

STAX provisions Related to Levy, Reg., Payment, Valuation, Penalty, Return and Recovery of taxes

1. Levy of service tax

1.1 As on 1st May, 2011, 119 services are **taxable services** in India. These taxable services are specified in Section 65(105) of the Finance Act, 1994. Section 64 of the Finance Act, 1994, extends the levy of service tax to the whole of India, except the State of Jammu & Kashmir.

Generally, the liability to pay service tax has been placed on the **‘service provider’**. **However, in respect of the taxable services notified under Sec.68(2) of the Finance Act, 1994, the service tax shall be paid by such person and in such manner as may be prescribed at the rate specified in Sec.66 of the Act and all the provisions of Chapter-V shall apply to such person as if he is the person liable for paying the service tax.**

The following services have been notified under Sec.68 (2) of Finance Act, 1994:

A. the services,-

- (i) in relation to telecommunication service;
- (ii) in relation to general insurance business;
- (iii) in relation to insurance auxiliary service by an insurance agent; and
- (iv) in relation to transport of goods by road in a goods carriage, where the consignor or consignee of goods-
 - (a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);
 - (b) any company established by or under the Companies Act, 1956 (1 of 1956);
 - (c) any corporation established by or under any law;
 - (d) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any law corresponding to that Act in force in any part of India;
 - (e) any co-operative society established by or under any law;
 - (f) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made there under; or
 - (g) anybody corporate established, or a partnership firm registered, by or under any

(v) In relation to Business Auxiliary Service of distribution of mutual fund by a mutual fund distributor or an agent, as the case may be;

(vi) in relation to sponsorship service provided to any body corporate or firm located in India;

B. Any taxable service provided or to be provided from a country other than India and received in India, under Sec.66A of the Finance Act, 1994.

(Sec. 68(2) of Finance Act, 1994, Notification 36/2004-S.T. dated 31.12.2004 as amended)

In the following situations, the liability to pay service tax is as follows:

i. in relation to **[telecommunication service]**

(a) the Director General of Posts and Telegraphs,

(b) the Chairman-cum-Managing Director, Mahanagar Telephone Nigam Ltd, Delhi, a company registered under the Companies Act

(c) any other person who has been granted a license by the Central Government.

ii. in relation to general insurance business, the insurer or re-insurer, as the case may be, providing such service;

iii. in relation to insurance auxiliary service by an insurance agent, any person carrying on the general insurance business [or the life insurance business, as the case may be,] in India;

iv. in relation to any taxable service provided or to be provided by any person from a country other than India and received by any person in India under section 66A of the Act, the recipient of such service;

v. In relation to taxable service provided by a goods transport agency, where the consignor or consignee of goods is- any factory, any company, any corporation, any registered society, any co- operative society, any registered dealer of excisable goods , any body corporate or a partnership firm;

vi. in relation to business auxiliary service of distribution of mutual fund by a mutual fund distributor or an agent, as the case be, the mutual fund or asset management company, as the case may be, receiving such services;

vii. in relation to sponsorship service provided to any body corporate or firm located in India, the body corporate or, as the case may be the firm who receives such sponsorship service;

(Rule 2(d) of Service Tax Rules, 1994)

1.2 From 01.06.2007 to 23.02.2009, the Service tax was payable @ **12%** of the ‘**gross amount**’ plus 2% Education Cess on service tax plus 1% Secondary Higher Education Cess on service tax i.e totaling to 12.36% (in specific cases partial deductions are allowed, refer section 67 of the Finance Act) charged by the service provider for providing such taxable service. From 24.02.2009, vide Notification No.8/2009-ST dated 24.02.2009 the rate of service tax is 10% on gross value of the taxable service plus 2% Education Cess on the service tax amount and 1% Secondary Higher Education Cess on the service tax amount.

Example: Suppose the value of taxable service is Rs.100. Service tax @10% will be Rs.10 and Education Cess @2% of the Service Tax will be Rs.0.20 and Secondary & Higher Education Cess @1% of the service tax will be 0.10.

1.3 The Table below shows the category of services which are taxable with the date of introduction of such service. The table also shows the ‘accounting heads’ for each category service, for the purpose of payment of service tax:

Sr.No	Service Category	Date of Introduction	Accounting codes	
			Tax Collection	Other Receipts
1	Advertising	01.11.1996	00440013	00440016
2	Air Travel Agent	01.07.1997	00440032	00440033
3	Airport Services	10.09.2004	00440258	00440259
4	Architect	16.10.1998	00440072	00440073
5	ATM Operations, Management or Maintenance	01.05.2006	00440346	00440347
6	Auctioneers’ service, other than auction of property under directions or orders of a court of or auction by Central Govt.	01.05.2006	00440370	00440371
7	Authorized Service Station	16.07.2001	00440181	00440182
8	Auxiliary to General Insurance	16.07.2001		
9	Auxiliary to Life Insurance	16.08.2002		
			00440169	00440170
10	Banking & Other Financial Services	16.07.2001	00440173	00440174
11	Beauty Parlor	16.08.2002	00440209	00440210
12	Broadcasting	16.07.2001	00440165	00440166
13	Business Auxiliary Service	01.07.2003	00440225	00440226
14	Business Exhibition Service	10.09.2004	00440254	00440255
15	Business Support Service	01.05.2006	00440366	00440367

16	Cable Operator	16.08.2002	00440217	00440218
17	Cargo Handling	16.08.2002	00440189	00440190
18	Chartered Accountant	16.10.1998	00440092	00440093
19	Cleaning Service	16.06.2005	00440318	00440319
20	Clearing & Forwarding Agent	16.07.1997	00440045	00440046
21	Clubs and Associations	16.06.2005	00440322	00440323
22	Commercial or Industrial Construction	10.09.2004	00440290	00440291
23	Commercial Training or Coaching	01.07.2003	00440229	00440230
24	Company Secretary	16.10.1998	00440100	00440101
25	Construction of Residential Complex	16.06.2005	00440334	00440335
26	Consulting Engineer	07.07.1997	00440057	00440058
27	Convention Centre	16.07.2001	00440133	00440134
28	Cost Accountant	16.10.1998	00440096	00440097
29	Courier Services	01.11.1996	00440014	00440018
30	Credit Card, Debit Card, Charge Card or other payment card related services	01.05.2006	00440394	00440395
31	Credit Rating Agency	16.10.1998	00440088	00440089
32	Custom House Agent	15.06.1997	00440026	00440027
33	Dredging	16.06.2005	00440310	00440311
34	Dry Cleaning	16.08.2002	00440221	00440222
35	Erection, Commissioning or Installation	01.07.2003	00440233	00440234
36	Event Management	16.08.2002	00440197	00440198
37	Fashion Designer	16.08.2002	00440213	00440214
38	Forward Contract Services	10.09.2004	00440282	00440283
39	Franchise Service	01.07.2003	00440237	00440238
40	Foreign Exchange Broker	01.07.2003	00440173	00440174
41	General Insurance	01.07.1994	00440005	00440006
42	Health Club & Fitness Centre	16.08.2002	00440205	00440206
43	Intellectual Property Service	10.09.2004	00440278	00440279
44	Interior Decorator	16.10.1998	00440076	00440077
45	Internet Café	01.07.2003	00440241	00440242
46	Internet Telecommunication Service	01.05.2006	00440382	00440383
47	Life Insurance	16.08.2002	00440185	00440186
48	Mailing List Compilation and Mailing	16.06.2005	00440330	00440331
49	Management Consultant	01.07.1997	00440116	00440117
50	Maintenance or Repair Service	01.07.2003	00440245	00440246

51	Mandap Keeper	16.10.1998	00440035	00440036
52	Manpower Recruitment or Supply Agency	07.07.1997	00440060	00440061
53	Market Research Agency	16.10.1998	00440112	00440113
54	On-line Information & Database Access or Retrieval Service	16.07.2001	00440153	00440154
55	Opinion Poll Service	10.19.2004	00440274	00440275
56	Outdoor Caterer	10.09.2004	00440051	00440052
57	Packaging Service	16.06.2005	00440326	00440327
58	Pandal or Shamiana Services	10.09.2004	00440054	00440055
59	Photography	16.07.2001	00440129	00440130
60	Port Service (Major Ports)	16.07.2001	00440177	00440178
61	Port Services(Other Ports)	01.07.2003		
62	Public Relations Service	01.05.2006	00440374	00440375
63	Rail Travel Agent	16.08.2002	00440201	00440202
64	Real Estate Agent / Consultant	16.10.1998	00440104	00440105
65	Recovery Agent	01.05.2006	00440350	00440351
66	Registrar to an Issue	01.05.2006	00440338	00440339
67	Rent – a – Cab Operator	16.07.1997	00440048	00440049
68	Sale of space or time for Advertisement, other than print media	01.05.2006	00440354	00440355
69	Scientific or Technical Consultancy	16.07.2001	00440125	00440126
70	Security Agency	16.10.1998	00440108	00440109
71	Share Transfer Agent	01.05.2006	00440342	00440343
72	Ship Management service	01.05.2006	00440378	00440379
73	Site Preparation	16.06.2005	00440306	00440307
74	Sound Recording	16.07.2001	00440161	00440162
75	Sponsorship service provided to any body corporate or firm, other than sponsorship of sports event	01.05.2006	00440358	00440359
76	Steamer Agent	15.06.1997	00440029	00440030
77	Stock Broker	01.07.1994	00440008	00440009
78	Storage & Warehousing	16.08.2002	00440193	00440194
79	Survey & Exploration of Minerals	10.09.2004	00440270	00440271
80	Survey and Map Making	16.06.2005	00440314	00440315

81	T.V. & radio Programme Production Services	10.09.2004	00440286	00440287
82	Technical Testing & Analysis	01.07.2003	00440249	00440250
83	Technical Inspection & Certification Agency	01.07.2003	00440249	00440250
84	Tour Operator	01.09.1997	00440063	00440064
85	Transport of goods by Air	10.09.2004	00440266	00440267
86	Transport of goods by Road	01.01.2005	00440262	00440263
87	Transport of goods in containers by rail { 'other than Indian railway' omitted w.e.f. 01.09.2009 }	01.05.2006	00440390	00440391
88	Transport of goods other than water, through Pipeline or other conduit	16.06.2005	00440302	00440303
89	Transport of passengers embarking on international journey by air, other than economy class passengers	01.05.2006	00440362	00440363
90	Transport of persons by cruise ship	01.05.2006	00440386	00440387
91	Travel Agent other than Air & Rail Travel	10.09.2004	00440294	00440295
92	Underwriter	16.10.1998	00440084	00440085
93	Video Tape Production	16.07.2001	00440157	00440158
94	Telecommunication	01.06.2007	00440398	00440399
95	Renting of immovable property	01.06.2007	00440406	00440407
96	Works contract	01.06.2007	00440410	00440411
97	Content Development & Supply	01.06.2007	00440414	0440415
98	Asset Management	01.06.2007	00440418	00440419
99	Mining Services(Oil & Gas)	01.06.2006	00440402	00440403
100	Design Services	01.06.2007	00440422	00440423
101	Information Technology Software services	16.05.2008	00440452	00440450
102	Investment Management for ULIP	16.05.2008	00440430	00440431
103	Recognized Stock Exchange	16.05.2008	00440434	00440435
104	Recognized Associations-Commodity Exchange Services	16.05.2008	00440438	00440439
105	Clearing & Processing House services	16.05.2008	00440442	00440443
106	Supply of Tangible Goods services	16.05.2008	00440445	00440447

107	Cosmetic or Plastic Surgery Services	01.09.2009	00440460	00440463
108	Transport of Coastal goods, Goods through National Waterways or Goods through Inland Waterways	01.09.2009	00440470	00440473
109	Legal Consultancy Services	01.09.2009	00440480	00440483
110	Promotion, marketing or organizing of games of chance including lottery, bingo etc. services	01.07.2010	00440595	00440596
111	Health services undertaken by Hospitals or Medical establishments	01.07.2010	00440598	00440599
112	Maintenance of Medical Records services	01.07.2010	00440601	00440602
113	Promotion of Brand of Goods, Services etc.	01.07.2010	00440604	00440605
114	Services of Permitting Commercial Use or Exploitation of any event	01.07.2010	00440607	00440608
115	Electricity Exchange Services	01.07.2010	00440610	00440611
116	Copyright Services	01.07.2010	00440613	00440614
117	Services provided by Builder in relation to preferential location, internal/external development etc	01.07.2010	00440616	00440617
118	Services of Air-conditioned restaurants having license to service alcoholic beverages in relation to service of food or beverages.	1.5.2011	00441067	00441068
119	Services of providing of accommodation in hotels / inns/ cubs/ guest houses/ campsite for a continuous period of less than three months	1.5.2011	00441070	00441071

Note:

1. Accounting Code for 'Education Cess' is '00440298' for all services.
2. Accounting Code for 'Secondary & Higher Education Cess' is '00440426' for all services.

3. The sub-head 'Other receipts' is meant for interest, penalty on delayed payment of service tax.

2. Registration

2.1 Every person liable for paying the service tax shall make an application to the concerned Superintendent of Central Excise in Form ST-1 for registration within a period of thirty days from the date on which the service tax under section 66 of the Finance Act, 1994(32 of 1994) is levied:

Provided that where a person commences the business of providing a taxable service after such service has been levied, he shall make an application for registration within a period of thirty days from the date of such commencement. (*Refer section 69 of Finance Act, 1994 & Rule 4 of the Service Tax Rules, 1994*)

Also, the following two categories of persons have been identified as 'Special Category of Persons' under The Service Tax (Registration of Special Category of Persons) Rules, 2005:

- i) Input Service Distributor;
- ii) Any provider of taxable service whose 'aggregate value of taxable service' ('aggregate value' has been defined in Rule 2(b) of The Service Tax (Registration of Special Category of Persons) Rules, 2005) in a financial year exceeds nine lakh rupees.

'Input service distributor' as defined under Rule 2 (m) of CENVAT Rules, 2004 means an office of the manufacturer or producer of final products or provider of output service, which receives invoices issued under rule 4A of the Service Tax Rules, 1994 towards purchases of input services and issues invoice, bill or, as the case may be, challan for the purposes of distributing the credit of service tax paid on the said services to such manufacturer or producer or provider, as the case may be.

In case a service recipient is liable to pay service tax, as detailed at para 1.1 above, he also has to obtain registration.

2.2 The service tax is administered by the Central Excise Department. The government website www.exciseandservicetax.nic.in gives the details of the jurisdictional offices of the Central Excise Department, State-wise, District-wise as well as Commissionerate-wise.

2.3 Total 67 Central Excise & Service Tax Commissionerates, 7 exclusive Service Tax Commissionerates and 5 Large Taxpayer Units administer Service tax collection in India.

2.4 Following are the 7 Service tax Commissionerates:

- 1. Mumbai-I

2. Mumbai-II
3. Delhi
4. Chennai
5. Kolkata
6. Bangalore
7. Ahmedabad

2.5 There are 5 Large Taxpayer Units (LTUs) as listed below:

1. Bangalore,
2. Chennai,
3. Mumbai,
4. Delhi and
5. Kolkata

3. Procedure for Registration

3.1 Fill the Form ST-1 in duplicate. (Form ST-1 is available on the departmental website (www.cbec.gov.in). Enclose photocopy of PAN card, proof of address to be registered and copy of constitution /partner ship deed etc. of the firm, if any.

3.2 Copy of PAN card is necessary as a PAN based code (**Service Tax Code**) is allotted to every assessee.

3.3 These forms are required to be submitted to the jurisdictional Central Excise office (in case of seven Service Tax Commissionerates, to the jurisdictional Division office). There are separate service tax commissionerates in Mumbai, Chennai, Delhi, Kolkata, Bangalore and Ahmedabad as mentioned in the previous chapter).

3.4 A person liable to pay service tax should file an application for registration within **thirty days** from the date on which the service tax on particular taxable service comes into effect or within thirty days from the commencement of his activity.

(Refer Rule 4 (1) of Service Tax Rules, 1994)

3.5 Where a person, liable for paying service tax on a taxable service,

- (i) provides such service from more than one premises or offices; or
- (ii) receives such service in more than one premises or offices; or,
- iii) is having more than one premises or offices, which are engaged in relation to such service in any other manner, making such person liable for paying service tax,

and has centralized billing system or centralized accounting system in respect of such service, and such centralized billing or centralized accounting systems are located in one or more premises, he may, at his option, register such premises or offices from where centralized billing or centralized accounting systems are located.

3.5.1 The registration under sub-rule 2 of Rule 4 of the Service Tax Rules, 1994, shall be granted by the Commissioner of Central Excise in whose jurisdiction the premises or offices, from where centralized billing or accounting is done, are located:

Provided that nothing contained in this sub-rule shall have any effect on the registration granted to the premises or offices having such centralized billing or centralized accounting systems, prior to the 2nd day of November, 2006.

3.6 A single registration is sufficient even when an assessee is providing more than one taxable services. However, he has to mention all the services being provided by him in the application for registration and the field office shall make suitable entries/endorsements in the registration certificate.

(Refer Rule 4 (4) of Service Tax Rules, 1994)

3.7 An assessee should get the registration certificate (registration number) within **7 days** from the date of submission of form S.T.1, under normal circumstances.

(Refer Rule 4 (5) of Service Tax Rules, 1994)

3.8 A fresh registration is required to be obtained in case of transfer of business to another person.

(Refer Rule 4 (6) of Service Tax Rules, 1994)

3.9 Any registered assessee when ceases to provide the taxable service shall surrender the registration certificate immediately.

(Refer Rule 4 (7) of Service Tax Rules, 1994)

3.10 In case a registered assessee starts providing any new service from the same premises, he need not apply for a fresh registration. He can simply fill in the Form S.T.1 for necessary amendments he desires to make in his existing information. The new form

may be submitted to the jurisdictional Superintendent for necessary endorsement of the new service category in his Registration certificate.

4. General Procedures

4.1. Every person providing taxable service is required to issue (within 14 days of completion of service or receipt of payment towards value of service, whichever is earlier) an invoice, a bill or challan signed by him or a person authorized by him. Such invoice, bill or challan should be serially numbered and should contain following information:

- i name, address and registration number of such person
- ii the name and address of the person receiving services
- iii description, classification and value of taxable service provided, and
- iv service tax payable thereon.

(Refer Rule 4A (1) of Service Tax Rules, 1994)

4.1A Any goods transport agency which provides service in relation to transport of goods by road in a goods carriage and is liable to pay tax shall issue a consignment note to the recipient of service.

(Rule 4B of Service Tax Rules, 1994)

4.2 Every input service distributor, distributing credit of taxable services should issue an invoice, a bill or challan signed by him or a person authorized by him for each of the recipient of credit distributed and such invoice, bill or challan should be serially numbered and should contain :

- i. name, address and registration number of the person providing input services and the serial number and date of invoice, bill or challan issued by him.
- ii name, address and registration number of the input service distributor
- iii name and address of the recipient of the credit distributed, and
- iv the amount of the credit distributed.

(Refer Rule 4A (2) of Service Tax Rules, 1994)

4.3 Records to be maintained:

The records including computerized data as maintained by the assessee in accordance with the various laws in force shall be accepted.

(Refer Rule 5 (1) of Service Tax Rules, 1994)

4.4 Every assessee is required to furnish to the Superintendent of Central Excise a list of accounts maintained by him in relation to service tax. This list is to be submitted once at the time of filing his first S.T.3 return.)(e.g. *books of account, viz. sales register, purchase register, cash book, petty cash book, general ledger, etc.*)

(Refer Rule 5 (2) of Service Tax Rules, 1994)

5. Value of Taxable Service

5.1 The valuation under service tax is governed by the provisions made under section 67 of the Finance Act, 1994

5.2 Value of taxable service shall be determined on the basis of one of the following:

- a. consideration in money for providing the service.
- b. consideration in money + consideration in any other form
- c. consideration in any form other than money

The consideration in any form other than money shall be determined in a manner as prescribed.

(Refer section 67(1) of the Finance Act, 1994)

5.3 Service Tax (Determination of Value) Rules, 2006 have been notified which have the following salient features:

5.3.1 the value of taxable service shall be the gross amount charged for providing such service in ordinary course of trade and the gross amount charged is the sole consideration.

5.3.2 when value cannot be determined by the method given at 5.3.1, then the service provider shall determine the equivalent money value of such consideration (which shall in no case be less than the cost of provision of such taxable service)

5.3.3 if the Central Excise Officer is satisfied that the value determined by the service provider is not in accordance with the provisions of the Act or these rules, he shall issue a notice to show cause why the value of taxable service should not be fixed at the amount specified in the notice.

5.3.4 Any expenditure or costs incurred by the service provider in course of providing taxable service shall be treated as consideration for the taxable service provided and shall be included in the value of taxable value.

5.3.5 Subject to the provisions of Rule 5(1) of the Service Tax (Determination of Value) Rules, 2006 , the expenditure or costs incurred by the service provider as a 'pure agent' of the recipient of the service, shall be excludible from the value of taxable service, subject to conditions specified in the rule 5(2) of the Service Tax (Determination of Value) Rules, 2006

5.3.6 Specific cases in which the commission, costs, etc. shall be included or excluded are provided under rule 6 of the Service Tax (Determination of Value) Rules, 2006

5.3.7 Rule 7 of the Service Tax (Determination of Value) Rules, 2006 provides for actual consideration to be the value of taxable service in case of services provided from outside India

(refer section 66A of the Finance Act, 1994, as amended)

5.4 The gross amount charged can be inclusive of service tax. In such a case the value shall be such amount as, with the addition of tax payable, is equal to the gross amount charged. (e.g. if gross amount charged, including service tax is Rs.100. Then the value of taxable service shall be Rs.90.75 and the service tax payable shall be Rs.9.07 plus Education Cess Rs.0.18)

(Refer section 67(2) of the Finance Act, 1994)

5.5 The gross amount charged for taxable service shall include any amount received towards the taxable service before, during or after provision of such service.

(Refer section 67(3) of the Finance Act, 1994)

6. Payment of Service Tax

Any person providing taxable service to any person shall pay service tax at the rate specified in Sec.66 in such a manner and within such period as may be prescribed.

(Sec.68 of the Finance Act, 1994)

The table below shows the rate of service tax applicable at the relevant period of time.

Sr.No.	Period	Rate of Service Tax	Rate of Education Cess	Rate of Secondary & Higher Education Cess
1.	Till 13.05.2003	5%	Nil	Nil

2.	14.05.2003 to 09.09.2004	8%	Nil	Nil
3.	10.09.2004 to 17.04.2006	10%	2% of the S.T.	Nil
4.	18.04.2006 to 31.05.2007	12%	2% of the S.T.	Nil
5.	01.06.2007 to 23.02.2009	12%	2% of S.T.	1% of S.T.
6.	From 24.02.2009	10%	2% of S.T.	1% of S.T.

6.1 In case of Individuals or Proprietary Concerns and Partnership Firm, service tax is to be paid on a **quarterly** basis. The due date for payment of service tax is the **5th** of the month immediately following the respective quarter (in case of e-payment, by 6th of the month immediately following the respective quarter). For this purpose, quarters are: April to June, July to September, October to December and January to March. **However, payment for the last quarter i.e. January to March is required to be made by 31st of March itself.**

(Refer Rule 6 (1) of Service Tax Rules, 1994)

6.2 In case of any other category of service provider other than specified at 6.1 above, service tax is to be paid on a monthly basis, by the 5th of the following month (in case of e-payment, by 6th of the month immediately following the respective month). **However, payment for the month of March is required to be made by 31st of March itself.**

(Refer Rule 6 (1) of Service Tax Rules, 1994)

6.3 Service tax is to be paid to the Central Government in respect of service deemed to be provided as per the rules framed.

(Refer Rule 6 (1) of Service Tax Rules, 1994)

6.4 The facility of e-payment of service tax has been introduced with effect from 11.05.2005. From 1st April, 2010 e-payment of service tax has been made mandatory for the assesseees who have paid service tax of Rs.10 Lakhs (cash+ cenvat) and above during the last financial year or who have paid service tax of Rs.10 Lakhs (cash + cenvat) and above during the current financial year. The e-payment shall be made only in designated banks by 6th day of the following month.

(Refer Rule 6 (1) & (2) of Service Tax Rules, 1994) {List of Banks, authorized to accept e-payment is given in para 12)

6.5 The assessee is required to deposit the amount of service tax in the designated banks through GAR-7 challan.

(Refer Rule 6 (2) of Service Tax Rules, 1994)

(Assesseees may contact jurisdictional office for details of the designated banks.)

6.6 While depositing the service tax, the appropriate ‘account head’ pertaining to the particular service category should be mentioned on the challan. The correct accounting heads have been given in the table showing the ‘List of Services’ in para 1.3.

6.7 If the assessee deposits the amount of tax liable to be paid, by cheque, then the date of presentation of the cheque to the designated bank would be treated as the date of payment of service tax.

(Refer Rule 6 (2A) of Service Tax Rules, 1994)

6.8 Where an assessee has issued an invoice, or received any payment, against a service to be provided which is not so provided by him either wholly or partially for any reason, or where the amount of invoice is renegotiated due to deficient provision of service, or any terms contained in a contract the assessee may take credit of such excess service tax paid by him, if the assessee:-

a) has refunded the payment or part thereof, so received for the service provided to the person from whom it was received or

b) has issued a credit note for the value of the service not so provided to the person to whom such an invoice has been issued

(Refer Rule 6 (3) of Service Tax Rules, 1994)

6.9 The assessee can opt for provisional payment of service tax in case he is not able to correctly estimate the tax liability. In such a situation he may request in writing to the jurisdictional Assistant / Deputy Commissioner for the same.

(Refer Rule 6 (4) of Service Tax Rules, 1994).

6.10 Service tax (including interest, penalty, refund) is to be rounded off to the nearest rupee. 50 paise or more should be rounded off to the next rupee and less than 50 paise should be ignored.

(Refer Board’s Circular No.53/1/2003 dated 11.03.2003)

6.11 Any person who has collected any sum on account of service tax, is under obligation to pay the same to the Government. He can not retain the sum so collected with him by contending that service tax is not payable.

(Refer section 73A of the Finance Act, 1994.)

7. Import and Export of Service

7.1 Import of service: There is no concept as ‘import’ of service in the strict sense of the term in the Finance Act, 1994 or the rules made there under. Here the word ‘import’ is

used just to indicate service provided by a person who has established his business or has his permanent address outside India and the recipient of such service is such a person who has his permanent address or usual place of business in India.

Provisions made under section 66A of the Finance Act, 1994 provide for payment of service tax by the recipient of service in cases where the provider of taxable service is from outside India and the receiver of service has his permanent address / usual place of business in India. This is applicable even though the service is received / consumed by the such Indian outside India. This provision is not applicable in case of individuals who have received such service other than for the purpose of use in business or commerce.

(Refer section 66A of the Finance Act, 1994)

In case where the service provider is a non-resident or is from outside India and does not have office in India, the person receiving the service shall be liable to pay the service tax.

(Refer Rule 2 (1)d(iv) of Service Tax Rules, 1994)

7.2 Export of Service: The export of service is governed by the Export of Service Rules, 2005. (notified vide Notification No. 9/2005 – service tax, dated 03.05.2005 and subsequently amended by Notification No.28/2005 – service tax, dated 07.06.2005 and Notification No. 13/2006- service tax dated 19.04.2006, Notification No. 02/2007- ST dated 01.03.2007, Notification No. 30/2007- service tax dated 22.05.2007 and Notification No. 20/2008- service tax dated 10.05.2008 and 6/2010-ST dated 27.02.2010, Notification 42/2011 ST, Notification 22/2011 ST both dated 1/3/2011 and Notification 36/2011 ST dated 25/4/2011)

7.2.1 The taxable services have been divided in three groups and some group-specific criteria are prescribed for provision of a particular service in a particular group to be treated as export of service. However, there is a common condition which is required to be fulfilled by all the taxable services (irrespective of the group they belong to) to qualify as exported services.

7.2.2 These two conditions are: (i) such service is delivered outside India and used outside India, and (ii) the payment received for providing such service should be in convertible foreign exchange. It is necessary that the common qualifying conditions as well as the group-specific conditions are fulfilled so as to treat the provision of any such service as export of service.

7.2.3 For **category 1** comprising of **18** services: the service should be provided in relation to an immovable property **situated outside India**.

7.2.4 For **category 2** comprising of **46** services: the service should be provided outside India, though in case the service is partly performed outside India, it shall be treated as performed outside India.

7.2.5 For category **3** comprising of services excluding sub clauses zzzo and zzzv of S.65(105) of the Finance Act 1994, category at **7.2.3** above except when the provision of taxable services specified in sub clauses d, zzzc, zzzr and zzzm ibid does not relate to immovable property, and those specified in category at category 7.2.4 above, when provided in relation to **business or commerce**, it should be provided to a recipient **located** outside India and when **not provided** in relation to business or commerce it should be provided to a recipient located outside India **at the time** of provision of such service.

8. Returns

8.1 Every assessee is required to submit a half yearly return in form S.T.3 or S.T.3A (in triplicate) along with proof of payment of tax. For the purpose of filing returns half year is counted from April to September and October to March. In case the assessee has opted for provisional payment of service tax, he is required to file the service tax return in form S.T.3A.

(Rule 7(1) of Service Tax Rules, 1994)

8.2 The ST-3 Returns can also be got prepared and filed through the ‘Service Tax Return Preparers’ (STRPs) who have been duly accredited and authorized by the Department. The Board has issued relevant provisions and guidelines in regard of Service tax Return Preparer Scheme vide Notification No.07/2009-ST dated 03.02.2009 as amended. Currently, there are 1477 STRPs functioning at various locations spread out all across the country. The service tax assesses can log on to **www trpscheme.com**. to know the details of the STRPs available in their area.

8.3 An assessee may submit a revised return, in Form ST-3, in triplicate, to correct a mistake or omission, within a period of ninety days from the date of submission of the return under rule 7. (Rule 7B of Service Tax Rules, 1994)

8.4 Date of filing of Returns : The half yearly return is required to be filed by the **25th** of the month following a particular half year.

(Rule 7(2) of Service Tax Rules, 1994)

8.5 E-filing of Returns: The department has extended the facility of filing the returns on-line (e-filing of returns). This facility is available for all the categories of service providers. However, in respect of assesses who have paid total service tax of rupees ten lakh or more including the amount paid by utilization of CENVAT credit, in the preceding financial year, electronic filing of return is mandatory.

9. Interest

The due date for payment of service tax is 6th day of the month following the relevant month/quarter, if electronically paid and in other cases, 5th day of the month following

the relevant month / quarter. It is provided under section 75 of the Finance Act, 1994 that in case of delayed payments (after due date) the assessee is required to pay simple interest at the rate prescribed. Notification No. 26/2004 dated 10.09.2004 has specified the rate of interest at 13% per annum. The table below shows the rate of interest applicable at relevant period of time.

Sr.No.	Period	Rate of Interest
1.	Till 11.05.2001	1.5% per month
2.	11.05.2001 to 11.05.2002	24% per annum
3.	11.05.2002 to 10.09.2004	15% per annum
4.	From 10.09.2004 to 31.03.2011	13% per annum
5.	From 01.04.2011	18% per annum

10. Recovery of Service Tax

10.1 Section 73, 73A to 73D and Section 87 provide for recovery of service tax under various circumstances. The provisions made under each section are separately discussed below.

10.2 Section 73: This section empowers the Central Excise Officer to serve notice to the person, chargeable with service tax, which has been not levied or paid or short-levied or short-paid or erroneously refunded. Time limit for serving a notice under this situation is 'one year' from the relevant date.

10.2.1 In cases where service tax has been not levied or paid or short-levied or short-paid or erroneously refunded by the reason of fraud; or collusion; or willful mis-statement; or suppression of facts; or contravention of any of the provisions of this act or rules made thereunder with an intent to evade payment of service tax, then the time limit for serving the notice is extended up to five years.

Where the service of notice is stayed by order of court, such stay period shall be excluded

10.3 Section 73A provides for payment by an assessee of any amount collected in excess of the service tax leviable or recovery of any amount as representing service tax, that has been collected by a person but not deposited with the Central Government.

10.4 Section 73B enables the Central Government to collect interest on the amount as determined under sub-section (4) of section 73A at a rate notified by the Central Government(not less than 10% but not exceeding 24% p.a.).

10.5 Section 73C provides for provisional attachment by Central Excise Officer of any property belonging to a person on whom notice is served under sub-section(1) of section 73 or sub-section (3) of section 73A during the pendency of such proceedings.

10.6 Section 73D provides for publishing the name of any person and any other particulars relating to any proceedings under the provisions of Chapter V of the Finance Act, 1994, in relation to such person, in public interest, in such manner as may be prescribed.

10.7 Section 87 provides for recovery of any amount due to the Central Government by any one of the following modes:

a. by deducting such amount from any money owed to such person, under the control of any Central Excise Officer or any officer of Customs.

b. by recovery from any other person from whom money is due to such defaulting person.

c. by restraining any movable or immovable property belonging to such person and detain the same until the amount payable is paid.

d. by preparing a certificate signed by Central Excise officer specifying the amount due and send it to the Collector of district in which such person owns any property or carries on his business. The said Collector, on receipt of such certificate shall proceed to recover from such person the amount specified there under as if it were an arrear of land revenue.

11. Penalty

Penalties have been prescribed under different sections for different types of offences.

Sr. No.	Section	Offence	Details
1	76	Failure to pay service tax	In addition to the service tax and interest, penalty not less than Rs.100/- for every day during which failure continues, or @ 1% of such tax per month, whichever is higher but shall not exceed 50% of service tax due.
2	77	General penalty for contravention of any provisions of chapter V of Finance Act, 1994 or rules made there under for which no penalty is provided	a) Failure to take registration in accordance with Sec.69 or rules made thereunder – Rs. 10000 or Rs. 200 per day during which failure continues, whichever is higher. b) Failure to keep, maintain or retain records- Up to Rs.10000/- c) Failure to furnish information, to produce documents called for by

			<p>Central Excise Officer or to appear before the Central Excise Officer- Upto Rs.10000/- or Rs. 200 per day during which failure continues.</p> <p>d) Failure to pay tax electronically by the person required to pay tax electronically- upto Rs.10000/-</p> <p>e) Failure to issue correct invoice with complete details and account for the invoice in his books of accounts_ Upto Rs.10000/-</p> <p>2. For contravention of any other provisions of the Act where no separate penalty is provided- upto Rs.10000/-</p>
3	78	Service tax not been levied or paid or been short-levied or short-paid or erroneously refunded by reason of fraud or collusion or willful mis-statement or suppression of facts or contravention of any of the provisions of chapter V of Finance Act, 1994 or of the rules made there under with intent to evade payment of service tax	<p>Shall in addition to the Service Tax and interest thereon, if any payable, be the amount equal to the amount of Service tax not levied or paid or short-levied or short paid or erroneously refunded. But where true accounts are available in specified records, the penalty is reduced to 50%. Where the service tax and interest is paid within 30 days, from the date of communication of the order the penalty is 25%. The reduced penalty is available only if the penalty is paid within 30 days of the date of communication of the order.</p>
4	70(1) & Rule 7C	Late filing of returns	<p>Late fee upto Rs.20000/-</p> <p>a) Delay up to 15 days-Rs.500/-</p> <p>b) Delay beyond 15 days and upto 30 days-Rs.1000/-</p> <p>c) Delay beyond 30 days-Rs.1000/-</p>

			plus Rs.100 per day of delay beyond 30 days
			Provided the total amount payable in terms of this rule shall not exceed the amount specified in Sec.70 of the Act.

Section 80 provides for non-imposition of penalty in certain cases falling under sections 76, 77 and 78 if there is reasonable cause for such failure.

12. Electronic Tax Administration (ETA)

12.1 The ETA comprises of on-line generation of PAN based code numbers, filing of S.T.3 Returns and e-payment of service tax.

12.2 The on-line generation of PAN based code is in practice since April, 2003.

12.3 On-line submission of S.T.3 Returns was introduced from April, 2003. Initially, this facility was extended for 10 selected categories of services. However, from 20.01.2004 the facility of e-filing of returns has been extended to all the categories of services.

12.4 The facility of e-payment of service tax was introduced from 11.05.2005. Assesseees can pay service tax through Internet Banking facility extended by certain banks. The following banks offer the facility of e-payment of service tax:

W.E.F. 01.08.2008 vide letter No.Coord II/9-15/e-FPBs/08/54 dated 18.07.2008

Sr.No.	Name of the e-FPB Bank	Name of the Excise/Service Tax Commissionerate for which the Bank is authorized to collect revenue through e-payment.	BSR Code
1	State Bank of Travancore Fort, Mumbai	All Commissionerates	0150001
2	Allahabad Bank, Worli Mumbai	All Commissionerates	0211775
3	Bank of India, Belapur, Navi Mumbai	All Commissionerates	0220282
4	United Bank of India, Fort Mumbai	All Commissionerates	0310284
5	State bank of Saurashtra, Fort Mumbai	All Commissionerates	0140113
6	Canara Bank, Matunga(E)	All Commissionerates	0240056

	Mumbai		
7	State Bank of Mysore, Santacruz(W) Mumbai	All Commissionerates	0120368
8	IDBI Bank, CBD,Navi Mumbai	All Commissionerates	6910333
9	UCO Bank, DN Road, Mumbai	All Commissionerates	0320003
10	State Bank of India, Fort, Mumbai	All Commissionerates	0005347
11	State Bank of Bikaner & Jaipur, Vashi Navi Mumbai	All Commissionerates	0170799
12	Bank Of Baroda, Byculla, Mumbai	All Commissionerates	0200388
13	State Bank of Indore, Fort Mumbai	All Commissionerates	0160002
14	State Bank of Patiala, Dadar (W) Mumbai	All Commissionerates	0130529
15	Dena Bank, Fort Mumbai	All Commissionerates	0250271
16	Indian Bank, Fort Mumbai	All Commissionerates	0260012
17	Vijaya bank, Fort Mumbai	All Commissionerates	0390764
18	Sydicate Bank, Fort Mumbai	All Commissionerates	0330569
19	Bank of Maharashtra, Cuffe Parade, Mumbai	All Commissionerates	0230498
20	HDFC Bank,Nerul, Navi Mumbai	Banglore-I to III & Service Tax, Delhi-I to IV & Service Tax, Kolkata-I to VII, Service Tax & Haldia, Mumbai-I to V, Belapur, Raigad, Thane-I,II and Service Tax.	0510247
21	Axis Bank, Marinelines, Mumbai	Banglore-I to III & Service Tax, Delhi-I to IV & Service Tax, Hyderabad-I to IV, Mumbai-I to V, Belapur, Raigad,Thane-I,II & Service Tax.	6360219
W.E.F.01.08.2009 vide letter No. Coord II/9-14/OBC/07/68 dated 09.07.2009			
22	Oriental Bank of Commercial, Mylapore	All Commissionerates	0361086

[Based on information from the office of the Principal Chief Controller of Accounts, CBEC vide his letter No.Coord II/9-15/e-FPBs/08/54 dated 18.07.2008]

12.4A E-payment has been made mandatory with the issue of Notification No.1/2010-ST dated 19.2.2010 for an assessee who in the preceeding financial year, has paid total service tax of rupees 10 lakhs or more including the amount paid by utilization of Cenvat credit, to pay service tax and file its returns electronically only. While the measure is aimed at bringing efficiency by automating the processes, it is anticipated that this would cut down the time and cost of tax payers and also result in a steady increase in more and more assesseees adopting this facility.

12.5 The procedure to be followed for availing the facility of e-payment is as under:

For taxpayers who opt to maintain account with the concerned bank and willing to use Internet banking facility :

12.5.1 Taxpayer logs on to the bank's web site.

12.5.2 The bank's site allows the taxpayer to enter into the secure banking area after verifying the user Id and password provided to the taxpayer by the bank.

12.5.3 Once in the secure banking area of the bank, the tax payer can select the "Pay Tax" menu which will further offer option to select various taxes he can pay on-line.

12.5.4 Once opted for CBEC (Indirect Tax), the taxpayer is guided to the challan form for filling up the details.

12.5.5 There will be an on-line validation for Assessee Code, Location Code, Account Head against the masters provided to the bank from the concerned Pay and Accounts Office. The validation is mandatory and only successful entrants will be allowed to proceed further.

12.5.6 Banks will obtain and keep only such Assessee Codes, in their master, which belongs to the assessee who falls under the Commissionerates for which the bank is authorized to collect Indirect Tax revenue. This will ensure that the bank is not collecting and accounting indirect tax revenue for a Commissionerate for which it is not authorized.

12.5.7 On successful validation of the details in the challan format, the taxpayer is guided to 'make payment screen' showing the payment details filled in by the taxpayer on the challan format.

12.5.8 The taxpayer gets an option to "Continue" or "Cancel"

12.5.9 On selecting "Cancel", the taxpayer is prompt for entering his user Id and password to enter into the bank's e-transaction module.

12.5.10 On selecting "continue", the taxpayer is prompt for entering his user ID and password to enter into the bank's transaction module.

12.5.11 This screen further leads the taxpayer to the page describing his account details with the bank.

12.5.12 Taxpayer selects the account to be debited.

12.5.13 Authorize the payment transaction.

12.5.14 On successful payment transaction, the account of the taxpayer gets debited and taxpayer gets a unique system generated payment confirmation number.

12.5.15 The concerned Focal Point Bank prints the challan and includes in the scroll on a day to day basis and forward to the concerned PAO and, to the Range Officer as per the existing procedure and ensures two copies of the challan in delivered to the taxpayer.

12.5.16 Fund transaction and settlement with Government will be the exclusive responsibility of the bank as per the existing procedure.