

SERVICE TAX

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

- 1) Service of permitting commercial use or exploitation of any event organized by a person or organization.
- 2) The existing taxable service 'Intellectual Property Right (IPR)' excludes copyright from its scope. Copyrights on (a) cinematographic films and (b) sound recording are being brought under the ambit of service tax. However, copyright on original literary, dramatic, musical and artistic work would continue to remain outside the scope of service tax.
- 3) Service tax on the following health services:
 - (a) health check up undertaken by hospitals or medical establishments for the employees of business entities; and
 - (b) health services provided under health insurance schemes offered by insurance companies.

(The tax on these health services would be payable only if the payment for such health check up or preventive care or treatment etc. is made directly by the business entity or the insurance company to the hospital or medical establishment).

- 4) Service provided for maintenance of medical records of employees of a business entity.
- 5) Service provided by Electricity Exchanges.
- 6) Certain additional services provided by a builder to the prospective buyers such as providing preferential location or external or internal development of complexes on extra charges. However, service of providing vehicle-parking space would not be subjected to tax.
- 7) Service of promoting of a 'brand' of goods, services, events, business entity etc.
- 8) The promotion, marketing or organizing of games of chance, including lottery, is being introduced as a separate service. Consequently, the Explanation in provision relating to Business Auxiliary Service is being deleted.

The above changes will come into effect from a date to be notified, after the enactment of Finance Bill, 2010.

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

- 1) The scope of air passenger transport service is being expanded to include domestic journeys, and international journeys in any class.
- 2) At present, in the case of Information Technology Software Service the levy of tax is limited only to cases where IT software is used for furtherance of business or commerce. The scope of the taxable service is being expanded to cover all cases irrespective of its use.
- 3) In the case of 'Commercial training or coaching' service, an Explanation is being added to clarify that the term 'commercial' in the context of this service would mean any training or coaching, which is provided for a consideration, whether or not for profit. This change is being given retrospective effect from 01.07.2003.
- 4) In the definition of 'Sponsorship Service', the exclusion relating to sponsorship pertaining to sports is being removed.
- 5) In the 'Construction of complex service', it is being provided that unless the entire consideration for the property is paid after the completion of construction (i.e. after receipt of completion certificate from the competent authority), the activity of construction would be deemed to be a taxable service provided by the builder/promoter/developer to the prospective buyer and the service tax would be charged accordingly.
- 6) Amendments are being made in the definition of the 'Renting of immovable property service' to,-
 - (i) provide explicitly that the activity of 'renting' itself is a taxable service. The change has been given retrospective effect from 01.06.2007; and
 - (ii) levy service tax on rent of vacant land where there is an agreement or contract between the lessor and lessee for undertaking construction of buildings or structures on such land for furtherance of business or commerce during the tenure of the lease.
- 7) Definitions of 'Airport Services', 'Port services' and 'Other port services' are being amended to provide that,-
 - (a) all services provided entirely within the airport/port premises would be classified under these services; and
 - (b) an authorization from the airport/port authority would not be a pre-condition for taxing these services.

- 8) An explanation is being added in 'Auctioneer's service' to clarify that the phrase 'auction by government' means an auction involving sale of government property and not when the government acts as an auctioneer for sale of the private property.
- 9) Definition of 'Management of Investment under ULIP Service' is being amended to provide that the value of the taxable service for any year of the operation of policy shall be the actual amount charged by the insurer for management of funds under ULIP or the maximum amount of fund management charges fixed by the Insurance Regulatory and Development Authority (IRDA), whichever is higher.

The above changes will come into effect from a date to be notified, after the enactment of Finance Bill, 2010.

III. AMENDMENTS IN ACT:

Chapter V of the Finance Act, 1994 is being amended to,-

- a) insert an explanation in sub-section (3) of Section 73 to clarify that no penalty shall be imposed where service tax along with interest has been paid before issuance of notice by the department under this sub-section.
- b) provide definition of the term 'business entity' to include an association of persons, body of individuals, company or firm but not an individual.

The above changes at (a) will come into effect from a date of enactment of the Finance Bill, 2010 and (b) from a date to be notified after the enactment of Finance Bill, 2010.

IV. EXEMPTIONS:

- 1) Statutory taxes charged by the foreign governments are being excluded from taxable value for levy of service tax under the Air passenger transport service.
- 2) Exemption from service tax is being provided to services relating to 'Erection, Commissioning or Installation' of,-
 - (a) Mechanized Food Grain Handling Systems etc.;
 - (b) Equipment for setting up or substantial expansion of cold storage; and
 - (c) Machinery/equipment for initial setting up or substantial expansion of units for processing of agricultural, apiary, horticultural, dairy, poultry, aquatic, marine or meat products.
- 3) Pre-packaged I.T. software, with the license for right to its use, is being exempted from service tax, subject to specified conditions.
- 4) At present exemption from service tax is available to transport of fruits, vegetables, eggs or milk by road by a goods transport agency. The scope of exemption is being expanded to include food grains and pulses in the list of exempted goods.
- 5) Exemption from service tax is being provided to Indian news agencies under 'Online Information and Database Retrieval Service' subject to specified conditions.
- 6) Exemption from service tax is being provided to the 'Technical Testing and Analysis Service' and 'Technical Inspection and certification service' provided by Central and State seed testing laboratories, and Central and State seed certification agencies.
- 7) Exemption from service tax is being provided to the transmission of electricity.

The above changes will come into effect immediately.

V. WITHDRAWAL OR AMENDMENTS OF EXEMPTIONS:

- 1) Exemption from service tax on 'Service provided in relation to transport of goods by rail' is being withdrawn. The levy will come into effect from 01.04.2010.
- 2) Exemption from service tax, presently available to Group Personal Accident Insurance Scheme provided by Govt. of Rajasthan to its employees, under General Insurance Service is being withdrawn.
- 3) The exemption from service tax on 'Commercial training or coaching service' is being restricted to vocational training courses in the designated Trades notified under the Apprentices Act, 1961.

The above changes, except at S. No.1, will come into effect immediately.

VI. AMENDMENTS IN RULES AND NOTIFICATIONS:

- 1) Export of Services Rules, 2005 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 are being amended so as to move some of the specified taxable services from one category to another.

- 2) In the Export of Services Rules, 2005, the condition prescribed i.e. 'such service is provided from India and used outside India' is being deleted.
- 3) Notification No. 1/2002-ST dated 01.02.2002 is being superceded by another notification to provide that the construction and operation of installations, structures and vessels for the purposes of prospecting or extraction or production of mineral oils and natural gas in the Exclusive Economic Zone and the Continental Shelf of India and for supply of any goods connected with these activities would be within the purview of the provisions of Chapter V of Finance Act, 1994. Suitable changes are being made in the Export of Services Rules, 2005 and Taxation of Services (Provided from Outside India and Received in India) Rules, 2006.
- 4) Notification No. 5/2006-CE (NT) is being amended and given partial retrospective effect to remove the bottlenecks in refund of accumulated credit to the exporters.

The above changes will come into effect immediately.