

Residential Real estate project (RREP)

Input tax credit attributable to construction of residential and commercial portion in a Residential Real estate project (RREP), which has time of supply on or after 1st April, 2019, shall be calculated project wise for all projects which commence on or after 1st April, 2019 or ongoing projects in respect of which the promoter has not exercised option to pay central tax on construction of apartments at the rates as specified for item (ie) or (if) against serial number 3, as the case may be, in the prescribed manner, before the due date for furnishing of the return for the month of September following the end of financial year 2018-19, in the following manner:

1. Where % completion as on 31st March, 2019 is not zero or where there is inventory in stock

(a) 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:

$$Tx = T - T_e$$

Where,

- (i) 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;
- (ii) T_e 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;

(b) T_e shall be calculated as under:

$$T_e = T * F_1 * F_2 * F_3 * F_4$$

Where, -

$$F_1 = \frac{\text{Carpet area of residential and commercial apartments in the RREP}}{\text{Total carpet area of apartments in the RREP}}$$

(In case of a Residential Real Estate Project, value of "F1" shall be 1.)

$$F_2 = \frac{\text{Total carpet area of residential and commercial apartment booked on or before 31st March, 2019}}{\text{Total carpet area of the residential and commercial apartment in the RREP}}$$

Such value of supply of construction of residential and commercial apartments booked on or before 31st March, 2019 which has time of supply on or before 31st March, 2019

$$F_3 = \frac{\text{Such value of supply of construction of residential and commercial apartments booked on or before 31}^{\text{st}} \text{ March, 2019 which has time of supply on or before 31}^{\text{st}} \text{ March, 2019}}{\text{Total value of supply of construction of residential and commercial apartments booked on or before 31}^{\text{st}} \text{ March, 2019}}$$

(F3 is to account for percentage invoicing of booked residential apartments)

$$F_4 = \frac{1}{\% \text{ Completion of construction as on 31}^{\text{st}} \text{ March, 2019}}$$

Illustration: where one- fifth (twenty percent) of the construction has been completed, F_4 shall be $100 \div 20 = 5$.

Explanation: “% Completion of construction as on 31st March, 2019” shall be the same as declared to the Real Estate Regulatory Authority in terms of section 4 and section 11 of Real Estate (Regulation and Development) Act, 2016 and where the same is not required to be declared to the Real Estate Regulatory Authority, it shall be got determined and certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India).

(c) The amounts ‘Tx’ and ‘Te’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

(d) Where, Tx is positive, i.e. $T_e < T$, the registered person shall pay, by debit in the electronic credit ledger or electronic cash ledger, an amount equal to the difference between T and T_e . Such amount shall form part of the output tax liability of the registered person and the amount shall be furnished in FORM GST ITC- 03.

Explanation: The registered person may file an application in FORM GST DRC- 20, seeking extension of time for the payment of taxes or any amount due or for allowing payment of such taxes or amount in installments in accordance with the provisions of section 80. The commissioner may issue an order in FORM GST DRC- 21 allowing the taxable person further time to make payment and/or to pay the amount in such monthly installments, not exceeding twenty-four, as he may deem fit.

(e) Where, Tx is negative, i.e. $T_e > T$, 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 T_e and T.

(f) Where percentage completion is zero but ITC has been availed on goods and services received for the project on or prior to 31st March, 2019, input tax credit attributable to construction of residential and commercial portion which has time of supply on or after

1st April, 2019, shall be calculated and the amount equal to Tx shall be paid or taken credit of, as the case may be, as prescribed above, with the modification that percentage completion for calculation of F₄ shall be taken as the percentage completion which, as certified by an architect registered with the Council of Architecture constituted under the Architects Act, 1972 (20 of 1972) or a chartered engineer registered with the Institution of Engineers (India), can be achieved with the input services received and inputs in stock as on 31st March, 2019.

2. Where % completion as on 31st March, 2019 is zero but invoicing has been done having time of supply before 31st March, 2019, and no input services or inputs have been received as on 31st March, 2019, “Te” shall be calculated as follows: -

(a) 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 before 31st March, 2019 may be denoted as Te which shall be calculated as under,

$$Te = T_n * F_1 * F_2 * F_3$$

Where, -

T_n= Tax paid on such inputs and input services on which ITC is available under the CGST Act, received in 2019-20 for construction of residential and commercial apartments in the RREP.

F₁, F₂ and F₃ shall be the same as in para 1 above

(b) The registered person shall be eligible to take ITC on goods and services received on or after 1st April, 2019 for construction of residential or commercial portion in the RREP, for which he shall not otherwise be eligible, to the extent of the amount of Te.

(c) The amount ‘Te’ shall be computed separately for input tax credit of central tax, State tax, Union territory tax and integrated tax.

3. Notwithstanding anything contained in paragraph 1 or paragraph 2 above, Te shall be determined in the following situations as under:

- (i) where percentage invoicing is more than the percentage completion and the difference between percentage invoicing (per cent. points) and the percentage completion (per cent. points) of construction is more than 25 per cent. points; the value of percentage invoicing shall be deemed to be percentage completion plus 25 percent. points;
- (ii) where the value of invoices issued on or prior to 31st March, 2019 exceeds the consideration actually received on or prior to 31st March, 2019 by more than 25 per cent. of consideration actually received; the value of such invoices for the purpose of determination of percentage invoicing shall be deemed to be actual consideration received plus 25 per cent. of the actual consideration received; and

- (iii) where, the value of procurement of inputs and input services prior to 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 per cent. 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 based on the documents duly certified by a chartered accountant or cost accountant submitted by the promoter in this regard, applying the accepted principles of accounting.

Illustration 1:

SI No	Details of a residential real estate project (RREP)			
	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		100	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	7000	sqm
5	value of each residential apartment		0.60	crore
6	Percentage completion as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
7	No of apartments booked before transition		80	units
8	Total carpet area of the residential apartment booked before transition	$C3 * C7$	5600	sqm
9	Value of booked residential apartments	$C5 * C7$	48	crore
10	Percentage invoicing of booked residential apartments on or before 31.03.2019		20%	
11	Total value of supply of residential apartments having t.o.s. prior to transition	$C9 * C10$	9.6	crore
12	ITC to be reversed on transition, $T_x = T - T_e$			
13	Eligible ITC ($T_e = T \times F1 \times F2 \times F3 \times F4$)			
14	T (*see notes below)		1	crore
15	F1		1	
16	F2	$C8 / C4$	0.8	
17	F3	$C11 / C9$	0.2	
18	F4	$1 / C6$	5	
19	Eligible ITC ($T_e = T \times F1 \times F2 \times F3 \times F4$)	$C14 * C15 * C16 * C17 * C18$	0.8	crore
20	ITC to be reversed on transition, $T_x = T - T_e$	$C14 - C19$	0.2	crore
<p>*Note:-</p> <p>1. The value of T at C14 has been estimated for illustration based on weighted average tax on inputs.</p> <p>2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.</p>				

Illustration 2:

SI No	Details of a residential real estate project (RREP)			
	A	B	C	D
1	No. of apartments in the project		100	units
2	No. of residential apartments in the project		100	units
3	Carpet area of the residential apartment		70	sqm
4	Total carpet area of the residential apartments	$C2 * C3$	7000	sqm
5	value of each residential apartment		0.60	crore
6	Percentage completion as on 31.03.2019 [as declared to RERA or determined by chartered engineer]		20%	
7	No of apartments booked before transition		80	units
8	Total carpet area of the residential apartment booked before transition	$C3 * C7$	5600	sqm
9	Value of booked residential apartments	$C5 * C7$	48	crore
10	Percentage invoicing of booked residential apartments on or before 31.03.2019		60%	
11	Total value of supply of residential apartments having t.o.s. prior to transition	$C9 * C10$	28.8	crore
12	ITC to be reversed on transition, $T_x = T - T_e$			
13	Eligible ITC (T_e)= $T \times F1 \times F2 \times F3 \times F4$			
14	T (*see notes below)		1	crore
15	F1		1	
16	F2	$C8 / C4$	0.8	
17	F3	$C11 / C9$	0.6	
18	F4	$1 / C6$	5	
19	Eligible ITC (T_e)= $T \times F1 \times F2 \times F3 \times F4$	$C14 * C15 * C16 * C17 * C18$	2.4	crore
20	ITC to be reversed on transition, $T_x = T - T_e$	$C14 - C19$	-1.4	crore
21	T_x after application of cap on % invoicing vis-a-vis P_c			
22	% completion		20%	
23	% invoicing		60%	
24	% invoicing after application of cap($P_c + 25\%$)	$C6 + 25\%$	45%	
25	Total value of supply of residential apartments having t.o.s. prior to transition	$C9 * C24$	21.60	crore
26	F3 after application of cap	$C25 / C9$	0.45	
27	$T_e = T \times F1 \times F2 \times F3 \times F4$ (after application of cap)	$C14 * C15 * C16 * C26 * C18$	1.80	crore
28	ITC to be reversed / taken on transition, $T_x = T - T_e$ (after application of cap)	$C14 - C27$	-0.80	crore
29	T_x after application of cap on % invoicing vis-a-vis P_c and payment realisation			
30	% invoicing after application of cap($P_c + 25\%$)		45%	
31	Total value of supply of residential apartments having t.o.s. prior to transition	$C25$	21.60	crore
32	consideration received		16.00	crore
33	Total value of supply of residential apartments having t.o.s. prior to transition after application of cap vis-a-vis consideration received	$16 \text{ cr} + 25\% \text{ of } 16 \text{ Cr}$	20.00	crore
34	F3 after application of both the caps	$C33 / C9$	0.42	
35	$T_e = T \times F1 \times F2 \times F3 \times F4$ (after application of both the caps)	$C14 * C15 * C34 * C26 * C18$	1.67	
36	ITC to be reversed / taken on transition, $T_x = T - T_e$ (after application of both the caps)	$C14 - C35$	-0.67	crore
	*Note:-			
	1. The value of T at C14 has been estimated for illustration based on weighted average tax on inputs.			
	2. In actual practice, the registered person shall take 'aggregate of ITC taken as declared in GSTR-3B of tax periods from 1.7.2017 or commencement of project which is later and transitional credit taken under section 140 of CGST Act' as value of T.			

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(Prmod Kumar)