

REGISTRATION FOR THE PURPOSES OF SERVICE TAX

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Registration is the initial requirement for coverage under any tax law. Every assessee or a 'to be' assessee has to/ wishes to know, how registration has to be obtained and when. Even though the levy of service tax was introduced during the year 1994, which is almost 16 years ago, there are still a lot of doubts amongst people as to when registration has to be taken, how it has to be obtained and which type of registration would be most suitable and beneficial. In this article we will try to answer all these questions and ensure that the questions relating to the basic registration process are answered.

WHO: The first aspect to be understood is who shall obtain the service tax registration.

- a. Every person liable to pay service tax shall obtain registration (section 69 and Rule 4 of Service Tax Rules, 1994). The persons who would be liable to service tax are:
 - i. Persons providing taxable output services as defined in section 65(105) of the Finance Act, 1994 (hereinafter referred to as the Act). Today there are about 115 taxable services.
 - ii. Persons liable to pay service tax as a recipient of service in the case of Import of service, Transport of goods by road service, insurance auxiliary service, sponsorship service etc.
- b. With respect to the Small Scale Service Providers (SSSP), where the amounts received towards taxable service in a financial year exceeds ₹ 900,000, shall obtain registration
- c. Every person who distributes credit (Input Service Distributor ISD) shall obtain registration. (The concept of ISD will be discussed under TYPES of registration)

WHEN: Registration shall be obtained within 30 days from: (corresponding to the class of persons specified under 'WHO' above)

- a. The date of commencement of business or introduction of levy.
- b. The date of crossing the limit of Rs. 9 lakhs in the case of SSSP.
- c. The date of commencement of business.

HOW: Form ST-1 should be filled and submitted at the department within the time limit mentioned above to obtain registration. Such form can be filed either manually or through aces.gov.in. Such form filled has to be filed with the department along with documents like

address proof, document evidencing the constitution of the assessee (partnership deed, MOA & AOA etc.), copy of the PAN of the assessee and power of attorney for the authorized signatory. Once all the documents are submitted the registration is deemed to have been obtained after the expiry of 7 days.

Any amendment in the registration can be done by filing the Form ST-2.

TYPES: The various types of registration which an assessee can choose from are:

- a. Registration of a single premises
- b. Centralised registration
- c. Registration of ISD

The type of registration which a service provider/receiver would choose would depend on the business arrangement of the assessee as explained below.

Single premises: This type of registration would be suitable for a business arrangement where the assessee is operating from only one premises i.e. all output / input services are provided / received respectively at one premises only.

Example: a person provides air travel agent service from one office only and receives all input services in this relation at that premises only. In such a case the single premises registration is most apt.

Centralised registration: This type of registration would be suitable for a business set up where there are services provided / received from / at more than one location and where there is a system of centralized billing or accounting. The advantages of this type of registration are that:

- a. only a single set of records have to be maintained for the entire entity as a whole without having to bifurcate the details of output and input services pertaining to each location separately
- b. Only one payment has to be made monthly/quarterly
- c. Only one set of returns have to be submitted for the entity as a whole every half year
- d. All audits, communications, correspondences etc. from the department would be done only once in respect of the entire entity.

This will ensure that the assessee does not spend more of its resources in complying with the law which would have otherwise been cumbersome if single premises registration was

taken wherein each and every premises from where services are provided is registered separately.

Example: A builder provides output service at various the sites of the clients but accounting for all the transactions is done at the corporate office. Input services like supply of manpower, telecommunication services etc. and dutiable inputs are received at the sites from where the output services are provided. In this case the assessee shall apply for centralized registration and the details of the various sites which are to registered shall be provided in the Form ST-1 that is filled for obtaining registration.

Input Service Distributor: This type of registration would be suitable for an entity which

- a. provides output services from various locations
- b. does not have centralized accounting/billing facilities and
- c. has one location where inputs/input services are received but there are no output services provided from there.

Example: A management consultant provides services from various branches across the country and has a marketing office at Mumbai. Accounting is done at each of the branches separately from where the output services are provided and the marketing office takes care of the business promotion only. The Mumbai office receives various services like sponsorship service, advertisement services, business promotion related services, etc. but no output services are provided. Since there is no centralized billing or accounting the entity cannot obtain centralized registration. If each of the offices obtain single premises registration then the Mumbai office will not be able to utilize any of the input credits as there are no output services provided from there.

Hence in order to be able to utilize such credits the Mumbai office shall obtain ISD registration by which the credits of the Mumbai office can be passed on to the other branches just by raising a challan.

PENALTY

A person who

- a. is liable to pay service tax or
- b. is required to take registration (example: SSI reaching ` 900,000 limit)

and fails to obtain registration shall be liable to a penalty of ` 5,000 or ` 200 for every day when the failure continues till the date of compliance, whichever is higher
If the assessee proves that there was reasonable cause for the failure then penalty can be condoned as per section 80 of the Act.

OTHER ISSUES

1. Where more than one taxable service is provided then should the service provider register separately for each of them?

Registration is granted based on the location and not based on the number of services provided. In other words it does not matter how many services are provided from a location, all such services would be registered by way of a single registration certificate. Where an assessee wishes to register additional services to an existing registration the same can be done by amending Form ST-2 (registration certificate) by filing Form ST-1 for such amendment.

2. Where centralized registration is obtained and subsequently more premises have to be registered thereunder, how should it be done?

Additional premises can be added to the existing registration by amending Form ST-2 (registration certificate) by filing Form ST-1 for such amendment. There is no time frame for making such amendment and the assessee can file the Form ST-1 as and when new premises are added.

3. Where the business is transferred to another person can the same registration continue?

If the business is transferred then the old registration shall be surrendered and new registration shall be obtained.

4. An entity is already registered with the department for the purposes of service tax and now such entity wishes to register in ACES and use the same for payment and filing of returns. Should the entity again fill the Form ST-1 online and submit to the department?

There is no requirement for filing Form ST-1 once again in the case of an existing assessee. Such assessee shall intimate to the department the e-mail address of the

entity to which a TPIN shall be sent. With the use of such TPIN the assessee can activate its registration in ACES.

5. Where taxable output services are provided but due to some reason obtaining registration was delayed whether the CENVAT credit in respect of the period prior to registration can be availed? Or in other words, whether registration is a prerequisite for availing credit?

Input services definition in the CENVAT Credit Rules, 2004 indicates that they are services that are used by the service provider to provide output services and includes various other services. Further the credit of service tax can be taken once payment for the same is made. There is no condition that once registration is taken only then credit can be availed.

Hence the credit prior to registration can also be availed provided it is an input service as defined, though the department maybe of a different view.

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