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BY HOUSING NEWS DESK ([HTTPS://HOUSING.COM/NEWS/AUTHOR/HOUSING-NEWS-DESK/](https://housing.com/news/author/housing-news-desk/)) | MARCH 19, 2019

# GST Council approves transition plan for 5% rate for under-construction flats, and 1% for affordable housing

*The GST Council has reduced the GST rates for under-construction flats and affordable housing to five per cent and one per cent, respectively and also increased the carpet area of flats under affordable housing*

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**Update on March 19, 2019:** The GST Council, on March 19, 2019, approved a transition plan for the implementation of the new tax structure for housing units, revenue secretary AB Pandey said. As per the plan, builders will be allowed to choose between the old tax rates and the new ones for under-construction residential projects, to help resolve input tax credit (ITC) issues.

As per the decision taken by the GST Council, the developers of residential projects which are incomplete as on March 31, 2019, will have the option either to choose the old structure with ITC or to shift to the new 5% and 1% rates, without ITC. Builders will get a one-time option to continue paying tax at the old rates (effective rate of 8% or 12% with ITC) on ongoing projects (buildings where construction and actual booking have both started before April 1, 2019, but which will not be completed by March 31, 2019), Pandey explained. The new tax rate of 1% for affordable houses and 5% for others, without ITC, will apply on new projects.

 Advertise 

On the time-frame for the transition, Pandey pointed out that the council has agreed on providing a reasonable time to developers. The matter would be decided in a next few days in consultation with the states, he said, adding that it could be 15 days or one month. The Council also clarified that projects with up to 15% commercial space will be treated as residential property. This will resolve issues faced in cases where buildings have commercial amenities, such as clubs and restaurants, as well as in case of residential-cum-commercial projects.

Additionally, a condition has also been imposed that 80% procurement by developers should be from registered dealers, to avail of the composition scheme. The new tax rates of 1% and 5% shall be available, subject to the condition that ITC shall not be available and that 80 per cent of inputs and input services shall be purchased from registered persons. Any shortfall in purchases according to these norms, would be levied a tax of 18 per cent. Tax on cement purchased from unregistered person shall attract a 28% duty.

The meeting deliberated on the transition provision and related issues for the implementation of lower GST rates for the real estate sector. The Council had, in its last meeting on February 24, 2019, slashed tax rates for under-construction flats in the affordable category to 1%. The GST rate on other categories was reduced to 5%, effective April 1, 2019. Pandey said the GST rates for new projects will be mandatory from April 1, 2019.

**Anuj Puri, chairman – ANAROCK Property Consultants**, explains that “The new GST-related announcement has given real estate developers the choice to either opt for the old rates and the accompanying input tax credit (ITC) benefits, or else to adhere to the new reduced GST rate of 5% without ITC. While not exactly ground-breaking, it is indeed an intelligent move by smart play by the incumbent government. With this decision, it has carefully side-stepped conflict with both builders and buyers. Most developers reacted to last month’s announcement of the new GST rate minus ITC with trepidation. There was justifiable worry about what would happen to the input stock which they have accumulated much before as part of their long-term purchases. For them, this new move will be beneficial. However, developers choosing to go with the second option of new GST rates, may not be able to hike property prices in the immediate future. The possibility of prices being hiked was a matter of concern for aspiring buyers, but the fact is that developers can ill afford to test the currently fragile market sentiment by raising rates immediately. As for the buyers, this announcement will not really impact them much because they will continue to expect lower GST rates. This announcement is probably no more or less than what could be expected from the Government. The Election Commission’s model code of conduct is in force, and reducing taxes at this point could have been interpreted as a move to woo voters.”

***(With inputs from PTI)***

**Update on February 24, 2019: GST on under-construction flats slashed to 5%, affordable housing to 1%**

To boost demand in the real estate sector, the GST Council, on February 24, 2019, slashed tax rates for under-construction flats to five per cent and affordable homes to one per cent, effective April 1, 2019. Currently, the Goods and Services Tax (GST) is levied at 12 per cent with input tax credit (ITC)

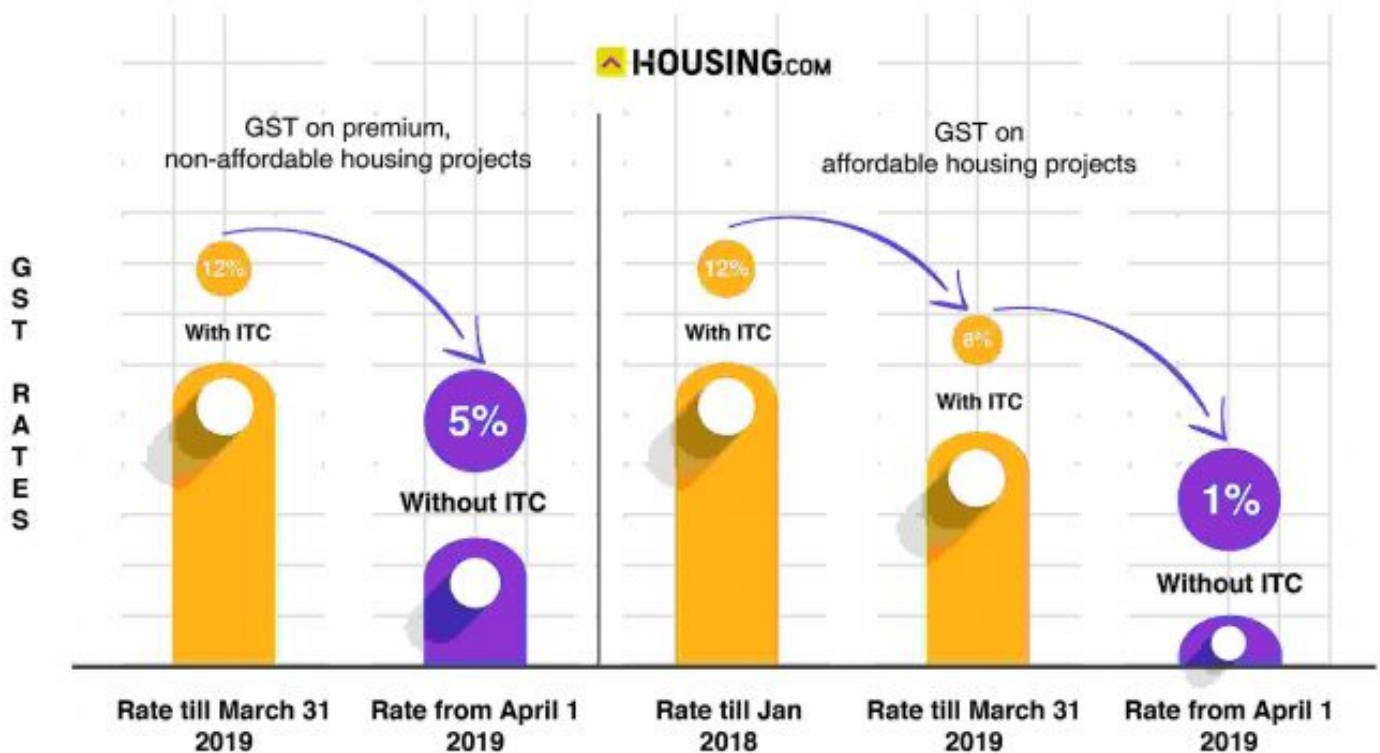
on payments made for under-construction property or ready-to-move-in flats, where the completion certificate is not issued at the time of sale. For affordable housing units, the existing tax rate is eight per cent.

**Details of GST rates proposed from April 1, 2019**

	Extant	Proposed
Affordable housing (%)	8	1
Others (%)	12	5
Input tax credit	Yes	No
<b>Affordable housing</b>		
Area (sq. m)	60	60-90
Value (Rs mn)	NA	4.5

Source: PIB, Kotak Institutional Equities

Briefing reporters after the 33rd meeting of the GST Council, finance minister Arun Jaitley said the consumers felt that the benefits of ITC were not being passed on to them by the builders and hence, a group of ministers (GoM) was set up to suggest changes in taxation on real estate. The finance minister said that currently GST is levied at 12 per cent on normal residential houses and 8 per cent on affordable homes, after considering one-third abatement on account of land cost. The Council has decided that after removal of ITC, the rates will be 5 per cent for normal housing properties and 1 per cent for affordable housing, he said.



To ensure that the real estate sector does not go back to being cash-driven, on account of removal of the ITC, Jaitley said the builders will have to purchase a 'very high percentage' (which will be decided by a committee) of their inputs from GST-registered dealers. The reduction in rates will give a boost to the Housing for All mission and fulfil aspirations of the neo-middle class, he said.

The Council also expanded the definition of affordable housing for the purpose of availing of GST benefits, to those flats costing up to Rs 45 lakhs and measuring 60 sq metres carpet area in metros (Delhi-NCR, Bengaluru, Chennai, Hyderabad, Mumbai-MMR and Kolkata) and 90 sq metres carpet area in non-metros. "We have adopted twin definition of affordable housing, on the basis of carpet area and cost. We have expanded the definition of affordable housing, so that aspiring people can buy slightly bigger (houses), so 60 sq metres carpet area in metros and 90 sq metres outside the metros, which approximate translates to a two-bedroom house in a metro and a possibly three-bedroom house in non-metros. This will come into effect from April 1, 2019," Jaitley said. For GST applicability on affordable housing, currently there is no valuation threshold and the calculation of carpet area varies from project to project.

### Computation of impact of GST revision on net property prices

	Case I	Case II	Case III
<b>Non-affordable segment</b>			
Price (Rs per sq. ft)	15,000	10,000	5,000
Construction cost (Rs per sq. ft)	2,300	2,300	2,300
Input tax credit	414	414	414
<b>Extant GST</b>			
GST (@12%)	1,800	1,200	600
Price (net of input credit)	16,386	10,786	5,186
<b>Proposed GST</b>			
GST (@5)	750	500	250
Price (without input tax credit)	15,750	10,500	5,250
Savings (Rs/sq. ft)	636	286	(64)
Savings (%)	3.9	2.7	(1.2)
<b>Affordable segment</b>			
Price (Rs per sq. ft)	3,500	4,000	5,000
Construction cost (Rs per sq. ft)	1,500	1,700	2,000
Input tax credit	270	306	360
<b>Extant GST</b>			
GST (@8%)	280	320	400
Price (net of input credit)	3,510	4,014	5,040
<b>Proposed GST</b>			
GST (@1)	35	40	50
Price (without input tax credit)	3,535	4,040	5,050
Savings (Rs/sq. ft)	(25)	(26)	(10)
Savings (%)	(0.7)	(0.6)	(0.2)

Source: PIB, Companies, Kotak Institutional Equities estimates

With regard to those properties where construction work has already begun, Jaitley said a committee of officers will draft the transition rules and frame guidelines. "The fitment committee and law committee, by March 10, 2019 will draft those guidelines and immediately place before the GST Council, which will meet via video conference so that ministers do not have to travel to Delhi in election period," he said. To ensure that the real estate sector does not go back to a cash economy and to fix the accountability of back supply chain, a very high percentage of goods will have to be procured from GST-registered dealers, Jaitley added. "For that back chain, a condition will be put that a very high percentage of purchases to avail of this, will have to be from registered dealers. The

**GoM has proposed 80 per cent.** Whether it is 80 per cent or more, the group will reconsider it and present before the Council,” he said, adding this will ensure that the back chain does not go to a cash-based system.

West Bengal finance minister Amit Mitra, however, flagged issues with respect to the provision that a certain percentage of goods have to be procured by a builder from a registered dealer. “The industry is going through bad period, (it) should get stimulated but with these complications, they will be caught in inspector raj, they will be caught in hawala,” Mitra said.

Jaitley further said the officers’ committee will also discuss suggestions of states, with regard to those apartments where there are commercial spaces and shops. The committee will look into whether it should be permitted and if allowed, then, how much percentage. GST is not levied on buyers of real estate properties for which the completion certificate has been issued at the time of sale. “This decision is certainly going to give a good boost to the under-construction apartments, because people were otherwise waiting for them to get completed and that was also stopping the money flow into the real estate sector,” he said.

#### **- Inputs from PTI**

**Update on February 20, 2019:** The GST Council has deferred a decision on tax rates on real estate till February 24, 2019. Briefing reporters after a meeting of the GST Council on February 20, 2019, finance minister Arun Jaitley said that with regard to the Goods and Services Tax (GST) rate on under-construction housing properties, since certain states wanted physical meeting for this agenda, hence, the Council would meet again on February 24 to take a decision.

**Update on February 1, 2019:** Unfortunately, the Interim Budget 2019 has not reduced GST rates on homes. The interim FM Piyush Goyal shared that the GST council is awaiting recommendations from the council of ministers, to take a final call on the same.

**Update on January 10, 2019:** No change in GST rates for real estate. Though the industry was hoping for a revision in GST rates for under construction houses, in the January 10, 2019 session of the committee, differences of opinion came about on including real estate under the Goods and Services Tax. So, the council decided to form a seven-member group of ministers to deliberate further.

**Update on December 22, 2018:** While the real estate sector was hoping for a downward revision or reduction in GST rates for under construction houses, the committee has maintained the status quo on GST rates for the real estate sector. However, industry experts are hoping for a revision in GST rates for under construction houses, in the January 2019 session of the committee.

The GST Bill was approved in the Lok Sabha on March 29, 2017 with four supplementary legislations- The Central GST Bill, 2017; The Integrated GST Bill, 2017; The GST (Compensation to States) Bill, 2017; and The Union Territory GST Bill, 2017.

At the debate preceding the passing of the bills, finance minister Arun Jaitley said the GST, which will usher in a uniform indirect tax regime in the country, will make commodities 'slightly cheaper.' "Today, you have tax on tax, you have cascading effect. When all of that is removed, goods will become slightly cheaper," he said. On why the GST Council has decided on multiple GST rates, Jaitley said one rate would be 'highly regressive as hawai chappal and BMW cannot be taxed at the same rate.'

## Intent of the GST

The GST will subsume central excise, service tax, VAT and other local levies to create a uniform market. GST is expected to boost GDP growth by about 2 per cent and check tax evasion. States will have to pass their State GST or SGST law that will allow them to levy sales tax after levies like VAT are subsumed.

## Tax structure under the GST

In the GST Council meeting held on February 24, 2019, the decision was made to cut tax on under construction residential houses to 5 per cent, from 12 per cent. It was also decided to slash the GST rate on affordable housing, to 1 per cent from 8 per cent, as per Finance Minister Arun Jaitley. **These changes are applicable from April 1, 2019.** As per industry experts, the elimination of input credit tax benefit may hit profitability for the supply side; however, the potential demand generation as a result of this move will outweigh any possible negative aspects, leading to greater sales numbers and revenues.

Top 5 GST updates you should know



## Reduction in GST may not benefit properties having lower price points

The revised rates of GST may not necessarily work favourably in case of:

- (1) Lower price-point apartments (such as Bengaluru) and
- (2) Where the builder has given the consumer the full benefit of input tax credit.

A headline GST of 5 per cent, compared to 12 per cent previously, is optically much lower. However, this needs to be seen in the context of removal of input tax credit. Buyers in cities such as Mumbai and Gurugram, will enjoy savings of three to four per cent. In general, consumers will be better with price points higher than Rs 6,000 per sq ft (assuming a construction cost of Rs 2,300 per sq ft).

Developers in select cities will have to take marginal price increases or bear the brunt of lower margins at unchanged prices. The exemption of GST on payments for JDA/FSI works favourably, as it limits the impact of lack of input tax credit.

Developers who retained part of the input tax credit will be worse-off under the new regime. Incremental clarity is required on usage of extant input tax credit, for services and material cost already paid. Further, the new tax rate will only be applicable from April 1, 2019 and accordingly, March 2019 will be a transition month that will likely see lower sales and will even have extant buyers requesting for a delay in the raising of new bills.

***See also: GST impact on the realty sector: The short to long-term analysis***

***(<https://housing.com/news/gst-impact-realty-sector-short-long-term-analysis/>)***

## **New definition of affordable housing could keep a lot of metro cities outside its ambit**

The new GST rules have reduced the headline rate to 1 per cent from 8 per cent (with input tax credit) for affordable housing. However, the definition of affordable housing now allows apartments of 60 sq m for metro cities and 90 sq m for non-metro cities, with a cap on the value of the asset at Rs 45 lakhs. A lot of small-sized apartments in metro cities may not be within the Rs 45-lakh limit and therefore, may not enjoy the lower GST under affordable housing. Apartments in other cities and those in the outskirts of metros, with ticket size up to Rs 45 lakhs will be the key beneficiaries, depending on the price point and construction cost.

## **What will be the GST rates for those who have made part payments for under-construction homes**

People who have already booked their flats and have made part payments, can save money as the cost of the apartment has already been fixed. What will change is only the rate of GST applicable on the instalments that have not yet been paid, if they are able to get the demand for the instalment issued after the new rates come into effect.

As per GST rules, the GST is payable on the earliest of three occasions:

- Receipt of payments
- Raising of invoice
- Completion of service/supply of goods.

So, if you can get the developer to issue the invoice/demand for the remaining instalments, on or after April 1, 2019, you will be able to avail of the reduced rates of GST. If the building is nearing completion and the completion certificate is expected to be issued before the new rates come into effect, you will not be able to get the benefit of the reduced rates. However, the developer may not be willing to accommodate such requests, as this involves delay in receipt of money for him, as well as losing the benefit of input tax credit on the instalments subjected to the reduced rates of GST. In genuine cases, where the due date of the instalments fall after March 31, 2019 and the builder does not play mischief by raising the invoice before this date, you will be able to get the benefit of the reduced rates.

## What will be the immediate impact on the sector with the new GST regime

The GST council's decision to reduce the GST rates for under-construction residential housing projects will lead to marginal traction in demand and bring in more transparency for home buyers, believes India Ratings and Research (Ind-Ra). Reduced total outflow for home buyers could increase the attractiveness of under-construction residential units, considering the base prices remain stable in the absence of input tax credit (ITC) availability for developers.

**Traction in Demand to Improve Provided Base Prices Remain Stable:** The reduction in GST rates could lead to a monthly saving of Rs 800-1,000 for a homebuyer, considering an average ticket size of Rs 2.5 million with 7% reduction in tax in case of affordable units. The savings could also be in the range of Rs 2,750-3,000, considering an average ticket size of Rs 7.5 million with 7% reduction in tax for the non-affordable units. This is after assuming that developers do not pass on the increase in prices due to the non-availability of ITC. The real estate sector is witnessing soft demand growth and flat prices in wake of a huge inventory of finished units/unfinished units. Companies with completed inventory are typically better placed in terms of off-load risk than those with under-construction projects, as the demand is driven by end-consumers who are averse to project risks (delay in delivery properties). However, Ind-Ra opines the change in tax rates could bring some traction in demand to the under-construction segment, if base prices remain stable.

**Fresh Buying May Slowdown in FY19:** Since the new GST rate for under-construction housing projects is effective from 1 April 2019, any new buying in such projects could be deferred until the beginning of FY20. Hence, the 4QFY19 sales numbers (the result is a function of accounting) for most developers having major projects in under constructions stage, could decline.

**Likely Repricing of Housing Units by Developers:** The rate cut ideally should support demand, assuming it results in an overall price reduction. However, considering ITC typically would account for 4%-6% of sales price, resulting in net GST tax 3%-7%, there is not much room for builders to reduce prices. Also, in cases where the builder was retaining any benefit of ITC, the new regime would eliminate any such possibility, and thus may result in builder re-pricing apartments/flats. Clarity would be required for cases where the builder has already signed a sale agreement (assuming ITC he would be availing) but invoice (linked with construction progress) would be raised under the new regime (without any ITC). This situation can result in the builder renegotiating prices as the base price should go up without factoring in ITC.

**Brings in More Clarity on Tax Structure:** Currently, there is lack of clarity with regards to the claims of developers in passing on the benefit of any ITC to end-buyers. The effective tax paid by home buyers in the current structure is thus ambiguous. Ind-Ra believes the reduction in GST rates and absence of ITC would bring in more transparency on the overall tax payment for home buyers.

## **HFCs may benefit from higher volumes and improved liquidity for developers in metros, in new GST regime**

Lower prices for customers in metros such as Mumbai and NCR (wherein, land prices are high and hence, input tax credit in the previous regime was low) will help boost retail housing volumes in these locations. Private banks and large players like HDFC, are present in this space (even as HDFC has higher focus in the lower end).

Market sources suggest that customers have been waiting for projects to be completed, to avoid the burden of GST, which is applicable only on under-construction projects (<https://housing.com/news/gst-not-applicable-sale-flats-issue-completion-certificate-finance-ministry/>). This had further stretched the financials of under-construction projects that were constrained due to weak demand and stable real estate prices. Higher under-construction sales in metros, post a price reduction following lower GST rates, will improve the financial health of large developers operating in these locations. This, in turn, will reduce the asset quality risk for HFCs lending to this segment.

## **Impact of GST on real estate**

The construction of a complex building, civil structure, or a part thereof, intended for sale to a buyer, wholly or partly, is subject to 12 per cent tax with full input tax credit (ITC), subject to no refund in case of overflow of ITC. In other words, residential construction services, will invite GST at the rate of 12 per cent, which will apply to developers selling residential units before completion of construction to the home buyers.

## GST Impact On Home Buyers And Property Market



According to the JM Financial report on GST, for states with non-composite VAT (Karnataka, Tamil Nadu, Andhra Pradesh), the transaction value changes marginally from 10-11% to 12% under the regime. With input cost credits available, developers in these regions may witness improvement in margins in case no price revision takes place (subject to the anti-profiteering clause).

Abhishek Anand, assistant vice-president (Equity Research), JM Financial Ltd, explains: “In the current regime, states with composite VAT require developers to pay lower VAT rates on the total property value without any input tax benefit (Maharashtra, Haryana) or partial benefit (intra state offset- Bangalore). Under this regime, developers pass on the transaction cost – VAT (1%) and service tax (4-5%) to buyers (total 5-6%). Developers get offset for only the input service tax component. In the GST regime, the transaction cost increases to 12%, with input credit available on both, services and material. Property transaction costs will increase by 6%, in case no input credit is passed on by developers. If developers pass on the input credit to buyers, the property price increase could be restricted to 1-2%.” If the developers pass on the credits completely and bring down the base prices, then, home buyers may marginally benefit under the GST regime.

Nevertheless, stamp duty will continue to be applicable, irrespective of whether the property is under-construction or constructed, in the pre-GST and post-GST regime.

## Will GST help home buyers?

With the introduction of the Goods and Services Tax (GST), the total incidence of tax will increase from 5.5 per cent to 12 per cent. However, developers will be able to avail of input credit, on all the goods and services purchased and spent in the construction of the property.

Shrikant Paranjape, president of CREDAI Pune Metro, maintains that “The impact of the GST on property prices, will be difficult to gauge at this stage because of the lack of clarity on abatement for land value. In a product, where the major raw material is not covered by the GST and the completed unit is also not covered by the GST, the tax input benefit will be hard to calculate or justify. Only the market forces, the ready reckoner rates and time, will decide whether and how much benefit will be passed on by the developers to the purchasers.”

Moreover, the prices of input materials can also be volatile. Cement and steel prices can soar, without warning. Similarly, sand is always in short supply and not available in the monsoons. Hence, it is likely that these industries may not pass on the entire benefit of tax credit (<https://housing.com/news/will-gst-help-home-buyers/>).

Another important factor that needs to be examined, is the stage of construction. If the project is at an advanced stage, where substantial cost has already been incurred before the application of the GST, very little input credit will be available and very less benefit will be passed on. If the project is at an early stage, more benefits can be passed on.

## **GST on under construction property - Affordable housing**

It is important to note that if GST exemption is extended to affordable housing projects (<https://housing.com/news/will-gst-impact-various-segments-indian-real-estate/>) (affordable housing is currently exempted from service tax and a clarification is expected from the government for exemption from GST), then, affordable homes may become cheaper under the GST regime.

## **Government directs builders not to charge GST on affordable housing**

The government, on February 7, 2018, asked builders not to charge any Goods and Services Tax (GST) from home buyers, as the effective GST rate on almost all affordable housing projects is eight per cent, which can be adjusted against the input credit (<https://housing.com/news/not-charge-gst-affordable-housing-buyers-government-builders/>). It said builders can levy GST on buyers of affordable housing projects, only if they reduce the apartment prices after factoring in the credit claimed on inputs.

In its last meeting on January 18, 2018, the GST Council had extended the concessional rate of 12 per cent GST, for construction of houses under the Credit-Linked Subsidy Scheme (CLSS) to promote affordable housing, which has been given infrastructure status in 2017-18 Budget. The effective GST rate, however, comes down to eight per cent, after deducting one-third of the amount charged for the house/flat, towards land cost. This provision was effective from January 25, 2018.

## **Impact of GST on property prices - Luxury segment**

In the case of a premium properties, while the basic construction cost may come down a little, but as the input tax credit is limited to 12 per cent, it will not be sufficient to bring down the fresh tax liability to nil because of the taxes paid on other expenditures.

## GST rates for real estate – Input materials

HSN	Description of goods	Rate
Chapter 72	Steel	18 per cent
2523	Cement	28 per cent
6802	Marble and granite	28 per cent
2515	Blocks of marble and granite	12 per cent
Chapter 68	Sand lime bricks and fly ash bricks	12 per cent
2505 & 2517	Natural sand, pebbles, gravel	5 per cent
8428	Lifts and elevators	28 per cent

*Data provided by: BMR*

Under the tax regime, many of the construction materials are under the 18 and 28 per cent slab. For example, steel and steel products, are mostly in the 18 per cent segment and cement and prefabricated structural components for building or civil engineering, are in the 28 per cent slab. However, as the input tax credit is available on products utilised for construction, the overall tax incidence should be neutralised.

## Reverse charge mechanism in GST and its impact on construction costs

The mechanism, where the recipient of services pays the service tax, is called as ‘reverse charge mechanism’ (RCM). The same concept, with wider application, has been borrowed from the service tax laws in the Goods and Services Tax (GST) regime.

A developer has to pay GST on services availed, like those provided by a person who is located in a non-taxable area, services provided by goods transporters, legal services provided by an individual or firm, etc. The developer also has to pay GST under the reverse charge mechanism, on the services provided by government or local authorities, like municipalities, etc. Nevertheless, some of the services provided by the government, like renting of premises, specific services provided by the postal authorities, transport of goods by railways or by state transport undertakings, etc., are outside the scope of the GST, similar to the service tax regime.

A significant departure under the GST laws, compared to the erstwhile service tax provisions, is that under the reverse charge mechanism in GST, a person who is registered under the GST has to pay GST on all the services and goods that are procured from a person who is not registered under GST.

This has significantly expanded the scope of the reverse charge mechanism for all taxable persons (<https://housing.com/news/reverse-charge-mechanism-gst-impact-construction-costs/>) and it will adversely affect the developers. Moreover, the tax payable under the reverse charge mechanism under the GST, cannot be adjusted by the developer against the input credit available from the GST paid on the inputs, but has to be paid by cash/bank payment.

So, under the GST, the builders are worse off, due to the dual effect of the levy of GST on the services availed from unregistered person, as well as the requirement to discharge the reverse tax on goods received from unregistered suppliers. This will certainly increase the costs for the developer, especially the small developers who were availing goods and services from unregistered suppliers earlier and were not bearing the cost of taxes to that extent.

## **GST on ready properties**

If the OC for the project has been received, then, no GST will be applicable. A CRISIL report points out that at present, a developer pays excise tax and VAT, on inputs like cement and steel, at 27.7 per cent and 18.1 per cent, respectively, which vary from state to state. Now, under the GST regime, cement and steel will be taxed at 28 per cent and 18 per cent, respectively, while other inputs like paint and white goods, will be taxed at 28 per cent. The final product – the housing unit – will be taxed at 12 per cent, with credit for taxes paid on inputs. As the tax levied on the entire cost including the land will be 12 per cent, the amount would be sufficient to provide for the input credit for developers. Hence, a buyer opting for a ready-to-move-in apartment, is saved from the tax burden.

However, the tax calculations under the GST regime, for the real estate market, are not so simple. For example, the GST on under-construction projects will be charged to home buyers on the sale price but the credit can be availed by the developers, only on the cost of construction. As the builder will have to pay the GST on the full project and the input availed is only on the construction cost, there may be a gap that is no less than 30 per cent. Consequently, whether you opt for an under-construction property or ready-to-move-in unit (<https://housing.com/news/gst-impact-will-ready-move-apartments-cost-less/>), the developer will hike the prices in that proportion, to make sure this gap is bridged.

## **GST on property rentals**

“Credit/set-off of input GST is available to a developer, if the sale is executed prior to obtaining the completion certificate or prior to first occupancy. However, this credit is not allowed if the developer chooses to rent out the property. Hence, we might see a spike in commercial rentals (<https://housing.com/news/gst-impact-buying-renting-properties/>),” explains Amit Sarkar, partner and head – indirect taxes, BDO India.

GST has also been levied on the renting of residential property, for use as an accommodation. Consequently, tenants may witness a hike in rent payment under the GST system, as there is no service tax applicable on residential properties, in the existing system.

**Here's how the GST will impact the tax computation on rental income:**

With the clubbing of taxes on goods and services, under the GST regime, the confusion about levy of separate tax on service and goods is done away with.

Unlike under the service tax regime, the threshold limit for applicability of GST has been increased from Rs 10 lakhs to Rs 20 lakhs. So, many of the landlords who were covered under the service tax regime, will go out of the indirect tax net, under the GST.

It may be interesting to note that for the purpose of computing the aggregate limit of Rs 20 lakhs under the GST, all the taxable, as well as exempt goods and services supplied, shall be taken into account. So, unlike the service tax regime, where it is only the taxable services, which are taken into account for determining whether you have crossed the basic threshold, under the GST, the value of all the service and goods supplied in India, as well as exported, whether taxable or exempt, are taken into consideration for the Rs 20-lakh limit. The GST is proposed to be levied at 18 per cent, on the letting-out of commercial properties (<https://housing.com/news/will-gst-tds-impact-rental-income/>).

There is one more major tax implication under the GST, with respect to rent on commercial properties. The parliament has borrowed the concept of 'reverse charge mechanism' from the service tax regime, under the GST. However, unlike in the service tax regime, where the reverse charge mechanism is applicable in case of services and is not extended to the sale or manufacturing of goods, the same is made applicable for goods as well as services, under the GST regime. A person who is registered under GST, who gets supplies of goods or services from a person who is not registered under GST, will have to pay the GST under the reverse charge mechanism. Under the service tax regime, there is no provision of reverse mechanism, with respect to the rent paid by the lessee. The proposed GST provisions, due to the increased rate and the levy under the reverse mechanism, will eventually make it costlier to take any commercial premises on rent.

## Will GST make home loans expensive?

Before evaluating the likely impact of the GST on home loan costs, it is important to understand the components that will be impacted by the increased rates under the GST. The main cost of taking a home loan, is the interest payment on the money. This cost will not change, as there is no service tax or GST on it. Similarly, any stamp duty charged in connection with the documentation of the home loan, will not change with the GST, as stamp duty is not subsumed under the GST.

However, there are various charges that are levied by lenders on home loans. First and foremost is the processing fee that is paid at the time of taking the home loan. At present, it is 15 per cent but it will go up by 3 per cent under the GST, to 18 per cent. This is generally a one-time cost and its overall impact on your home loan tenure, will be insignificant. The banks may also recover other charges like advocate fees, valuation charges, etc., in connection with the home loan, which will go up proportionately.

Like the processing fee paid at the time of application, you may have to pay prepayment charges, in case you decide to prepay the home loan before the completion of its tenure or shift the home loan to another lender. This is generally payable, in case the home loan is taken under a fixed rate of interest. For floating rate home loans, banks cannot levy any prepayment charges. Housing finance

companies can, however, levy the prepayment charges, if you decide to shift the home loan to another lender. However, for payment of the home loan from your own resources, the housing finance companies cannot levy any prepayment charges.

The lenders can also charge you for any EMI default, either due to return of the cheque or ECS return, on which the GST rates will go up. So, it is practically on all the charges that are recovered by the lenders that the GST rates will go up by 3 per cent (<https://housing.com/news/will-home-loans-become-costlier-gst/>).

## **How are banks affected by the GST?**

The implementation of the GST, will bring some tax savings for the lenders, as the input credit with respect to the services availed, as well as goods purchased, will be available for set off, against the GST output taxes liability. However, the reverse charge mechanism, which is borrowed from the service tax regime and which is expanded under the GST, will adversely affect the profitability of banks. Moreover, lenders are now required to register in all the state under the GST, whereas, under the service tax regime, they could have obtained one centralised registration. This will significantly increase the compliance costs of the lenders and affect their profitability.

## **Grey areas in the GST that could determine the final price of properties**

It is still not clear what would be the abatement available for the land cost, for calculating service tax on under-construction projects. The abatement rules, as applicable under the service tax regime and the input tax credit facility for developers, will determine if the effective tax incidence on real estate, is lower or higher under GST (<https://housing.com/news/will-gst-make-construction-properties-cheaper-expensive/>).

Effectively, the composition scheme allowing for abatement against cost of land to the extent of 75 per cent of the house cost, for residential units priced under Rs 1 crore and less than 2,000 sq ft, makes the effective rate at 3.75 per cent. In other cases, the abatement goes down to 70 per cent, making the effective rate at 4 per cent. This will go a long way, in determining whether GST is tax neutral or tax adverse for real estate.

In addition, as states have different state-level taxes, the implication of GST may not be uniform, across all states.

## **Strong case for bringing real estate under GST: Finance minister Arun Jaitley**

Finance minister Arun Jaitley, while delivering a lecture at Harvard University on October 12, 2017, has said that the real estate sector should, ideally, be brought under the ambit of the Goods and Services Tax (GST). "The one sector in India, where maximum amount of tax evasion and cash generation takes place and which is still outside the GST, is real estate. Some of the states have been pressing for it. I personally believe that there is a strong case to bring real estate into the GST

(<https://housing.com/news/gst-council-discuss-bringing-real-estate-ambit-jaitley/>),” Jaitley said. The finance minister said the move would benefit consumers, as they will only have to pay one final tax on the whole product. “As a result, the final tax paid on the whole product under the GST, would almost be negligible,” he said.

## Will GST on real estate benefit home buyers and the sector?

There are many issues and grey zones that need to be ironed out, before GST becomes a reality in real estate (<https://housing.com/news/gst-real-estate-will-benefit-home-buyers-sector/>). Niranjan Hiranandani, president of NAREDCO, maintains that bringing real estate under GST’s ambit, will benefit the consumers who will only have to pay one final tax on the whole product.

However, if the GST slab for real estate is finalised above 12 per cent, then, home buyers and developers may take a hit, at a time when property prices are already unaffordable in many places.

Moreover, the finance minister will also have to convince states to come on board, to create a consensus. This maybe particularly tough, in states where real estate transactions are major source of revenue for the state, through stamp duty and property registrations.

## One year of GST: Gains and losses

Home buyers in the affordable housing segment, specifically, homes of up to 60 sq metres carpet area in size, have benefited significantly from the reduction of GST by four per cent (from 12 per cent to eight per cent).

However, even almost a year after GST’s implementation (<https://housing.com/news/one-year-gst-gains-losses/>), the only real clarity that exists for property buyers is on the prevailing GST rate of 12 per cent, on under-construction projects. There is still confusion about the amount of rebate that a prospective home buyer is entitled to, on the back of the pass-over of ITC. The confusion is not only about the percentage of ITC but also on the mode and tranche of the rebate. On their part, developers are stating that they have to do multiple calculations, to arrive at ITC and will pass it on, only during the final tranches.

GST is definitely reducing developers’ construction costs, by negating double or triple taxation to a more moderate level, through input tax credit. While there are no significant variations in the overall taxes, GST has certainly eliminated the tax-on-tax system. Also, shady transactions are being minimised considerably, bringing in transparency and accountability into the sector.

However, end-users have not received a consummate benefit because of the inherent ineffectiveness of the anti-profiteering provisions. They will only benefit, if the base property prices are reduced and the developers pass on the tax credits to their customers. While the tax-on-tax has been eliminated with the advent of GST, the overall outgo from home buyers’ pockets seems to have increased, considering that even after passing on of ITC, they may have to pay three to four per cent more than in the earlier service tax + VAT regime.

## **GST on maintenance charges of housing societies**

Under the earlier service tax regime, housing societies were required to register themselves under the law of service tax, if the aggregate of maintenance charges levied by the housing society exceeded Rs 10 lakhs in a financial year. However, under the Goods and Services Tax (GST) regime, this limit has been doubled to Rs 20 lakhs. So, if the aggregate of maintenance charges levied by the housing society exceeds the threshold of Rs 20 lakhs in a financial year, it has to register itself under the GST laws and obtain a registration number.

While computing the limit of Rs 20 lakhs, even the exempt items like recovery of property tax and electricity charges from the member, are to be taken into account. So, a housing society has to collect GST from its members (<https://housing.com/news/gst-impact-maintenance-charges/>), if the aggregate of the charges during a financial (whether subject to GST or not) exceeds Rs 20 lakhs. Even though the threshold limit for registration is Rs 20 lakhs for a housing society, it is not required to levy GST, if the amount of maintenance charge for each of the flat or office does not exceed Rs 7,500 for a month.

## **GST not applicable on sale of flats after issue of completion certificate, Finance Ministry clarifies**

The Finance Ministry, on December 8, 2018, said the GST will not be levied on buyers of real estate properties, for which the completion certificate is issued at the time of sale. However, the Goods and Services Tax (GST) will be applicable on sale of under-construction property or ready-to-move-in flats, where the completion certificate is not issued at the time of sale, it said.

“It is brought to the notice of buyers of constructed property that there is no GST on sale of complex/ building and ready-to-move-in flats, where the sale takes place after the issue of the completion certificate (<https://housing.com/news/gst-not-applicable-sale-flats-issue-completion-certificate-finance-ministry/>) by the competent authority,” the ministry said in a statement.

It further said affordable housing projects like Jawaharlal Nehru National Urban Renewal Mission, Rajiv Awas Yojana, Pradhan Mantri Awas Yojana or any other housing scheme of state governments, attract eight per cent GST, which can be adjusted by the builders against its accumulated input tax credit (ITC).

For buyers, this means that either their purchase cost will increase (<https://housing.com/news/gst-completed-properties-without-completion-certificate-hit-real-estate-sector/>), if they decide to purchase such a property, or the overall spread of options will reduce. After all, not all unsold ready-to-move-in properties may possess a completion certificate.

Developers, on the other hand, may be left with no choice but to absorb the GST charges in ready-to-move projects that have not been given completion certificates. If they attempt to pass this additional burden on to their buyers, their ready-to-move-in units that do not have completion certificates will be at par with under-construction projects, in terms of the cost to buyers. The burden of unsold inventory in the primary market is likely to increase, as more home buyers may now consider buying resale units, which are exempt from GST.

However, this announcement may be a blessing in disguise for the secondary market, as buyers eyeing ready-to-move-in units will now certainly evaluate this option, rather than paying 12 per cent GST on first purchase units.

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