

GST Update

Weekly Update
11.05.2019

- This Presentation covers the GST changes / observations/ press releases/ Tweet FAQs/ Sectoral FAQs released by CBEC since the last update on 04.05.2019. It supplements the earlier GST Updates.
- This presentation is based on CGST Act/Rules/ Notifications. Similar parallel provisions in State Laws may be referred to as required

Notifications and Circulars



- Two Central Tax Notifications and one Central Tax (Rate) Notification issued
- FAQs on Real Estate issued by Tax Research Unit (TRU), Department of Revenue, Ministry of Finance

Last Date for GSTR-1

- **Notification No. 23/2019 – Central Tax dated 11th May, 2019**
- **Last Date for filing GSTR-1(For Taxpayers having aggregate turnover of Rs. 1.5 crore) for cyclone effected districts of Orissa**
- Details of outward supply of goods or services or both in FORM GSTR-1 of the CGST Rules, 2017 for the month of April, 2019 for registered persons whose principal place of business is in the districts of Angul, Balasore, Bhadrak , Cuttack , Dhenkanal , Ganjam, Jagatsinghpur, Jajpur, Kendrapara, Keonjhar, Khordha, Mayurbhanj, Nayagarh and Puri in the State of Odisha shall be furnished electronically through the common portal-
 - **on or before the 10th June, 2019.**

Last Date for GSTR-3B

- **Notification No. 24/2019 – Central Tax dated 11th May, 2019**
- **Last Date for filing GSTR-3B for cyclone effected districts of Orissa**
- Return in FORM GSTR-3B of the CGST Rules for the month of April, 2019 for registered persons whose principal place of business is in the districts of Angul, Balasore, Bhadrak , Cuttack , Dhenkanal , Ganjam, Jagatsinghpur, Jajpur, Kendrapara, Keonjhar, Khordha, Mayurbhanj, Nayagarh and Puri in the State of Odisha shall be furnished electronically through the common portal-
- **on or before the 20th June, 2019.**

Last Date for option by Promoters in Real Estate Projects

- **Notification No. 10/2019-Central Tax (Rate) dated 10th May, 2019**
- The last date for exercising the option by promoters to pay tax at the old rates of 12%/ 8% with ITC instead of the 5%/1% without ITC
- Extended from 10th May, 2019 to **20th May, 2019**

FAQs on Real Estate

- FAQs on Real Estate issued by Tax Research Unit (TRU), Department of Revenue, Ministry of Finance
- **41 clarifications issued**
- Some of the important clarifications are as under:

- **Part Completion Certificate:** 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 31-03-2019, the project shall still be considered as ongoing project provided other conditions of the definition of ‘ongoing project’ are met.

FAQs on Real Estate (Contd)

- The new dispensation has been prescribed for real estate sector vide notifications issued on 29.03.2019 and the same are effective prospectively from 01.04.2019.
- Thus, 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) 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 in cash or kind, is paid in part or full on or after 01.04.2019.

- **Transfer of Development rights (DR) prior to 01.04.2019:**
- 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
- Form as per Annexure IV of the Notification No. 3/2019-CTR be filed manually with the office of the Commissioner in whose jurisdiction the registration of the promoter is assigned. No modification / amendment of the option is allowed in the Form once submitted.

- **Rate of GST applicable on transfer of development rights(TDR), FSI and long term lease of land**
- Supply for the construction of residential apartments in a project that are booked before issue of completion certificate or first occupation is exempt.
- TDR or FSI or long term lease of land used for construction of commercial apartments shall attract GST of 18%.
- 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.

- **Cancellation of units/ Credit Notes**
- 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.



GST Legal Updates

Demand of Advertisement Tax post GST imposed by Nagar Nigam, Kanpur, set aside by the High Court

Case of Selvel Media Services Pvt Ltd Vs State of UP reported in 2019-TIOL-1034-HC-ALL-GST

Facts

Petitioners are advertising companies and are aggrieved by the demand of advertisement tax imposed by the Nagar Nigam, Kanpur on displaying advertisement through hoarding within its jurisdiction. Petitioner submits that w.e.f 01.07.2017, the provision to levy advertisement tax has been deleted and the UP GST Act, 2017 has come into force, so no advertisement tax can be levied.

Decision of the Hon'ble High Court

Power to levy advertisement tax was contained in Section 172(2)(h) of the Municipal Corporation Act, 1916 which stood deleted w.e.f. 1.7.2017 by virtue of Section 173 of U.P. GST Act.

Demand of Advertisement Tax post GST imposed by Nagar Nigam, Kanpur, set aside by the High Court

Decision of the Hon'ble High Court... Contd

Even the power of the State Government to legislate regarding advertisement tax as provided under Entry 55 of List II of the VII Schedule of the Constitution of India also stood deleted w.e.f. 12.9.2016 by the Constitution (101 Amendment) Act, 2016. Article 265 of the Constitution of India mandates that no tax shall be levied or collected except by the authority of law, therefore, the authority to levy any tax, much less the advertisement tax must be derived from the Statutes. There is, therefore, neither any power left with the State Government or the Municipal Corporation to legislate about the imposition of tax on advertisement. Since, after 12.9.2016 or from 1.7.2017 the Nagar Nigam, Kanpur ceased to have any jurisdiction to impose and realize tax on advertisement, the demand of tax on advertisement from the petitioners after 1.7.2017 is held to be illegal and without jurisdiction. Notices of demand impugned in the petition are quashed and the amount, if any, of the advertisement tax deposited by the petitioners for the period 1.7.2017 onwards is directed to be refunded to the petitioners. Writ Petition allowed.

Any ISSUES/ queries?



- <https://cbec-gst.gov.in/>
- [CBEC MITRA HELPDESK](#)
 - 1800 1200 232
 - cbecmitra.helpdesk@icegate.gov.in
- GSTN Help Desk
 - <https://selfservice.gstsystem.in/> - Grievance redressal portal
 - Help Desk Number: 0120-4888999

Any ISSUES/ queries?

- Twitter Handles
- For General Questions
- https://twitter.com/askGST_GoI
- For technology related issues
- <https://twitter.com/askGSTech>
- NACIN twitter
- https://twitter.com/NACIN_OFFICIAL

THANK YOU