

# Taxation on Joint Development Agreement

## Under GST Act

CA Ritesh Khatter

B.Com(Prof.), ACA

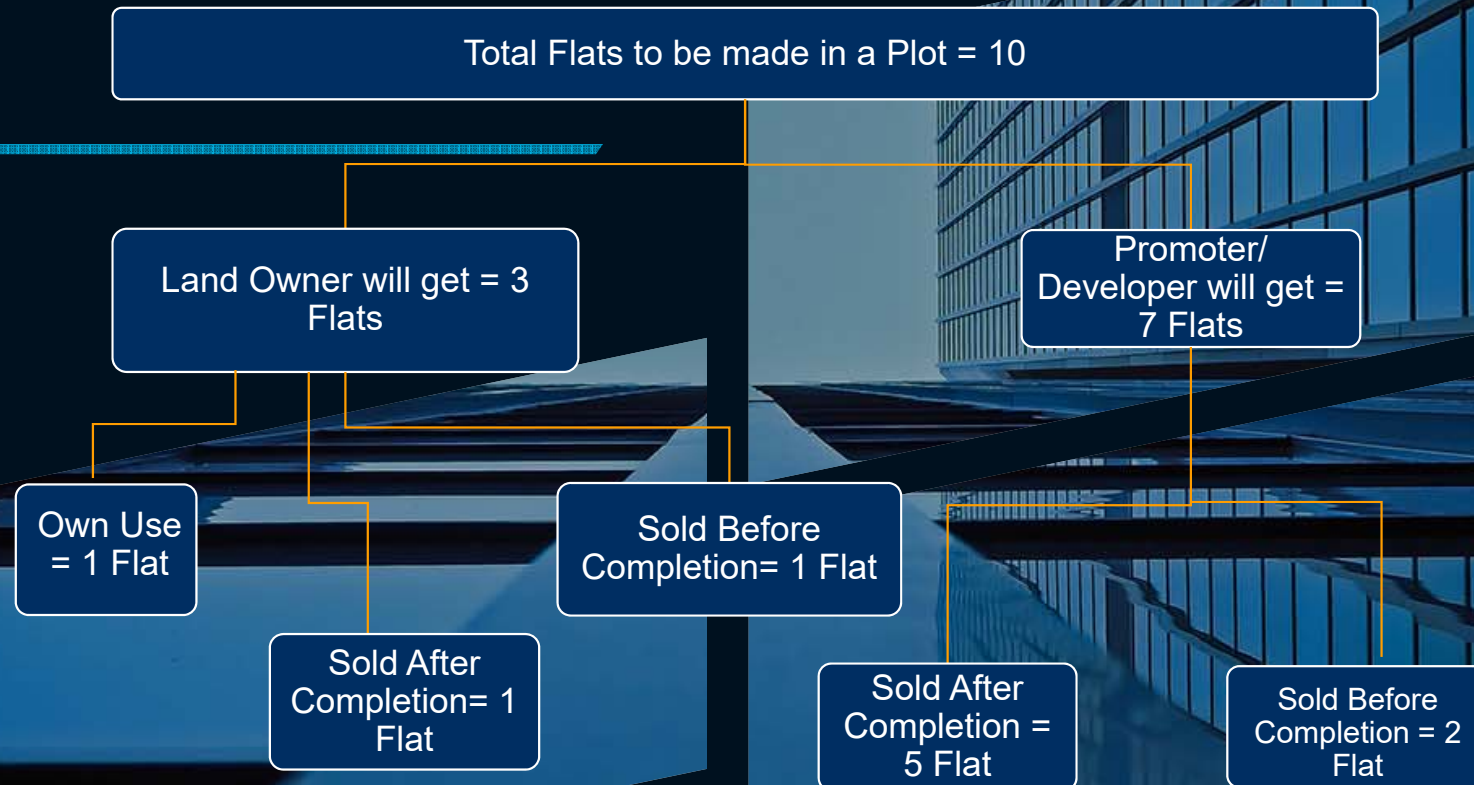
(M) 90569-91967

90419-91967

E-mail- [ritesh.khatter@icai.org](mailto:ritesh.khatter@icai.org)

Website- [cakhatter.in](http://cakhatter.in)

# Lets Take the Same Example



CA Ritesh Khatter

# Kinds of Transactions and their Considerations in above Example

Transactions	Consideration
➤ Transfer of Development Rights Transferred by the owner to promoter	3 Developed Flats which Promoter Give to the Owner
➤ Construction Service to be Provided by promoter to owner	7 Flats Which Promoter will retain

CA Ritesh Khatter

Suppose, In above example,

- Date of transfer of Development Right = 09/10/2020
- Date of Completion Certificate = 15/08/2022

- Stamp Value = 25 Lakhs per Flat; Market Value = 30 Lakhs per Flat as on 09/10/2020
- Stamp Value = 45 Lakhs per Flat; Market Value = 60 Lakhs per Flat as on 15/08/2022

CA Ritesh Khatter



# Valuation

---

Both the Above Services are a Barter Exchange. Hence, the Value of both the Services will be same.

**Value of Service = 30 Lakhs per Flat (M.V. on the date of Transfer of Development Rights)**

CA Ritesh Khatter

# Liability to Pay tax by Whom

Liability for payment of GST for Service of Transfer of Development Rights have been Shifted to Promoter by notification no. 05/2019 dated 29.03.2019. (i.e. Under Reverse Charge)

- Hence, GST Liability for 7 Flats on which Development Rights were transferred by owner to Promoter will be on Promoter under RCM.
- And For Constructions service provided by the Promoter to the owner on 3 Flats will also be on Promoter under Forward Charge.

CA Ritesh Khatter

# Time of Supply

- For the Flats Sold Before Completion I.e. 1 Flat by owner and 2 Flats by Promoter is Date of Receipt of Advance.
- For the Construction Service for 3 flats with owner : Any Tax period not later than the tax period in which Completion Certificate or First Occupancy which ever is earlier.
- For TDR for Un booked Flats- On the date of Completion Certificate or First Occupancy which ever is earlier.

CA Ritesh Khatter

# Calculation of Tax Liability

- For the 3 Flats GST Liability for the Construction Service Provided will be paid by Promoter on Reverse Charge =  $3 \times 30 \text{ Lakhs} \times 5\% = 4.5 \text{ Lakhs}$ . (the tax rate will be 1% if it is a Affordable housing Project).
- For the 7 Flats with the Promoter
  - For 5 Flats Un booked at the time of Completion GST Liability for transfer of Development Rights will be paid by promoter on Forward Charge =  $5 \times 30 \text{ Lakhs} \times 18\% = 27 \text{ Lakhs}$  or  $5 \times 60 \times 5\% = 15 \text{ Lakhs}$ . Which ever is Lower.
  - For 2 Flats booked The GST Liability will be paid by promoter on Forward Charge on the date of Receiving of Advance =  $2 \times \text{Actual Sale Price} \times 5\%$ .

CA Ritesh Khatter





# THANK YOU!

---

Disclaimer: Nothing contained in this document is to be construed as a legal opinion or view of either of the authors whatsoever and the content is to be used strictly for educative purposes only.

CA Ritesh Khatter