

SIGNIFICANT NOTIFICATIONS / CIRCULARS ISSUED DURING THE PERIOD 16TH JUNE, 2012 TO 15TH JULY, 2012

A. SERVICE TAX

- 1. Pursuant to the negative list becoming effective from July 1, 2012, various consequential amendments have been made in service tax provisions which will also be put into effect from July 1, 2012. The various amendments are given hereunder:**

- i. Exemptions from levy of service tax on 39 Services**

In addition to the 17 services listed as Negative lists of services by Section 66D of Finance Act, 2012, additional 39 services had been notified to be exempt from payment of service tax vide mega exemption *Notification No. 12/ 2012-ST dt 17-03-2012*. This Notification has been rescinded by *Notification No. 25/2012 dt 20-06-2012*. Further, the new notification provides the exemptions to 39 services covered in earlier Notification with certain amendments.

[Notification No. 25/2012-ST dt 20-06-2012]

- ii. Abatement in respect of taxable services**

The Central Government had granted abatement to 11 services vide *Notification No. 13/2012 ST dt. 17-03-2012*. This Notification has been rescinded by *Notification No. 26/2012 dt 20-06-2012*. The new notification has amended the abatements given to 11 services covered in earlier Notification and extended the abatement to a new service viz. construction of complex, building, civil structure or a part thereof.

[Notification No. 26/2012-ST dt 20-06-2012]

- iii. Exemption to services provided for official use of Foreign Diplomatic Mission**

All taxable services provided by any person, for the official use of a foreign diplomatic mission or consular post in India or for personal use or for the use of the family members of diplomatic agents or career consular officers posted therein, have been exempted from whole of service tax leviable thereon subject to fulfillment of various conditions specified therein.

[Notification No. 27/2012-ST dt 20-06-2012]

- iv. Place of Provision of Service Rules, 2012**

The Place of Provision of Service Rules, 2012 have been notified vide *Notification No. 28/2012 ST dt. 20-06-2012* in place of Export of Service Rules, 2005 & Taxation of Service (Provided from Outside India & Received in India) Rules, 2006. The rules have been become effective from 01-07-2012.

[Notification No. 28/2012-STdt 20-06-2012]

- v. Exemption of property tax paid from “Renting of Immovable Property Services”**

The Central Government has granted exemption of property tax paid from “Renting of Immovable Property Services”. Hence, the property tax levied and collected by the local bodies would be excluded for calculation of value of taxable services of “renting of immovable property”. It has further been clarified that property tax shall be excluded proportionate to the period of renting of immovable property.

[Notification No. 29/2012-ST dt 20-06-2012]

vi. Reverse Charge Mechanism for service tax modified

Notification No. 15/0212-ST dt. 17-03-2012 which provided for reverse charge mechanism has been replaced by a new Notification No. 30/2012 dt 20-06-2012. The new notification provides reverse charge mechanism for 10 services and also specifies percentages of service tax payable by service provider and receiver. In the case of three notified services, both service provider and receiver would be liable to pay service tax.

[Notification No. 30/2012 dt 20-06-2012]

vii. Exemption to GTA services availed by exporter of goods

Services of goods transport agency (GTA) availed by the exporter of goods for export of goods has been exempted from payment of service tax vide Notification No. 31/2012-ST dt 20-06-2012. This notification has been issued in supersession of Notification No. 18/2009-ST dt.07-07-2009. The condition and procedure for availing exemption has been laid down in the new notification.

[Notification No. 31/2012 dt 20-06-2012]

viii. Exemption to services provided by Technology Business Incubator (TBI) & Science & Technology Entrepreneurship Park (STEP)

All taxable services provided by Technology Business Incubator (TBI) and Technology Entrepreneurship Park (STEP) recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) have been exempted from whole of service tax leviable thereon vide Notification No. 32/2012 dt 20-06-2012 subject to condition that information as required in Format-I and Format-II is furnished to concern Assistant/Deputy Commissioner by 30th June of each financial year. This notification has been issued in supersession of Notification No. 9/2007-ST dt.01-03-2007.

[Notification No. 32/2012 dt 20-06-2012]

ix. Threshold exemption limit of Rs. 10 lakh granted to service provider modified

The Central Government has issued Notification No. 33/2012 dt 20-06-2012, in supersession of Notification No. 6/2005-ST dt. 01-03-2005, which has exempted taxable service of aggregate value not exceeding Rs.10 Lacs in any financial year from the whole of the service tax leviable thereon subject to the fulfillment of conditions specified in the notification.

However, the above exemption will not apply to taxable services provided by a person under a brand name or trade name, whether registered or not, of another person and further to value of taxable services in respect of which service tax is required to be paid under reverse charge mechanism.

[Notification No. 33/2012 dt 20-06-2012]

x. Existing Notifications rescinded to harmonize the provision of negative list of services

The Central Government has rescinded 81 existing Notifications in view of the implementation of taxation of services based on negative list of services w.e.f. 1st July, 2012.

[Notification No.34/2012-ST dt. 20-06-2012]

xi. Withdrawal of Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007

The Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007 have been rescinded w.e.f. 1st July, 2012.

[Notification No.35/2012-ST dt. 20-06-2012]

xii. Amendment to Service Tax Rules, 1994

Service Tax Rules, 1994 have been amended vide *Notification No.36/2012-ST dt. 20-06-2012* to harmonize the provisions thereof with the new regime of service taxation. Further, various terms such as goods carriage, legal service, life insurance business, person liable to pay service tax, place of provision etc. have been defined for the purpose of Service Tax Rules, 1994.

[Notification No.36/2012-ST dt. 20-06-2012]

xiii. Amendments in Point of Taxation Rules, 2011 (POTR)

Following changes have been made in POTR

- i. The words “provided or to be provided” have been substituted by words “provided or agreed to be provided”.
- ii. Definitions of associated enterprises and taxable service have been omitted.
- iii. As against existing 5 services notified under “continuous supply of services” vide *Notification No. 28/2011-ST dated 01-04-2011*, only two services namely, “telecommunication services” & “service portion in execution of a works contract”.

[Notification No.37/2012-ST & 38/2012-ST both dt. 20-06-2012]

xiv. Rebate of duty/tax paid on inputs/input services used in providing services exported in terms of Rule 6A of the Service Tax Rules, 1994

The condition and procedure for granting rebate of duty paid on excisable inputs or service tax and cess paid on all input services used in providing service exported in terms of Rule 6A of the Service Tax Rules, 1994, to any country other than Nepal & Bhutan have been notified by the CBEC.

[Notification No.39/2012-ST dt. 20-06-2012]

xv. Exemption to services received by a unit in SEZ or developer of SEZ

The condition and procedure for granting exemption from whole of service tax to the services provided in relation to the authorized operations in a SEZ and received by developer/unit of SEZ has been modified through *Notification No.40/2012-ST dt. 20-06-2012* in supersession of *Notification No.17/2011-ST dt. 01-03-2011*.

[Notification No.40/2012-ST dt. 20-06-2012]

2. Education Cesses on service tax applicable even post introduction of negative list

The CBEC has clarified that education cess and secondary and higher education cess on service tax would continue to be applicable even post introduction of taxation of services based on negative list.

[Circular No. 160/11/2012 ST & Order No. 2/2012 ST dated 29-06-2012]

3. Service tax rebate for “specified services” received by exporters of goods

Notification No. 41/2012 ST dated 20-06-2012 has been issued which grants rebate (given in the form of refund) for all taxable services used for the export of goods, other than excisable goods. For excisable goods, the eligible services are the taxable services used for export of excisable goods beyond the place of removal. However, the services covered by the exclusion clause of the definition of ‘input service’ under rule 2(l) of CENVAT Credit Rules, 2004 will not be eligible for such exemption.

The rates of refund specified in the ‘Schedule of Rates’ have been enhanced in the new notification. The old *Notification No. 52/2011 dated 30-12-2011* granting such exemption has been rescinded. The Notification will be effective from July 1, 2012.

[Notification No. 41/2012-ST dated 29-06-2012]

4. Service tax exemption to exporters on commission paid to foreign commission agent

With effect from July 1, 2012, service tax paid on commission paid to foreign commission agent has been exempted to the extent of 10% of the FOB value of export of goods on the fulfillment of terms and condition defined in the Notification.

[Notification No. 42/2012-ST dated 29-06-2012]

5. Rail travel in AC coaches and transport of goods by rail exempted from service tax

The following services provided by India Railways have been exempted from service tax till 30th September, 2012:

- (i) Transportation of passengers, with or without accompanied belongings, in first class; or an air conditioned coach
- (ii) Transportation of goods

[Notification No. 43/2012 ST dated 02-07-2012]

6. New accounting codes specified for payment of service tax under the negative list approach

With effect from July 1, 2012, for payment of service tax under negative list based approach, a new Minor Head - ‘All taxable Services’ has been allotted as under:

Name of Services	Accounting codes			
	Tax collection	Other Receipts (interest on delayed payment of service tax)	Penalties	Deduct refunds (for use by the Revenue/Commissionerates while allowing refund of tax)

All Taxable Services	00441089	00441090	00441093	00441094
----------------------	----------	----------	----------	----------

The following may further be noted:

- (i) service specific accounting codes will also continue to operate, side by side, for accounting of service tax pertaining to the past period (meaning, for the period prior to 01-07-2012);
- (ii) primary education Cess on all taxable services will be booked under 00440298 and Secondary and Higher Education Cess on all taxable services will be booked under 00440426.

[Circular No. 161/12/2012 ST dated 06-07-2012]

7. Determination of POT for works contracts in progression on July 1, 2012

CBEC has clarified the following issues relating to point of taxation arising out of the amendments made vide the Budget , 2012 and subsequent amendments made effective from 01-07-2012:

- (a) Point of taxation and the applicable rate for continuous supply of services at the time of change in rates effective from 01-04-2012;
- (b) Applicability of the revised rule 2A of the Service Tax (Determination of Value) Rules, 2006 to ongoing works contracts for determination of value when the value was being determined under the erstwhile Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007; and
- (c) Applicability of partial reverse charge provisions in respect of specified services.

[Circular No. 162/13/2012 ST dated 06-07-2012]

8. No service tax on remittances from abroad

CBEC has clarified that service tax is not leviable on the amount of foreign currency remitted to India from overseas as definition of 'service' under section 65B(44) specifically excludes transactions in money.

Further, service tax would also not be leviable on the fee or conversion fee chargeable for sending such money as the company conducting the remittances and the person sending the money are located outside India. Such services are deemed to be provided outside India in terms of the Place of Provision of Services Rules, 2012.

[Circular No.163/14/2012 ST dated 10-07-2012]

9. No service tax on audit fees collected by Comptroller & Auditor General (CAG)

CBEC has clarified that audit fees collected by Comptroller & Auditor General (CAG) for conducting audit of corporations is not liable to service tax under the category of "Practicing Chartered Accountant's Services".

CBEC has further clarified that the services of CAG are also not covered under the category of "Business Support Services" since the audit activity undertaken by CAG is not an outsourced function but is carried out in statutory fulfillment of duties.

[Circular No. 159/10/2012 ST dated 19-06-2012]

CENTRAL EXCISE

1. Amendments in CENVAT Credit Rules, 2004 (CCR, 2004)

Following amendments have been made in CENVAT Credit Rules, 2004 :

- i. *Notification No. 5 /2006 CE (NT) dated 14-03-2006* prescribing, procedures, safeguards a condition and limitations for refund of CENVAT Credit under Rule 5 of CCR, 2004 has been rescinded. In its place, a new *Notification No.27/2012-CE(NT) dated 18-06-2012* has been issued to prescribe the procedures, safeguards etc. for the refund of such credit with appropriate amendments.

[Notification No. 27 /2012-CE (N.T.) dated 18-06-2012]

- ii. Pursuant to the negative list becoming effective from 01-07- 2012, consequential amendments have been made in the definitions of capital goods, input service, output service etc. Other related amendments in rule 3 to 8 have also been made to harmonise the provisions of CCR with the negative list..

[Notification No. 28/2012-CE (N.T.) dated 20-06-2012]