



## SERVICE TAX – BUDGET 2015

### Service tax proposal in Budget 2015 presented in Lok Sabha on 28th Feb 2015

- 1) Service tax Rate will increase from 12% to 14% from the date to be notified. It is provided that Education Cess and Secondary & Higher Education Cess shall cease to have effect from the date of effective increase in service tax rate to 14%. Accordingly effective rate will increase from 12.36 to 14% and accordingly following composition rate will change:

| <u>Description of Service</u>             | <u>Old Rate @ 12.36%</u>                         | <u>New Rate @ 14%</u>                          |
|---|--|--|
| Air Travel Agent                          |  |  |
| - Domestic Bookings                       | 0.618%   | 0.700%   |
| - International Bookings                  | 1.236%   | 1.400%   |
| Life Insurance                            |  |  |
| - First year premium                      | 3.090%   | 3.50%  |
| - Subsequent Premium                      | 1.545%   | 1.75%  |
| Money Changing                            |  |  |
| - Upto Rs 1,00,000/-                      | 0.1236% (Min Rs 30.90)                           | 0.1400% (Min Rs 35/-)                          |
| - Between Rs 100,000/- and Rs 10,00,000/- | Rs. 123.60 + 0.0618% of excess over Rs 100,000/- | Rs. 140 + 0.07% of excess over Rs 100,000/-    |
| - Above Rs 10,00,000/-                    | Rs. 660 + 0.01236% of excess over Rs 10,00,000/- | Rs. 770 + 0.014% of excess over Rs 10,00,000/- |
| Distribution of lottery tickets           |  |  |
| - Guaranteed prize payout more than 80%   | Rs. 7,210/- for every Rs 10,00,000/- or part     | Rs. 8,200/- for every Rs 10,00,000/- or part   |
| - Guaranteed prize payout less than 80%   | Rs.11,330/- for every Rs 10,00,000/- or part     | Rs. 12,800/- for every Rs 10,00,000/ or part-  |

2) Central Government will impose additional Swachh Bharat Cess on all or any of the taxable service upto 2% on value of taxable service from the date to be notified. On notification of this Cess @ 2%, effective service tax rate will become 16% i.e. 14% + 2% Swachh Bharat Cess.

**3) Services provided by Government (Date to be notified):**

Currently Services provided by Government or a local authority are covered by negative list except following services:

- a) Services by Post
- b) Services in relation to aircraft or vessels
- c) Transport of Goods or passenger
- d) Support service provided to business entity.

So above services are liable for service tax. At present, Support services (Other than renting of immovable property) provided by government are liable as reverse charge accordingly business entity is require to discharge liability of service tax on such services. Support services defined in section 65B(44) as under:

“Support Services” means infrastructural, operational, administrative, logistics, marketing or any other support of any kin comprising functions that entities carry out in ordinary course of operation themselves but may obtain as service by outsourcing from others for any reasons whatsoever and shall include advertisement and promotion, construction or works contract, renting of immovable property security, testing and analysis.

Now government has proposed to delete the word Support from such exclusion of negative list as well as deleted the definition of Support services provided in Section 65B(49). Hence now any service (Other than statutory function) provided by Government or local authority to business entity will be taxable. Service (Other than renting of immovable property) provided by government will be liable under reverse charge mechanism to be discharged by Business entity.

Now the government is defined U/s 65B(26A) as under:

“Government” means the Departments of the Central Government, a State Government and its Departments and a Union territory and its Departments, but shall not include any entity, whether created by a statute or otherwise, the accounts of which are not required to be kept in accordance with article 150 of the Constitution or the rules made there under.

#### **4) Services in the nature of admission to entertainment event or access to amusement park:**

Currently Services in the nature of admission to entertainment event or access to amusement park is covered in negative list, Hence no service tax was require to pay on such services.

Now government has proposed to delete such entry from negative list from the date to be notified and hence such service will become taxable service subject to following new exemptions provided in mega exemption notification no 25 of 2012.

- a) Services provided by way of admission to museum, zoo, national park, wild life sanctuary, and tiger reserve (The said services provided by provided by Government or local authority is still covered by negative list). (w.e.f 1<sup>st</sup> March 2015).
- b) Services provided by way of exhibition of movie by an exhibitor to the distributor or an association of persons consisting of the exhibitor as one of its members. (w.e.f 1<sup>st</sup> March 2015)
- c) Services by right to admission to :
  - i) Exhibition of cinematographic film, circus, dance or theatrical performance including drama or ballet.
  - ii) Recognized sporting event
  - iii) Award function, concert, pagent, musical performances or any sporting event other than a recognized sporting event where the consideration for admission is not more than Rs 500 per person.

Due to deletion of above entry from negative list, definition of amusement provided U/s 65B(9) and entertainment U/s 65B(24) from the date to be notified. Hence now following services will be taxable:

- i) Services by way of Access to any amusement park or theme park
- ii) Services by way of admission to award function, concert, pagent, musical performances or any unrecognized sporting event where consideration for admission is more than Rs 500/- per person.

#### **5) Services of betting, gambling or lottery.**

Currently betting, gambling and lottery are listed in negative list and accordingly no service tax is applicable on such activity. Now it has been provided by way of explanation that the said activity should not include activity organizing of lottery listed in explanation 2 of Section 65B(44) from the date to be notified. Section 65B(44) is the "service" definition, where in it is provided that a transaction in

money or actionable claims will not be considered as service. Currently Judiciary has interpreted that the activity carried out by chit funds as well as transactions in lotteries were in the nature of transaction in money or actionable claims. Hence no service tax payable on such services. To nullify the said interpretation, they have now clarified that such transactions are not in the nature of transaction of money or actionable claim and also clarified that the same is not part of service in the nature of betting, gambling and lottery. Accordingly those services are liable for service tax.

In the service definition U/s 65B(44), following explanation was added:-

Explanation 2 – For the purposes of this clause, the expression “transaction in money or actionable claim” shall not include—

- i. Any activity relating to use of money or its conversion by cash or by any other mode, from one form, currency or denomination, to another form, currency or denomination for which a separate consideration is charged;
- ii. Any activity carried out, for a consideration, in relation to, or for facilitation of, a transaction in money or actionable claim, including the activity carried out—
  - a) By a lottery distributor or selling agent in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind, in any other manner;
  - b) By a foreman of chit fund for conducting or organizing a chit in any manner.;

So above activities are not treated as transaction in money or actionable claims and accordingly liable for service tax. However services provided by Selling of Lottery agent to lottery distributor will be governed by reverse charge and accordingly the service tax will be payable by lottery distributor. It has provided in section 67 while defining the consideration that in case of lottery distributor or selling agent any difference between the face value of lottery ticket and the amount paid as price by selling distributor or selling agent will also part of consideration and accordingly the said value will be liable for service tax.

Definition of lottery distributor or selling agent has been inserted by way of Section 65B(31A) as under:

Lottery Distributor or Selling agent” means a person appointed or authorized by as State for the purpose of promoting, marketing, selling or facilitating in organizing lottery of any kind, in any manner, organized by such state in accordance with the provision of Lotteries (Regulation Act).

**6) Process relating to manufacture of alcoholic liquor for human consumption:**

Currently process amounting to manufacture or production of goods are listed in negative list so all such processes are not liable for service tax. The process is defined in section 65B(40) wherein "the process amount to manufacture of alcoholic liquors for human consumption" is specifically included. Now government propose to delete the specific inclusion of "the process amounting to manufacture of alcoholic liquors for human consumption" from the definition of process amounting to manufacture or production of goods as well as modify the entry (f) in negative list provided in section 66D by excluding the same from process which amounts to manufacture of goods. So the Process amount to manufacture or production of alcoholic liquors for human consumption are no more covered in negative list and accordingly the said activity will now become taxable from the date to be notified.

**7) Valuation of Service:**

Currently section 67 of the Finance Act provides for valuation of taxable service for charging service tax. It provides that value of service shall be consideration for providing for such service and Consideration is defined as "Consideration includes any amount that is payable for the taxable service provided or to be provided. Now definition of "Consideration" is proposed to be modified as under:

*"Consideration includes-*

*Any amount that is payable for the taxable service provide or to be provided.*

*Any reimbursable expenditure or cost incurred by the service provider any charged, in the course of providing or agreeing to provide a taxable service, except in such circumstances, and subject to such conditions, as may be prescribed.*

*Any amount retained by lottery distributor or selling agent from gross sale amount of lottery ticket in addition to the fee or commission, if any or as the case may be, the discount received, that is to say, the difference in the face value of lottery ticket and the price at which the distributor or selling agent gets such ticket"*

So the amount of reimbursable charged by the service provider other than reimbursable charges prescribed will be part of consideration and accordingly service tax is require to be payable on such consideration.

**8) Recovery and penalties:**

New Section 73(1B) is inserted whereby now provided that, in a case where the amount of service tax payable has been self-assessed in the return furnished under sub-section (1) of section 70, but not paid either in full or in part, the same shall be



recovered along with interest thereon in any of the modes specified in section 87, without service of any notice.

Penalties for nonpayment or short payment of service tax as well as erroneous refund of service tax is drastically reduced. In view of the reduction in penalty provision, Section 80 which provides for waiver of penalty in case of showing reasonable cause for nonpayment of service tax is deleted. Following table are the reduced penalties:

| <b>Payment of Service tax and interest :</b>  | <b>Non Suppression</b>                                   | <b>Suppression</b>                                   |
|---|--|--|
| Before issue of show cause notice   | NIL  | NA   |
| Within 30/90 days of issue of Show cause notice   | NIL  | 15% of Service tax amount                            |
| Within 30/90 days from the date of adjudication order passed  | Not exceeding 2.5% of the Service tax amount             | 25% of Service tax amount                            |
| Within 30/90 days from the date of passing of appellant order for modify the determination of service tax order | Not exceeding 2.5% of the Service tax amount             | 25% of Service tax amount                            |
| In other case   | Not exceeding 10% of the service tax ordered to be paid. | Equal to 100% of the service tax ordered to be paid. |

Above reduced penalty will also applicable in case no show cause notice is served or no order is made even though the show cause notice is served, till the date this finance Act 2015 received the president assent.

**9) Following changes are made in exemption notification.**

**9.1) Following services removed from Mega Exemption notification and accordingly liable for tax w.e.f. 1<sup>st</sup> April 15.**

- a) Services provided to the Government, local authority or government authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation or alteration of:-
  - i. A civil structure or any other original works meant predominantly for use other than for commerce, industry or any other business or profession.
  - ii. A structure meant predominantly for use as an education, a clinical or an art or culture establishment.

- iii. A residential complex predominantly meant for self use or the use of their employees or other person specified (i.e. Member of Parliament, Member of State legislature, Members of Panchayat, Member of Municipalities and member of other local authorities, post in pursuance of the provision of Constitution, A Chairperson or a member of director in a body established by Central or State Government or local authority).
- b) Services by way of construction, erection, commissioning or installation of original work pertaining to an airport or port.
- c) Services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre (Other than by way of brand ambassador), where amount charged is equal to or more than Rs 100,000/- per performance.
- d) Services of transportation of foodstuff excluding food grains, rice, pulses, flour, milk or Salt items by rail, vessels or road.
- e) Services provided by a mutual fund agent/distributor to mutual fund or assets management company (Liable for service tax under reverse charge).
- f) Services provided by a selling or marketing agent of a lottery tickets to a distributor.
- g) Carrying out an intermediate production process as job work in relation to alcoholic liquors for human consumption (Date to be notified).
- h) Services by way of making telephone calls from –
  - i. departmentally run public telephone;
  - ii. guaranteed public telephone operating only for local calls; or
  - iii. free telephone at airport and hospital where no bills are being issued;

**9.2) Following services inserted into Mega Exemption Notification and accordingly eligible for tax exemption w.e.f. 1<sup>st</sup> April 15.**

- a. Services provided by way of transportation of a patient in an ambulance irrespective from clinical establishment or not.
- b. Services by way of Varishtha Pension Bima Yojana

- c. Services by operator of Common Effluent Treatment Plant by way of treatment of effluent.
- d. Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables which do not change or alter the essential characteristics of the said fruits or vegetables.
- e. Services by way of admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo.
- f. Services provided by way of exhibition of movie by an exhibitor to the distributor or an association of person consisting of the exhibitor as one of its members.
- g. Goods transport agency services provided for transport of export of goods by road from the place of removal to an inland container depot, a container freight station, a port or airport. It is not widened to exempt such services when provided for transport of export goods by road from the place of removal to a land custom station.

#### **10) Modification in Abatements (w.e.f 1<sup>st</sup> April 2015):**

At present service tax leviable @ 30% of value of goods transported by rail transport, 25% of value of goods transport by Road by a goods transport agency and 40% of value of goods transport by vessels. Now with the intention to uniform abatement all the transporter, now it has been provided that in case of rail transport, road transport and transport by vessel all are now taxable @ 30% of value

of goods. It has also provided that service provider will not take any Cenvat credit in respect of input, input service and capital goods, if it opts for abatement.

At present, Service tax payable on 40% of the value of air transport of passengers for economy as well as higher classes. Now the abatement for business class is reduced to 40%, hence now onwards it is liable to service tax @ 60% of the value of such higher class.

Abatement is being withdrawn from services provided in relation to chit.



**Abatement table with effect from 1<sup>st</sup> April 2015 will be as under:**

| Type of services   | Existing Taxable | Proposed Taxable | Proposed Taxable @ 12.36% | Proposed Taxable @ 14% |
|--|------------------|------------------|---------------------------|------------------------|
| Services in relation to fianancial leasing including hire purchase   | 10%              | 10%              | 1.236%                    | 1.400%                 |
| Transport of goods/passangers by rail  | 30%              | 30%              | 3.708%                    | 4.200%                 |
| Bundled service by way of supply of food together with renting of such premises  | 70%              | 70%              | 8.652%                    | 9.800%                 |
| Transport of passanger by air – Economy class  | 40%              | 40%              | 4.944%                    | 5.600%                 |
| Transport of passanger by air – Business class   | 40%              | 60%              | 7.416%                    | 8.400%                 |
| Renting of Hotels, Inns, guest house etc.  | 60%              | 60%              | 7.416%                    | 8.400%                 |
| Service by transportation of goods   | 25%              | 30%              | 3.708%                    | 4.200%                 |
| Services in relation to chits  | 70%              | 100%             | 12.360%                   | 14.000%                |
| Renting of Motorcab  | 40%              | 40%              | 4.944%                    | 5.600%                 |
| Transport of passangers by contract cab or radio taxi  | 40%              | 40%              | 4.944%                    | 5.600%                 |
| Transport of goods in a vessel   | 40%              | 30%              | 3.708%                    | 4.200%                 |
| A Package tour services  | 25%              | 25%              | 3.090%                    | 3.500%                 |
| Booking of accommodation by tour operator  | 10%              | 10%              | 1.236%                    | 1.400%                 |
| Other services by tour operator  | 40%              | 40%              | 4.944%                    | 5.600%                 |
| Construction of a complex building, civil structure except where entire consideration received after issuance after completion certificate |                  |                  |                           |                        |
| For Residential where carpet area is less than 2000 Square feet and amount per unit is less than Rs 1 Crore                                | 25%              | 25%              | 3.090%                    | 3.500%                 |
| Other property   | 30%              | 30%              | 3.708%                    | 4.200%                 |

**11) Modification in Reverse charge mechanism with effect from 1<sup>st</sup> April 2015 will be as under:**

At present, in case of manpower supply by non corporate entity, 25% of service tax to be discharged by service provider and balance 75% by service recipient. Now it is provided that now 100% service tax will be discharged by service recipient.

Following services are liable for Reverse Service Charge mechanism:

- a) In case of Service provided by Mutual fund agent/distributor, 100% service tax will be discharged by Mutual Fund or Assets Management Co.
- b) In case of Service provided by agents of lottery, 100% service tax will be discharged by lottery distributor.
- c) In respect of service provided under aggregator model, than aggregator or any of its representative office located in India or any agent appointed by aggregator.

| Sr. No | Types of Service Provider  | Types of Service Recipient liable for Reverse Charge Mechanism.   | Service tax payable by Service Provider | Service tax payable by Service Recipient @ 12.36% | Service tax payable by Service Recipient @ 14%. |
|--------|--|---|---|---|---|
| 1)     | Goods Transport Agency in respect of transportation of goods by Road | Persons liable to pay freight other than Individual or HUF (Other than Excise dealer or factory registered under Factories Act. | NIL                                     | 3.708% of Freight Payable                         | 4.200% of Freight Payable                       |
| 2)     | Sponsorship in Taxable Territory                                     | Corporate or Partnership firm in Taxable Territory.   | NIL                                     | 12.36% of Invoice Amount                          | 14.00% of Invoice Amount                        |
| 3)     | Arbitral Tribunal  | Business Entity Located in Taxable Territory.   | NIL                                     | 12.36% of Invoice Amount                          | 14.00% of Invoice Amount                        |
| 4)     | Individual Advocates or Firm of Advocates                            | Business Entity located in Taxable Territory other than the entity which has turnover upto 10 lacs in preceding financial year. | NIL                                     | 12.36% of Invoice Amount                          | 14.00% of Invoice Amount                        |

|    |  |   |                                    |   |   |
|----|--|---|------------------------------------|---|---|
| 5) | Government or local Authorities by way of service excluding:<br><br>a) Renting of Immovable Property<br>b) Services by Department of Post<br>c) Services in relation to an aircraft or a vessel.<br>d) Transport of goods/passengers | Business Entity Located in Taxable Territory.   | NIL                                | 12.36% of Invoice Amount                                | 14.00% of Invoice Amount                                |
| 6) | Renting of Motor Vehicle by Individual, HUF, Firm or Association of Person located in taxable territory:<br><br>On Abated Value (40%)<br><br>On Non Abated Value   | Body Corporate Located in Taxable Territory other than the Body Corporate which is in Renting Business. | NIL<br><br>6.18% of Invoice Amount | 4.944% of Invoice Amount<br><br>6.18% of Invoice Amount | 5.600% of Invoice Amount<br><br>6.18% of Invoice Amount |
| 7) | Supply of Manpower or Security Services by Individual, HUF, Firm or Association of Persons located in taxable territory.   | Body Corporate Located in Taxable Territory   | NIL                                | 12.36% of Invoice Amount                                | 14.00% of Invoice Amount                                |
| 8) | Service portion in execution of Works Contract (Material and Service Composite Contract) by Individual, HUF, Firm or Association of Person located in taxable territory:   | Body Corporate Located in Taxable Territory   |                                    |   |   |

|  |  |   |   |   |  |
|--|--|---|---|---|--|
|  | <b><u>Service tax charged in invoice:</u></b>  |   |   |   |  |
|  | a) on 100% of Invoice Value  | 6.18% of Service Amt                    | 6.18% of Service Amount   | 7.00% of Service Amount   |  |
|  | b) on 40% of Invoice Value (40% taxable value in case of Original work)  | 2.472% of Invoice Value (incl. all Mat) | 2.472% of Invoice Amount (incl. all Material)   | 2.800% of Invoice Amount (incl. all Material)   |  |
|  | c) on 70% of Invoice Value (70% taxable value in case of Maintenance or Repairs, Reconditioning, Service of any goods or immovable properties) | 4.326% of Invoice Value (incl. all Mat) | 4.326% of Invoice Value (incl. all Mat)   | 4.900% of Invoice Value (incl. all Mat)   |  |
|  | <b><u>Service tax not charged in Invoice:</u></b>  |   |   |   |  |
|  | a) Service charge separately indicated in invoice  | Not Applicable                          | 6.12% of Service Charges  | 7.00% of Service Charges  |  |
|  | b) Service charge not separately indicated in invoice  | Not Applicable                          | 2.472% of Invoice Amount or 4.326% of Invoice Value based on types of repairs contract pacified in clause c above | 2.800% of Invoice Amount or 4.900% of Invoice Value based on types of repairs contract specified in clause c above. |  |

|     |  |  |     |                          |                          |
|-----|--|--|-----|--------------------------|--------------------------|
| 9)  | Services provided by persons located in Non-taxable territory. (Import of Service) | Any Person located in Taxable Territory. Liable to Service tax if the said services is rendered within Taxable Territory as per Place of Provision Rules | NIL | 12.36% of Invoice Amount | 14.00% of Invoice Amount |
| 10) | Director of the Company (Other than Employee Director)                             | Company or Body Corporate.   | NIL | 12.36% of Invoice Amount | 14.00% of Invoice Amount |
| 11) | Insurance Agent  | Person carrying on Insurance Business  | NIL | 12.36% of Invoice Amount | 14.00% of Invoice Amount |
| 12) | Recovery Agent   | Banking Company, Financial Institution and NBFC  | NIL | 12.36% of Invoice Amount | 14.00% of Invoice Amount |
| 13) | Mutual Fund Agent/Distributor  | Mutual Fund/AMC  | NIL | 12.36% of Invoice Amount | 14.00% of Invoice Amount |
| 14) | Marketing or Selling Agent   | Lottery Distributor  | NIL | 12.36% of Invoice Amount | 14.00% of Invoice Amount |
| 15) | Any person (1st March 15)  | Aggregator or any of its office in India or any agent.   | NIL | 12.36% of Invoice Amount | 14.00% of Invoice Amount |

## **12) Modification in Service Tax Rules**

It has been proposed that any services are rendered under the aggregator model than the service tax will be payable by such aggregator or any of its office in India or any agent appointed by them. So under the aggregator model, service tax provider as well as recipient are not liable for service tax (wef 1st March 2015). It has been provided that hence forth registration for single premises shall be granted within 2 days of filing of application.



### **13) Advance Ruling**

Now it is provided that the partnership resident Firm, LLP, Proprietary concern, One person company are eligible for advance ruling (wef 1st March 15).

### **14) Modification in Cenvat Credit Rules**

- a) Currently Service provider cannot take CENVAT Credit on input and input service, if the same are taken after the end of 6 months from the date of issue of invoice. Now the period is extended for one year, so the service provider can now take CENVAT credit of input as well as input service, if he claims CENVAT credit within 1 year period (wef 1st March 15) from the date of invoice.
- b) Currently CENVAT credit on Input and Capital Goods can be claimed immediately only on receipt of goods by factory of the manufacturer or in the premises of service provider. Now it is provided that the same will also be available on receipt of capital goods or inputs directly in the premises of job worker on the instruction from the manufacturer or service provider. It is necessary for manufacturer or service provider to keep requisite records, challans and memos that the input or product produced therefrom are received back by the manufacturer or service provider within 180 days from the date of receipt of goods by jobworker. However in case of capital goods, the same should be 2 years from the date of receipt of capital goods by jobworker (Wef 1st March 15).
- c) Currently in case of partial reverse charge, CENVAT credit on input service shall be allowable on payment of service charge along with service tax by service recipient. Now it is provided that the same shall be allowable immediately on payment of reverse service tax by the service recipient (wef 1st April 2015).

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