Service tax

Service
Clause (44) Section 65B of the Act.

- There shall be levied a tax (hereinafter referred to as the service tax)
- at the rate of twelve per cent
- on the value
- of all **services**,
- other than those services specified in the negative list, - provided or agreed to be provided
- in the taxable territory by one person to another, and Collected in such manner as may be prescribed

Service

"service" means

- *any activity*
- *carried out by a person*
- *for another*
- *for consideration,*
- *and* includes a declared service,

Service

but shall not include—

(*a) an activity which constitutes merely,—*

(*i) a transfer of title in goods or immovable property, by way of sale, gift or in any other* manner; or

(*ii) a transaction in money or actionable claim;*

(*b) a provision of service by an employee to the employer in the course of or in relation to* his employment;

(*c) fees taken in any Court or tribunal established under any law for the time being in* force.

Meaning of consideration

Consideration

- not defined in the Fin Bill 2012. Refer section 2(d) of the Indian Contract Act

2(d) - When, at the desire of the promisor, the promisee or any other person has done or abstained from doing, or does or abstains from doing, or promises to do or to abstain from doing, something, such act or abstinence or promise is called a consideration for the promise;

Declared Services – Sec. 66E of the Act

(a) Renting of immovable property;

"renting" means allowing, permitting or granting access, entry, occupation, use or any such facility, wholly or partly, in an immovable property, with or without the transfer of possession or control of the said immovable property and includes letting, leasing, licensing or other similar arrangements in respect of immovable property;

(b) construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration is received after issuance of completion-certificate by the competent authority.

- the expression "construction" includes additions, alterations, replacements or remodelling of any existing civil structure

(c) temporary transfer or permitting the use or enjoyment of any intellectual property right;

(d) development, design, programming, customisation, adaptation, upgradation,

enhancement, implementation of information technology software;

Declared Services

(e) agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;

(*f) transfer of goods by way of hiring, leasing, licensing or in any such manner without* transfer of right to use such goods;

(*g) activities in relation to delivery of goods on hire purchase or any system of payment by* instalments;

(*h) service portion in the execution of a works contract;*

(*i) service portion in an activity wherein goods, being food or any other article of human* consumption or any drink (whether or not intoxicating) is supplied in any manner as a part of the activity.

Negative list – Sec. 66D of the Act

(*a*) *services by Government or a local authority excluding the following services to the extent* they are not covered elsewhere—

i. *services by the Department of Posts* *by way of* *speed post*, *express parcel post*, *life* insurance and agency services provided to a person other than Government;

ii. *services* *in relation to* *an aircraft or a vessel, inside or outside the precincts of a port or* an airport;

iii. ***transport of goods or passengers; or***

iv. *support services*, *other than services covered under clauses (i) to (iii) above, provided* to business entities;

(*b*) *services by the Reserve Bank of India;*

- Loans to banks
- Processing of applications for foreign investment in India and for investment by Indian Companies and Indians abroad

(*c*) *services by a foreign diplomatic mission located in India;*

- Issue of visas

Negative list –Contd…

(d) services relating to agriculture or agriculture produce by way of—

(*i) agricultural operations directly related to production of any agricultural produce including* cultivation, harvesting, threshing, plant protection

(*ii) supply of farm labour;*

(*iii) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter the essential characteristics of agricultural produce but make it only marketable for the primary market;*

(*iv) renting or leasing of agro machinery or vacant land with or without a structure incidental* to its use;

(*v) loading, unloading, packing, storage or warehousing of agricultural produce;*

(*vi) agricultural extension services;*

(*vii) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce;*

Negative list – Contd…

(e) trading of goods;

(f) any process amounting to manufacture or production of goods;

(g) selling of space or time slots for advertisements other than advertisements broadcast by radio or television;

(h) service by way of access to a road or a bridge on payment of toll charges;

(i) betting, gambling or lottery;

(j) admission to entertainment events or access to amusement facilities;

(k) transmission or distribution of electricity by an electricity transmission or distribution utility;

(l) services by way of—

i. pre-school education and education up to higher secondary school or equivalent;

ii. education as a part of a curriculum for obtaining a qualification recognised by any law for the time being in force;

iii. education as a part of an approved vocational education course;

(m) services by way of renting of residential dwelling <u>for use as residence</u>;

Negative list – Contd…

(n) services by way of—

i. extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount;

ii. inter se sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers;

(o) service of transportation of passengers, with or without accompanied belongings, by—

i. a stage carriage;

ii. railways in a class other than—

A. First class; or

B. an air-conditioned coach;

iii. metro, monorail or tramway;

iv. inland waterways;

v. public transport, other than predominantly for tourism purpose, in a vessel, between places located in India; and

vi. metered cabs, radio taxis or auto rickshaws;

Negative list – Contd…

(p) services by way of transportation of goods—

i. by road except the services of—

A. a good transportation agency; or

B. a courier agency;

(q) funeral, burial, crematorium or mortuary services including transportation of the deceased.

Exemptions – (Notification no. 25/2012

Section 93 of the Act

If the Central Government is satisfied that it is necessary in the public interest so to do, it may,

- by notification in the Official Gazette, exempt generally or subject to such conditions as may be specified in the notification, taxable service of any specified description from the whole or any part of the service tax leviable thereon.
- by special order in each case, exempt any taxable service of any specified description from the payment of whole or any part of the service tax leviable thereon, under circumstances of exceptional nature to be stated in such order.

Exemption- Contd….

1. Services provided to the United Nations or a specified international organization;
2. *Health care services by a clinical establishment, an authorised medical practitioner or para- medics;*
3. *Services by a veterinary clinic in relation to health care of animals or birds;*
4. *Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities ;*
5. *Services by a person by way of-*
   - *(a) renting of precincts of a religious place meant for general public; or*
   - *(b) conduct of any religious ceremony;*

Exemption- Contd….

6. Services provided by-

(a) an arbitral tribunal -

(b) an individual as an advocate or a partnership firm of advocates by way of legal services

(c) a person represented on an arbitral tribunal;

7. Services by way of –

- *technical testing or analysis*
- *of newly developed drugs, including vaccines and herbal remedies,*
- *by a clinical research organisation approved to conduct clinical trials by the Drug Controller General of India;*

8. Services by way of training or coaching in recreational activities relating to arts, culture or sports;

Exemption- Contd….

9. *Services provided to or by an educational institution in respect of education exempted from service tax.*
10. *Services provided to a recognized sports body by-*

    (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body;

    (b) another recognized sports body;
11. *Services by way of sponsorship of sporting events organised,*
12. *Services provided to the Government, a local authority or a governmental authority by way of construction, erection, commissioning, installation, completion, fitting out, repair, maintenance, renovation, or alteration of any structure.*

There are 39 such exemptions, listed above are some of them.

Transport of passengers, with or without accompanied belongings/Goods by rail

- Abatement of 70% is available on taxable service of transport of passengers, with or without accompanied belongings/Goods by rail.
- Such abatement is unconditional

THANK YOU