

Service Tax for Non-Profit Organisations

Services in today's spectrum of activities constitute an integral part. Today, Services cover a wide range of activities like management, banking, insurance, hospitality, administration, communication, entertainment, and various research and development activities. In today's developing world, service sector has become equally important along with the industry and other sectors of the economy. In Indian economy the share of the service sector in the GDP has risen at a very faster pace as compared to the industrial and the agricultural sector.

Services constitute a large portion of the consumption by the rich rather than the poor as the demand for services mainly depends on the income of the person.

Since services constitute a major part of the economy, the government therefore decided to tax these services due to socio economic compulsions on a selective based approach.

Service Tax was introduced on the basis of the recommendations made in early 1990's by the tax reform committee headed by Dr. Raja Chelliah. The committee had pointed out that the indirect taxes at the central level should be neutral in relation to the production and consumption of goods and should cover commodities and services.

The basic objective of introduction of Service Tax is to broaden the tax base, augmentation of revenue and larger participation of citizens in the economic development of the nation. To help in achieving this objective, Service Tax was introduced in India in 1994, Chapter V of the Finance Act, 1994 (32 of 1994) (Section 64 to 96). Certain services were listed in the Act to be covered under the purview of the Service Tax. The Act is applicable to the whole of India except the State of Jammu & Kashmir.

Service Tax is administered by the Central Excise Commissionerates working under the Central Board of Excise & Customs, Department of Revenue, Ministry of Finance, Government of India.

Taxable Services

Service Tax is levied on certain specified taxable services and the responsibility of payment of the tax is cast on the service provider. In total there are 50 services which have been covered under the purview of Service Tax. Moreover 7 new services w.e.f. 1st July'2003 have been brought under the Service Tax Act taking the total service under the Service Tax Act to 57. Also the applicability of 3 services has been extended.

Non-Profit Organisations utilise the services of certain service providers for the proper functioning of their organisation. For providing the services, the service provider raises invoices/bills in which the service provider charges the service tax. The service tax charged is on the gross value of the service provided. The service tax thus collected is deposited by the service provider with the Government. Therefore the onus to collect and deposit the service tax with the

Government is on the service provider and not on those to whom the service has been rendered. For example, the organisation might be using the services of a Chartered Accountant for their Statutory Audit for which the Chartered Accountant raises professional bill comprising of audit fees and service tax @ 8% on audit fees. The organisation along with the audit fees also have to pay to the Chartered Accountant the service tax @ 8%. In turn the Chartered Accountant would deposit the service tax amount collected from the organisation with the Government.

Some of the services where the service provider may collect service tax from the non-profit organisation to whom they have rendered the service are:

1. Advertising Agency's Services
2. Air Travel Agents' Services
3. Architect's Service
4. Authorised Service Station's Service
5. Cable Service
6. Cargo Handling Services
7. Clearing & Forwarding Agent's Services
8. Chartered Accountant's Services
9. Company Secretary's Services
10. Consulting Engineer's Services
11. Convention Services
12. Cost and Work Accountant's Services
13. Courier Services
14. Custom House Agent's Services
15. Dry Cleaning Service
16. Event Management Service
17. Facsimile Services
18. General Insurance Services
19. Life Insurance Business
20. Management Consultant's Services
21. Mandap Keeper Services
22. Manpower Recruitment Agency's Services
23. Photography Services
24. Port Services
25. Rail Travel Agent's Services
26. Real Estate Agent's Services
27. Rent-a-cab Scheme operator's Services
28. Security Agency's Services
29. Stock Broker's Services
30. Storage & Warehousing Services
31. Telegraph Services
32. Telephone & Pager Services
33. Telex Services
34. Tour Operator's Services

In case a non-profit organisation is providing services of the above nature, then they are also liable to collect tax from the persons to whom they are rendering the services and also deposit it with the Government.

However, any services provided by any person to the United Nations or any international organisation declared by the Central Government are exempt from the Service Tax applicability.

Some of the services where the non-profit organisations can be the service providers are: -

1. Convention Services: Any formal meeting or assembly which is not open to the general public and which does not include a meeting or assembly solely for amusement, entertainment or recreation are covered under this service. If any seminar is organized for Public Interest, then in that case, it would not be covered under the purview of the Service Tax Act. It is thus evident that if conventions are organized for Commercial purposes, then only such conventions fall under the category of taxable service.

2. Event Management Services: Event Management means any service provided in relation to planning, organizing or presentation of any arts, entertainment, business, sports or other event and includes any consultation provided in this regard.

3. Management Consultant's Services: Management consultant means any person who is engaged in providing any service in connection with the management of any organisation in any manner and includes any person who renders any advice, consultancy or technical assistance, relating to devising, development, modification, or upgradation of any working system of any organisation. Activities like policies regarding organisation structure and human resources, planning of capital structure and raising finance etc., are covered under Management Consultant's services.

4. W.e.f from July 1, 2003, seven new services have been included under the purview of Service Tax. One of the services for which a non-profit organisation can be liable to charge Service Tax is Services provided by Commercial Training and Coaching Centre. However vide Notification no: 9/2003-Service Tax dated 20th June 2003 vocational coaching and training services provided by typing and shorthand institutes, TV/vehicle repair training institutes, tailoring training institutes, foreign language institutes, computer training centers, hobby classes, institute teaching dancing, painting etc., would not be charged to service tax. It has also been clarified that service tax here is only on institutions and establishments.

However in case of an Advertising Agency's Services where a charitable organisation receives advertisement from various persons for publishing souvenir in the publication being brought out by the organisation, service tax liability will not be attracted if the institution has received advertisements directly without the intervention of any advertising agency since the purpose of such an organisation is charitable in nature and not commercial in nature. However if the organisation engages the services of an advertising agency for canvassing advertisements for publications in their souvenir, then the organisation becomes a client to the advertising agency and accordingly would

be liable to pay service tax.

Rate of Tax

Every person providing taxable services mentioned under the Act to any other person shall pay the Service Tax at the rate of 5 % up to 13th May 2003 and 8%, w.e.f 14th May 2003, on the gross value of the taxable services provided.

Registration

~ Every person responsible for collecting the Service Tax has to make an application to the concerned Superintendent of Central Excise in Form No. ST-1 for registration within 30 days from the date on which the Service Tax is levied under the Service Tax Act or within 30 days from the date of commencement of business (in case of new business).

~ If a person responsible for collecting the service tax provides taxable services from more than one premise or offices but have a centralised billing system in respect of services rendered to its clients from such premises or offices, he may opt for registering only the premises or offices from where such centralised billing is done.

~ However, if the person responsible for collecting the service tax does not have any centralised billing system, assessee shall have to make separate applications for registration in respect of each such premises or offices to the concerned Superintendent of Central Excise.

~ Where the person is providing more than one taxable service, he may make a single application mentioning all the taxable services being provided.

~ The registration certificate shall be granted by the Superintendent of Central Excise, after due verification, in Form No. ST-2 within 7 days from the date of receipt of application. If the registration certificate is not granted within the said period, then the registration applied for shall be deemed to have been granted automatically.

~ In case of transfer of business by a registered assessee to another person, the transferee shall have to obtain a fresh Certificate of Registration.

~ In case the assessee who ceases to provide the taxable services for which he is registered, then the assessee shall surrender the registration certificate immediately.

Payment of Service Tax

~ The Service Tax which has been collected by Individuals and Firms, during any quarter, on any taxable service, has to be paid to the credit of Central Government by the 25th of the month immediately succeeding the said quarter in Form TR-6. (i.e. for quarters ending 30th June, 30th September, 31st December and 31st March, the tax should be deposited by 25th July, 25th October, 25th January and 25th April respectively).

~ In case of any other assessee's other those mentioned above, the tax on the value of taxable services, received during any calendar month has to be paid in Form TR-6 to the credit of Central Government by the 25th of the immediately succeeding month.

Return of Tax

~ Every assessee shall submit a half yearly return in Form ST-3, along with proof of deposit of tax, in triplicate for the months covered in the half yearly return. The returns should be submitted by the 25th of the succeeding half year. (i.e. for the half year ending 30th September and 31st March, the returns should be submitted by 25th October and 25th April respectively).

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