

# GST ON REAL ESTATE

FOR CREDAI & WIRC BRANCH, NAGAR

---

Deliberation by :-

**FCA VISHAL PODDAR**

A STUDENT OF GST™

Delhi, Mumbai, Pune, Bangalore, Chennai, Nashik.

# -- Prayer --

Oh GST grant me the

- wisdom to understand the law
  - courage to explain it to the clients
  - diplomacy to make it through the department
  - strength to be updated real time
  - patience to be in queue on the portal
  - humbleness to accept that there could still be something I don't know/understand
- and above all
- The resilience to unlearn and redo the above untiringly

**FCA Vishal Poddar**

A Student of GST™

# GST Terminologies !

- Parliament – Goods & Services Tax
- NaMo – Good & Simple Tax
- RaGa – Gabbar Singh Tax
- Businessmen – Ghano Saroo Tax
- Me – Ghar Sansar Tyagi

# REAL ESTATE TAXATION SCHEME FROM APRIL 2019

---

**FCA Vishal Poddar**

A Student of GST™

# Important Terminologies

- Ongoing Project – Project started before 1<sup>st</sup> April 2019 subject to conditions
- New Project – Project started on or after 1<sup>st</sup> April 2019
  
- What is the a Project - Project means a project as defined under Real Estate (Regulation and Development) Act, 2016 (RERA). It means every separate registration under RERA (even phase wise registrations) will be treated as separate project for GST purposes.
  
- **Issue: Whether an old project gets registration of a phase after 01<sup>st</sup> April 2019 will be considered as a new project??**

# Important Terminologies

- Ongoing Project - If all the below conditions are getting satisfied as on 31st March 2019:
  - a) Commencement certificate for the project has been issued &
  - b) Construction for the project has started (earthwork for site preparation is completed and excavation for foundation has started) and the same is certified by Architect or chartered engineer or licensed surveyor
  - c) Completion certificate has not been issued or first occupation for the project has not taken place
  - d) Apartments being constructed under the project have been booked (wherein at least one instalment is credited to the bank account) partly or wholly
- A Project which does not qualify as ongoing project will qualify as “New Project” which commences on or after 1st April 2019.

# Important Terminologies

- Types of projects: -

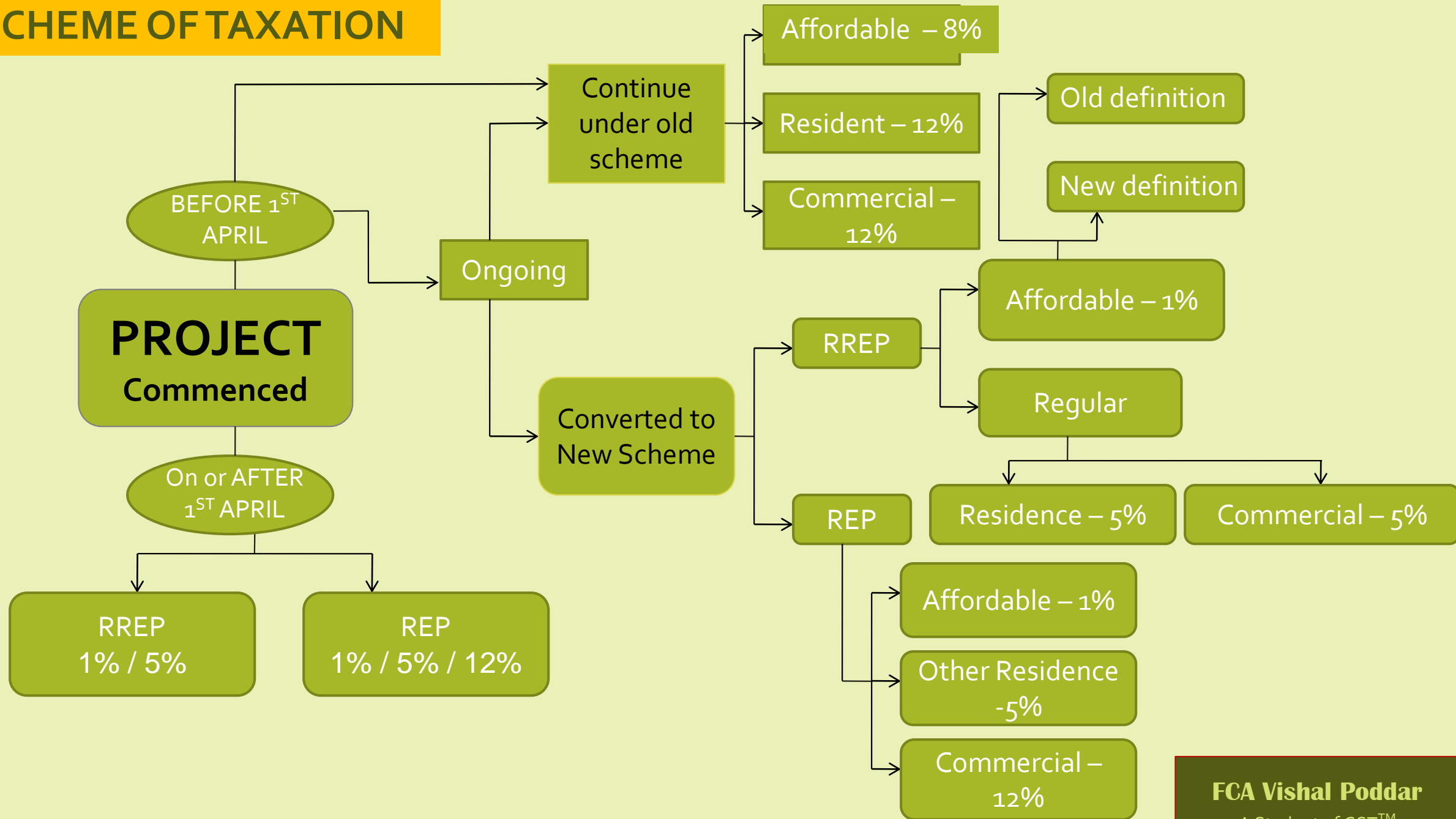
- As per definitions a project with commercial units upto 15% area of the total area of the project will be treated a Residential Real Estate Project (RREP). In other words, these commercial units will be treated as residential units.
- A project wherein the commercial units area is more than 15% of the total area of the project will be known as Real Estate Project (REP).
- Issue:- In cases where the developer revises plan and the ratio of commercial to total project goes beyond 15%, it may face a few challenges in qualification as RREP and hence the applicability of GST rates.

# Important Terminologies

- Affordable Residential Apartment - Two types of apartments qualify as Affordable Residential Apartment
  - 1. Residential unit fulfilling both the conditions:
    - a) Having RERA Carpet area upto 60 sq meters in metro cities (Bengaluru, Chennai, Delhi NCR, Hyderabad, Kolkata and Mumbai) or upto 90 sq meters in non-metro cities AND
    - b) Gross amount charged for such unit is upto INR 45 Lakhs
  - 2. A unit which was qualifying as affordable housing unit under the earlier scheme (effective upto 31st March 2019). *This is only for an ongoing project*
- **Issue: what shall be included /excluded in Gross amount charged INR 45 Lakhs**



# SCHEME OF TAXATION



## SCHEME OF TAXATION

- **Issues: Whether the new scheme is optional?**
- For New Projects - The new scheme of charging 5%/ 1% with no ITC is mandatory for all new RREP. It is also mandatory to new REP to the extent of residential units.
- For ongoing projects - the developer-promoter can choose to continue with old scheme of charging GST @ 12%/ 8% with availment of ITC or new scheme of charging GST @ 5%/ 1% with no ITC.
- *It is to be noted that this option is only available to ongoing projects as defined earlier.*
- *Developer can choose option project wise by submitting declaration in Form prescribed in Annexure IV to Notification No. 3/2019 by 10th May 2019.*
- *If the developer does not upload the details of option selected, it would be deemed to have selected the new rates.*

# SCHEME OF TAXATION

- Issues:
- Units already booked in an ongoing project wherein it is decided to charge at new rates
  - New rates are to be charged to instalment which become due on or after 1st April 2019.
- In cases where invoice is issued (for instalment due) in March 2019 and payment is received in April 2019
  - GST is payable at old rates.
- What treatment is to be given to full commercial project?
  - A full commercial project will be subject to old rates with availability of ITC. This applies to both ongoing as well as new commercial projects.
- Since new rates are without ITC whether the payment for 5%/ 1% is to be made in cash only?
  - It is clearly mentioned that payment is to be made through electronic cash ledger only.

Reversal Of ITC As On 31<sup>st</sup> March 2019 On Ongoing Projects Converted To New Scheme

Compute eligible ITC as 31<sup>st</sup> March 2019 Projectwise as under:


Step 1.  
Determine **ITC availed** for the project till 31<sup>st</sup> March 2019

Step 2 .  
Determine **Stage of completion** of the project as on 31<sup>st</sup> March 2019 (based on RERA workings) – Say it is 70%

# Reversal Of ITC As On 31<sup>st</sup> March 2019 On Ongoing Projects Converted To New Scheme

Compute eligible ITC as 31<sup>st</sup> March 2019 Projectwise as under:


Step 3.  
Extrapolate the **ITC availed** at step 1 to convert it to full project ITC based on stage of completion (using the percentage at stage 2

$$\text{ITC of entire project} = \text{ITC availed} / 70\%$$

## Reversal Of ITC As On 31<sup>st</sup> March 2019 On Ongoing Projects Converted To New Scheme

Compute eligible ITC as 31<sup>st</sup> March 2019 Projectwise as under:


Step 4.

Find out the **percentage of sold area to total project** area (based on RERA carpet area) – say it is 50 %

## Reversal Of ITC As On 31<sup>st</sup> March 2019 On Ongoing Projects Converted To New Scheme

Compute eligible ITC as 31<sup>st</sup> March 2019 Projectwise as under:


Step 5.

Find out the **percentage (on value terms) demands raised till 31<sup>st</sup> March 2019**

based on milestones as per agreement clauses to the total value of booked units – say it is 80 %

FCA Vishal Poddar

A Student of GST™

# Reversal Of ITC As On 31<sup>st</sup> March 2019 On Ongoing Projects Converted To New Scheme

Compute eligible ITC as 31<sup>st</sup> March 2019 Projectwise as under:

Step 6.

**Eligible ITC = ITC of entire project** (Step 2) **X** the **percentage of sold area to total project** (Step 4) **X** **percentage (on value terms) demands raised till 31<sup>st</sup> March 2019** (Step 5)


**X**

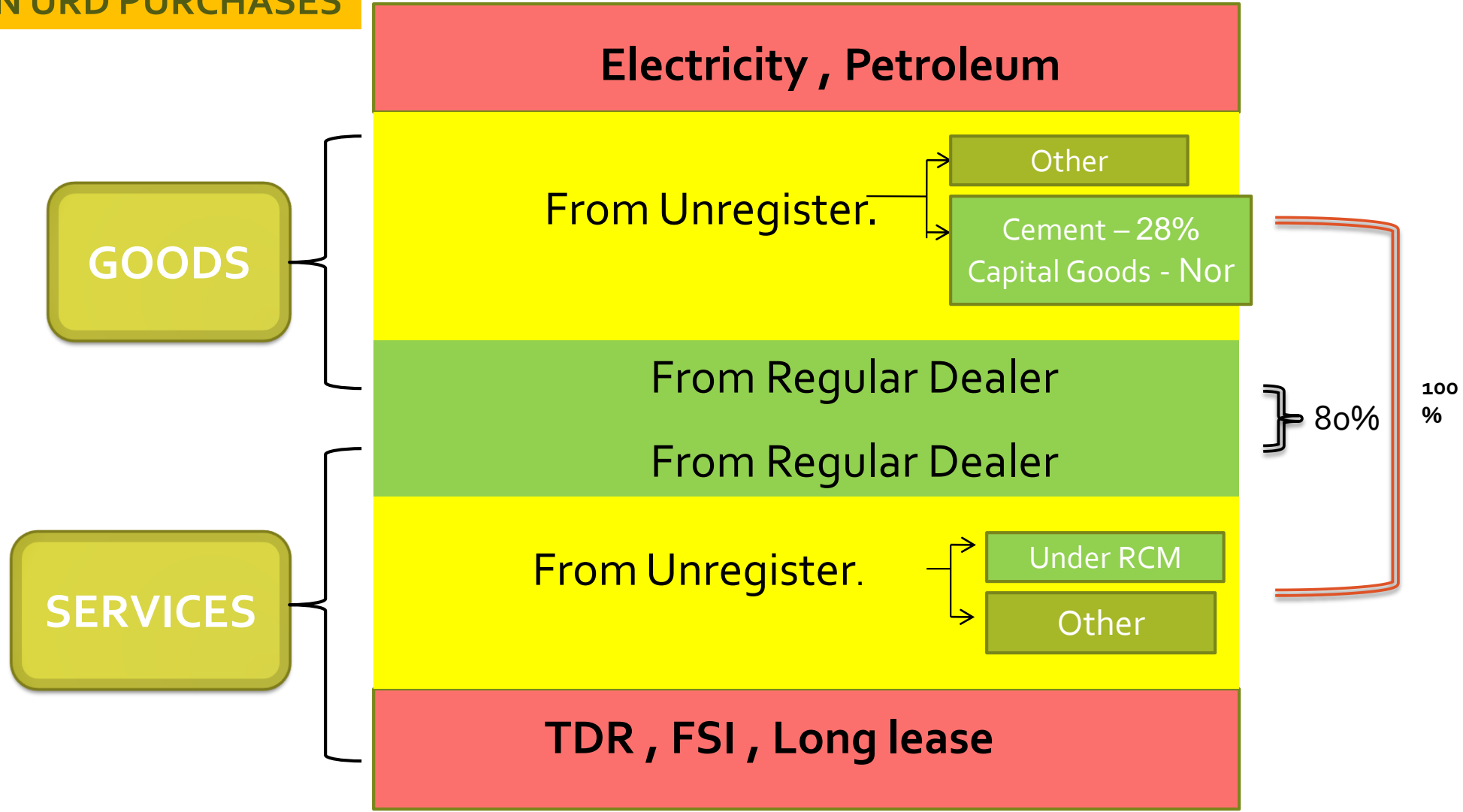

**=**


Step 7.

**ITC Reversed = ITC availed** (Step 1)  
(-)  
**Eligible ITC**(Step 6)



# RCM ON URD PURCHASES



When is the developer required to do this calculation and pay GST?

- URD RCM on Cement and CG is to be paid monthly
- URD RCM on Others is to be calculated for the full financial year or part thereof (upto the date of completion certificate) and paid along with liability for June of next financial year

*Thank - You*

**FCA Vishal Poddar**

Partner

S.S.Mutha & Co.

Chartered Accountants

M-9822504924

Email – [cavishal.gpoddar@gmail.com](mailto:cavishal.gpoddar@gmail.com)