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Central Board of Excise & Customs



Foreword

I am happy to note that the Central Board of Excise & Customs, in association with the Directorate General of Service Tax is publishing a booklet on **F**requently **A**s ked **Q**uestions on Service Tax. This booklet will provide, in easy question-answer format, information about tax payers' rights and obligations under Service Tax. I hope this small, yet significant, step will help in securing greater voluntary tax compliance.

*New Delhi
November, 2007*

*P.C. Jha
Member
C. Excise & Service Tax*

PREFACE

“Knowledge will forever govern ignorance; and people who mean to be their own governors, must arm themselves with the power which knowledge gives.”

– James Madison

It is my pleasure to present the **Third Edition** of the Frequently Asked Questions' booklet, being published at the behest of the Central Board of Excise and Customs.

The tenet of voluntary tax compliance is the corner stone of service tax administration. It is our endeavour to place as much information about service tax procedures as possible in the public domain to preclude a non-compliance owing to lack of information and guidance. Dissemination of information and public awareness has been accorded high priority by the service tax administration. Information in the booklet is purely as a measure of public facilitation.

The Directorate has made a conscious effort to keep the language of the answers simple and crisp. The questions are truly frequently asked, as experienced by the Board, Directorate and the field formations. However, the booklet is not aimed to discuss the legal issues and exceptions.

The provisions of the relevant Finance Act, notifications and circulars or instructions of the Board shall prevail over the answers provided in this booklet in case of any contradiction. While every effort has been made to ensure that the information contained in this booklet is up-to-date, the Central Board of Excise and Customs and Directorate General of Service Tax, Mumbai do not hold themselves liable for any consequences, legal or otherwise, arising out of the use of any such information.

I sincerely acknowledge the remarkable efforts made by Shri Pawan Kumar Sinha, Additional Director and Shri Shirish Gogate, Inspector of this Directorate in bringing out this edition of the booklet. I would also like to express my appreciation and thanks to the officers of Central Excise Zone, Coimbatore, for publishing earlier a similar booklet, the contents of which were found to be very useful and have been appropriately made use of in preparing this booklet. Last but not the least, I acknowledge the contribution of the Central Board of Excise & Customs for providing their valuable inputs and guidance.

I hope that this booklet will be useful in providing basic knowledge about service tax laws and procedures. These FAQs and answers will also be available on the official website of the Central Board of Excise and Customs: www.cbec.gov.in.

This Directorate will welcome your suggestions to make this booklet more useful.

G.V.NAIK

Mumbai
November, 2007

Director General
Directorate General of Service Tax

DISCLAIMER

Information is being made available in this booklet purely as a measure of public facilitation. The provisions of *the Finance Act 1994, rules made thereunder, notifications and circulars or instructions of the Board shall prevail over the answers* provided in this booklet in case of any contradiction. While every effort has been made to ensure that the information contained in this booklet is up-to-date, the Central Board of Excise and Customs and Directorate General of Service Tax, Mumbai does not hold themselves liable for any consequences, legal or otherwise, arising out of the use of any such information.

For complete Information please refer to the Finance Act,1994, rules made thereunder and notifications and circulars. For further information you may contact jurisdictional Service Tax office.

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SERVICE TAX FREQUENTLY ASKED QUESTIONS

1. General

1.1. What is Service Tax?

It is a tax levied on the transaction of certain specified services by the Central Government under the Finance Act, 1994.

It is an indirect tax, which means that normally the service provider pays the tax and recovers the amount from the recipient of taxable service.

1.2. Can recipient of service be also asked to pay service tax?

In certain cases Government may shift the liability of payment of service tax to the receiver of service as a measure of administrative convenience. It is often referred to as 'reverse charge' in common language. [Refer Question 1.8]

1.3. Under which authority service tax is levied?

Vide Entry 97 of Schedule VII of the Constitution of India, the Central Government levies service tax through Chapter V of the Finance Act, 1994. The taxable services are defined in Section 65 of the Finance Act, 1994. Section 66 is the charging section of the said Act.

1.4. What are the taxable services?

The list of the services is furnished as **Appendix-1**. The Accounting Heads are also mentioned in the list, which need to be mentioned on the tax payment documents (GAR-7 or TR-6), while depositing the Service Tax and other related dues in the banks.

1.5. How to decide whether Service Tax is payable by a person?

A. If you are engaged in providing service to your customer, please check:-

- (i) Whether the service rendered by you is falling under the scope of any of the taxable services listed in the **Appendix-1**.
- (ii) Whether there is a general or specific exemption available for the category of service provided under any notification.
- (iii) Whether you are entitled to the value based exemption available for small service providers as explained in **Para 7.1** of this Booklet.
- (iv) Whether the service charges were received for the services provided or to be provided.

In case the service provided by a person falls within the scope of the taxable services and if such service is not fully exempted, the service tax is payable on the value of the taxable service received subject to the eligible abatements, if any (please also refer **Q. No. 1.7**)

B. If you are availing the services of the service provider, please check:-

- a. Whether the service received by you is falling under the scope of any of the services *where the recipient of the service is liable to pay Service Tax* in terms of Section 68(2) of the Act read with Rule 2(d) of the Service Tax Rules, 1994 (**Refer Question No.: 1.8**).
- b. In case the service received by recipients of such service is falling under the scope of any of the taxable services defined under section 65 of the Finance Act, 1994, the recipients of the service shall pay Service Tax having regard to the exemptions / abatements admissible, if any.

- c. Please note that the value based exemption for small scale service providers under Notification No.6/2005 ST dated 01.03.2005 effective from 01.04.2005 is **not admissible** to such recipients of taxable services. (For further details, please see the answer to **Question No.7.1**).

If you have any doubts, please contact your nearest Help Centre or Central Excise Commissionerate/ Service Tax Commissionerate – visit www.cbec.gov.in to find the addresses and telephone numbers for further clarification.

1.6. What is the rate of Service Tax?

At present, the rate of Service Tax is **12%**, payable on the "gross value of taxable service". In addition to this, Education Cess is payable at the rate of **3%** on the Service Tax amount.

(Total: 12.36% on the value of the taxable service). –Refer section 66 of the Finance Act, 1994 (12% Service Tax), Section 85 of the Finance Act, 2004 (2% Education Cess) and Section 126 of the Finance Act, 2007(1% Secondary and Higher Education Cess).

The rate of tax may change during Annual Budget by a Finance Act.

History of rates:

Sl. No.	Period	Rate of Service Tax	Rate of Education Cess
1.	1994 to 13.05.2003	5%	Nil
2.	14.05.2003 to 09.09.2004	8%	Nil
3.	10.09.2004 to 17.04.2006	10%	2% of the S.T.
4.	18.04.2006 to 10.05.2007	12%	2% of the S.T.
5.	11.05.2007 till date	12%	2% of S.T. + 1% (Secondary & Higher Education Cess) of the S.T.

1.7. What is meant by "value of taxable service"?

- i. Normally, the "value of taxable service" means, the *gross amount* received by the service provider for the taxable service provided or to be provided by him. Section 67 of the Finance Act, 1994 read with **Service Tax (Determination of Value) Rules, 2006**, has to be followed to arrive at the taxable value.
- ii. For certain services, a specified percentage of abatement is allowed from the gross amount collected for rendering the services, subject to the conditions, *inter alia*, that CENVAT Credit has not been availed by the service provider and cost of goods sold in the process of providing the subject service is not deducted in terms of Notification No. 12/2003-ST dated 20.6.2003.
- iii. **There is also a composition scheme for 'works contract service', where** the person liable to pay service tax in relation to works contract service shall have the option to discharge his service tax liability on the works contract service provided or to be provided, instead of paying service tax at the rate specified in section 66 of the Act, by paying an amount equivalent to **2%** of the gross amount charged for the works contract. The gross amount charged for the works contract shall not include Value Added Tax (VAT) or sales tax, paid on transfer of property in goods involved in the execution of the said works contract.

For abatement admissible for various services, please see **Appendix-2**.

1.8. Who is liable to pay Service Tax?

Generally, the 'person' who provides the taxable service on receipt of service charges is responsible for paying the Service Tax to the Government (Sec.68 (1) of the Act), except the following:

- (i) the recipient of such services in India is liable to pay Service Tax, where taxable services are provided by foreign service providers with no establishment in India;
- (ii) the Service Tax is to be paid by the Insurance Company for the services in relation to Insurance Auxiliary Service by an Insurance Agent.
- (iii) the person who pays or is liable to pay freight for the taxable services provided by a Goods Transport Agency for transport of goods by road, is liable to pay Service Tax, if the consignor or consignee falls under any of the seven categories viz. (a) a factory (b) a company (c) a corporation (d) a society (e) a co-operative society (f) a registered dealer of excisable goods (g) a body corporate or a partnership firm
- (iv) the taxable services provided by Mutual Fund Distributors in relation to distribution of Mutual Fund. In this regard, Service Tax is to be paid by the Mutual Fund or the Asset Management Company receiving such service.

Refer: Sec. 68(2) of the Act read with Rule 2(d) of the Service Tax Rules, 1994.

1.9. What are the statutes governing the taxation relating to Service Tax?

The Statutes governing the levy of Service Tax are as follows:

- (i) The Finance Act, 1994 - Chapter V - Section 64 to 96 I. (referred to as 'Act' in this book) This chapter extends to the whole of India except the State of Jammu and Kashmir.
- (ii) The Finance Act, 2004 Chapter VI - for levy of Education Cess @ 2% on the Service Tax.
- (iii) The Service Tax Rules, 1994. (referred to as 'Rules' or STR, 1994 in this book)
- (iv) The CENVAT Credit Rules, 2004.
- (v) The Export of Service Rules, 2005.
- (vi) The Service Tax (Registration of Special categories of persons) Rules, 2005.
- (vii) The Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 (with effect from 19th April, 2006) – Notification No. 11/2006-ST dated 19.4.2006.
- (viii) The Service Tax (Determination of Value) Rules, 2006 (with effect from 19th April, 2006) – Notification No. 12/2006-ST dated 19.4.2006.
- (ix) Works Contract (Composition Scheme for Payment of Service Tax) Rules, 2007- Notification No. 32/2007-Service Tax dated 22nd May, 2007.
- (x) In addition to the above, certain provisions of the Central Excise Act, 1944 are also made applicable for Service Tax matters (Section 83 of the Finance Act, 1994).

1.10. What are the provisions of Central Excise which are made applicable for Service Tax matters?

The provisions of Central Excise which are made applicable to Service Tax matters, as they are applicable in relation to the duty of Excise are listed in **Appendix-3**.

1.11. Is there any exemption from payment of service tax to Diplomatic Missions for official use and individuals and their family members posted in a Diplomatic Mission?

Yes, exemption from payment of service tax relating to all taxable services is available to Diplomatic Missions for official use of services as well as for the personal use or for the use of the family members of diplomatic agents or career consular officers posted in a foreign diplomatic mission or consular post in India, by notifications 33/2007-ST dated 23rd May, 2007 and 34/2007-ST dated 23rd May, 2007 respectively, but subject to procedures specified under those notifications.

1.12. If yes, what procedure is required to be followed for exemption from payment of service tax to Diplomatic Missions for official use of services?

The following procedure is specified:

- (i) the foreign diplomatic mission or consular post in India, is issued with a certificate by the Protocol Division of the Ministry of External Affairs that it is entitled to exemption from service tax, as stipulated in the certificate, based on the principle of reciprocity;
- (ii) the head of such foreign diplomatic mission or consular post, or any person of such mission or post authorized by him, shall furnish to the provider of taxable service, a copy of such certificate duly authenticated by him or such authorized person, along with an undertaking in original, signed by him or such authorized person, bearing running serial number commencing from a financial year and stating that the services received are for official purpose of the said foreign diplomatic mission or consular post;
- (iii) the head of such foreign diplomatic mission or consular post or such authorized person shall maintain an account of such undertakings issued during a financial year and such account shall contain:-
 - (a) the serial number and date of issue of such undertakings;
 - (b) the name and the registration number of the provider of taxable service; and
 - (c) the description of taxable service and invoice number.
- (iv) the invoice or bill or as the case may be, the challan issued under the provision contained in rule 4A of the Service Tax Rules, 1994 shall, in addition to the information required to be furnished under the said rule, contain the serial number and the date of the undertaking furnished by the said head of foreign diplomatic mission or consular post; and
- (v) the provider of taxable service shall retain the documents referred to in point number (i) above along with a duplicate copy of invoice issued, for the purposes of verification.

Note: In case the Protocol Division of the Ministry of External Affairs, after having issued a certificate to any foreign diplomatic mission or consular post in India decides to withdraw it subsequently, it shall communicate the withdrawal of such certification to the foreign diplomatic mission or consular post. The exemption from the whole of the service tax granted to the foreign diplomatic mission or consular post in India for official purpose shall not be available from the date of withdrawal of such certification given to them.

1.13. What procedure is required to be followed for exemption from payment of service tax to individuals and their family members posted in a Diplomatic Mission?

The following procedure is specified:

- (i) the Protocol Division of the Ministry of External Affairs issues a certificate that the diplomatic agents or career consular officers posted in such foreign diplomatic mission or consular post in India, are entitled to exemption from service tax, as stipulated in the certificate based on the principle of reciprocity;
- (ii) the Protocol Division of the Ministry of External Affairs or the Protocol Department of the State concerned issues to each of such diplomatic agent or career consular officer an identification card bearing unique identification number and containing a photograph and name of such diplomatic agent or career consular officer and the name of the foreign diplomatic mission or consular post in India where he is posted;
- (iii) the head of such foreign diplomatic mission or consular post or any person of such mission or post authorized by him, shall furnish to the provider of taxable service, a copy of such certificate duly authenticated by him along with an undertaking in original, signed by him, bearing running serial number commencing from a financial year and the unique identification number as appearing in the identification card issued to the diplomatic agent or career consular officer and stating that the services received are for personal use of the said diplomatic agent or career consular officer or members of his/her family;

- (iv) the head of such foreign diplomatic or consular post or such authorized person shall maintain an account of such undertakings issued during a financial year and such account shall contain: -
- (a) the serial number and date of issue of such undertakings;
 - (b) the name, designation and unique identification number of the diplomatic agent or career consular officer in favour of whom such undertaking has been issued;
 - (c) the name and the registration number of the provider of taxable service; and
 - (d) the description of taxable service and invoice.
- (v) the invoice or bill or as the case may be, the challan issued under the provision contained in rule 4A of the Service Tax Rules, 1994 shall, in addition to the information required to be furnished under the said rule, contain the serial number and the date of such undertaking and the unique identification number of the diplomatic agent or career consular officer; and
- (vi) the provider of taxable service shall retain the documents referred to in point numbers (ii) and (iii) above along with a duplicate copy of invoice issued for the purposes of verification.

Note: In case the Protocol Division of the Ministry of External Affairs, after having issued a certificate to any foreign diplomatic mission or consular post in India or as the case may be the identification card issued to a diplomatic agent or career consular officer, decides to withdraw any one or both of them subsequently, it shall communicate the withdrawal of such certificate or identification card, as the case may be, to the foreign diplomatic mission or consular post. The exemption from the whole of the service tax granted to the foreign diplomatic mission or consular post in India for the personal use or use of their family members shall not be available from the date of withdrawal of such certification or identification card or as the case may be.

2. Registration

2.1. What is meant by registration? Who should apply for registration under Service Tax law?

- Every person providing a taxable service of value exceeding **Rs. 7 lakhs**, is required to register with the central excise or service tax office having jurisdiction over the office of such service provider.
- In case a recipient is liable to pay service tax, registration is required by him.
- There is also provision for centralised registration – **Refer Question 2.8.**
- The 'Input Service Distributors' also require registering themselves.

2.2. Why registration is necessary?

Registration is identification of an assessee. Identification is necessary to deposit service tax, file returns and undertake various processes ordained by law relating to service tax.

2.3. What is the meaning of an 'assessee' in relation to Service Tax?

'Assessee' means a person liable to pay Service Tax and includes his agent.

2.4. When can a prospective assessee obtain registration?

- i. When a person commences business of providing an existing taxable service, he is required to register himself within 30 days of such commencement.
- ii. In case a new taxable service is introduced, an existing service provider must register himself, unless he is eligible for exemption under any notification, within a period of 30 days from the date of new levy.

2.5. What does the word “person” appearing in the definition of taxable service mean?

The word "Person" shall include any company or association or body of individuals, whether incorporated or not. Thus this expression includes any individual, HUF, proprietary firm or partnership firm, company, trust, institution, society etc.

2.6. What is the procedure for Registration? Who should be approached for Service Tax Registration?

An application in Form ST-1 (in duplicate) has to be filed before the jurisdictional Central Excise/Service Tax officer. Certain documents to verify the correctness of declaration in the said form as may be required by the registering authority, such as copy of PAN card, proof of address of business premise(s), constitution of the business [proprietorship, firm, company, trust, institute etc.] etc. The copies may be self-certified by the applicant. In case of doubts in select cases, original documents may have to be presented for across the counter verification and return.

2.7. When would the Registration Certificate be issued?

The Registration certificate would be issued within a period of **seven days** from the date of submission of application ST-1 along with all relevant details/documents.

In case the registration certificate is not issued within seven days, the registration applied for is deemed to have been granted. (Rule 4(5) of the STR, 1994)

2.8. Is there any provision for centralized registration?

Service providers having centralised accounting or centralised billing system, at their option, can have Centralised registration at one or more places.

Commissioner of Central Excise/Service Tax in whose jurisdiction centralised account or billing office of the assessee exists, is empowered to grant centralised registration.

2.9. Does one require registration certificates for each service separately?

Only one Registration certificate is to be taken even if the person provides more than one service from the same premises for which registration is sought.

If there is centralised registration, only one registration certificate is required for services provided from different premises, declared in the application for centralised registration.

2.10. What is to be done when the existing assessee commences providing of a service not mentioned in the registration certificate?

An application has to be made in ST-1 for amendment (endorsement) in the Registration certificate indicating only the amendment/rectification required to be made in the registration certificate, along with a copy of the original registration certificate. No fresh documents are required for verification by the officer unless there is change in the details given in original or earlier application(s).

2.11. Is PAN allotted by the Income Tax Department a must for obtaining Service Tax Registration?

Having PAN is essential because the Service Tax Registration number is generated based on the PAN issued by the Income Tax Department.

However, in the absence of PAN, a temporary Service Tax registration number would be issued for assesseees who are not having PAN at the time of filing the application (ST-1) for Service Tax registration till such time they obtain PAN. Once the PAN is obtained, the Service Tax assessee should obtain the PAN - based Service Tax Registration number.

2.12. Cessation of business of providing taxable service -what is to be done with the Service Tax Registration ?

The Service Tax Registration certificate (ST-2) should be surrendered to the concerned Central Excise / Service Tax authorities.

2.13. A taxpayer transfers his business to another person - what is to be done with the Registration?

In the event of transfer of the business, the transferee should obtain a fresh certificate of **Service** Tax registration. The transferee will have his own PAN.

2.14. Whether a service provider can make payment of Service Tax and file returns before the grant of registration by the proper officer?

No. However, service provider should apply well in advance to obtain registration, which is normally granted within 7 days of filing of application. Since service tax is payable once in a month or quarter, an assessee gets sufficient time for registration.

2.15. Is there any penal provision for non-registration?

Failure of registration may attract a penalty upto Rs.1000/- under Section 77 of the Finance Act, 1994.

However, such penalty could be waived in case the assessee proves that there was reasonable cause for such delay (Section 80 of the Act). Please also see the answer to Q.No.8.2.

2.16. If a registration certificate issued by the Department is lost, can duplicate be issued? What is the procedure in this regard?

The assessee is required to make written request for 'duplicate' registration certificate. The same will be issued by the Department after suitable entry in the registers/records of the Office.

3. Payment of Service Tax

3.1. How to pay Service Tax?

You may pay service tax by G.A.R.7 (previously known as TR6 Challan which was yellow in colour) in the specified branches of the **designated banks**. The details of such Banks and branches may be obtained from the nearest Central Excise Office/Service Tax Office.

Service Tax can also be paid electronically, called e-payment facility. **Refer Para 3.16 to 3.25.**

3.2. When is Service Tax required to be paid ?

For individual or a proprietary or partnership firm – Quarterly -by the 5th day of the month following each quarter and by the 6th day of the month following each quarter if the duty is deposited electronically through internet banking. For example, Service Tax for the quarter ending 30th of June is to be paid by 5th or 6th of July as the case may be.

For all other categories (Company, Society, Trust etc.) - Monthly - by the 5th day of the succeeding month and by the 6th day of the succeeding month if the duty is deposited electronically through internet banking;

Exception: For the **month of March or quarter ending March**, all assesseees have to pay by 31st of March of the Calendar year (Rule 6(1) of the STR, 1994).

3.3. If full details are not available to assess correct service tax, how can service be paid by due date?

You may seek in writing, provisional assessment, giving reasons, from the jurisdictional Asst./Deputy Commissioner of Central Excise/Service Tax under rule 6 (4) of the STR, 1994.

He may allow payment of Service Tax on provisional basis, on such value of taxable service as may be specified by him.

3.4. Can excess payment be adjusted while paying tax for the next month or quarter?

Yes. Please refer to **Para 6.1** for details.

3.5. What is the head of account into which the Service Tax amount is to be paid in respect of various services?

Separate "Head of account" has been specified for each taxable service. This must be mentioned on G.A.R. 7 (previously known as TR-6) challans for proper accounting. **See Appendix-1.**

3.6. What is TR-6 or GAR-7 challan? Where is it available?

GAR-7 or TR-6 challan is the document for payment of service tax.

GAR-7 or TR-6 challan is also available in any stationary shop selling government forms. The format is also given on web-site www.cbec.gov.in

3.7. Can the Service Tax be deposited in Non-designated banks?

No. For payment of Service Tax, specific bank has been nominated for every Central Excise/Service Tax Commissionerate. If Service Tax is deposited in a Branch /Bank other than the nominated Bank / Branch, it amounts to non-payment of Service Tax (Rule 6(2) of the STR, 1994). In any case, a non-designated bank will not accept service tax challans.

3.8. Whether the payment of Service Tax is to be made for the billed amount or for the value received?

The Service Tax for a particular period is payable on the amount / value of taxable service received during that period and not on the gross amount billed to the client.

If the charges for the taxable service have been received in advance prior to rendering of the services, the Service Tax is payable even if the services are yet to be provided by them (Section 67 and Rule 6(1) of the STR, 1994).

Please also refer to the Service Tax (Determination of Value) Rules, 2006.

3.9. Can service tax be paid by cheque?

Yes, you can pay service tax be paid by cheque.

3.10. When paid by cheque, which date will be treated as date of payment?

The date of deposit of cheque is the date of payment of Service Tax. If the cheque is dishonoured, it would mean as if the Service Tax has not been paid and the relevant penal consequences would follow. (Rule 6(2) of the STR, 1994).

3.11. When payment is made by a client to an assessee after deducting his Income Tax liability under the Tax deduction at source (TDS) provision, whether the Service Tax liability of

the assessee is only towards the amount actually received from that client or tax is to be paid on the amount including the Income Tax deducted at source also?

Service Tax is to be paid on the gross value of taxable service which is charged by a Service Tax assessee for providing a taxable service. Income tax deducted at source is includible in the charged amount. Therefore, service Tax is payable on the gross amount including the amount of Income Tax deducted at source also.

3.12. What is the interest rate applicable on delayed payment of Service Tax?

Every person, liable to pay the service tax in accordance with the provisions of section 68 or rules made thereunder, who fails to credit the tax or any part thereof to the account of the Central Government within the period prescribed, shall pay simple interest **@13% per annum**. Interest is payable for the period from the first day after the due date till the date of payment of any defaulted service Tax amount. Refer to Section 75 of the Finance Act, 1994.

3.13. Can interest be waived, and by whom?

Interest payments are mandatory in nature and cannot be waived in ordinary jurisdiction.

3.14. What are the penal consequences if the Service Tax is not paid or paid late?

A mandatory penalty, not less than Rs.200/- per day or @2% of such tax per month, whichever is higher, shall be imposed by the adjudicating authority. However, the penalty amount payable shall not exceed the amount of service tax payable. - **(Refer to section 76 of the Finance Act, 1994)**.

3.15. Whether Service Tax is payable after providing the service or after the receipt of the service charges?

Service Tax is payable **on the amount received towards provision of a taxable service** including any amount received in advance.

3.16. What is e-Payment of Central Excise and Service Tax?

e-Payment is a payment mode through which a Taxpayer can remit his tax dues to CBEC using Internet Banking Service. It is an additional facility being offered by the banks besides conventional procedure.

3.17. Which banks provide the facility of e-payment of Service Tax?

The following banks provide e-payment facility.

Sl. No.	Name of Bank	Name of Central Excise/Service Tax Commissionerate for which the Bank is authorised to collect Revenue through e-Payment
1.	Union Bank of India	All Commissionerates
2.	State Bank of India	All Commissionerates
3.	Punjab National Bank	All Commissionerates
4.	Indian Overseas Bank	All Commissionerates
5.	State Bank of Travancore	All Commissionerates
6.	Bank of India	All Commissionerates
7.	Corporation Bank	All Commissionerates
8.	State Bank of Saurashtra	All Commissionerates
9.	Indian Bank	All Commissionerates
10.	State Bank of Patiala	All Commissionerates
11.	State Bank of Hyderabad	All Commissionerates
12.	Syndicate Bank	All Commissionerates
13.	State Bank of Bikaner & Jaipur	All Commissionerates
14.	Vijaya Bank	All Commissionerates
15.	State Bank of Indore	All Commissionerates
16.	Bank of Maharashtra	All Commissionerates
17.	Canara Bank	All Commissionerates
18.	State Bank of Mysore	All Commissionerates
19.	United Bank of India	All Commissionerates
20.	Bank of Baroda	All Commissionerates
21.	Axis Bank	Delhi, Bangalore, Hyderabad, Mumbai
22.	ICICI Bank	Delhi, Chennai, Hyderabad, Mumbai
23.	HDFC Bank	Delhi, Bangalore, Kolkata, Mumbai
24.	IDBI Bank	Delhi, Chennai, Kolkata, Mumbai

More banks will be added over time. You may find out the latest position on the web site of Principal Controller of Accounts <http://pccacbec.nic.in>

3.18. Who can opt for e-Payment?

Any customer of the Bank, who is an assessee of Central Excise or Service Tax, can pay Indirect Taxes online using Internet banking service of Bank.

3.19. How to get Internet banking facility of Bank?

The customers of Bank can request this facility on prescribed application forms to any bank having internet banking facility.

3.20. Are there any geographical restrictions on Banks?

No. Customer can effect payment from anywhere for the Commissionerate in which he is registered with, provided that particular bank is authorized to collect revenue for that Commissionerate.

3.21. Are there any charges for availing e-Payment facility?

No, there are no charges for these services by any Bank.

3.22. Up to what time in a day the e-Payments can be made?

e-Payment can be made 24 hours a day using Internet banking service of Bank. Payment made up to 8 pm will be accounted on the same day. However payments effected after 8 pm will only be included in next working day's scroll by the Focal point Branch.

3.23. Does the Internet banking service give any receipt/confirmation for the e-Payment?

Yes, on successful payment the Internet banking user gets a Cyber Receipt for the Tax payment, which he can save or print for his record.

3.24. How does the taxpayer get the regular Challan stamped and receipted by Bank?

The concerned Focal Point Bank on the next working day will send the Challan copies duly receipted and stamped to the taxpayer by courier at the mailing address provided by the taxpayer.

3.25. Will all the Banks launching the e-Payment solutions have uniformity in the procedure?

Yes, all the banks follow the same process flow with uniformity.

4. Filing of Returns

4.1. What are the Returns a service tax assessee has to file?

ST-3 Return – For all the registered assessee, including **Input Service Distributors**,
ST-3A Return – The assessee who is making provisional assessment under rule 6(4) of the Service Tax Rules, 1994.

4.2. When to file returns?

ST-3 Return is required to be filed twice in a financial year – **half yearly**.

Return for half year ending 30th September and 31st March are required to be filed by 25th October and 25th April, respectively.

4.3. How to file Service Tax Returns?

The details in respect of each month of the period for which the return is filed, should be furnished in the Form ST-3, separately. The instructions for filing return are mentioned in the Form itself. It should be accompanied by copies of all the GAR-7 (TR-6) Challans for payment of Service Tax during the relevant period.

4.4. Where to file return?

ST-3 or ST-3A is filed in triplicate to the Superintendent of Central Excise/Service Tax with whom the assessee has registered himself.

4.5. What is e-filing of returns of Service Tax Returns?

The e-filing is a facility for electronic filing of Service Tax Returns through the Internet.

4.6. Who can file their Returns through Electronic medium?

Any Service Tax assessee having a 15-digit Service Tax payer code can file return electronically.

4.7. What is the procedure for e-filing?

- (i) File of an application to the jurisdictional Asst./Deputy Commissioner of Service Tax, specifying –
 - 15-digit PAN based registration number (STP Code)
 - Valid e-mail address - so that the Department can send them their User ID and password to help them file their Return.
- (ii) Log on to the Service Tax e-filing home page by typing the address <http://servicetaxefiling.nic.in> in the address bar of the browser.
- (iii) Upon entering the Service Tax code, user ID and password, you will be permitted to access the e-filing facility.
- (iv) Follow the instructions given therein for filing the Returns electronically.

4.8. Is filing of return compulsory even if no taxable service provided or received or no payments received during a period (a particular half year)?

Filing of return is compulsory, even if it may be a nil return, within the prescribed time limit, failing which penal action is attracted.

4.9. Whether a single Return is sufficient when an assessee provides more than one service?

A single return is sufficient because the ST-3 Return is designed to capture details of each service.

4.10. Is there any penalty for non-filing or delayed filing of the Returns?

If a person fails to furnish the ST-3 Return within the due date **[25th October and 25th April every year]** he shall be liable to penalty which may extend to an amount not exceeding one thousand rupees (Section 77 of the Act)

Mandatory Penalty for Late filing of ST-3 Return under Rule 7C of Service Tax Rules, 1994

Sl. No.	Period of Delay from the prescribed date	Penalty
1	15 days	Rs.500/-
2	Beyond 15 days but not later than 30 days	Rs.1000/-
3	Beyond 30 days	Rs.1000/- plus Rs. 100/- for every day from the thirty first day till the date of furnishing the said return

5. Records

5.1. Is there any statutory documents prescribed by the Government such as specified invoice proforma, specified registers etc. for use by the service providers?

There are no specific records which have to be maintained by a Service Tax assessee. The records including computerized data, if any, which are being maintained by an assessee on his own or as required under any other law in force, such as Income Tax, Sales Tax etc. are acceptable for the purpose of Service Tax - (Rule 5(1) of the STR, 1994). However, it is important to note that a list of all such accounts maintained by an assessee including the memorandum received from the branch offices shall be furnished to the Superintendent of Central Excise at the time of filing the Return (ST-3) for the first time (Rule 5(2) of the STR, 1994).

5.2. Where from the Service Tax assessee can get the Forms such as ST-1, ST-3 etc?

The Forms are available on the CBEC website and also at the Central Excise Range / Division/Commissionerate Hqrs. offices. The forms are also available in the market sold by private publishers.

5.3. Can the Department ask for more information than what assessee is submitting to it in the Form ST-1 and ST-3?

Yes. If it is felt necessary, the Department can ask for additional information/ documents for scrutiny, as per Rule 6(6) of the STR, 1994 and Sec. 14 of the Central Excise Act, 1944 which is made applicable to Service Tax matters as per Sec. 83 of the Finance Act, 1994.

5.4. Whether issue of Invoice/Bill/Challan is mandatory? When should the same be issued?

Issue of Invoice/Bill/Challan by a Service Tax assessee is mandatory as per Rule 4A of the STR, 1994. The same should be issued within 14 days from the date of completion of taxable service or receipt of payment towards the service, whichever is earlier. However, if the service is provided continuously for successive periods of time and the value of such taxable service is determined or payable periodically, the Invoice/Bill/Challan shall be issued within 14 days from the last day of the said period (Proviso to Rule 4A (1) of the STR 1994).

5.5. Is there any prescribed format for the Invoice/Bill?

There is no prescribed format for issue of Invoice. However, the invoice/bill/challan should contain the following information (Rule 4A of the STR, 1994):

- i. Serial number.
- ii. Name, address and registration no. of the service provider.
- iii. Name and address of the service receiver.
- iv. Description, classification and value of taxable service being rendered.
- v. The amount of Service Tax payable (Service Tax and Education cess should be shown separately)

Note: If the service provider is a Banking company, the details at Sl. No (i) and (iii) are not necessary.

In respect of the taxable services relating to the transport of goods by road, provided by the Goods Transport Agency, the service provider should issue a consignment note containing the following information (Rule 4B of the STR, 1994): -

- i. Serial Number
- ii. Name of the consignor and consignee
- iii. Registration no. of the vehicle
- iv. Details of the goods transported

- v. Details of the place of origin & destination
- vi. Person liable for payment of Service Tax (consignor /consignee / GTA)

5.6. Is the amount of Service Tax charged from the client compulsorily to be indicated separately in the Bills/ Invoices/ Challans raised on him?

Yes. It is mandatory to separately indicate the amount of Service Tax charged in the Bills/Invoices/Challans raised on the clients. as per Section 12A of the Central Excise Act, 1944 which is made applicable to Service Tax, under Sec.83 of the Finance Act, 1994. Such mention of the Service Tax amount in the Invoice / Bill / Challans, would also facilitate the service receiver to avail the CENVAT credit of the Service Tax paid on the input services.

5.7. What is the preservation period for service tax records and documents?

All records and documents concerning any taxable service, **CENVAT**, transactions etc. must be preserved for a minimum period of **5** preceding financial years.

6. Refunds

6.1. Can any adjustment of tax liability be made by an assessee on his own, in cases when Service Tax has been paid in excess?

- i. Yes. Where an assessee has paid to the credit of the Government in respect of a taxable service, which is not so provided by him, either wholly or partially for any reason, the assessee may adjust the excess Service Tax so paid by him (calculated on a pro-rata basis) against his Service Tax liability for the subsequent period, if the assessee has refunded the value of taxable service and the Service Tax thereon to the person from whom it was received (Rule 6(3) of the STR, 1994).
- ii. Further, assesses having centralised registration who paid excess amount of Service Tax, on account of non-receipt of details regarding the receipt of gross amount for the services at his other premises or offices, may adjust such excess amount against the Service Tax liability for the subsequent period and furnish the details of such adjustment to the Jurisdictional Superintendent of Central Excise/ Service Tax within 15 days from the date of such adjustment (Rule 6(4A) of the STR, 1994).
- iii. In all other cases of excess payment, refund claims have to be filed with the Department. The refund claims would be dealt as per the provisions of Section 11B of the Central Excise Act, 1944, which is made applicable to Service Tax under Section 83 of the Finance Act 1994.
- iv. It is important to note that any amount of Service Tax paid in excess of the actual liability, is refundable, only if it is proved that the claimant of refund had already refunded such amount to the person from whom it was received or had not collected at all (Section 11 B of the Central Excise Act, 1944 which is applicable to Service Tax matters under Section 83 of the Act).

6.2. Is the Service Tax payable by the assessee even in cases where his clients [recipient of service] do not pay for the service(s) rendered or when the client pays only a part of the bill raised in this regard?

Service Tax is required to be paid at the rate in force (**at present 12.36%**) only on the value/amount of taxable service received in a particular month or quarter as the case may be, and not on the gross amount billed to the client.

6.3. What is the procedure for claiming refund?

- i. Application in the prescribed form (Form - R) is to be filed in triplicate with the jurisdictional Asst./Deputy Commissioner of Central Excise/Service Tax.

- ii. The application should be filed within one year from the relevant date as prescribed in Section 11B of the Central Excise Act, 1944 which has been made applicable to Service Tax refund matters also.
- iii. Application should be accompanied by documentary evidence to the effect that the amount claimed as refund is the amount actually paid by him in excess of the Service Tax due and the incidence of such tax claimed as refund has not been passed on to any other person.

6.4. What is relevant date for calculation of limitation period in respect of filing refund claims relating to Service Tax?

The “relevant date” for the purpose of refund as per Section 11B of the Central Excise Act, 1944 which is applicable to Service Tax also, is the date of payment of Service Tax. Thus, the limitation period of one year is to be calculated from the date of payment of the Service Tax.

6.5. How does one work out the Service Tax liability and pay the same to the Government, in case the customer or a client pays only the value of the service amount, but not the Service Tax amount mentioned in the bill?

Service Tax is payable on amount realized. In given situation, the amount so realized from the client would be treated as gross amount inclusive of Service Tax and accordingly the value of taxable service and the Service Tax liability are worked out as follows: For example :

Value of taxable service (AV) = Rs. 1000
 Amount Billed = Rs. 1000 + Service Tax Rs. 123.60 = Rs. 1123.60
 Amount paid = Rs. 1000. Treat Rs. 1000 as gross amount inclusive of service tax.

In case the gross amount, including service tax, received is, say, Rs 1000. In such cases the service tax liability may be arrived at by reverse calculation in the following manner.

$$AV = \frac{1000}{112.36} \times 100 = \text{Rs. } 889.996 \text{ (Rs. } 890)$$

Amount of Service Tax + Education Cess Payable = Rs. 110

Note: If the recipient of service pays full billed amount later, the differential service tax must be paid forthwith.

7. Exemptions

7.1. What are the exemptions available for small service providers?

Service Tax is fully exempted in respect of the taxable services of aggregate value not exceeding eight lakh rupees in any financial year.

The above mentioned exemption based on the turnover is not available to the persons who are liable to pay Service Tax but are not the service providers. For example: (1) The recipient of services from an overseas service provider who has no registered office in India (2) A company incurring the Transportation charges for availing the services from Goods Transport Agencies, for transportation of goods by Road.

This exemption was introduced with effect from 01.04.2005. (Notifn.No.6/2005-ST dated 01.03.2005).

7.2. What does 'aggregate value not exceeding eight lakh rupees' mean?

"Aggregate value not exceeding eight lakhs rupees" means the sum total of first consecutive payments received during a financial year towards the gross amount, as prescribed under section 67 of the said Finance Act, charged by the service provider towards taxable services till the aggregate amount of such payments is equal to eight lakhs rupees but does not include payments received towards such gross amount which are exempt from whole of service tax leviable thereon under section 66 of the said Finance Act under any other notification.

7.3. What are the conditions for availment of the exemption from Service Tax by the small scale service providers?

Some of the important conditions for availment of the exemption are as follows:

- If the aggregate value of taxable services rendered by the service provider from one or more premises exceeds rupees eight lakhs in the preceding financial year, the service provider is not eligible for the exemption for the current year.
- The exemption shall apply to the aggregate value of all taxable services and from all premises and not separately for each premise or each service.
- The benefit of the exemption shall not apply to taxable services rendered by a person under a brand name or trade name whether registered or not, of another person.
- The exemption shall not apply to persons who are other than the service providers, but liable to pay Service Tax under Sec.68 (2) of the Act.
- The provider of the taxable service shall avail the CENVAT credit only on such inputs or input services received, on or after the date on which the service provider starts paying Service Tax, and used for the provision of taxable services for which Service Tax is payable.
- CENVAT Credit of Service Tax paid on any input services, under Rule (3) or Rule (13) of the CENVAT Credit Rules 2004, used for providing the services under the above exemption, is not admissible for persons availing the above exemption.
- CENVAT Credit under Rule (3) of the said Rules, is not admissible on the capital goods which are received in the premises of the service provider during the exemption period.
- An amount equivalent to the CENVAT Credit taken, if any, in respect of the inputs lying in stock or in process as on the date on which the provider of taxable service starts availing the exemption should be paid; the balance credit amount, if any, shall lapse.

7.4. Is the exemption for small scale service providers compulsory?

Service Tax assesseees have the option not to avail the above exemption and pay Service Tax on the taxable services. However, such option once exercised in a financial year shall not be withdrawn during the remaining part of such financial year.

7.5. Are there any other General exemptions?

The following general exemptions from payment of whole of the amount of Service Tax are available for the Service Providers:

- Services provided to the **United Nations or International Organisations** (Notification No.16/2002-ST dated 02.08.2002).
- Services provided to a developer of **Special Economic Zone** or a unit of Special Economic Zone (Notifn. No.04/2004-ST dated 31.03.2004).
- The **value of the goods and materials sold** by the service provider to the recipient of the service is exempted from payment of the Service Tax, if there is a documentary proof specifically indicating the value of the goods and materials and , -
 - no credit of duty paid on such goods and material sold, has been taken under the provisions of CENVAT Credit rules, OR
 - where such credit has been taken by the service provider on such goods and materials, but such service provider has paid the amount equal to such credit availed before the sale of such good and materials. (Notifn.12/2003-ST dated 20.06.2003).
- Exemptions to **Diplomatic Missions** for official use of taxable services and also to the officers and their families of a Diplomatic Mission for personal use of taxable services-Refer

Notification Nos. 33/2007-ST and 34/2007-ST, both dated 23.5.2007-See Question No. 1.13, 1.14 and 1.15, **ante**.

- Specified taxable services, namely, port service, other port service, goods transport service and containerised transport service, received by an exporter and used for export of goods (Notifn. 40/2007-ST dated 17.9.2007). Under this notification, the service tax paid by an exporter on these services is refunded to the exporter on compliance of conditions mentioned in the notification.

7.6. Is there any exemption from payment of Service Tax if the receiver/provider of the service is the Central/State Government organization and Public Sector Undertakings?

- No. There is no such exemption. All service providers, including the Central/State Government Organisations and the Public sector undertakings rendering the specified taxable service, are liable to pay Service Tax.
- If a Government Department (sovereign)/public authorities performs any mandatory or statutory function under the provisions of any law and collect any fees, such activity shall be treated as activity purely in public interest and will not be taxable.
- If such authority performs a service, which is not in the nature of statutory activity, for a consideration, the same shall be taxable.
- However, the taxable services provided by a Banking company or a financial institution including a non banking financial company, or any other body corporate or any other person, to the Government of India or the Government of a State, in relation to collection of any duties or taxes levied by the Government of India or the Government of a State, are exempted from the payment of Service Tax. (Notifn.No.13/2004-ST dated 10.09.2004).

8. Penal Provisions

8.1. What are the penal provisions for various contraventions of the Service Tax Law?

The Penal provisions for various contraventions of the Service Tax Law are as follows:-

- i. Non registration or delayed registration: An amount Rs. 1000/- could be imposed as penalty under sec 77 of the Act.
- ii. Non payment or delayed payment of service tax - A mandatory penalty, not less than Rs.200/- per day or @2% of such tax per month, whichever is higher, shall be imposed by the adjudicating authority. However, the penalty amount payable shall not exceed the amount of service tax payable.
- iii. Non-filing / delayed filing of returns: A mandatory penalty has been prescribed under Rule 7C of the Service Tax Rules, 1994, as well as an amount not exceeding One Thousand Rupees could be imposed as penalty under sec 77 of the Act.
- iv. Contravention of any of the provisions of the Act or the Rules made thereunder for which no provisions for penalty are available: An amount not exceeding Rs.1000/- is liable to be imposed as penalty under Sec.77 of the Act.
- v. Suppression of the value of taxable services: Penalty to an extent ranging from 100% to 200% of the Service Tax which was not levied or paid or erroneously refunded, can be imposed on any person, if such short levy or short payment or erroneous refund is by reason of fraud collusion, willful mis-statement, suppression of facts; or contravention of the Act or the rules made thereunder with an intent to evade payment of Service Tax. Such liability towards penalty would be in addition to the Service Tax amount evaded or erroneously refunded and the interest thereon (Section 78 of the Act).
- vi. Reduced Penalty in respect of Sl. no. (v): If the Service Tax amount as determined by the competent authority is paid within 30 days from the date of communication of the order, along with interest, the amount of penalty liable to be paid shall only be 25% of the Service Tax amount so determined. The benefit of reduced penalty equivalent to 25% of the said Service Tax is available only if such lesser penalty amount is also paid within the aforesaid period (First and second proviso to Section 78).

8.2. Is there any provision to waive the penalty under Service Tax law?

The penal provisions under Service Tax are provided under Sections 76, 77 and 78 of Finance Act, 1994. Although the penalty is liable to be imposed for the circumstances covered under the said

provisions, the Section 80 of the Finance Act, 1994, provides provisions not to impose penalty, for any failure referred to in the said provisions, if the Service Tax assessee proves that there was sufficient cause for such failure. Lack of funds or time is not construed as 'sufficient cause'.

8.3. Why show cause notices are issued by the Department?

When any amount is demanded as service tax or other dues from any person under the Finance Act, 1994 and rules made thereunder and/or any person is liable to penalty under the said Act/Rules, notices are issued in the interest of natural justice to enable such person to understand the charges and defend his case before an adjudicating officer.

8.4. Can show cause notice be waived?

Where any service tax has not been levied or paid or has been short-levied or short-paid or erroneously refunded, the person chargeable with the service tax, or the person to whom such tax refund has erroneously been made, may pay the amount of such service tax on the basis of his own ascertainment thereof, or on the basis of tax ascertained by a Central Excise Officer before service of notice on him and inform the Central Excise Officer of such payment in writing. In such a case show cause notice will not be issued.

9. Adjudication and determination of tax

9.1. What is meant by adjudication?

- i. When show cause notices are issued under provisions of the Finance Act, 1994 charging any person for contravention of any provisions of the said Act and rules and/or notifications issued thereunder and penal action is proposed the competent officers of the Department adjudge the case and issue orders. This process is called adjudication.
- ii. Often notices are issued under section 73 of the Finance Act, 1994 for determination of tax, and the matter is decided by a competent officer. This is also referred to adjudication in common parlance.

9.2. Who are competent officers for adjudication?

- i. The **Central** Board of Excise and Customs has issued notification no. 30/2005-ST dated 10th August, 2005 specifying power of adjudication of cases under section 83A of the Finance Act, 1994 which is as follows:

Sl. No.	Central Excise Officer	Amount of service tax or CENVAT credit specified in a notice for the purpose of adjudication under section 83A
	(2)	(3)
1.	Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise	Not exceeding Rs. 5 lakhs
2.	Joint Commissioner of Central Excise	Above Rs. 5 lakhs but not exceeding Rs. 20 lakhs
3.	Additional Commissioner of Central Excise	Above Rs. 20 lakhs but not exceeding Rs. 50 lakhs
4.	Commissioner of Central Excise	Without limit.

- ii. The monetary limits for the purpose of adjudication [determination of tax] under section 73 are as specified in the Table below:

Sl. No.	Central Excise Officer	Amount of service tax or CENVAT credit specified in a notice for the purpose of adjudication
	(2)	(3)
1.	Assistant Commissioner of Central Excise or Deputy Commissioner of Central Excise	Not exceeding Rs. 5 lakhs
2.	Joint Commissioner of Central Excise	Above Rs. 5 lakhs but not exceeding Rs. 20 lakhs
3.	Additional Commissioner of Central Excise	Above Rs. 20 lakhs but not exceeding Rs. 50 lakhs
4.	Commissioner of Central Excise	Without limit.

9.3. Is the presence of a Chartered Accountant or lawyer necessary for adjudication?

No. The noticees can defend their case themselves. They may engage any person, duly authorised to defend their case before an adjudicating officer.

10. Appellate Remedies

10.1. Who should be approached when an assessee is aggrieved by an order/decision of the Adjudicating authority subordinate to the Commissioner of Central Excise in respect of Service Tax? What is the procedure for filing the Appeal?

- An assessee aggrieved by such order / decision may file an Appeal to the Commissioner (Appeals) in Form ST-4, in duplicate.
- A copy of the order / decision appealed against should be enclosed.
- The Appeal should be filed within 3 months from the date of receipt of the order / decision.
- There is no fee for filing an Appeal before the Commissioner of Central Excise (Appeals) (Section 85 of the Act and Rule 8 of the STR, 1994).

10.2. Can the time limit of three months for filing the appeal to the Commissioner (Appeals) be extended? If yes, under what circumstances?

Yes. If the Commissioner (Appeals) is satisfied that the appellant was prevented by sufficient cause from presenting the Appeal within the statutory period of three months, he may allow the Appeal to be presented within a further period of three months. The law does not provide for further extension of time (Proviso to Section 85(3) of the Act).

10.3. Can an Appeal be filed against the order / decision of the Commissioner of Central Excise or Commissioner (Appeals)? If so, what is the procedure for that?

Yes. The procedure is as follows:-

- The Appeal against the order of the Commissioner of Central Excise or Commissioner (Appeals) can be filed before the Customs, Excise and Service Tax Appellate Tribunal (In short, CESTAT). The Appeal should be filed within three months of the date of receipt of the order sought to be appealed against.
- It should be filed in the prescribed Form (ST-5) in quadruplicate.
- It should be accompanied by a certified copy of the order appealed against.
- The Appeal should be accompanied by the prescribed fee based on the amount of Service Tax and interest demanded and penalty levied. Rs.1000/- if the amount involved is Rs.5 lakhs or less, Rs.5000/- if the amount involved is more than Rs.5 lakhs but not exceeding Rs.50 lakhs and Rs.10,000/- if the amount involved is more than Rs.50 lakhs. (Section 86 of the Act and Rule 9 of the STR, 1994).

11. CENVAT Credit Scheme

11.1. What is CENVAT Credit Scheme with reference to Service Tax assessees?

The CENVAT credit Rules, 2004 which was introduced with effect from 10.9.2004 provides for availment of the credit of the Service Tax / Central Excise duties paid on the input services / inputs / capital goods. Such credit amount can be utilized towards payment of Service Tax by an assessee on their output services.

In fact, such credit availed by a manufacturer can also be utilised for discharging their liability towards Service Tax and / or Central Excise duties.

11.2. What are the duties/ taxes that can be availed as credit?

Duties paid on the inputs, capital goods and the Service Tax paid on the 'input' services can be taken as credit. Education Cess paid on the Excise duty and Service Tax can also be taken as credit. However, the credit of Education Cess availed can be utilized only for payment of Education cess relating to output service.

The interest and penalty amounts cannot be taken as credit.

11.3. What is meant by 'input', 'input service' and 'capital goods' for a service provider?

These terms have been defined in the CENVAT Credit Rules, 2004.

11.4. Is it compulsory that the inputs / capital goods are to be purchased only from the manufacturers for the purpose of availment of credit?

No. The inputs/capital goods can be procured from the First stage and Second stage dealers also. Those dealers should have registered themselves with the Central Excise Department. The invoices issued by them should contain proper details about the payment of duty on those goods.

11.5. What are the documents prescribed for availment of the CENVAT Credit?

The documents on which CENVAT credit can be availed are as follows:-

- (i) Invoice issued by the manufacturers and his depot/ consignment agents
- (ii) Invoice issued by the Importer and his depot/consignment agents
- (iii) First stage and Second stage dealer registered with the Central Excise Department
- (iv) Bill of Entry
- (v) Invoice/Bill/Challan issued by the provider of input Services
- (vi) Invoice/Bill/Challan issued by the Input Service distributor.
- (vii) Certificate issued by the Appraiser of Customs in respect of the goods imported through Foreign Post Office.
- (viii) A Challan evidencing payment of service tax by a person liable to pay service tax in the service category of auxiliary insurance, goods transport, recipient of service from a foreign country and sponsorship [Refer sub-clauses (iii), (iv), (v) and (vii) of rule 2(1)(d) of STR, 1994].

11.6. Whether it is necessary to avail credit only after making payment against the bill / invoice / challan in respect of input services?

Credit of Service Tax on the input services can be availed, only after making payment of the amount indicated in the invoice / bill/challans. This is necessary because, the input service provider will be paying the Service Tax to the Govt. only after he realizes the payment, as the payment of Service Tax is only upon realization.

The above requirement is not applicable in respect of credit of duties paid on inputs and capital goods.

11.7. Who is an "Input Service Distributor"?

An office of the manufacturer or provider of output service who receives invoices for the procurement of input services and issues invoices for the purpose of distributing the credit of Service Tax paid to such manufacturer or provider of output service is an "Input Service Distributor".

The credit of the tax amount so distributed to various places shall not exceed the total Service Tax amount contained in the original invoice / bill.

11.8. What is the format of the invoice / bill / challan to be issued by the input service distributor?

No specific format has been prescribed. However, the same should contain the following information :-

- (i) Name, address and Registration No. of the service provider.
- (ii) Sl. No and date.
- (iii) Name and address of the input service distributor.
- (iv) The name and address of the recipient to whom the Service Tax credit is distributed.
- (v) The amount of credit being distributed.

11.9. Whether the input service distributors should get themselves registered with the Department? Whether they have to file any returns with the Department?

Yes. They have to register themselves as per the provisions made under Service Tax (Registration of Special Category of Persons) Rules, 2005. They have to file half yearly returns by the end of the month following the half year.

11.10. What are the records to be maintained by the persons availing credit?

There is no specific format of records to be maintained. However, they have to maintain adequate records showing the details such as receipt, disposal, consumption and inventory of inputs and capital goods, the amount of credit taken and utilized etc.

11.11. What should be done, if an assessee is rendering both taxable services as well as exempted services, but the inputs and input services are common?

- i. **Separate** accounts are to be maintained for the receipt, consumption and inventory of input and input service meant for providing taxable output service and for use in the exempted services. Credit should be taken only on that quantity of input / input services which are used for the service on which Service Tax is payable.
- ii. If separate accounts are not maintained, the provider of output service shall utilize credit only to extent of an amount not exceeding 20% of the amount of service tax payable on taxable output service. For example, if Service Tax liability for a specific period is Rs. 1000/- and there is a credit of Rs. 500/- available with them, the credit can be utilized only to the extent of Rs. 200/- and the balance **Service** Tax liability (i.e. Rs.1000-200=800/-) has to be paid in cash / cheque. The remaining credit can be carried forward and used for the subsequent period in a similar manner.
- iii. However, an option is available to general insurance service providers providing taxable as well as exempted insurance schemes and do not maintain separate input / input services credit accounts to utilise CENVAT credit proportionate to the inputs and input services used in providing taxable services. The scheme is optional and is effective from 1st April, 2007. Refer Rule 6(3) of CENVAT Credit Rules, 2004 for further details.

12. Export of Services and taxable service used in relation to export of goods

12.1. What is Export of Services? Whether export of services is exempted from Service Tax?

What constitute export of service is defined in the Export of Service Rules, 2005. The Export of taxable services is exempted from Service Tax. (Export of Service Rules, 2005).

12.2. What constitutes export of services?

The Export of Services, Rules, 2005 specifies 3 categories of cross border transaction of services and conditions that will be construed as export of services in cases of:

- i. specified services which are provided in relation to immovable properties situated outside India – [See list of services in **Appendix-4**]
- ii. specified services which are provided partly outside India – [See list of services in **Appendix – 4**]
- iii. the remaining taxable services, barring a few exceptions, when provided in relation to business or commerce, to a recipient located outside India, and when such services are provided not in relation to business or commerce, it should be provided to a recipient located outside India at the time of provision of such service. However, where such recipient has commercial establishment or any office relating thereto, in India, such taxable services provided shall be treated as export of service only when order for provision of such service is made from any of his commercial establishment or office located outside India. [See list of services in **Appendix – 4**]
- iv.

Further condition to be met for a service to constitute export are –

- i. such service is provided from India and used outside India; and
- ii. payment for such service provided outside India is received by the service provider in convertible foreign exchange.

Thus, each transaction has to be seen individually to ascertain if it constitutes export of services, fulfilling the requisite parameters.

12.3. If export proceeds are received in Indian currency, will it be denied export benefit?

If export proceeds are received in Indian currency, no export benefits shall be available.

12.4. If a foreign national pays in convertible foreign currency for service received by him in India, and he returns to foreign country, will it be treated as export?

If services are rendered in India, it shall not be treated as export, even if it is rendered to any foreign national and he pays in convertible foreign currency.

12.5. What are the incentives for export of services?

- i. Taxable services may be exported without payment of service tax, provided the conditions specified in Export of Service Rules, 2005 are fulfilled.
- ii. Where service tax has already been paid on export of services to countries (other than Nepal and Bhutan), rebate/refund of such service tax, can be availed under notification no. 11/2005-ST dated 19.4.2005;
- iii. Where service tax has already been paid **on the inputs and input services** used in export of services to countries (other than Nepal and Bhutan), rebate/refund of such excise duty on inputs and service tax paid on input services can be availed under notification no. 12/2005-ST dated 19.4.2005;
- iv. Where taxable services are exported without payment of tax, but CENVAT Credit was availed, the refund of accumulated CENVAT Credit (if cannot be fully used for payment of service tax), may be claimed as refund under rule 5 of the CENVAT Credit Rules, 2004 read with notification no. 11/2002-CE (N.T.) dated the 1st March, 2002, as amended.

12.6 Whether service tax paid on taxable services used in relation to export of goods is refunded?

Service tax paid on the **input services** used in export of goods is refundable to exporter by way of rebate/refund in terms of notification No. 41/2001-Central Excise (N.T.), dated the 26th June, 2001. Further CENVAT Credit accumulated on such input services is also refundable under rule 5 of the CENVAT Credit Rules, 2004, subject to the observance of procedure prescribed in notification No. 5/2006-CE (NT) dated the 14th March, 2006.

Further, in respect of following services, which are not in the nature of input service but are linked to export of goods, refund of service tax paid on these services is admissible to exporter in terms of notification No. 40/2007-ST, dated the 17th Sep 2007, -

- (i) Port service ;
- (ii) Other port service;
- (iii) Goods transport by road service;
- (iv) Transport in container by rail

12.7 Where can one file the rebate claims or refund of CENVAT Credit?

The rebate claims or refund of CENVAT Credit application has to be filed in the Central Excise or Service Tax Division/Group where the assessee is registered.

13. Service Tax on receipt of services from outside [Import of services]

13.1. What is the statutory provision regarding taxing of services provided from outside India and received in India?

Section 66A of the Finance Act, 1994, inserted with effect from 18.4.2006, provides that where any taxable service is provided or to be provided by a person who has established a business or has a fixed establishment from which the service is provided or to be provided or has his permanent address or usual place of residence, in a country other than India, and is received by a person who has his place of business, fixed establishment, permanent address or usual place of residence, in India, such service shall be taxable service.

13.2. Is the recipient of service liable to pay tax for the services rendered from abroad?

The recipient of service shall be liable to pay tax if the provider of service do not have any established business or a fixed establishment in India. However, a person carrying on a business through a branch or agency in any country shall be treated as having a business establishment in that country (including India).

13.3. Where provider of the service has his business establishments in more than one country, which country should be treated as the country from which service is provided?

If the provider of the service (from outside India) has his business establishments in more than one country, the country, where the establishment of the provider of service directly concerned with the provision of service is located, shall be treated as the country from which the service is provided or to be provided.

13.4. What will be 'usual place of residence' of a body corporate?

Usual place of residence, in relation to a body corporate, means the place where it is incorporated or otherwise legally constituted.

13.5. What constitutes import of services?

The Taxation of Services (Provided from Outside India and Received in India) Rules, 2006 specifies 3 categories of cross border transaction of services and conditions that will be construed as import of services, namely, -

- i. specified services which are provided in relation to immovable properties situated in India – [See list of services in **Appendix-4**]
- ii. specified services which are provided partly in India – [See list of services in **Appendix -4**]
- iii. the remaining taxable services, barring a few exceptions, when provided in relation to business or commerce, to a recipient located in India. [See list of services in **Appendix -4**]

Thus, each transaction has to be seen individually to ascertain if it constitutes import of services, fulfilling the requisite parameters.

13.6. Are individuals receiving service from outside India also liable to pay tax?

If the recipient of the service is an individual and such service received by him is otherwise than for the purpose of use in any business or commerce, service tax will not be payable by him. If the services received are for the purpose of use in any business or commerce, then service tax will be leviable.

14. Advance Ruling

14.1. What is meant by advance ruling?

Advance ruling means the determination, by the Authority, of a question of law or fact specified in the application regarding the liability to pay duty/service tax in relation to an activity which is proposed to be undertaken, by the applicant. Activity means service to be provided.

14.2. What is the scheme of advance rulings?

Authority for Advance Rulings for Excise and Customs is meant to provide binding ruling on important issues so that intending investors will have a clear-cut indication of their duty/tax liability in advance.

Since advance rulings are not appealable under the Finance Act, 1994, it assures the applicant of the finality of the tax liability and hence freedom from spending time, energy and money in legal battles which mostly become long-drawn.

14.3. Who can apply for an advance ruling?

- i. A non-resident setting up a joint venture in India in collaboration with a non-resident or a resident; or
- ii. A resident setting up a joint venture in India in collaboration with a non-resident; or
- iii. A wholly owned subsidiary Indian company, of which the holding company is a foreign company, which proposes to undertake any business activity in India;
- iv. A joint venture in India,
- v. A resident falling within any such class or category of persons, as the Central Government may, by notification in the official Gazette, specify in this behalf, and which or who, as the case may be, makes application for advance ruling under sub-section (1) of section 28H.
- vi. A resident as an applicant who proposes to import any goods from the Republic of Singapore under Comprehensive Economic Co-operation Agreement (CECA). –Refer Notification No.69/2005 dated 29.07.2005

14.4. On which questions can an advance ruling be sought?

Advance rulings, concerning service tax matters, can be sought in respect of –

- i. Classification of any service as a taxable service under Chapter V of the Finance Act, 1994;
- ii. Principles to be adopted for the purposes of determination of value of taxable service under the said Act;
- iii. Determination of the liability to pay service tax on a taxable service under the said Act;
- iv. Valuation of taxable services for charging Service Tax; and
- v. Applicability of notifications issued under said Act.

14.5. Where is the Authority located and who can be contacted for information/guidance?

Office of the Authority for Advance Rulings (Central Excise, Customs & Service Tax), 4th Floor (Room No. 445 to 465, 467 & 469), Hotel Samrat, Kautilya Marg, Chanakyapuri, New Delhi – 110 021, Phone 91-11-26876402/26876406, Fax No. 91-11-26876410, Email : aarce@hub.nic.in,

Further information, including those relating to the procedure for filing application, fees and formats of annexure, is available on Website: www.cbec.gov.in/cae/aar.htm

15. Where can the department be contacted?

Service tax offices

- In Ahmedabad, Bangalore, Chennai, Delhi, Kolkata & Mumbai there are exclusive Service Tax Commissionerates which could be contacted at following addresses/telephone No. and e-mail ids.

Ahmedabad

5th Floor,
Central Excise Bhavan,
Near Polytechnic, Ambavadi,
Ahmedabad-380015
(Ph: 079-26305087)
cexd2308@excise.nic.in

Delhi

17-B, I. P. Estate, IPEA House,
New Delh-110002
(Ph: 011-23378711)
st.delhi@gmail.com

Bangalore

16/1, S.P. Complex,
Lal Bagh Road,
Bangalore-560027
(Ph: 080-22245739)
adcstaxblr@eth.net

Chennai

MHU Complex, 692, Anna Sala,
Nandanam,
Chennai
(Ph. : 044-24330840-42)
chennaiservicetax@dataone.in

Kolkata

3rd Floor, Rajaji Chambers,
4 K.S. Roy Road,
Kolkata-700001
(Ph: 033-22428922)
Servicetax_kolkata@yahoo.com

Mumbai

5th Floor, New Central Excise Building,
115, M. K. Road, Churchgate,
Mumbai-400020
(Ph: 022-22060619)
commissioner@servicetaxmumbai.gov.in

In other places, we can be contacted at:

Ahmedabad (Ahmedabad, Rajkot, Bhav Nagar)- ccahmdbd@excise.nic.in (079-26309079)
Bhopal (Madhya Pradesh and Chatishgarh) -cec2006@dataone.in, (0755-2765208) ;
Bhubneswar (Orissa)-ccbbsr@rediffmail.com (0674-2581135) ;
Chandigarh (Punjab, Himanchal and J & K)-ccchandi@msn.com (0172-2704180);

Chennai & Pondicherry ccchenai@excise.nic.in (044-28331010);
Kerala: cccchin@excise.nic.in (0484-2394100);
Coimbatore (Tamilnadu other than Chennai & Pondicherry)- ccocbe@vsnl.net (0422-2221981);
(Delhi) Delhi and Haryana: ccdelhi@excise.nic.in (011-23370852);
Hyderabad (Hyderabad & Secunderabad) -ccehyd@excise.nic.in (040-23232028);
Jaipur (Rajasthan)- cexjaipu@excise.nic.in (0141-2385463);
West Benagal-cckolkat@excise.nic.in (033-22306579),
Lucknow (Central and EasternUP)- ccolkwzone@yahoo.co.in (0522-2612606),
Mysore (Mysore, Belgaum, Mangalore)-ccmysore@rediffmail.com (0821-2476912);
Meerut (Western UP and Utrrankhand)- ccmeerut@excise.nic.in (0121-2769785);
Mumbai (Mumbai, Raigarh, Belapur)-ccozone2office@yahoo.com (022-24120598);
Nagpur (Aurangabad, Nagpur, Nasik)-cccexnag_ngp@sacharnet.in (0712-2565375);
Pune (Pune, , Kolhapur Goa)- ccexpune@pn3.vsnl.net.in (020-26051815),
Ranchi (Jharkhand) -cenexranchi@rediffmail.com (0651-2330022),
Shillong (North-Eastern States)-ccshillo@excise.nic.in (0364-2504178);
Vadodara (Vadodara, Daman, Surat, Valsad)-chiefcomgujrat@hotmail.com (0265-2331002),
Vizag (Andhra Pradesh other than Hyderabad & Secunderabad) -ccvizag@excise.nic.in (0891-2568837)

If your query remains unresolved, you may contact -

Directorate General of Service Tax- dgst@sify.com (022-24102586/89) or
Commissioner (Service Tax), CBEC- servicetax.cbec@gmail.com (011-23092275)

Appendix- 1

Sl. No.	Service Category	Date of Introduction	Accounting Codes			
			Tax Collection	Other Receipts	Deduct Refunds	Education Cess
1	Advertising	01.11.1996	00440013	00440016	00440017	00440298
2	Air Travel Agent	01.07.1997	00440032	00440033	00440034	00440298
3	Airport Services	10.09.2004	00440258	00440259	00440260	00440298
4	Architect	16.10.1998	00440072	00440073	00440074	00440298
5	Asset management (by other than Banking company)	01.06.2007	00440418	00440419	00440420	00440421
6	ATM Operations, Management or Maintenance	01.05.2006	00440346	00440347	00440348	00440298
7	Auctioneers' service, other than auction of property under directions or orders of a court of or auction by Central Govt.	01.05.2006	00440370	00440371	00440372	00440298
8	Authorised Service Station	16.07.2001	00440181	00440182	00440183	00440298
9	Auxiliary to General Insurance / Life Insurance	16.07.2001 / 16.08.2002	00440169	00440170	00440171	00440298
10	Banking & Other Financial Services	16.07.2001	00440173	00440174	00440175	00440298
11	Beauty Parlour	16.08.2002	00440209	00440210	00440211	00440298
12	Broadcasting	16.07.2001	00440165	00440166	00440167	00440298
13	Business Auxiliary Service	01.07.2003	00440225	00440226	00440227	00440298
14	Business Exhibition Service	10.09.2004	00440254	00440255	00440256	00440298
15	Business Support Service	01.05.2006	00440366	00440367	00440368	00440298
16	Cable Operator	16.08.2002	00440217	00440218	00440219	00440298
17	Cargo Handling	16.08.2002	00440189	00440190	00440191	00440298
18	Chartered Accountant	16.10.1998	00440092	00440093	00440094	00440298
19	Cleaning Service	16.06.2005	00440318	00440319	00440320	00440298
20	Clearing & Forwarding Agent	16.07.2001	00440045	00440046	00440047	00440298
21	Clubs and Associations	16.06.2005	00440322	00440323	00440324	00440298
22	Commercial or Industrial Construction	10.09.2004	00440290	00440291	00440292	00440298
23	Commercial Training or Coaching	01.07.2003	00440229	00440230	00440231	00440298
24	Company Secretary	16.10.1998	00440100	00440101	00440102	00440298
25	Construction of Complex	16.06.2005	00440334	00440335	00440336	00440298
26	Consulting Engineer	07.07.1997	00440057	00440058	00440059	00440298
27	Convention Centre	16.07.2001	00440133	00440134	00440135	00440298
28	Cost Accountant	16.10.1998	00440096	00440097	00440098	00440298
29	Courier	01.11.1996	00440014	00440018	00440019	00440298

30	Credit Card, Debit Card, Charge Card or other payment card related services	01.05.2006	00440394	00440395	00440396	00440298
31	Credit Rating Agency	16.10.1998	00440088	00440089	00440090	00440298
32	Custom House Agent	15.06.1997	00440026	00440027	00440028	00440298
33	Design Services	01.06.2007	00440422	00440423	00440424	00440298
34	Development & Supply of Content	01.06.2007	00440414	00440415	00440416	00440298
35	Dredging	16.06.2005	00440310	00440311	00440312	00440298
36	Dry Cleaning	16.08.2002	00440221	00440222	00440223	00440298
37	Erection, Commissioning or Installation	01.07.2003	00440233	00440234	00440235	00440298
38	Event Management	16.08.2002	00440197	00440198	00440199	00440298
39	Fashion Designer	16.08.2002	00440213	00440214	00440215	00440298
40	Forward Contract Services	10.09.2004	00440282	00440283	00440284	00440298
41	Franchise Service	01.07.2003	00440237	00440238	00440239	00440298
42	General Insurance	01.07.1994	00440005	00440006	00440120	00440298
43	Health Club & Fitness Centre	16.08.2002	00440205	00440206	00440207	00440298
44	Intellectual Property Service	10.09.2004	00440278	00440279	00440280	00440298
45	Interior Decorator	16.10.1998	00440076	00440077	00440078	00440298
46	Internet Café	01.07.2003	00440241	00440242	00440243	00440298
47	Internet Telephony Service	01.05.2006	00440382	00440383	00440384	00440298
48	Life Insurance	10.09.2004	00440185	00440186	00440187	00440298
49	Mailing List Compilation and Mailing	16.06.2005	00440330	00440331	00440332	00440298
50	Management Consultant	01.07.1997	00440116	00440117	00440118	00440298
51	Management, Maintenance or Repair Service	01.07.2003	00440245	00440246	00440247	00440298
52	Mandap Keeper	16.10.1998	00440035	00440036	00440037	00440298
53	Manpower Recruitment or Supply Agency	07.07.1997	00440060	00440061	00440062	00440298
54	Market Research Agency	16.10.1998	00440112	00440113	00440114	00440298
55	Mining of Mineral, Oil or Gas	01.06.2007	00440402	00440403	00440404	00440298
56	On-line Information & Database Access or Retrieval Service	16.07.2001	00440153	00440154	00440155	00440298
57	Opinion Poll Service	10.19.2004	00440274	00440275	00440276	00440298
58	Outdoor Caterer	10.09.2004	00440051	00440052	00440053	00440298
59	Packaging Service	16.06.2005	00440326	00440327	00440328	00440298
61	Pandal or Shamiana Services	10.09.2004	00440054	00440055	00440056	00440298
61	Photography	16.07.2001	00440129	00440130	00440131	00440298
62	Port Service	16.07.2001	00440177	00440178	00440179	00440298
63	Public Relations Service	01.05.2006	00440374	00440375	00440376	00440298
64	Rail Travel Agent	16.08.2002	00440201	00440202	00440203	00440298
65	Real Estate Agent / Consultant	16.10.1998	00440104	00440105	00440106	00440298
66	Recovery Agent	01.05.2006	00440350	00440351	00440352	00440298
67	Registrar to an Issue	01.05.2006	00440338	00440339	00440340	00440298
68	Rent - a - Cab Operator	16.07.1997	00440048	00440049	00440050	00440298
69	Renting of Immovable Property	01.06.2007	00440406	00440407	00440408	00440298
70	Sale of space or time for Advertisement, other than print media	01.05.2006	00440354	00440355	00440356	00440298

71	Scientific or Technical Consultancy	16.07.2001	00440125	00440126	00440127	00440298
72	Security Agency	16.10.1998	00440108	00440109	00440110	00440298
73	Share Transfer Agent	01.05.2006	00440342	00440343	00440344	00440298
74	Ship Management service	01.05.2006	00440378	00440379	00440380	00440298
75	Site Preparation	16.06.2005	00440306	00440307	00440308	00440298
76	Sound Recording	16.07.2001	00440161	00440162	00440163	00440298
77	Sponsorship service provided to any body corporate or firm, other than sponsorship of sports event	01.05.2006	00440358	00440359	00440360	00440298
78	Steamer Agent	15.06.1997	00440029	00440030	00440031	00440298
79	Stock Broker	01.07.1994	00440008	00440009	00440121	00440298
80	Storage & Warehousing	16.08.2002	00440193	00440194	00440195	00440298
81	Survey & Exploration of Minerals	10.09.2004	00440270	00440271	00440272	00440298
82	Survey and Map Making	16.06.2005	00440314	00440315	00440316	00440298
83	T.V. & radio Programme Production Services	10.09.2004	00440286	00440287	00440288	00440298
84	Technical Testing & Analysis Agency / Technical Inspection & Certification Agency	01.07.2003	00440249	00440250	00440251	00440298
85	Telecommunication Service	1.6.07	00440398	00440399	00440400	00440298
86	Tour Operator	01.09.1997	00440063	00440064	00440065	00440298
87	Transport of goods by Air	10.09.2004	00440266	00440267	00440268	00440298
88	Transport of goods by Road	01.01.2005	00440262	00440263	00440264	00440298
89	Transport of goods in containers by rail by any person other than Government railway	01.05.2006	00440390	00440391	00440392	00440298
90	Transport of goods other than water, through Pipeline or other conduit	16.06.2005	00440302	00440303	00440304	00440298
91	Transport of passengers embarking on international journey by air, other than economy class passengers	01.05.2006	00440362	00440363	00440364	00440298
92	Transport of persons by cruise ship	01.05.2006	00440386	00440387	00440388	00440298
93	Travel Agent other than Air & Rail Travel	10.09.2004	00440294	00440295	00440296	00440298
94	Underwriter	16.10.1998	00440084	00440085	00440086	00440298
95	Video Tape Production	16.07.2001	00440157	00440158	00440159	00440298
96	Works Contract	01.06.2007	00440410	00440411	0440412	00440298

Note: There are 100 services but accounting codes of a few services have been merged.

The sub-head "Other Receipts" is meant for interest, penalty leviable on delayed payment of service tax

The sub-head "Deduct Refunds" is not to be used by the assessee. It is meant for the Central Excise Department while allowing refund.

Appendix-2 Abatements

Sl.No	Sub clause	Description of taxable service	Conditions	Percentage
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	of section 65(105)			amount of value on which ST is required to be paid
1	(m)	(1) The use of mandap, including the facilities provided to the client in relation to such use and also for the catering charges.	This exemption shall apply only in such cases where the mandap keeper also provides catering services, that is, supply of food and the invoice, bill or challan issued indicates that it is inclusive of the charges for catering service.	60
		(2) Taxable service provided by a hotel as mandap keeper in such cases where services provided include catering services, that is, supply of food alongwith any service in relation to use of a mandap.	The invoice, bill or challan issued indicates that it is inclusive of charges for catering services. <i>Explanation.</i> - The expression "hotel" means a place that provides boarding and lodging facilities to public on commercial basis.	60
2 ³	(n)	(i) Services provided or to be provided to any person, by a tour operator in relation to a package tour.	The bill issued for this purpose indicates that it is inclusive of charges for such a tour.	25
		<i>Explanation.- The expression "package tour" means a tour wherein transportation, accommodation for stay, food, tourist guide, entry to monuments and other similar services in relation to tour are provided by the tour operator as part of the package tour to the person undertaking the tour.</i>	(a) The invoice, bill or challan issued indicates that it is towards charges for such accommodation, and (b) this exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such ccommodation.	10
		(ii) Services provided or to be provided to any person, by a tour operator in relation to a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour.	The bill issued indicates that the amount charged in the bill is the gross amount charged for such a tour.	40
		(iii) Services, other than services specified in (i) and (ii) above, provided or to be provided to any person, by a tour operator in relation to a tour.		

3	(o)	Renting of a cab	---	40
4	(zc)	Holding of a convention, where service provided includes catering service.	The gross amount charged from the client is inclusive of the charges for the catering service.	60
4A ²	(zzb)	Business auxiliary service in relation to production or processing of parts and accessories used in the manufacture of cycles, cycle rickshaws and hand-operated sewing machines, for, or on behalf of, the client.	The gross amount charged from the client is inclusive of the cost of inputs and input services, whether or not supplied by the client	70
5	(zzd)	Erection, commissioning or installation, under a contract for supplying a plant, machinery or equipment and erection, commissioning or installation of such plant, machinery or equipment.	This exemption is optional to the commissioning and installation agency. <i>Explanation.</i> - The gross amount charged from the customer shall include the value of the plant, machinery, equipment, parts and any other material sold by the commissioning and installation agency, during the course of providing erection, commissioning or installation service	33
6	(zzp)	Transport of goods by road in a goods carriage.	---	25
7	(zzq)	Commercial or Industrial Construction	This exemption shall not apply in such cases where the taxable services provided are only completion and finishing services in relation to building or civil structure, referred to in sub-clause (c) of clause (25b) of section 65 of the Finance Act. <i>Explanation.</i> - The gross amount charged shall include the value of goods and materials supplied or provided or used by the provider of the construction service for providing such service.	33
8	(zzt)	Catering	This exemption shall apply in cases where,- (i) the outdoor caterer also provides food; and (ii) the invoice, bill or challan issued indicates that it is inclusive of charges for supply of food.	50
9	(zzw)	Services in relation to pandal or shamiana in any manner, including services rendered as a	This exemption shall apply only in cases where,- (i) the pandal or shamiana	70

		caterer.	contractor also provides catering services, that is, supply of food; and (ii) the invoice, bill or challan issued indicates that it is inclusive of charges for catering service.	
10	(zzzh)	Construction of Complex	This exemption shall not apply in cases where the taxable services provided are only completion and finishing services in relation to residential complex, referred to in sub-clause (b) of clause (30a) of section 65 of the Finance Act. <i>Explanation.</i> - The gross amount charged shall include the value of goods and materials supplied or provided or used for providing the taxable service by the service provider.	33
11 ¹	(zzzp)	Transport of goods in containers by rail	---	30

Provided that this notification shall not apply in cases where, -

(i) the CENVAT credit of duty on inputs or capital goods or the CENVAT credit of service tax on input services, used for providing such taxable service, has been taken under the provisions of the CENVAT Credit Rules, 2004; or (ii) the service provider has availed the benefit under the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.12/2003-Service Tax, dated the 20th June, 2003[G.S.R. 503 (E), dated the 20th June, 2003].

Explanation. - For the purposes of this notification, the expression “food” means a substantial and satisfying meal and the expression “catering service” shall be construed accordingly.

¹ Inserted by Notification No.20/2006 dated 25.04.2006 ² Inserted by Notification No.23/2006 dated 02.06.2006 ³ Substituted by Notification No.38/2007 dated 23.08.2007

Appendix - 3

Sections of the Central Excise Act, 1944 applicable to Service Tax

Sl.No.	Section of Central Excise Act, 1944	Description
1	9C	Presumption of culpable mental state
2	9D	Relevancy of statements under certain circumstances
3	11B	Claim for refund of duty
4	11BB	Interest on delayed refunds
5	11C	Power not to recover duty of excise not levied or short levied as a result of general practice
6	12	Application of the provisions of Act No.52 of 1962 to Central Excise Duties
7	12A	Price of goods to indicate the amount of duty paid thereon
8	12B	Presumption that the incidence of duty has been passed on to the buyer
9	12C	Consumer Welfare Fund
10	12D	Utilisation of the Fund
11	12E	Powers of Central Excise Officers
12	14	Power to summon persons to give evidence and produce documents in inquiries under this Act
13	14AA	Special audit in cases where credit of duty availed or utilized is not within the normal limits, etc.
14	15	Officers required to assist Central Excise Officers
15	33A	Adjudication procedure
16	35F	Deposit, pending appeal, of duty demanded or penalty levied
17	35G	Appeal to High Court
18	35H	Application to High Court
19	35I	Power to High Court or Supreme Court to require statement to be amended
20	35J	Case before High Court to be heard by not less than two judges
21	35K	Decision of High Court or Supreme Court on the case stated
22	35L	Appeal to the Supreme Court
23	35M	Hearing before Supreme Court
24	35N	Sums due to be paid notwithstanding reference, etc.
25	35O	Exclusion of time taken for copy
26	35Q	Appearance by authorized representative
27	36	Definitions
28	36A	Presumption as to documents in certain cases
29	36B	Admissibility of micro films, facsimile copies of documents and computer printouts as documents and as evidence

30	37A	Delegation of powers
31	37B	Instructions to Central Excise Officers
32	37C	Service of decisions, orders, summons, etc.
33	37D	Rounding off of duty, etc.
34	38A	Effect of amendments, etc. of rules, notifications or orders
35	40	Protection of action taken under the Act

Appendix - 4
Export of Service Rules, 2005 &
Taxation of Services (Provided from Outside India and Received in India) Rules, 2006
List of Service Categories

Rule 3 (i)

Category - I

Sr.No.	Clause	Service Category
1	d	General Insurance
2	p	Architect
3	q	Interior Decorator
4	v	Real Estate Agent
5	zzq	Commercial or Industrial Construction
6	zzza	Site Formation
7	zzzb	Dredging
8	zzzc	Survey and Map making
9	zzzh	Construction of Complex
10	zzzr	Auctioneers
11	zzzy	Mining of Minerals, Oil or Gas
12	zzzz	Renting of Immovable Property
13	zzzza	Works Contract

Rule 3(ii)

Category - II

Sr.No.	Clause	Service Category
1	a	Stock Broker
2	f	Courier
3	h	Custom House Agent
4	i	Steamer Agent
5	j	Clearing & Forwarding
6	l	Air Travel Agent
7	m	Mandap Keeper
8	n	Tour Operator
9	o	Rent-a-cab
10	s	Chartered Accountant
11	t	Cost Accountant
12	u	Company Secretary
13	w	Security Agency
14	x	Credit Rating Agency
15	y	Market Research Agency
16	z	Underwriter
17	zb	Photography
18	zc	Convention Centre
19	zi	Video Production
20	zj	Sound Recording
21	zn	Port Service

22	zo	Authorised Service Station
23	zq	Beauty Parlour
24	zr	Cargo Handling
25	zt	Dry Cleaner
26	zu	Event Manager
27	zv	Fashion Designer
28	zw	Health Club & Fitness Centre
29	zza	Storage & Warehousing
30	zzc	Commercial Training or Coaching
31	zzd	Erection Commissioning & Installation
32	zzf	Internet Café
33	zzg	Management, Maintenance or Repair
34	zzh	Technical testing & Analysis
35	zzi	Technical Inspection & Certification
36	zzl	Other Port
37	zzm	Airport Authority
38	zzn	Transport of goods by aircraft
39	zzo	Business Exhibition
40	zzp	Goods Transport Agency
41	zzs	Opinion Poll
42	zzt	Outdoor Caterer
43	zzv	Survey & Exploration
44	zzw	Pandal & Shamiana
45	zzx	Travel Agent
46	zzy	Forward Contract
47	zzzd	Cleaning
48	zzze	Club or Association
49	zzzf	Packaging
50	zzzp	Transport of goods in containers by Rail

Rule 3(iii) (a)

Sr.No.	Clause	Service Category
1	zzzo	Passenger embarking on international flight
2	zzzv	Cruise service

Rule 3(iii)b

Sr.No.	Clause	Service Category
1	d	General Insurance
2	zzzc	Survey & map making
3	zzzr	Auctioneers

Rule 3(iii)(c)**Category - III**

Sr.No.	Clause	Service Category
1	b	Telephone
2	c	Pager
3	d	General Insurance
4	e	Advertising
5	g	Consulting Engineer
6	k	Manpower Recruitment or Supply
7	r	Management Consultant
8	za	Scientific or Technical Consultancy
9	zd	Leased Circuit
10	ze	Telegraph
11	zf	Telex
12	zg	Fax
13	zh	On-line Information
14	zk	Broadcasting
15	zl	Insurance Auxiliary
16	zm	Banking and Other Financial Services
17	zp	----- omitted
18	zs	Cable Operator & MSO
19	zx	Life Insurance
20	zy	Insurance Auxiliary to Life Insurance
21	zz	Rail Travel Agent
22	zzb	Business Auxiliary Service
23	zze	Franchise Service
24	zzj	----- omitted
25	zzk	Forex Broker (other than in relation to Banking)
26	zzr	Intellectual Property Service
27	zzu	Programme Producer
28	zzz	Transport through Pipeline
29	zzzc	Survey and Map making
30	zzzg	Mailing List Compilation & Mailing
31	zzzi	Registrar to an issue
32	zzzj	Share Transfer Agent
33	zzzk	ATM Operation, Maintenance & Management
34	zzzl	Recovery Agent
35	zzzm	Sale of Space for Advt. other than Print Media
36	zzzn	Sponsorship other than for Sports
37	zzzq	Business Support Service
38	zzzr	Auctioneers
39	zzzs	Public Relations Service
40	zzzt	Ship Management Service
41	zzzu	Internet Telephony
42	zzzw	Credit Card, Debit Card & other payment Cards

