

**-COPY OF-
LETTER D.O.F.
NO. 334/3/2011-TRU,
DATED 25-4-2011**

STAX -Clarifications on new services specified in clauses (zzzzv) and (zzzzw) of section 65(105) of the Finance Act, 1994 and amendments to existing clauses of same section

The new services specified in clauses (zzzzv) and (zzzzw) of section 65(105) of the Finance Act, 1994 and amendments to the existing clauses of the same section are being operationalized w.e.f. May 1, 2011. The scope of these services was explained in my D.O. letter of even number dated February 28, 2011. In accordance with the budget announcements certain changes are necessitated and the related clarifications are given as follows:

Services provided by a Restaurant

2. An exemption @ 70% of the gross value *i.e.* the total price charged by the restaurant has been given by amending the notification No. 1/2006-ST, dated 1-3-2006 *vide* notification No. 34/2011-ST, dated April 25, 2011. The exemption is available provided no Cenvat credit is availed either of inputs or input services. It is clarified that the exemption is available on the gross price charged by the restaurant for the taxable service, including any portion shown separately *e.g.* service charge. However the amount paid by the customer *ex gratia* *e.g.* as tip to any member of the staff doesn't constitute consideration paid to the restaurant and shall remain outside this levy.

Short Term Accommodation

3. In accordance with the budget announcement, the levy will be applicable on short-term accommodation with a declared tariff of Rs. 1,000 per day or above. A suitable exemption has been given below this amount *vide* notification No. 31/2011-ST, dated April 25, 2011. Declared tariff has been defined within the notification as charges for all amenities provided in the unit of accommodation. Thus it will include cost of all electronic gadgets installed in the room and any other facility normally provided by a hotel as part of the stay. Cost of extra bed will not form a part of the declared tariff. No further exclusions are provided from the declared tariff *e.g.* on account of breakfast or any other meal whose cost is included in the declared tariff including any discount given to the customer. However an exemption @ 50% has been given by amending the notification No. 1/2006-ST, dated 1-3-2006 *vide* notification No. 34/2011-ST, dated April 25, 2011 provided no Cenvat credit is availed either of inputs or input services.

Life Insurance Services

4. The new definition will include all services provided by a life insurance company. The optional scheme available in rule 6(7A) of the Service Tax Rules, 1994 has been amended *vide* notification No. 35/2011-ST, dated April 25, 2011. The assessee will have

the option to pay tax on that portion of the premium which is not invested, when such break-up is given to the policyholder. Where the break-up is not so provided, tax amount shall be 1.5% of the gross premium. However, where the entire premium is only for the risk portion the same shall constitute the taxable value of the service.

Health Services

5. The new levy on medical services in terms of sub-clause (zzzzo) of section 65(105) has been exempted *vide* notification No. 30/2011-ST, dated April 25, 2011. It may be noted that the earlier levy on certain services provided by hospitals imposed last year was substituted by the new entry. Thus the levy imposed last year will not be applicable anymore.

Commercial Coaching and Training

6. The revised definition is intended to bring into the tax net all unrecognized education within its ambit irrespective of the fact whether the institute imparting the education is conducting any one or more course recognized by law. Accordingly, an exemption has been given to pre-school education and all education that leads to the award of a qualification recognized by law *vide* notification No. 33/2011-ST, dated April 25, 2011.

Legal Services

7. With the amendments coming into force, exemption provided to CAs, CWAs and CSs *vide* notification No. 25/2006-ST, dated 13-7-2006 for similar services is being withdrawn by notification No. 32/2011-ST, dated April 25, 2011.

Other Services

8. Changes have also been made in other services namely club or association, business support services and service centre for motor vehicles and have already been explained in my previous D.O. letter dated February 28, 2011.

Other changes

9. Both the new services *i.e.* Services provided by Restaurants and short-term Accommodation have also been notified for the purpose of Export of Services Rules, 2005 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 and placed in category 1 *i.e.* based on the location of the property.

10. All the above changes may be carefully studied and any issues in their implementation may be informed as and when they arise. Potential new assesseees as well existing assesseees who are required to pay tax on certain hitherto non-taxable services may be informed suitably of the changes and assisted in any desired manner.