

# Analysis of Circular on Short Term Accommodations And Restaurant Services

CA Amarpal M- 09717105008

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## CLARIFICATION REGARDING SHORT TERM ACCOMMODATION AND RESTAURANT SERVICES CIRCULAR NO. 139 DATED 10/05/2010 ISSUED BY CBEC

### (i) Short Term Accommodation Services

**Background:** The service tax on the Hotels, Inn, guest house etc providing the accommodation for less than 3 months was levied by Finance Act, 2011 u/s 65(105)(zzzzw) of Service Tax Act. Later on, a new notification no. 31/2011 dated 25/04/2011 which was given effect from 01/05/2011, was issued by CG exempting such service where the declared tariff less than Rs. 1000/- per day. After this notification, several issues regarding meaning of declared tariff, treatment of discounts etc arises; therefore the captioned circular was issued clarifying some general issues.

**Analysis:** - Important clarifications have been analysed as under:

Q-1. *What is the relevance of declared tariff? Is the tax required to be paid on declared tariff or actual amount charged?*

Ans: **“The relevance of ‘declared tariff’ is in determining the liability to pay service tax as far as short term accommodation is concerned. However, the actual tax will be liable to be paid on the amount charged i.e. declared tariff minus any discount offered. Thus if the declared tariff is Rs 1100/-, but actual room rent charged is Rs 800/-, tax will be required to be paid @ 5% on Rs 800/-.**

Q-2: *Is it possible to levy separate tariff for the same accommodation in respect of corporate/privileged customers and other normal customers?*

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Ans: Yes, It is possible to levy separate tariff for the same accommodation in respect of a class of customers which can be recognized as a distinct class on an intelligible criterion. However, it is not applicable for a single or few corporate entities.

Q-3: *Is the declared tariff supposed to include cost of meals or beverages?*

Ans: Where the declared tariff includes the cost of food or beverages, Service Tax will be charged on the total value of declared tariff. But where the bill is separately raised for food or beverages, and the amount is charged in the bill, such amount is not considered as part of declared tariff.

Q-4: *What is the position relating to off-season prices? Will they be considered as declared tariff?*

Ans: When the declared tariff is revised as per the tourist season, the liability to pay Service Tax shall be only on the declared tariff for the accommodation where the published/printed tariff is above Rupees 1000/-. However, the revision in tariff should be made uniformly applicable to all customers and declared when such change takes place.

Q-5: *Is the luxury tax imposed by States required to be included for the purpose of determining either the declared tariff or the actual room rent?*

Ans: For the purpose of service tax luxury tax has to be excluded from the taxable value.

*(For details contents, please refer the above mentioned circular)*