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The GST Council, in its 34<sup>th</sup> meeting held on 19<sup>th</sup> March, 2019, discussed the operational details for implementation of the recommendations made by the council in its 33<sup>rd</sup> GST meeting for lower effective GST rate of 1% in case of affordable houses and 5% on construction of houses other than affordable house. Following recommendations were made by the GST Council in this meeting:

**Key highlights of the decision taken in the 34<sup>rd</sup> GST Council meeting are summarized below:**

- ❖ Options given to promoters to either opt to new rates or continue with existing rates for the ongoing projects.
- ❖ New tax rates and conditions thereof are prescribed for both affordable and other than affordable construction projects.
- ❖ Transition for ongoing projects opting for new tax rates.
- ❖ Treatment of TDR/ FSI and Long term lease for projects commencing after 01.04.2019.
- ❖ Amendment to ITC rules.

**Option in respect of ongoing projects:**

*Ongoing project means buildings where construction and actual bookings both started before 01.04.2019*

Option in respect of ongoing project	
One time option to pay tax at old rate	The promoters shall be given a one-time option to continue to pay tax at the old rates on ongoing projects
Effective tax rate at present	Rate of 8% or 12% with ITC will be applicable

Whether option to pay tax on ongoing projects at old rates is exercised within prescribed time frame?	
Yes	No
Promoters will pay tax at the <b>Old rates</b> .	Promoters will pay tax at <b>New tax rates</b> .

**New Tax rate structure:**

The new tax rates which shall be applicable to new projects or ongoing projects which have exercised the above option to pay tax in the new regime:

New rate prescribed	Applicability
GST @ 1% without ITC	All houses which meet the definition of affordable houses as decided by GSTC (area 60 sqm in non-metros / 90 Sqm in metros and value upto RS. 45 lakhs), and
	Affordable houses being constructed in ongoing projects under the existing central and state housing schemes presently eligible for concessional rate of 8% GST (after 1/3rd land abatement).
GST @ 5% without ITC	All houses other than affordable houses in ongoing projects whether booked prior to or after 01.04.2019. In case of houses booked prior to 01.04.2019, new rate shall be available on instalments payable on or after 01.04.2019
	All houses other than affordable houses in new projects.
	Commercial apartments such as shops, offices etc. in a residential real estate project (RREP) in which the carpet area of commercial apartments is not more than 15% of total carpet area of all apartments

**New tax rates of 1% and 5% shall be available subject to following conditions**

- **Input tax credit** (ITC) shall not be available.
- 80% of inputs and input services (other than capital goods, TDR/ JDA, FSI, long term lease (premiums)) shall be purchased from registered persons.
- On shortfall of purchases from 80%, tax shall be paid by the builder @ 18% on RCM basis.
- However, GST on cement purchased from unregistered person shall be paid @ 28% under RCM and on capital goods under RCM at applicable rates.

**Transition for ongoing projects opting for new tax rate**

- Ongoing projects (buildings where construction and booking both had started before 01.04.2019) and have not been completed by 31.03.2019 opting for new tax rates shall transition the ITC as per the prescribed method.

Transition formula	
Residential projects other than affordable houses (attracting 5% GST)	Mixed Project
ITC, on pro-rata basis, in proportion to booking of the flat and invoicing done for the booked flat, is available subject to a few safeguards.	ITC on pro-rata basis in proportion to carpet area of the commercial portion in the ongoing projects (on which tax will be payable @ 12% with ITC even after 1.4.2019) to the total carpet area of the project.

**Treatment of TDR/ FSI and Long term lease for projects commencing after 01.04.2019:****Supply of TDR/ FSI and Long term lease for projects commencing after 01.04.2019.**

Supply of TDR, FSI, long term lease (premium) of land by a landowner to a developer shall be exempted subject to following conditions:

- a) the constructed flats are ***sold before issuance of completion certificate***
- b) tax is paid on the constructed flats.

**Withdrawal of exemption on supply of TDR, FSI, Long term (premium) by land owner to developer.**

Exemption of TDR, FSI, long term lease (premium) shall be withdrawn in case of flats ***sold after issue of completion certificate*** to the following extent -

- a) 1% of value in case of affordable houses.
- b) 5% of value in case of other than affordable houses.

Builder shall be liable to pay tax on TDR, FSI, Long term lease (premium) in respect of flats sold on ***reverse charge basis on the date of issue of completion certificate.***

The liability of builder to pay tax on construction of houses given to land owner in a JDA is also being shifted to the date of completion.

**Note:** Above decisions are expected to address the problem of cash flow in the sector.

**Amendment to ITC rules:****Amendment of ITC rules**

ITC rules shall be amended to bring greater clarity on monthly and final determination of ITC and reversal thereof in real estate projects

The change would clearly provide procedure for availing input tax credit in relation to commercial units as such units would continue to be eligible for input tax credit in a mixed project.

Press release states that decisions of the GST Council would give effect to through Gazette notifications/ circulars which alone shall have force of law.

The Press release can be accessed on

[http://cbic.gov.in/resources//htdocs-cbec/press-release/34th GST Council.pdf;jsessionid=662DF672147ABB63F14516D9CE4944CF](http://cbic.gov.in/resources//htdocs-cbec/press-release/34th_GST_Council.pdf;jsessionid=662DF672147ABB63F14516D9CE4944CF)

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In India, GST Team of KDMSL are located in following cities: Hyderabad, Mumbai, Bangalore, New Delhi, Chennai, Pune and Kolkata. For more information about KDMSL service offerings, visit [www.karvygst.com](http://www.karvygst.com)

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