1"><thead><tr><th>Description</th><th>Effective rate of GST (after deduction of value of land)</th></tr></thead><tbody><tr><td>Construction of affordable residential apartments</td><td>1% without ITC on total consideration.</td></tr><tr><td>Construction of residential apartments other than affordable residential apartments</td><td>5% without ITC on total consideration.</td></tr></tbody></table> <p>The above rates are effective from 01-04-2019 and are applicable to construction of residential apartments in a project which commences on or after 01-04-2019 as well as in on-going projects. However, in case of on-going project, the promoter has an option to pay GST at the old rates, i.e. at the effective rate of 8% on affordable residential apartments and effective rate of 12% on other than affordable residential apartments and, consequently, to avail permissible credit of inputs taxes; in such cases the promoter is also expected to pass the benefit of the credit availed by him to</p>		Description	Effective rate of GST (after deduction of value of land)	Construction of affordable residential apartments	1% without ITC on total consideration.	Construction of residential apartments other than affordable residential apartments	5% without ITC on total consideration.
Description	Effective rate of GST (after deduction of value of land)								
Construction of affordable residential apartments	1% without ITC on total consideration.								
Construction of residential apartments other than affordable residential apartments	5% without ITC on total consideration.								

		the buyers.
2.	What is an affordable residential apartment?	<p>Affordable residential apartment is a residential apartment in a project which commences on or after 01-04-2019, or in an ongoing project in respect of which the promoter has opted for new rate of 1% (effective from 01-04-2019) having carpet area upto 60 square meter in metropolitan cities and 90 square meter in cities or towns other than metropolitan cities and the gross amount charged for which, by the builder is not more than forty five lakhs rupees. [Cities or towns in the notification shall include all areas other than metropolitan city as defined, such as villages.]</p> <p>In an ongoing project in respect of which the promoter has opted for new rates, the term also includes apartments being constructed under the specified housing schemes of Central or State Governments.</p> <p>[Metropolitan cities are Bengaluru, Chennai, Delhi NCR (limited to Delhi, Noida, Greater Noida, Ghaziabad, Gurgaon, Faridabad), Hyderabad, Kolkata and Mumbai (whole of MMR) with their geographical limits prescribed by Government.]</p>
3.	What is an on-going project?	<p>A project which meets the following conditions shall be considered as an ongoing project.</p> <p>(a) Commencement certificate for the project, where required, has been issued by the competent authority on or before 31stMarch, 2019, and it is certified by a registered architect, chartered engineer or a licensed surveyor that construction of the project has started (i.e. earthwork for site preparation for the project has been completed and excavation for foundation has started) on or before 31st March, 2019.</p> <p>(b) Where commencement certificate in</p>

		<p>respect of the project, is not required to be issued by the competent authority, it is to be certified by any of the authorities specified in (a) above that construction of the project has started on or before the 31st March, 2019.</p> <p>(c) Completion certificate has not been issued or first occupation of the project has not taken place on or before the 31st March, 2019.</p> <p>(d) Apartments of the project have been, partly or wholly, booked on or before 31st March, 2019.</p>		
4.	Does a promoter or a builder has option to pay tax at old rates of 8% & 12% with ITC?	<p>Yes, but such an option is available in the case of an ongoing project. In case of such a project, the promoter or builder has option to pay GST at old effective rate of 8% and 12% with ITC.</p> <p>To continue with the old rates, the promoter/builder has to exercise one time option in the prescribed form and submit the same manually to the jurisdictional Commissioner by the 10th of May, 2019.</p> <p>However, in case where a promoter or builder does not exercise option in the prescribed form, it shall be deemed that he has opted for new rates in respect of ongoing projects and accordingly new rate of GST i.e. 5% / 1% shall be applicable and all the provisions of new scheme including transitional provisions shall be applied.</p> <p>There is no such option available in case of projects which commence on or after 01.04.2019. Construction of residential apartments in projects commencing on or after 01.04.2019 shall compulsorily attract new rate of GST @ 1% or 5% without ITC.</p>		
5.	What is the rate of GST applicable on construction of commercial apartments [shops, godowns, offices etc.] in a real estate project?	<p>With effect from 01-04-2019, effective rate of GST, after deduction of value of land or undivided share of land, on construction of commercial apartments [shops, godowns, offices etc.] by promoter in real estate project are as under:</p> <table border="1" style="width: 100%; border-collapse: collapse;"> <thead> <tr> <th style="text-align: center; padding: 2px;">Description</th> <th style="text-align: center; padding: 2px;">Effective rate of GST</th> </tr> </thead> </table>	Description	Effective rate of GST
Description	Effective rate of GST			

			(after deduction of value of land)
		Construction of commercial apartments in a Residential Real Estate Project (RREP), as explained in question no. 6 below, which commences on or after 01-04-2019 or in an ongoing project in respect of which the promoter has opted for new rates effective from 01-04-2019	5% without ITC on total consideration.
		Construction of commercial apartments in a Real Estate Project (REP) other than Residential Real Estate Project (RREP) or in an ongoing project in respect of which the promoter has opted for old rates	12% with ITC on total consideration.
6.	What is a Residential Real Estate Project?	A “Residential Real Estate Project” means a ‘Real Estate Project’ in which the carpet area of the commercial apartments is not more than 15 per cent. of the total carpet area of all the apartments in the project.	
7.	What is the criteria to be used by an architect, a chartered engineer or a licensed surveyor for certifying that construction of the project has started by 31 st March, 2019	Construction of a project shall be considered to have been started on or before 31 st March, 2019, if the earthwork for site preparation for the project has been completed, and excavation for foundation has started on or before the 31 st March, 2019.	
8.	Does a promoter/ builder have to purchase all goods and services from registered suppliers only?	A promoter shall purchase at least eighty percent of the value of input and input services, from registered suppliers. For calculating this threshold, the value of services by way of grant of development rights, long term lease of land, floor space index, or the value of electricity, high speed diesel, motor spirit and natural gas used in	

		construction of residential apartments in a project shall be excluded.
9.	If value of purchases as prescribed above from registered supplier is less than 80%, what would be the applicable GST rate on such purchases?	Promoter has to pay GST @ 18% on reverse charge basis on all such inward supplies (to the extent short of 80% of inward supplies from registered supplier) except cement on which tax has to be paid (by the promoter on reverse charge basis) at the applicable rate, which at present is 28% (CGST 14% + SGST 14%)
10.	In case of new rate of 5% / 1%, whether the conditions of payment of tax through Cash Ledger, payment of tax under RCM subject to 80% limit, non-availing of Input Tax Credit, reversal of credit, maintenance of project wise account, reporting of ITC not availed in corresponding GSTR-3B etc. are required to be complied mandatorily by the Developer ?	Yes. All the specified conditions against clause (i) to (id) of Sl. No 3 of Notification No. 11/2017-CTR are mandatory.
11.	What is the rate of GST applicable on transfer of development rights, FSI and long term lease of land?	<p>Supply of TDR or FSI or long term lease of land used for the construction of residential apartments in a project that are booked before issue of completion certificate or first occupation is exempt.</p> <p>Supply of TDR or FSI or long term lease of land, on such value which is proportionate to construction of residential apartments that remain un-booked on the date of issue of completion certificate or first occupation, would attract GST at the rate of 18%, but the amount of tax shall be limited to 1% or 5% of value of apartment depending upon whether the residential apartments for which such TDR or FSI is used, in the affordable residential apartment category or in other than affordable residential apartment.</p> <p>TDR or FSI or long term lease of land used for construction of commercial apartments shall attract GST of 18%.</p> <p>The above shall be applicable to supply of TDR or</p>

		FSI or long term lease of land used in the new projects where new rate of 1% or 5% is applicable.
12.	Who is liable to pay GST on TDR and floor space index?	The promoter is liable to pay GST on TDR or floor space index supplied on or after 01-04-2019 on reverse charge basis.
13.	At what point of time, the promoter should discharge its tax liability on TDR.	The liability to pay GST on development rights shall arise on the date of completion or first occupation of the project, whichever is earlier. Therefore, promoter shall be liable to pay tax on reverse charge basis, on supply of TDR on or after 01-04-2019, which is attributable to the residential apartments that remain un-booked on the date of issuance of completion certificate, or first occupation of the project.
14.	At what point of time, the promoter should discharge its tax liability on FSI (including additional FSI).	<p>On FSI received on or after 1.4.2019, the promoter should discharge his tax liability on FSI as under:</p> <ul style="list-style-type: none"> (i) In case of supply of FSI wherein consideration is in form of construction of commercial or residential apartments, liability to pay tax shall arise on date of issuance of Completion Certificate. (ii) In case of supply of FSI wherein monetary consideration is paid by promoter, liability to pay tax shall arise on date of issuance of Completion Certificate only if such FSI is relatable to construction of residential apartments. However, liability to pay tax shall arise immediately if such FSI is relatable to construction of commercial apartments.
15.	At what point of time, the promoter should discharge its tax liability on supply of long term lease.	<p>On long term lease received on or after 1.4.2019, the promoter should discharge his tax liability on long term lease as under:</p> <p>In case of supply of long term lease of land for construction of commercial apartments, tax shall be paid by the promoter immediately. However, for construction of residential apartment, liability to pay tax on the upfront amount payable for long term lease shall arise on the date of issuance of Completion Certificate.</p>
16.	Land development corporation of Orissa has provided land on long term lease for 99 years, for	The liability to pay tax on Long term lease of land (30 years or more) received against consideration in the form of upfront amount and periodic licence

	<p>construction of a real estate project. As per the lease agreement, promoter has to pay an upfront amount of Rs. 10 Crore and annual/ monthly licence fee of 5 lakhs. Does the promoter has to pay GST on these amounts?</p>	<p>fee is on the promoter. The promoter has to discharge tax liability on the same on RCM basis. However, the upfront amount payable for the long term lease (known as premium, salami, cost, price, development charges etc.) is exempt to the extent it is used for construction of residential apartments that are booked before issuance of completion certificate or first occupation.</p> <p>Annual/ monthly rent or licence fee payable for long term lease is taxable under GST.</p>
17.	<p>Someone booked a flat from XYZ Developers in June, 2018. As of 31-03-2019, he had paid 40 % of the value of the flat. What shall be the GST rate applicable on the remaining portion of value of the flat?</p>	<p>GST on the remaining portion of the value of flat payable to the promoter on or after 01-04-2019 as per the contract between the promoter and buyer shall be payable at effective rate of 1% or 5%, subject to the condition that the builder has not exercised the option to pay tax on construction of apartments at the old rates of 12% or 18%. If the XYZ developer exercises option to continue to pay tax at old effectiverate of 8% or 12% by 10th May, 2019, then GST has to be paid @ 8% or 12% on remaining portion of the value of the flat; in such cases, the promoter would be entitled to permissible credit of input taxes and, as such, the price that he charges from the buyer should appropriately reflect this credit.</p>
18.	<p>I am a beneficiary of PMAY-CLSS and carpet area of my house being constructed in an ongoing project is 150 sqm. Am I eligible for new rate of 1% on same?</p>	<p>You are eligible for new GST rate of 1%, subject to the condition that the developer-promoterwith whom you have booked the house has not exercised option to pay tax on construction of apartments at the old rate of 8%.</p>
19.	<p>I am planning to purchase an apartment in a newly launched project. The project has been launched after 31.03.2019 by XYZ Developers at Noida. Price of the apartment having carpet area of 80 sqm is 48 lakhs. What is the rate of GST applicable on construction of this apartment?</p>	<p>The tax rate applicable on construction of the apartments in a project that commences on or after 01.04.2019 would be 5%.</p>
20.	<p>I have already paid tax of 12% (effective) on instalments paid before 01.04.2019. I wish to get</p>	<p>The buyer cannot exercise option to pay tax at the new or old rates. It is the builder,who has to exercise the option to pay tax on construction of</p>

	<p>the benefit of new rate of 1% or 5%. Whether it is the builder or the buyer who has the option to pay tax at the new or old rates?</p>	<p>apartments at the old rate of 12% latest by 10th May, 2019. If the builder doesn't exercises his option to continue to pay tax at the old rate by the said date, then the effective GST rate applicable on all your instalments payable to the builder on or after 01.04.2019 as per the contract shall be either 1% or 5%, depending on whether the apartment is an affordable or other than affordable residential apartment.</p>
21.	<p>In respect of supply made in an ongoing Project covered by clauses (ie) and (if) of Entry 3 of Notification No. 3/2019, CT (R), an option is required to be exercised by the Promoter in Annexure IV by 10th May 2019. At the same time, it is permissible for him to issue invoices between 1st April 2019 to 9th May 2019 which shall, however, be in conformity with the option to be exercised. Whether it is permissible for the Promoter to revise the invoice as provided in Section 34 of CGST Act, 2017, including by way of issuance of Credit/Debit Notes so as to bring the transaction in conformity with the option exercised by the Promoter ultimately by 10th May 2019?</p>	<p>Where the GST rate at which tax has been charged in the invoices issued by the promoter prior to 10th May, 2019 are not in accordance with the option required to be exercised by him on or before 10th May, 2019 to pay GST on construction of apartments in an ongoing project at either the new or old rates, the promoter may issue debit or credit notes in accordance with Section 34 of CGST Act, 2017.</p>
22.	<p>How to compute adjustment of tax in a Credit Note to be issued u/s 34 by Real Estate Developer in case unit was booked prior to 1st April, 2019 on which GST was paid on part consideration received at the time of booking, but cancelled after 1st April, 2019.</p>	<p>Developer shall be able to issue a Credit Note to the buyer as per provisions of section 34 in case of change in price or cancellation of booking provided that the amount received in excess if any, consequent to issuance of Credit Note, is refunded to the Buyer by the Developer before September following the end of the financial year. Developer shall be able to take adjustment of tax paid in respect of the amount of such Credit Note. For example, a Developer who paid GST of Rs. 1,20,000 at the rate of 12% (effectively) in respect of a gross amount of booking of Rs. 10,00,000</p>

		<p>before 1st April, 2019 shall be entitled to take adjustment of tax of Rs. 1,20,000 upon cancellation of the said booking on or after 1st April, 2019 against other liability of GST including liability arising at the rate of 5% / 1% provided that the entire amount received from the buyer is refunded by the Developer.</p> <p>Further, in case apartments booked prior to 1.04.2019 on which GST has been paid till 31.03.2019 at the old rates of 8%/ 12% with ITC, are cancelled and rebooked at the new rates of 1% / 5% without ITC or sold after issuance of completion certificate, the credit taken in respect of such apartments for supply of service till 31.03.2019 on which tax was paid @ 8%/ 12% with ITC shall be required to be reversed.</p>
23.	Whether the option to pay tax at the applicable effective rate of 12% or 8% (with ITC) is available to the Promoter in respect of the New Project, which has been commenced on or after 1 st April 2019?	No, there is no option to pay tax at the effective rate of 12% or 8% with ITC on construction of residential apartments in projects which commences on or after 01-04-2019.
24.	From the plain reading of the provisions and the definitions of the various terms as defined in the Notification No. 3/2019-CT(R), it appears that the one-time option is required to be exercised for the entire REP or RREP. Does this mean that a Promoter can opt for old rates or new rates, as the case may be, for different projects being undertaken by him under the same entity?	Yes. The option to pay tax on construction of apartments in the ongoing projects at the effective old rates of 8% and 12% with ITC has to be exercised for each ongoing project separately. As per RERA, 2016, project wise registration is allowed. So, the promoter may exercise different options for different ongoing projects being undertaken by him.
25.	In respect of the construction and supply of premises under specific schemes like PMAY, Housing for All (Urban), RAY etc. as mentioned in sub items (b), (c), (d), (da), (db) of item (iv) and sub items (c), (d), (da) of item (v)	No. The rate of 8% and 12% with ITC is not available for construction of apartments in a project that commences on or after 01-04-2019. It makes no difference whether or not the apartments are being constructed under PMAY or any other housing schemes of the Central or State Government.

	of Entry 3 of Notification 11/2017 – CT (R), whether the pre-existing effective rate of 8%, with ITC benefit continues to be available in case of any New Project that has commenced under any such scheme after 1/4/2019?	
26.	In respect of any ongoing project undertaken under the specific schemes like PMAY, Housing for All(Urban), RAY etc. as mentioned in items(iv) and (v) of Entry 3 of Notification 11/2017- CT (R), prior to 31/3/2019, whether an option is available to the Promoter to pay the tax at the new rates of 1% or 5% (without ITC) or at the existing rates of 8% (with ITC)?	Yes. The promoter has the option to pay tax either at the old rate of 8% (with ITC) or at 1% (without ITC) on construction of residential apartments in ongoing projects being constructed under PMAY and other specified housing schemes of the Central or State Governments in items (iv) and (v) of Entry 3 of Notification 11/2017- Central Tax (Rate) dated 28-06-2017. The option to pay tax on construction of apartments in the ongoing projects at the old rates of 8% with ITC has to be exercised by the promoter for ongoing project.
27.	In case where the Development rights are supplied by the Landowner to the Promoter, under an area sharing arrangement between 1 st July 2017 and 31/3/19, but the allotment of constructed area in an ongoing project is made by the Promoter to the Landowner on or after 1/4/2019, whether the tax liability, if any, is required to be discharged in terms of the Notification No. 4/2018 – CT (R)?	Yes. Tax liability on service by way of transfer of development rights prior to 01-04-2019 is required to be discharged in terms of Notification No. 4/2018-CentralTax (Rate) dated 25.01.2018.
28.	Whether the GST is leviable on the output supply of Transferrable Development rights by a developer (usually evidenced by TDR Certificate issued by the authorities). If yes, under which entry and at what rate?	Yes, GST is payable on transfer of development rights by a developer to another developer or promoter or to any other person under reverse charge mechanism @ 18% with ITC under Sl. No. 16, item (iii) of Notification No. 11/2017 - Central Tax (Rate) dated 28-06-2017 (heading 9972).
29.	What is the meaning of the term	The term “first occupation” appearing in Schedule

	<p>“first occupation” referred to in clauses (i) to (id) of Entry 3 of Notification No. 3/2019? Whether, in case of an ongoing project, where part occupation certificate has been received in respect of some of the premises comprised in the ongoing project, the Promoter is entitled to exercise the option of 1% / 5% (without ITC) or @ 8%/12% (with ITC) available in terms of Notification No. 3/2019 CT (R), in respect of the balance ongoing project?</p>	<p>II para 5 (b) and in notification No. 11/2017 – Central Tax (Rate) dated 29-03-2019 means the first occupation of the project in accordance with the laws, rules and regulations laid down by the Central Government, State Government or any other authority in this regard. Where occupation certificate has been issued for part (s) of the project but not for the entire project by 31-03-2019, the first occupation of the project shall not be considered to have taken place on or before 31-03-2019 and the project shall be considered ongoing project provided it satisfies the other requirements of the definition of the term ongoing project. Promoter shall be entitled to exercise option to pay tax @ 1%/5% (without ITC) or @ 8%/12% (with ITC) on construction of apartments in such project.</p>
30.	<p>(a) In case of a single building registered as 2 (two) separate projects under the provisions of RERA viz. 1st to 10th floor as one Project and 11th to 20th floor as another project, whether the Developer can consider the entire building as single ongoing project, since all the three conditions to be complied with for classifying a project as an ongoing project can be satisfied only if the entire building is considered as a single project?</p> <p>(b) Furthermore, if different towers in a single layout are registered as separate projects under the provisions of RERA but where the approvals are common for all the towers, whether the Developer can consider entire layout as a single Ongoing project ?</p>	<p>(a) Both the projects registered as separate projects under RERA, 2016 shall be treated as distinct projects for the purpose of Notification No. 11/2017-Central Tax (Rate) dated 28-06-2017 as amended by Notification No. 3/2019-Central Tax (Rate) dated 29-03-2019. Both the projects will have to independently satisfy the requirements of the definition of ongoing projects.</p> <p>(b) No. All the towers registered as different projects under RERA shall be treated as distinct projects. Only such towers registered as distinct projects for which commencement certificate has been issued on or before 31-03-2019, construction has started on or before 31-03-2019 and for which apartments have been booked on or before 31-03-2019 but completion certificate has not been issued or first occupation has not taken place by the said date shall be treated as ongoing projects.</p>
31.	Whether TDR purchased on or after 1.4.2019 to be consumed by	Yes. Portion of such TDR transferred on or after 01-04-2019 which is used in an ongoing project in

	<p>a developer-promoter in an ongoing project, in respect of which the promoter has opted for the new rate of tax, shall be liable to be taxed at the applicable rate, but limited to 1% or 5%, as the case may be, of the unsold area at the time of issuance of completion certificate?</p>	<p>respect of which the promoter has opted for new rate of tax on construction of apartment @ 1% or 5% without ITC which remained un-booked on the date of issuance of completion certificate or first occupation of the project shall be liable to tax at the applicable rate not exceeding 1% of the value in case of affordable residential apartments and 5% of the value in case of other than affordable residential apartments.</p>
32.	<p>What shall be the classification of and rate of tax applicable to works contract service provided by a contractor to a developer or promoter under the new dispensation effective from 01-04-2019 for</p> <p>(a) New project after 1.4.2019 and ongoing projects where option has been exercised for new rate and</p> <p>(b) Ongoing projects where option has not been exercised for new rate?</p>	<p>The rate of tax applicable on the work contract service provided by a contractor to a promoter for construction of a real estate project shall be 12% or 18% depending upon whether such work contract service is provided for construction of affordable residential apartments or residential apartments other than affordable residential apartments. Rate of tax applicable on such work contract service provided by a contractor to a promoter on construction of commercial apartments shall be 18% (irrespective of option exercised by developer-promoter). The relevant entries of the notification are at items (iv), (v), (va) and (vi) against sl. no. 3 of the table in Notification No. 11/2017-Central Tax (rate) dated 28-06-2017 prescribing rate of 12% for works contract services of construction of affordable apartments/ apartments being constructed under schemes specified therein. In case of works contract services for construction of other apartments, rate of 18% as prescribed in item (xii) against sl. no. 3 of the table in Notification No. 11/2017-Central Tax (rate) dated 28-06-2017 shall be applicable.</p>
33.	<p>A registered project has three blocks and Completion Certificate has been received for one block prior to 1st April, 2019 and for two blocks will be received after that date.</p> <p>Will such a project for which multiple completion certificates are received partly before 1st April, 2019 and partly after that</p>	<p>Where more than one completion certificate is issued for one project, for the purpose of definition of ongoing project as defined in the clause (xx) in the paragraph 4 of the notification No. 11/ 2017-CTR, dated 28.06.2017, completion certificate issued for part of the project shall not be considered to have been issued for the project on or before 31-03-2019 unless completion certificate(s) have been issued for the entire project. Therefore, if completion certificate has not been issued for part of the project on or before 31-</p>

	date, constitute an ongoing project?	03-2019, the project shall still be considered as ongoing project provided other conditions of the definition of 'ongoing project 'are met.
34.	<p>It is a prevalent practice that more than one commencement certificate is issued by competent authority for single project. For example, in case of a single tower comprising of 50 floors and registered as single project, separate commencement certificates may be issued by the competent authority for (i) basement and parking which is common to entire building (ii) first twenty floors (iii) next thirty floors. If one or two commencement certificates are received by the Developer prior to 1st April, 2019 and remaining on or after that date, will such a project be considered as an ongoing project?</p>	Where commencement certificate has been issued even for part of the project on or before 31-03-2019, it shall be treated as an ongoing project provided other requirements of the definition of ongoing project are met.
35.	<p>There are many projects of redevelopment/slum rehabilitation in pipeline as on 1st April, 2019. It is possible that in such projects the development rights have been conferred upon the developer and pursuant to which the development process has been initiated such as receipt of commencement certificate, excavation for foundation etc., but booking against units for sale has not been received prior to 1st April, 2019.</p> <p>However, allotment of units to the existing dwellers (in respect of free supply units) which will yield no monetary consideration has been done. Clause (xiii) of Para 4 of Notification No.</p>	<p>In case of redevelopment or slum rehabilitation projects, the original inhabitants or the slum dwellers are not required to pay any monetary consideration to the promoter for the residential apartments allotted to them. Therefore, the residential apartments allotted to the original inhabitants in case of redevelopment project or slum dwellers in case of slum rehabilitation or redevelopment project, the requirement that at least one instalment has been credited to the bank account of the promoter shall not be required to be met for such apartments to be considered as having been booked on or before 31-03-2019 provided other requirements for considering an apartment booked on or before 31.03.2019 have been met. The consideration for such apartments is receipt in the form of transfer of development rights from the original inhabitants in case of redevelopment projects or the government in case of slum rehabilitation projects. Hence, the condition</p>

	<p>11/2017-CTR as amended by Notification No. 3/2019-CTR requires credit of at least one instalment in the bank account prior to 1st April, 2019 for a project to be considered as ongoing project. It may please be clarified whether in such cases, apartments being constructed in the project shall be deemed to have been booked prior to 1st April, 2019 in case development agreement is executed prior to that date and whether accordingly such projects shall be considered as an ongoing project?</p>	<p>relating to credit of at least one instalment in the bank account of the promoter for the apartments being constructed in a slum redevelopment project to have been partly or wholly booked shall be deemed to have been satisfied in order to consider the project as an ongoing project, provided all other conditions for considering an apartment as booked are met in case of apartments allotted to slum dwellers; as there is no cash payment to be made by the slum dwellers.</p>
36.	<p>Can a developer take deduction of actual value of Land involved in sale of unit instead of taking deduction of deemed value of Land as per Paragraph 2 to Notification No. 11/2017-CTR ?</p>	<p>No. Valuation mechanism prescribed in paragraph 2 of the notification No. 11/2017- CTR dated 28.06.2017 clearly prescribes one- third abatement towards value of land.</p>
37.	<p>Para 3 of Annexure I and II to Notification No. 3/2019-CTR dated 29.03.02019, stipulate three different conditions. Clause (i) and (ii) of the said Para 3 are relating to percentage of invoicing. It is requested to clarify as to how and where the percentage of invoicing is to be taken into consideration while determining quantum of ITC reversal.</p>	<p>The illustrations given in the said annexure clearly explain how the provisions given in the clause (i) and (ii) of para 3 of the said annexure relating to percentage of invoicing shall operate. The same may be referred to.</p>
38.	<p>It may be clarified whether exemption granted on transfer of development right or FSI for residential construction and reverse charge mechanism prescribed for payment of tax on TDR, FSI or long term lease (premium) in the new</p>	<p>The new dispensation has been prescribed for real estate sector vide notifications issued on 29.03.2019. The same are effective prospectively from 01.04.2019. They shall apply only to development rights or FSI transferred on or after 01.04.2019. They shall not apply to development rights transferred by way of an agreement prior to 01.04.2019 even if the consideration for the same,</p>

	<p>dispensation is applicable where development rights were transferred by way of an agreement executed prior to 1st April, 2019 but consideration, whether in cash or other form, flowed to the land owner, in full or part, on or after 1st April, 2019.</p>	<p>in cash or kind, is paid in part or full on or after 01.04.2019.</p>
39.	<p>Land Owner being an individual is not engaged in the business of land relating activities and thus whether the transfer of development rights by an individual to a promoter is liable for GST and whether the same will fall within the scope of 'Supply' as defined in Section 7 of CGST / SGST Act, 2017? Position of such a transaction may be clarified in light of amendments recently made.</p>	<p>The term business has been assigned a very wide meaning in the CGST Act and it includes any trade, commerce, manufacture, profession, vacation, adventure, or any other similar activity whether or not it is for a pecuniary benefit irrespective of the volume, frequency, continuity or regularity of such activity or transaction. Therefore, the activity of transfer of development rights by a land owner, whether an individual or not, to a promoter is a supply of service subject to GST.</p>
40.	<p>In certain projects, developers have started construction on or before 31-03-2019. However, bookings in the project have not started. One of the conditions prescribed for a project to qualify as an ongoing project is that apartments being constructed should have been partly or wholly booked. Whether such project where bookings have not started but construction has started, would be eligible for the new rates of 1% or 5% without ITC?</p>	<p>As per explanation in clause (xxviii) of para 4 of the notification No. 11/2017- CTR dated 28.06.2017, "project which commences on or after 01.04.2019" shall mean a project other than an ongoing project. A project, in which bookings for the apartments have not started, would not be covered under definition of "ongoing project". The same would accordingly be treated as a project which commences on or after 01.04.2019 subject to the new rates of 1% or 5% without ITC, as the case may be.</p>
41.	<p>Whether the Form as per Annexure IV of the Notification No. 3/2019-CTR is to be filed with both the jurisdictional commissioner i.e. Central Tax, State Tax.</p>	<p>No. The Form shall be filed manually with the office of the Commissioner in whose jurisdiction the registration of the promoter is assigned.</p> <p>No modification / amendment of the option is allowed in the Form once submitted.</p>

	Whether modification / amendments in such Form are allowed subsequent to filing of the form, after 10 th May, 2019?	
--	--	--

F. No. 354/32/2019-TRU
