L&S Update

an e-update to clients from
Lakshmikumaran & **Sridharan**

GST Update No. 18 of 2019
1st April 2019

Real Estate Sector – Changes in Reverse Charge Mechanism (RCM)

Lakshmikumaran & Sridharan attorneys

Notification No. 07/2019-Central Tax (Rate) dated 29-3-2019 (in force from 1-4-2019)

S. No.	Category of supply received by Promoter from Unregistered Person. Liability of RCM in the hands of Promoter
1	**Any goods or services** Any goods or services which constitute the shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year). **(if less than 80%)** **[other than** services by way of grant of development rights, long term lease of land (against upfront payment in the form of premium, salami, development charges etc.) or FSI (including additional FSI)**]**
2	**Cement** Cement to the extent of shortfall from the minimum value of goods or services or both required to be purchased by a promoter for construction of project, in a financial year (or part of the financial year).
3	**Capital Goods** Capital goods supplied to a promoter for construction of a project on which tax is payable or paid at the rate prescribed for items (i), (ia), (ib), (ic) and (id) against S. No. 3 of Notification No. 11/2017-Central Tax (Rate)

Issues:

- The limit imposed for procurement of minimum 80% of inputs and input services has to be taken financial year wise. Excess of one year cannot be set off against next year's deficit.

- All goods and services under RCM shall attract flat rate of 18%, except capital goods and cement, even though actual tax rate might be lower.

- The conditions for new rate does not provide for RCM liability in case of procurement of capital goods. However, NN 07/2019-CTR provides for RCM liability in case of capital goods as well.

Notification No. 05/2019-Central Tax (Rate)

❖ The following supplies have been covered under RCM by amending Notification 13/2017-Central Tax (Rate):

S. No.	Category of Supply	Supplier	RCM Liability
1	Services supplied by any person by way of transfer of development rights or Floor Space Index (FSI) (including additional FSI) for construction of a project by a promoter	**Any Person**	**Promoter**
2	Long term lease of land (30 years or more) by any person against consideration in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name) and/or periodic rent for construction of a project by a promoter.		

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Notification No. 06/2019-Central Tax (Rate)

- As per Notification No. 06/2019-Central Tax (Rate), liability to pay tax on specified services shall arise on the date of issuance of completion of certificate for the project, where required, by the competent authority or on its first occupation, whichever is earlier where:

  - Promoter receives **<u>development rights or Floor Space Index</u>** (FSI) (including additional FSI) <u>on or after 01.04.2019</u> for construction of a project against consideration payable or paid by him, wholly or partly, in the form of construction service of commercial or residential apartments in the project or in any other form including in cash.

  - Promoter receives **<u>long term lease of land</u>** <u>on or after 01.04.2019</u> for construction of residential apartments in a project against consideration payable or paid by him, in the form of upfront amount (called as premium, salami, cost, price, development charges or by any other name)

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