

FREQUENCY OF FILING OF SERVICE TAX RETURN:

After budget 2012, there is lot of confusion as to frequency of filing of Service Tax Return. This is happening due to following letters and draft circulars of CBEC:

RELEVANT EXTRACT OF D. O. F. No 334/1/2012-TRU New Delhi, dated 16th March, 2012

"E. Service Tax Rules, 1994:

1. A common simplified registration format for Central Excise and Service Tax is being placed for public comments, together with further liberalization in registration requirements, particularly centralized registrations. The proposed changes are attached as Annexure C.

2. Likewise a new simplified one page common return with Central Excise: to be called Excise & Service Tax Return (EST for short) is being introduced. The format of the return is given as Annexure D. It is also being proposed that the cycles for the payment service tax and filing of return should coincide. To this end the tax payment requirement is proposed to be revised as follows:

A. Assesseees who paid tax of Rs 25 lakh or more in previous year and new assesseees other than individuals and firms: Monthly

B. Others: Quarterly"

After aforesaid letter CBEC had issued 3 draft circulars for comment. These circular contain proposed amendments to be carried out in Central Excise Rules 2002 and Service Tax Rules 1994 in order to Streamline

1. Process of registration.
2. Process of filing of returns.

The draft circulars were placed in public domain for widest possible circulation and an extensive debate from all stakeholders in trade and industry as also from all the field formations of the department.

In these circulars, following changes had been proposed to be made by CBEC:

- 1. Following amendments are proposed in the Service Tax Rules, 1994 to align the payment and return cycles:**
 - a. Quarterly payment and quarterly return for assesses who had paid Service Tax of Rs 25 lakhs or less including the the payments made by utilizing the CENVAT credit, during the preceding financial year.
 - b. Monthly payment and monthly return for all other assesses who had paid Service Tax of more than Rs 25 lakhs including the the payments made by utilizing the CENVAT credit, during the previous financial year.
 - c. Quarterly payment and quarterly return for all the new assesses.

2. It had been proposed to harmonize the ER-1, ER-3 and ST-3 returns so that a single common return can be prescribed instead of these three returns as measure of simplification of the Business Processes in respect of filing the Return by assesses. **Now return to be filed in proposed new EST-Return form.**

- 3. It is proposed to prescribe a common application format for seeking registration under Central Excise as well as Service Tax.**

In nutshell, these amendments are just proposed and till now not enacted by amending Service Tax Rules, 1994 and Central Excise Rules, 2002. Thus it is clear that provision as to filing of service tax returns are not amended and still service tax returns to be filed half yearly.

I hope above analysis is useful for you. Your feed back in respect of same would be highly appreciated.

(Disclaimer: The above analysis has been drafted as per various provisions of Finance Act 1994, and notifications and circulars issued thereunder. The analysis may not be entirely correct for reader to reader due to different interpretations by different readers. The readers are advised to take into the consideration the

prevailing legal position before acting on any of the comments in this reply. We shall not be responsible for any loss caused based on this interpretation.)

With Warm Regards,

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Encl: As above