

SERVICE TAX

I. SERVICE TAX IS BEING IMPOSED ON THE FOLLOWING SPECIFIED SERVICES:

- 1) Service provided in relation to transport of goods by rail
- 2) Service provided in relation to transport of (i) coastal goods; and (ii) goods through Inland Water including National Waterways
- 3) Legal consultancy service
- 4) Cosmetic and plastic surgery service

The above changes will come into effect from a date to be notified, after the enactment of Finance (No. 2) Bill, 2009.

II. SCOPE OF CERTAIN EXISTING SERVICES IS BEING EXTENDED OR ALTERED AS FOLLOWS:

- 1) The definition of Business Auxiliary Service (BAS) is being amended so as to provide that only those processes, which result in the manufacture of 'excisable goods' (as defined in the Central Excise Act) are excluded from the purview of BAS.
- 2) The definition of 'Information Technology Software Service' is being amended to replace the word 'acquiring' with the word 'providing' [appearing in Sl. No. (iv) and (v) of the definition]. The amendment is being given retrospective effect from 16.05.2008.
- 3) The definition of stock-broker (in stock-broker service) is being amended to exclude sub-broker from its ambit. As a consequence, sub-brokers will be outside the purview of service tax.

The above changes will come into effect from a date to be notified, after the enactment of Finance (No. 2) Bill, 2009.

III. AMENDMENTS IN ACT

- 1) Finance Act, 1994 is being amended to:-
 - (a) abolish revision procedure prescribed under section 84 and to prescribe the procedure of filing departmental appeals before the Commissioner (Appeal) in service tax cases similar to the central excise procedure. Accordingly, section 84 pertaining to revision by Commissioner is being modified and consequential changes are being made in section 86. A saving clause is being provided to protect the pending cases.
 - (b) empower the Central Government to frame rules with respect to the place of provision of taxable services; and with respect to the relevant date for determination of the rate of service tax.

The above changes would come into effect from the date of the enactment of the Finance (No. 2) Bill, 2009.

IV. AMENDMENTS IN THE RULES AND EXISTING NOTIFICATIONS

- 1) The scope of notification No. 1/2002-ST dated 01.03.2002 is being enlarged by extending the applicability of service tax provisions to installations, structures and vessels in the entire Continental Shelf of India and Exclusive Economic Zones of India.
- 2) Rule 6 (3) of the Cenvat Credit Rules, 2004 is being amended to prescribe that a provider of both taxable and exempted services, who does not maintain separate accounts of inputs, shall pay an amount equal to 6% of the value of exempted services instead of 8%.
- 3) Rule 3 (5B) of the Cenvat Credit Rules, 2004 is being amended so as to provide that a service provider shall pay back the amount of credit taken on inputs/capital goods fully written off.
- 4) Explanation provided in the Works Contract Rules, 2007 is being modified so as to allow the benefit of optional composition scheme only to such works contracts where the taxpayer declares the entire value of goods (whether supplied under any other contract for a consideration or otherwise) and services used in the execution of the works contract as the 'gross value' charged for the works contract. This restriction would not apply to current works contracts where either the execution has commenced or any payment has been made on or before 07.07.2009.

The changes mentioned in S. Nos. (1) to (4) above will come into effect immediately.

- 5) Retrospective effect is being given to notification No. 1/2009-ST dated 5.1.2009 (relating to Goods Transport Agency service) from 01.01.2005. This provision is being given effect to through the Finance (No. 2) Bill, 2009 and will come into effect from the date of enactment of the said Bill.

V. EXEMPTIONS

- 1) Exemption from service tax is being provided to inter-state or intra-state transportation of passengers in a vehicle bearing 'Contract Carriage Permit' with specified conditions.
- 2) Exemption from service tax (leviable under Club or Association Service) is being provided to the Federation of Indian Export Organizations (FIEO) and specified Export Promotions Councils. The exemption is valid till 31.03.2010.

- 3) Exemption from service tax (leviable under banking and other financial services or under foreign exchange broking service) is being provided to inter-bank purchase and sale of foreign currency between scheduled banks.

The above changes will come into effect immediately.

VI. REFUND SCHEME FOR EXPORTERS

Notification No. 41/2007-ST dated 06.10.2007 provides for refund of service tax paid on services, which though not in the nature of input services, are relatable to export of goods. The scheme is being revamped to ensure speedier grant of refunds to the exporters. The salient features of the new scheme, being notified under two notifications, both dated 07.07.2009, are as follows:

- (a) Two taxable services, namely, 'Transport of goods by road' and 'Commission paid to foreign agents' have been exempted from the levy of service tax, if the exporter is liable to pay service tax on reverse charge basis. However, as the present cap of 10% on commission agency charges has been retained, the exporter will have to pay service tax on the amount of commission which is in excess of 10%.
- (b) Following are some of the salient features of the revamped refund scheme, notified in supersession of notification No.41/2007-ST dated 06.10.2007:
- 'Terminal Handling Charges' is being added to the list of eligible services.
 - The time period for filing a refund claim is being increased to one year from the date of export. The condition for filing refund claims once in a quarter is being dispensed with. Now the exporter can file a refund claim anytime after each export shipment.
 - A simplified format is being prescribed for filing refund claims.
 - Self-certification is being introduced to ensure faster sanction and disbursement of refunds. In a case, where total amount of refund claim does not exceed 0.25% of the total f.o.b. value of exports under a claim, a self-certification by the exporter on the relevant documents to the effect that: (a) the eligible services have been received by him; (ii) the service tax payable thereon has been reimbursed; and (iii) such services have been used for the export, would be sufficient. The refunds shall be granted within one month without any pre-audit.
 - In a case, where amount of refund claim exceeds 0.25% of the f.o.b. value of exports, the documents submitted by the exporter should be certified by the chartered accountant, who audits his annual accounts. On the basis of such certification, the refund claim shall be sanctioned within one month without any pre-audit.