L&S UPDATE
An e-update to clients from Lakshmikumaran & Sridharan

15 JULY, 2022

INDIRECT TAX

# GST update for Real Estate and Infrastructure Sector

UPDATE NO. 38 OF 2022

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exceeding expectations
SINCE 1985

# CHANGES IN THE GST RATE ON SUPPLY OF SERVICES

*[NN 3/2022-C.T.R. dated 13 July 2022 amending NN 11/2017-C.T.R. dated 28 June 2017]*

| S. No. | Description of Services | Current S. No. | Current Rate | Proposed Rate | L&S Comments |
|---|---|---|---|---|---|
| 1. | Composite supply of works contract supplied to the Central Government, State Government, Union territory or a local authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of, -<br><br>• A historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under the Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958);<br><br>• canal, dam or other irrigation works;<br><br>• pipeline, conduit or plant for *(i)* water supply *(ii)* water treatment, or *(iii)* sewerage treatment or disposal. | 3(iii) | 12% | 18% | Currently, the subject services are taxable at the rate of 12% under S. No 3(iii) of NN 11/2017-C.T.R. dated 28 June 2017.<br><br>Now, it has been proposed to omit this entry, as a result, such service will get covered under the residuary entry 3(xii) to be taxed at the rate of 18%.<br><br>This rate has been changed to rectify inverted duty structure as recommended by the GST Council. |

| S. No. | Description of Services | Current S. No. | Current Rate | Proposed Rate | L&S Comments |
| --- | --- | --- | --- | --- | --- |
| 2. | Composite supply of works contract other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of,-<br><br>(a) a road, bridge, tunnel, or terminal for road transportation for use by general public,<br><br>(b) a civil structure or any other original works pertaining to a scheme under Jawaharlal Nehru National Urban Renewal Mission or Rajiv Awaas Yojana;<br><br>(c) a civil structure or any other original works pertaining to the "In-situ redevelopment of existing slums using land as a resource, under the Housing for All (Urban) Mission / Pradhan Mantri Awas Yojana (Urban); | 3(iv) | 12% | 18% | Currently, such services are taxable at the rate of 12% under S. No 3(iv) of NN 11/2017-C.T.R. dated 28 June 2017.<br><br>Now, it has been proposed to omit this entry, as a result, such service will get covered under the residuary entry 3(xii) to be taxed at the rate of 18%.<br>This rate has been changed to rectify inverted duty structure as recommended by the GST Council. |

| S. No. | Description of Services | Current S. No. | Current Rate | Proposed Rate | L&S Comments |
|---|---|---|---|---|---|
| | (d) a civil structure or any other original works pertaining to the "Beneficiary led individual house construction / enhancement" under the Housing for All (Urban) Mission / Pradhan Mantri Awas Yojana;<br><br>(da) a civil structure or any other original works pertaining to the "Economically Weaker Section (EWS) houses" constructed under the Affordable Housing in partnership by State or Union territory or local authority or urban development authority under the Housing for All (Urban) Mission / Pradhan Mantri Awas Yojana (Urban);<br><br>(db) a civil structure or any other original works pertaining to the "houses constructed or acquired under the Credit Linked Subsidy Scheme for Economically Weaker Section | | | | |

| S. No. | Description of Services | Current S. No. | Current Rate | Proposed Rate | L&S Comments |
|---|---|---|---|---|---|
| | (EWS) / Lower Income Group (LIG)/ Middle Income Group-1 (MIG-1) / Middle Income Group-2 (MIG-2)" under the Housing for All (Urban) Mission/ Pradhan Mantri Awas Yojana (Urban);<br><br>(e) a pollution control or effluent treatment plant, except located as a part of a factory; or<br><br>(f) a structure meant for funeral, burial or cremation of deceased.<br><br>(g) a building owned by an entity registered under section 12AA or 12AB of the Income Tax Act, 1961 (43 of 1961), which is used for carrying out the activities of providing, centralized cooking or distribution, for mid-day meals under the mid-day meal scheme sponsored by the Central Government, State Government, Union territory or local authorities. | | | | |

| S. No. | Description of Services | Current S. No. | Current Rate | Proposed Rate | L&S Comments |
|---|---|---|---|---|---|
| 3. | Composite supply of works contract other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above, supplied by way of construction, erection, commissioning, or installation of original works pertaining to,-<br><br>(a) railways, including monorail and metro;<br><br>(b) a single residential unit otherwise than as a part of a residential complex;<br><br>(c) low-cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India; | 3(v) | 12% | 18% | The subject service, currently covered under S. No 3(v) of NN 11/2017-C.T.R. dated 28 June 2017, has been proposed to be omitted.<br><br>This entry currently, inter-alia, covers works contract services provided by a contractor to the developer providing construction services.<br><br>As a result of omission of this entry, the subject services including works contract services provided by a contractor to the developer will be taxable at the rate of 18% under the residuary entry 3(xii). However, no change has been made in the rate of GST applicable on supply of construction services.<br><br>This will lead to increase in the cost of construction where developer is not eligible to avail ITC. |

| S. No. | Description of Services | Current S. No. | Current Rate | Proposed Rate | L&S Comments |
|---|---|---|---|---|---|
| | (d) low cost houses up to a carpet area of 60 square metres per house in a housing project approved by the competent authority under-<br><br>(1) the "Affordable Housing in Partnership" component of the Housing for All (Urban) Mission / Pradhan Mantri Awas Yojana;<br><br>(2) any housing scheme of a State Government;<br><br>(da) low-cost houses up to a carpet area of 60 square metres per house in an affordable housing project which has been given infrastructure status vide notification of Government of India, in Ministry of Finance, Department of Economic Affairs vide F. No. 13/6/2009-INF, dated the 30th March,2017;<br><br>(e) post-harvest storage infrastructure for agricultural produce including a cold | | | | |

| S. No. | Description of Services | Current S. No. | Current Rate | Proposed Rate | L&S Comments |
|---|---|---|---|---|---|
| | storage for such purposes; or<br><br>(f) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic beverages. | | | | |
| 4. | Composite supply of works contract other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above, supplied by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of affordable residential apartments covered by sub- clause (a) of clause (xvi) of paragraph 4 below, in a project which commences on or after 1st April, 2019, or in an ongoing project 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), as the case may be, in the manner prescribed therein, | 3(va) | 12% | 18% | The subject services provided in respect of affordable residential apartments are currently taxable at the rate of 12% under S. No 3(va) of NN 11/2017-C.T.R. dated 28 June 2017.<br><br>Now, it has been proposed to omit this entry, as a result, such services will get covered under the residuary entry 3(xii) to be taxed at the rate of 18%.<br><br>Concessional rate of GST at the rate of 12% on supply of works contract services was provided as the developer was not eligible to avail ITC. Now, increase in the rate of GST on supply of such works contract services will lead to increase in the cost of affordable residential apartments. |

| S. No. | Description of Services | Current S. No. | Current Rate | Proposed Rate | L&S Comments |
|---|---|---|---|---|---|
| 5. | Composite supply of works contract other than that covered by items (i), (ia), (ib), (ic), (id), (ie) and (if) above provided to the Central Government, State Government, Union territory or a local authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of –<br><br>(a) a civil structure or any other original works meant predo minantly for use other than for commerce, industry, or any other business or profession;<br><br>(b) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or(iii) an art or cultural establishment; or<br><br>(c) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in paragraph 3 of the Schedule III of the Central | 3(vi) | 12% | 18% | The subject service currently covered under S. No 3(vi) has been proposed to be omitted.<br><br>Now, such services will get covered under the residuary entry 3(xii) to be taxed at the rate of 18%. |

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| | Goods and Services Tax Act, 2017.<br><br>Explanation. - For the purposes of this item, the term 'business' shall not include any activity or transaction undertaken by the Central Government, a State Government or any local authority in which they are engaged as public authorities | | | | |
| 6. | Composite supply of works contract provided by a sub-contractor to the main contractor providing services specified in item (iii) or item (vi) above to the Central Government, State Government, Union territory or a local authority. | 3(ix) | 12% | 18% | The subject service currently covered under S. No 3(ix) of NN 11/2017-C.T.R. dated 28 June 2017 has been proposed to be omitted.<br><br>As the services of the main contractor currently covered under S. No. 3(iii) and (vi) has been proposed to be taxed at the rate of 18% by covering such services under the residuary entry, accordingly, the services by the sub-contractor to the main contractor has also been proposed to be taxed at the rate of 18%. |

| S. No. | Description of Services | Current S. No. | Current Rate | Proposed Rate | L&S Comments |
|---|---|---|---|---|---|
| 7. | Composite supply of works contract, involving predominantly earth work (that is, constituting more than 75 per cent. of the value of the works contract) provided to the Central Government, State Government, Union territory or a local authority | 3(vii) | 5% | 12% | This rate has been changed to rectify inverted duty structure as recommended by the GST Council. |
| 8. | Composite supply of works contract provided by a sub-contractor to the main contractor providing services specified in item (vii) above to the Central Government, State Government, Union territory or a local authority. | 3(x) | 5% | 12% | As the services of composite supply of works contract, involving predominantly earth work has been proposed to be taxed at the rate of 12%, therefore, the services provided by the sub-contractor to the main contractor has also been proposed to be taxed at the rate of 12%. |

*This Notification has been made effective from 18 July 2022.*

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