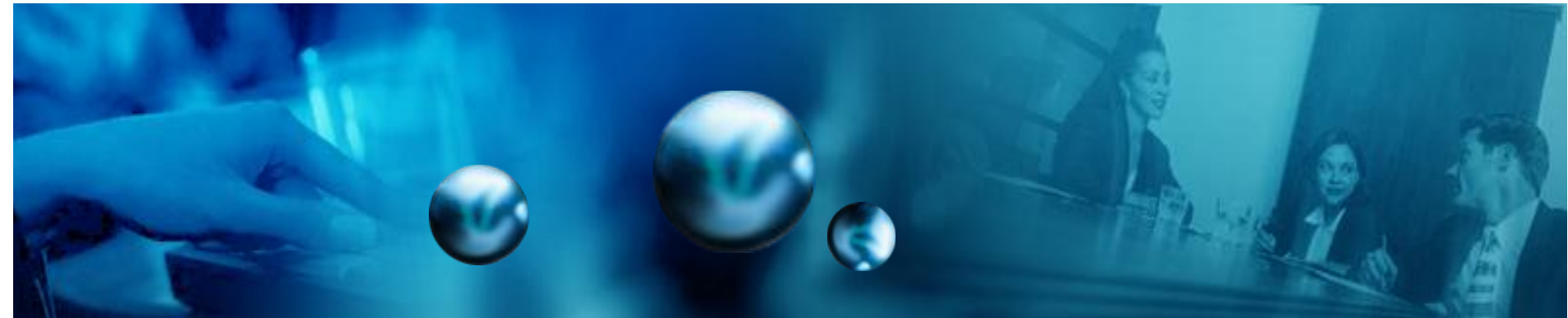


# An overview of Service Tax, 2015



*Presented By: Team Voice of CA*

# Change in Rates – General

(Effective date to be notified)

- The Service Tax rate is being increased from 12% plus Education Cesses to 14%. The 'Education Cess' and 'Secondary and Higher Education Cess' shall be subsumed in the revised rate of Service Tax. Thus, effective increase in Service Tax rate will be from existing rate of 12.36% (inclusive of cesses) to 14%.
- The new Service Tax rate shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015. Till the time the revised rate comes into effect, the levy of 'Education cess' and 'Secondary and Higher Education cess' shall continued to be levied in Service Tax.

➤ **Swachh Bharat Cess:**

An enabling provision to impose a Swachh Bharat Cess on all or any of the taxable services at a rate of 2% of the value of such taxable services with the objective of financing and promoting Swachh Bharat initiatives. **This Cess shall be levied from a date to be notified by the Central Government in this regard and will not have immediate effect.**

# Review of Negative List- Scope enhanced (date to be notified)

1. Service Tax to be levied on the service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks, theme parks or such other places.
2. Service Tax to be levied on service by way of admission to entertainment event of concerts, non-recognized sporting events, pageants, music concerts, award functions, if the amount charged is more than Rs. 500 for right to admission to such an event.

However, the existing exemption to service by way of admission to entertainment events, namely, “exhibition of cinematographic film, circus, recognized sporting events, dance, theatrical performances including drama and ballets, by way of the Negative List entry shall be continued, irrespective of the amount charged for such service,

# Review of Negative List- Scope enhanced (date to be notified)

3. Service Tax shall be levied on contract manufacturing /job work for production of potable liquor for a consideration.
4. Presently, services provided by the Government or a local authority, excluding certain specified services are in the Negative List. Service tax applies on the “support service” provided by the Government or local authority to a business entity. An enabling provision is being made, by amending to exclude all services provided by the Government or local authority to a business entity from the Negative List. Accordingly, as and when this amendment is given effect to, all services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any other entry in the Negative List, shall be liable to Service Tax.

# Review of General Exemption - Scope enhanced (date to be notified)

Exemption presently available on specified services of construction, erection, commissioning, etc. provided to the Government, a local authority or a governmental authority shall be limited only to,-

1. a historical monument, archaeological site or remains of national importance, archeological excavation or antiquity;
2. canal, dam or other irrigation work; and
3. pipeline, conduit or plant for (i) water supply (ii) water treatment, or (iii) sewerage treatment or disposal.

Thereby, exemption provided to Government or Local or Governmental authority for - '*Civil structure or any other Original works, Educational/ Health/ Art or Cultural Establishment, Residential Complex*' is now liable to service tax.

# Exemption Withdrawn- Scope enhanced (W.e.f. 01/04/2015)

1. Exemption to construction, erection, commissioning or installation of original works pertaining to an airport or port is being withdrawn.
2. Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theater, will be limited only to such cases where amount charged is upto Rs 1,00,000 for a performance
3. Exemption to transportation of food stuff by rail, or vessels or road will be limited to food grains including rice and pulses, flour, milk and salt. Transportation of agricultural produce is separately exempt, and this exemption would continue.
4. Services provided by a mutual fund agent to a mutual fund or assets management company, (Reverse Charge)

# Exemption Withdrawn- Scope enhanced (W.e.f. 01/04/2015)

5. Distributor to a mutual fund or AMC (Reverse Charge)
6. Selling or marketing agent of lottery ticket to a distributor (reverse Charge)
7. Departmentally run public telephone
8. Guaranteed public telephone operating only local calls
9. Service by way of making telephone calls from free telephone at airport and hospital where no bill is issued

# New Exemptions – Scope decreased

(w.e.f. 01/04/2015)

1. Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables is being exempted.
2. Service provided by a Common Effluent Treatment Plant operator for treatment of effluent is being exempted.
3. Life insurance service provided by way of Varishtha Pension Bima Yojna is being exempted.
4. Service provided by way of exhibition of movie by the exhibitor (theatre owner) to the distributor or association of persons consisting of such exhibitor as one of it's members is being exempted
5. Exemption extended to all ambulance services.



# New Exemptions – Scope decreased

(w.e.f. 01/04/2015)

6. Service provided by way of admission to a museum, zoo, national park, wild life sanctuary and a tiger reserve is being exempted.
7. Goods transport agency service provided for transport of export goods by road from the place of removal to an inland container depot, a container freight station . Scope of this exemption is being widened to exempt such Services when provided for transport of export goods by road from the place of removal to a land customs station (LCS).

# Changes in Service Tax Act

1. An Explanation is being inserted in the definition of “service” to specifically state the intention of the legislature to levy service tax on activities undertaken by chit fund foremen in relation to chit, and distributors or selling agents of lottery in relation to lotteries.
2. Section 67 prescribes for the valuation of taxable services. It is being prescribed specifically in this section that consideration for service shall include:
  - a) all reimbursable expenditure or cost incurred and charged by the service provider. The intention has always been to include reimbursable expenditure in the value of taxable service. However, in some cases courts have taken a contrary view. Therefore, the intention of legislature is being stated specifically by this provision.

# Changes in Service Tax Act

b) amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket, or, as the case may be, the discount received, that is the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such tickets;

3. Section 73 is being amended in the following manner:

a) a new sub-section (1B) is being inserted to provide that recovery of the service tax amount self-assessed and declared in the return but not paid shall be made under section 87, without service of any notice under sub-section (1) of section 73,; and

b) sub-section (4A), that provides for reduced penalty if true and complete details of transaction were available on specified records, is being omitted.

# Changes in Service Tax Act

Section 76 is being amended to rationalize penalty, in cases **not involving** fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner,-

- a. penalty not to exceed 10% of service tax amount involved in such cases;
- b. no penalty is to be paid if service tax and interest is paid within 30 days of issuance of notice under section 73 (1);
- c. a reduced penalty equal to 25% of the penalty imposed by the Central Excise officer by way of an order is to be paid if the service tax, interest and reduced penalty is paid within 30 days of such order; and
- d. if the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty ( 25% of penalty imposed) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

# Changes in Service Tax Act

1. Section 78 is being amended to rationalize penalty, **in cases involving** fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax, in the following manner,-
  - a. penalty shall be hundred per cent of service tax amount involved in such cases;
  - b. penalty equal to 15% of the service tax amount is to be paid if service tax, interest and reduced penalty is paid within 30 days of service of notice in this regard;
  - c. a reduced penalty equal to 25% of the service tax amount determined by the Central Excise Officer, by an order, is to be paid if the service tax, interest and reduced penalty is paid within 30 days of such order; and
  - d. if the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25%) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

# Changes in Service Tax Act

- 2. A new section 78 B is being inserted to prescribe, by way of a transition provision, that,-**
  - a. amended provisions of section 76 and 78 shall apply to cases where either no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015; and
  - b. in respect of cases covered by sub-section (4A) of section 73, if no notice is served, or notice is served under sub-section (1) of section 73 or proviso thereto but no order has been issued under sub-section (2) of section 73, before the date of enactment of the Finance Bill, 2015, penalty shall not exceed 50% of the service tax amount.

# Rationalization of Abatements

S. No	Particulars	Presently tax payable on	w.e.f 01.04.2015 tax payable on	Condition w.e.f 01.04.2015
1.	Transport of goods / passengers with or without accompanied belongings by Rail	30% of the value	30% of the value	Non availment of Cenvat Credit on inputs, capital goods and input services
2.	Services of GTA in relation to transportation of goods by Road	25% of the value of goods	30% of the value of goods	
3.	Transport of goods by vessel	50% of the value	30% of the value	
4.	Transport of passenger by air	40 of the value	60% of the value	Same as earlier
5.	Services provided in relation to chit	70% of the value	100% of the value	This abatement will be withdrawn

# Reverse Charges Mechanism (w.e.f 01.04/2015)

1. Manpower supply and security services when provided by an individual, HUF, or partnership firm to a body corporate are being brought to full reverse charge. Presently, these are taxed under partial reverse charge mechanism.
2. Services provided by mutual fund agents, mutual fund distributors and agents of lottery distributor are being brought under reverse charge consequent to withdrawal of the exemption on such services. Accordingly, Service Tax in respect of mutual fund agents and mutual fund distributors services shall be paid by assets management company or, as the case may be, by the mutual fund receiving such services. In respect of sub-agents of lottery, Service Tax shall be paid by the distributor or selling agent of lottery.



# Amendment in Service Rules

1. Rule 4 is being amended to provide that the CBEC, by way of an order, specify the conditions, safeguards and procedure for registration in service tax.
2. Provision for issuing digitally signed invoices are being added along with the option of presentation of records in electronic form. The conditions and procedure in this regard shall be specified by the CBEC.
3. In respect of certain services like money changing service, service provided by air travel agent, insurance service and service provided by lottery distributor and selling agent the service provider has been allowed to pay service tax at an alternative rate subject to the conditions as prescribed under rule 6 (7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules, 1994. However the new service tax rates would be announced later on.