

Changes in Service Tax 2015

Service Tax – Budget 2015

1. Change in Service Tax Rate

The Service tax Rate is being increased from 12% plus Education cess to 14%. The 'Education Cess' and 'Secondary and Higher Education Cess' shall be subsumed in the revised rate of service tax. Thus, effective increase in Service Tax rate will be from existing rate of 12.36% (inclusive of cesses) to 14%.

The new Service Tax rate shall come into effect from a date to be notified by the Central Government after the enactment of the Finance Bill, 2015.

Comment: after enactment the rate of service tax would be 14% and in ST-3 returns for the period April 2015 to Sept 2015, the liability of service tax should be bifurcated with regard to 12.36% and 14% respectively.

2. Swachh Bharat Cess

An enabling provision is being made to empower the Central Government to impose a Swachh Bharat Cess on all or any of the taxable services at a rate of 2% of the value of such taxable services with the objective of financing and promoting Swachh Bharat initiatives.

This Cess shall be levied from a date to be notified by the Central Government in this regard and will not have immediate effect.

Comment: *The cess is generally calculated on Tax. However the amendment proposed levies the cess on value of service, therefore if the same would be implemented the total rate of service tax would be 16%. FM has kept the option of levying this even on selected services and with such date as may be required.*

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3. Service provided by Government to Business Entity has been bought into tax net

Presently, services provided by Government or a local authority, excluding certain services specified under clause (a) of section 66D, are covered by the Negative List. `Service Tax applies on the “support service” provided by the Government or local authority to a business entity. An enabling provision is being made, by amending section 66D (a) (iv), to exclude all services provided by the Government or local authority to a business entity from the Negative List and consequently the same is liable to service tax. Consequently, the definition of “support service” [section 65B (49)] is being omitted.

Accordingly, as and when this amendment is given effect to, all services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any another entry in the Negative List, shall be liable to service tax.

Effective date would be from the date to be notified after the enactment *Comment: All other services provided by Govt. to other than Business Entity would be continued to be out of the service tax (except for few exceptions)*

4. Manufacture or production of alcoholic liquor for human consumption bought into tax net

Clause (f) of the 66 D has been amended to exclude the “services provided by way of any processes which is amounting to manufacture of alcoholic liquor for human consumption”. Accordingly the definition of the word “process amounting to manufacture” has been amended. Consequently Notification 25/2012-ST dated 20.06.2012 is also amended to remove the exemption of carrying out an intermediate production process as job work in relation to alcoholic liquor for human consumption.

Accordingly in case of manufacture of alcoholic liquor for human consumption is outside the negative list.

Effective date would be from the date to be notified after the enactment *Comment: Alcoholic liquor for human consumption is a state subject covered under Entry 84 of List II of the*

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Schedule VII of the Constitution and hence this amendment encroaches into the State Subject without the authority, which in the opinion of the paper writers can be challenged.

5. Lottery distributor or selling agent and foreman of chit fund

Service in relation to promotion, marketing, organizing, selling of lottery or facilitating in organizing lottery of any kind by a lottery distributor or selling agent is propose to tax by replacing the Explanation 2 to section 65 B (44) of the Finance Act, 1994. Consequently, there is an amendment proposed in valuation provision section 67 to include amount retained by the distributor or selling agent of lottery from gross sale amount of lottery ticket. (Margin) or discount received in the definition of 'consideration'. Further the responsibility to pay service tax has been imposed on the recipient of the service, vide amendment to Service Tax Rules, 1994 and Notification 30/2012-ST dated 20.06.2012.

The expressions "lottery distributor or selling agent" has been inserted vide 65 B (31A). As per the interpretation given "lottery distributor or selling agent" means any person appointed or authorized by the respective state governments as per the provisions of Lotteries Regulations Act, 1998

Effective date would be from the date to be notified after the enactment

6. Foreman of chit fund

Service by a foreman of chit fund for conducting or organizing a chit in any manner is propose to tax by replacing the Explanation 2 to section 65B (44) of the Finance Act, 1994. Consequently Notification 26/2012-ST dated 20.06.2012, has been deleted, which provided abatement for the chit fund.

Effective date would be from the date to be notified after the enactment

Comment: *This amendment has been proposed to overcome the decision on Hon'ble Delhi High Court in the case of Delhi Chit Fund Association Case. Earlier the entire chit fund installments were intended to be taxed, however now the taxability is restricted to Foreman of chit fund.*

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7. Taxability of Amusement facilities and entertainment events

The negative list Entry vide section 66 D (J) providing "Admission to entertainment events or access to amusement facilities" has been proposed to be deleted, making this activity taxable. Consequently Section 25/2012-ST dated 20.06.2012 has been amended to provide exemption for the following

- a. Admission to a museum, national park, wildlife sanctuary, tiger reserve or zoo
- b. Admission to Exhibition of cinematographic film, circus, dance, or theatrical, performance including drama or ballet
- c. Admission to any sporting event organised by a recognised sports body where the participating team or individual represent any district, state, zone or country
- d. Admission to any sporting event organized
- e. by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone;
- f. by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India or Special Olympics Bharat;
- g. by Central Civil Services Cultural and Sports Board;
- h. as part of national games, by Indian Olympic Association; or
- i. under Panchayat Yuva Kreedha Aur Khel Abhiyaan (PYKKA) Scheme
- j. Admission to award function, concert, pageant, musical performance or any sporting event other than a sporting event covered under (b) & (c) where the consideration for admission is not more than Rs.500 per person

Effective date would be from the date to be notified after the enactment

Comment: *Entertainment events or access to amusement facilities is a state subject covered under Entry 62 of List II of the Schedule VII of the Constitution and hence this amendment encroaches into the State Subject without the authority, which in the opinion of the paper writers can be challenged.*

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8. Amendment to principles of interpretation

An illustration has been added after Section 66F sub-section (1) to illustrate that agency service provided by other Banks to RBI is a input service for the service provided by RBI and hence the Bank cannot claim the said exemption.

Effective date would be from the date to be notified after the enactment

Comment: This is an example that to state that the reference to main service does not include the reference to sub-service used for providing the main service.

9. Widen the term consideration for levy of service tax

Explanation inserted in Section 67 clause (a) (ii) the term consideration, includes the value of reimbursement of expenses claimed in the provision of output service.

Effective date would be from the date to be notified after the enactment

Comment: This amendment is proposed to overcome the decision of Hon'ble Delhi High Court in case of M/s. Intercontinental Consultants.

10. Recovery of service tax without service of notice

A new sub-section (1B) has been proposed after section 73 (1A) to provide that recovery of the service tax amount self-assessed and declared in the return but not paid shall be recovered as per the modes illustrated under section 87, without service of any notice under sub-section (1) of section 73.

Effective date would be from the date to be notified after the enactment

11. Withdrawal of Concessional Penalty for entry in specified books

Sub-section (4A), which provides for reduced penalty if true and complete details of transaction were available on specified records, in the cases of fraud, collusion, willful misstatement, suppression of facts or contravention of any of the provisions of this Act is proposed to be omitted.

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Effective date would be from the date to be notified after the enactment

12. Changes to penalty provisions

- a) Section 76 is being amended to rationalize penalty for non-payment/short payment or erroneously refund (Where there is no involvement of fraud or collusion or willful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax) the penal provision in the following manner,-
- (i) Penalty not to exceed ten per cent of service tax amount involved in such cases;
 - (ii) No penalty is to be paid if service tax and interest is paid **within 30 days of issuance of notice** under section 73(1);
 - (iii) A reduced **penalty equal to 25% of the penalty imposed** by the Central Excise officer by way of an order is to be paid if the service tax, interest and reduced penalty is paid within 30 days of such order; and
 - (iv) If the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty (25%) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.
- b) Section 78 is also amended to rationalize penalty for non-payment/short payment or erroneously refund, (where there is involvement of fraud or collusion or wilful mis-statement or suppression of facts or contravention of any provision of the Act or rules with the intent to evade payment of service tax) in the following manner,-
- (i) Penalty shall be hundred per cent of service tax amount involved in such cases;
 - (ii) Penalty **equal to 15%** (earlier it was 25%) of the service tax amount is to be paid if **service tax, interest and reduced penalty is paid within 30 days of service of notice** in this regard;
 - (iii) A reduced penalty equal to 25% of the service tax amount determined by the Central Excise Officer, by an order, is to be paid if the service tax, interest and reduced **penalty is paid within 30 days of such order**; and
 - (iv) If the service tax amount gets reduced in any appellate proceeding, then penalty amount shall also stand modified accordingly, and benefit of reduced penalty

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(25%) shall be admissible if service tax, interest and reduced penalty is paid within 30 days of such appellate order.

Section	Involving Suppression	Penalty – Normal	If paid within 30 days from SCN	If paid within 30days from OIO
76	No	10%	Nil	25% of Penalty
78	Yes	100%	15%	25% of ST

Effective date would be from the date to be notified after the enactment

Comment: *This amendment to some extent rationalizes the penalty provision; the benefit of the penalty in cases where the transactions was recorded in the books of accounts has been removed.*

13. Transitional provision for sections 76 and 78

A new section 78B is being proposed for fixing the effective date for the new penal provision as under

- a. For the cases, where No SCN is service upto the enactment of Finance Bill 2015
- b. For the cases where SCN has been served but the order is not passed as on the date of enactment Finance Bill 2015
- c. For the cases covered under the benefit of the provision of section 73(4A) (this provides for the concessional penalty in case there transaction on which service tax was not paid, was recorded in the specified accounts) upto to enactment would be eligible for penalty at 50% of the service tax even after the enactment.

Effective date would be from the date to be notified after the enactment

14. Section empowering for waiver of penalty has been withdrawn

As per the new amendments, Section 80 proposed to be deleted. This section gave discretion to waive penalties in case of reasonable cause.

Effective date would be from the date to be notified after the enactment

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Comment: *This deletion makes the penalties mandatory further the discretion power has been removed, which would help trade.*

15. Rejection of rebates appeal jurisdiction changed to Central Government.

Appeal for the rejection of the rebate of the input service claimed was before the CESTAT; however, with the proposed amendment that matters involving rebate of service tax shall be dealt with Central Government in terms of Section 35EE of the Central Excise Act. The cases filed before the CESTAT for the between 2012 and this enactment would be transferred from CESTAT to Revision Authority.

Effective date would be from the date to be notified after the enactment

16. Changes in Reverse Charge Mechanism

3 new services are brought under the reverse charge, which are as under:

- a. Services provided or agreed to be provided by a mutual fund agent or distributor, to a mutual fund or asset management company, where in mutual fund or asset management company is liable for payment of service tax to the extent of 100%
- b. Services provided or agreed to be provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent are bought, wherein the Organizer is liable for service tax
- c. Service provided or agreed to be provided by a person involving an aggregator in any manner the recipient of the service is liable to pay service tax. Aggregator means a person, who owns and manages a web based software application, and by means of such application enables a potential customer to connect with service provider under the brand name or trade name of the aggregator. This may cover the marketing/ advertising intermediaries assisting the intelligent location of potential customers for the product/ service.

In case of the existing supply of manpower and security agency services now the recipient has to pay the full 100% tax, which was 75% earlier.

Effective date would be from 01.04.2015 (Effective date would be 1st March, 2015 for point C)

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17. Withdrawal of Exemption

Existing exemption, vide notification No. 42/12-ST dated 29.6.2012, to the service provided by a commission agent located outside India to an exporter located in India is being rescinded with immediate effect.

Comments: *This exemption has become redundant in view of the amendments made in law in the previous budget, in the definition of “intermediary” in the Place of Provision of Services Rules, 2012 making the place of provision of a service provided by such agents as outside the taxable territory.*

18. Enhancement of GTA Exemption with respect to exports

Goods transport agency service provided to an exporter in relation to transport of export goods by road was exempted in case where such goods are transported from the place of removal to an inland container depot, a container freight station, a port or airport. Now the scope of this exemption is widened to transport of such goods from place of removal even to the Land Customs Station is exempted.

Date Effective From: April 1, 2015

19. Simplification in Registration process

Registration process for Service Tax has been simplified and amended in this regard Order No. 1/15-ST, dated 28.2.2015, effective from 1.3.2015 has been issued, prescribing documentation, time limits and procedure for registration. Following are the key instructions specified in the said order:

- Requirement of PAN No. is mandatory for registration;
- Registration for single premises shall be granted within **two days** of filing the application. Registration Certificate downloaded from the ACES web site would be accepted as proof of registration dispensing with the need for a signed copy.
- Applicant shall quote the email address and mobile number. Further, existing registrants who have not submitted this information are required to file an amendment application by **30-4-2015**.

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- Documentation required to be submitted along with registration certificate are as follows:
 - a. Copy of the PAN Card of the proprietor or the legal entity registered.
 - b. Photograph and proof of identity of the person filing the application namely PAN card, Passport, Voter Identity card, Aadhar Card, Driving license, or any other Photo-identity card issued by the Central Government, State Government or Public Sector Undertaking.
 - c. Document to establish possession of the premises to be registered such as proof of ownership, lease or rent agreement, allotment letter from Government, No Objection Certificate from the legal owner.
 - d. Details of the main Bank Account.
 - e. Memorandum/Articles of Association/List of Directors.
 - f. Authorisation by the Board of Directors/Partners/Proprietor for the person filing the application.
 - g. Business transaction numbers obtained from other Government departments or agencies such as Customs Registration No. (BIN No), Import Export Code (IEC) number, State Sales Tax Number (VAT), Central Sales Tax Number, Company Index Number (CIN) which have been issued prior to the filing of the service tax registration application.

Effective Date: March 1, 2015

20. Invoice can now be authenticated digitally, records can be preserved in electronic form

Any invoice, bill, challan or a consignment note issued under this act can now be authenticated by way of digital signatures. Further, option is given to preserve records as specified under these rules in electronic form and every page of the record so preserved shall be authenticated by means of a digital signature. The conditions and procedure in this regard shall be specified by the CBEC.

Effective Date: March 1, 2015

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21. Revision of taxable value/rate for certain services due to change in the rate of Service Tax

In respect of certain services like money changing service, service provided by air travel agent, insurance service and service provided by lottery distributor and selling agent, the service provider has been allowed to pay service tax at an alternative rate subject to the conditions as prescribed under the Service Tax Rules, 1994. Consequent to the upward revision in Service Tax rate, the said alternative rates has been revised proportionately as tabulated below:

Air Travel Agent:

In the case of	Current Rate	New Rate
Domestic bookings of passage for travel by air	0.6% of the basic fare	0.7% of the basic fare
International bookings of passage for travel by Air	1.2% of the basic fare	1.4% of the basic fare

Effective Date: As and when the revised Service Tax rate comes into effect.

Insurer Carrying on Life Insurance Business:

Period	Current Rate	New Rate
First year	3% of the gross amount of premium charged	3.5% of the gross amount of premium charged
Subsequent Year	1.5% of the gross amount of premium charged	1.75% of the gross amount of premium charged

Effective Date: As and when the revised Service Tax rate comes into effect.

Sale/purchase of foreign currency including money changing

For an amount	Current Rate	New Rate
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Upto Rs.100,000	0.12% of the gross amount of currency exchanged or Rs.30 whichever is higher	0.14% of the gross amount of currency exchanged or Rs.35 whichever is higher
Exceeding Rs.1,00,000 and upto Rs.10,00,000	Rs.120 + 0.06% of the (gross amount of currency Exchanged - Rs.1,00,000)	Rs.140 + 0.07% of the (gross amount of currency Exchanged - Rs.1,00,000)
Exceeding Rs.10,00,000	Rs.660 + 0.012% of the (gross amount of currency exchanged - Rs.10,00,000) or Rs.6,000/- whichever is lower	Rs.770 + 0.014% of the (gross amount of currency Exchanged - Rs.10,00,000) or Rs.7,000/- whichever is lower

Effective Date: As and when the revised Service Tax rate comes into effect.

Services of promotion, marketing or organising/assisting in organising lottery

Particulars	Current Rate	New Rate
Where the guaranteed lottery prize payout is > 80%	Rs.7000/- on every Rs.10 Lakh (or part of Rs.10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.	Rs.8,200/- on every Rs.10 Lakh (or part of Rs.10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.
Where the guaranteed lottery prize payout is < 80%	Rs.11,000/- on every Rs.10 Lakh (or part of ` 10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.	Rs.12,800/- on every Rs.10 Lakh (or part of Rs.10 Lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.

Effective Date: As and when the revised Service Tax rate comes into effect.

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22. Ambulance services are now exempted

Any service provided by way of transportation of a patient to and from a clinical establishment by a clinical establishment is exempt from Service Tax. The scope of this exemption is being widened to include all ambulance services.

Effective Date: April 1, 2015

23. Certain Construction services provided to Government, a local authority, or a governmental authority are now taxable

Construction, repair etc of the following provided to the Government, a local authority, or a governmental authority are now taxable:

- a civil structure or any other original works meant predominantly for other than commercial purposes;
- of a structure for use as an educational, a clinical, or an art or cultural establishment;
- Residential complex for self-use or the use of the employees.

Effective Date: April 1, 2015

24. Services of construction, erection etc of airport or port shall now be taxable

Original work of Construction, erection, commissioning or installation pertaining to an airport or port is now taxable.

Effective Date: April 1, 2015

25. Exemption to artists in folk or classical form is now restricted for consideration upto Rs.1,00,000/-

Exemption to services provided by a performing artist in folk or classical art form of (i) music, or (ii) dance, or (iii) theatre, is now limited only to such cases where the amount charged the artist is upto Rs.1,00,000 for the performance.

Effective Date: April 1, 2015

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26. Exemption for Transportation of foodstuff by Rail, road or vessel is limited to certain products only

Exemption to transportation of food stuff by rail, or vessels or road is now limited to the transportation of food grains, rice and pulses, flour, milk and salt. Therefore, transportation by rail, or vessels or road of tea, coffee, jaggery, sugar, milk products, edible oil is now taxable.

Effective Date: April 1, 2015

27. Exemption for certain public telephone services are now withdrawn

Exemption is being withdrawn on the following services:

- (a) Departmentally run public telephone;
- (b) Guaranteed public telephone operating only local calls;
- (c) Telephone calls from free telephone at airport and hospital.

Effective Date: April 1, 2015

28. Services of exhibition of movie by exhibitor to distributor is exempted

Service of exhibition of movie by the exhibitor (theatre owner) to the distributor is exempted. Further, Service of exhibition of movie by the exhibitor (theatre owner) to an association of persons (where such exhibitor is one of the members of such association) is also being exempted.

Effective Date: April 1, 2015

29. Life Insurance Exemptions

Life insurance service provided by way of Varishtha Pension Bima Yojna is being exempted.

Effective Date: April 1, 2015

30. Operation of Common Effluent Treatment Plant

Service provided by a Common Effluent Treatment Plant operator for treatment of effluent is being exempted.

Effective Date: April 1, 2015

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31. Certain Post Agricultural Processes exempted.

Services by way of pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetables is being exempted.

Effective Date: April 1, 2015

32. Changes in Abatements

The following changes as been made in abatement 26/2012 Service Tax dated 20.06.2012:

- a. No CENVAT on inputs, capital goods and input services for the "Transport of goods by Rail" & "Transport of passengers, with or without accompanied belongings by rail"
- b. Taxable value for transport of passengers by air, with or without accompanied in other than economy class has been increased to 60% from 40% (Serial No.5)
- c. Taxable value towards goods transport agency services has been enhanced from 25% to 30%. (Serial No. 7)
- d. Taxable Value towards transport of goods in a vessel from one port in India to another has been reduced to 30% from 40%.

Effective date would be from 01.04.2015

33. Advance Ruling benefit is extended to Resident Firms

The facility of Advance Ruling is being extended to all 'resident firms' which includes LLP, sole proprietorship, One person company. Earlier the benefit of advance ruling was available only for non-residents and body corporate.

Effective Date: March 1, 2015

CHANGES TO CENVAT CREDIT RULES 2004:**34. Cenvat credit on goods directly dispatched to job worker**

Rule 4 of CCR 2004 has been amended to provide for Cenvat credit in respect of receipt of inputs/ capital goods directly by job worker when such goods are sent directly on direction of manufacturer or the provider of output service.

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35. Time limit of one year for availing the Cenvat credit

Rule 4 has been amended to provide for time limit of one year as against 6 months for availing the Cenvat credit on inputs and input services from the date of invoice.

36. Cenvat immediately on payment of tax in partial reverse charge

Rule 4(7) is being amended to allow Cenvat Credit of Service Tax paid under partial reverse charge by the service receiver without linking it to the payment to the service provider. This change will come into effect from 1.4.2015.

37. Cenvat credit in case of goods sent for job work

Rule 4(5) (a) has been amended to provide for Cenvat credit on inputs even if inputs are directly sent to job worker. The goods sent to job worker can be moved to another job worker as well. However, it shall be ensure that the goods are received back by the manufacturer within 180 days from the date of sending such goods. In case the goods are sent to job worker premises without first receiving into factory by manufacturer, then 180 days shall be counted from date of receipt of goods by job worker.

38. Increase in time limit for receipt of Capital goods sent for job work

The time limit for receipt of capital goods sent for job work has been increased from 180 days to two years.

39. Cenvat credit on input service on payment of tax

Rule 4(7) has been amended to provide for Cenvat credit of service tax paid on payments made for the services received partially as well.

40. Export goods defined

Rule 5 has been amended to provide that the 'Export goods' means any **goods which are to be taken out of India to a place outside India** for the purpose of claiming the refund.

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41. Exempted goods include non-excisable goods

Rule 6 has been amended to provide that the exempted goods shall include even non-excisable goods and the value of invoice shall be considered for ascertaining the eligible / ineligible Cenvat credit.

42. Penal provisions would attract even if credit availed but not utilized

Rule 14 has been amended to provide for penal provisions even if Cenvat credit has been taken but not utilised.

43. Manner of utilisation of credit provided

In Rule 14 it has been provided that all credits taken during a month shall be deemed to have been taken on the last day of the month and the utilisation thereof shall be deemed to have occurred in the following manner, namely: - (i) the opening balance of the month has been utilised first; (ii) credit admissible in terms of these rules taken during the month has been utilised next; (iii) credit inadmissible in terms of these rules taken during the month has been utilised thereafter.

All Cenvat credit related changes otherwise provided would be effective from 01.03.2015.

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