

Notification No.22/2016-ST dated 13.04.2016] & [Circular No.192/02/2016-Service Tax dated 13.04.2016

Exemptions in respect of various service provided by Government, Local authority etc. to the business entity

Exemption under entry 39 of the mega exemption is expanded and entry 54 to entry 63 has been inserted in the mega exemption notification, wherein various services provided by the government or a local authority have be exempted. Further, various clarifications has been issued in this regard vide *Circular No.192/02/2016-Service Tax dated 13.04.2016* as under:

- ✓ ***Entry 39 is expanded to Government/ local authority:*** Regulation of land-use, construction of buildings and other services listed in the Twelfth Schedule to the Constitution being entrusted to Municipalities under Article 243W of the Constitution, when provided by governmental authority was already exempted under entry 39 of the mega exemption notification. The said exemption is further expanded in case such services are provided by Government or a local authority.
 - ✓ ***Exemption to passport etc:*** Services by way of issuance of passport, visa, driving licence, birth certificate or death certificate is exempt;
 - ✓ ***Exemption to Taxes, cesses or duties:*** Taxes, cesses or duties levied are not consideration for any particular service as such and hence not leviable to Service Tax. For Example: excise duty, customs duty, Service Tax, State VAT, CST, income tax, wealth tax, stamp duty, taxes on professions, trades, callings or employment, octroi, entertainment tax, luxury tax and property tax;
 - ✓ ***Basic exemption upto Rs.5,000/-:*** Services where the gross amount charged for such services does not exceed Rs. 5000/- or Rs.5,000 in a financial year in case of the continuous supply of services. However, this basic exemption shall not apply to the services specified in section 66D(a)(i), (ii) and (iii) of the Finance Act, 1994;
 - ✓ ***Fines/ penalties are exempted:*** Fines and penalty chargeable by Government or a local authority for violation of a statute, bye-laws, rules or regulations are not leviable to Service Tax. Further, fines or liquidated damages payable for tolerating non-performance of a contract entered with the Government or the local authority is also exempted;
 - ✓ ***Registration, testing charges etc. paid as per any law is exempted:*** Services provided by way of registration, testing, calibration, safety check or certification relating to protection or safety of workers, consumers or public at large, required under any law for the time being in force is exempted;
- Other Exemptions:***
- ✓ Services by way of assignment of right to use natural resources to an individual farmer for the purposes of agriculture;

- ✓ Services by way of any activity in relation to any function entrusted to a Panchayat under article 243G of the Constitution;
- ✓ Services by way of assignment of right to use any natural resource where such right to use was assigned by the Government or the local authority before the 1st April, 2016 in respect of the on one time charge payable, in full upfront or in installments, for assignment of right to use such natural resource;
- ✓ Services by way of allowing a business entity to operate as a telecom service provider or use radiofrequency spectrum during the financial year 2015-16 on payment of licence fee or spectrum user charges, as the case may be;
- ✓ Services by way of deputing officers after office hours or on holidays for inspection or container stuffing or such other duties in relation to import export cargo on payment of Merchant Overtime charges (MOT).

It is important to note that other than the above exemptions, any activity undertaken by Government or a local authority against a consideration constitutes a service and the amount charged for performing such activities is liable to Service Tax. It is immaterial whether such activities are undertaken as a statutory or mandatory requirement under the law and irrespective of whether the amount charged for such service is laid down in a statute or not. As long as the payment is made (or fee charged) for getting a service in return (i.e., as a quid pro quo for the service received), it has to be regarded as a consideration for that service and taxable irrespective of by what name such payment is called. For instance, Service Tax is leviable on any payment, in lieu of any permission or license granted by the Government or a local authority.