

Government of India
Ministry of Finance
Department of Revenue
Tax Research Unit

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D.O.F.No.334/5/2015-TRU

Dear Principal Chief Commissioner / Chief Commissioner / Director General,

The Finance Bill, 2015, has received the assent of the Honorable President and has been notified. In the Budget, 2015, certain amendments in the Finance Act, 1994 have been incorporated through the Finance Act, 2015, which will come into effect from a date to be notified. In this regard, 1st June, 2015 is being notified as the date on which the provisions as specified in paragraph 2 below will come into effect. Certain provisions in some notifications already issued, will also come into effect from 1st June, 2015.

2. Following provisions will come into effect from 1st June, 2015.

2.1 Section 66B of the Finance Act, 1994, prescribes the service tax rate. It has been amended by Section 108 of the Finance Act, 2015. The rate of Service Tax is being increased from 12% to 14% (including cesses). **The increase in Service Tax rate will come into effect from 1st June, 2015.** (Notification No.14/2015-Service Tax, dated 19th May, 2015 refers)

2.2 Sections 153 and 159 of the Finance Act, 2015 provide that section 95 of the Finance (No.2) Act, 2004 and section 140 of the Finance Act, 2007, levying Education Cess and Secondary and Higher Education Cess, respectively, on taxable services, shall cease to have effect from a date to be notified by the Central Government. The above provisions levying Education Cess and Secondary and Higher Education Cess should also cease to have effect from 1st June, 2015. (Notification No.14/2015-Service Tax, dated 19th May, 2015 refers), that is the date with effect from which the increase in the Service Tax rate comes into effect.

2.3 The Negative List entry [section 66D (j)] that covers “admission to entertainment event or access to amusement facility” is to be omitted vide section 109 (4) of The Finance Act, 2015. Section 65B (9) and 65B (24) of the Finance Act, 1994 defines amusement facility and entertainment event, respectively. These entries in the definitions have been omitted by the Section 107 (a) and (c) of the Finance Act, 2015. These changes will come into effect from 1st June, 2015. The implication of these changes are as follows,-

- (a) Service Tax shall be levied on the service provided by way of access to amusement facility providing fun or recreation by means of rides, gaming devices or bowling alleys in amusement parks, amusement arcades, water parks and theme parks.
- (b) Service tax shall be levied on service by way of admission to entertainment event of concerts, pageants, musical performances concerts, award functions and sporting events other than the recognized sporting event, if the amount charged is more than Rs. 500 per person for the right to admission to such an event.

This levy would come into effect from 1st June, 2015. (Notification No.14/2015-Service Tax, dated 19th May, 2015 refers)

2.3.1 However, the existing exemption, by way of the Negative List entry, to service by way of admission to entertainment event, namely, exhibition of cinematographic film, circus, recognized sporting event, dance, theatrical performance including drama and ballet shall be continued, through the route of exemption. Entry 47 and definition of “recognised sporting event” [paragraph 2 entry ‘zab’] has been inserted in notification No. 25/2012-ST vide S.No.1.(xii) and S. No. 2.(b) respectively of notification No. 06/2015-ST dated 1st March, 2015. This entry will also come into effect from 1st June, 2015. (Notification No.16/2015-Service Tax, dated 19th May, 2015)

2.4 The entry in the Negative List [section 66D (f)] that covers service by way of any process amounting to manufacture or production of goods has been amended vide section 109(2) of Finance Act, 2015, to exclude any service by way of carrying out any processes for production or manufacture of alcoholic liquor for human consumption. Consequently, Service Tax shall be levied on contract manufacturing/job work for production of potable liquor for a consideration. In this context, the definition of the term “process amounting to manufacture or production of goods” [section 65 B (40)] has also been amended vide section 107

(f) of the Finance Act, 2015. This levy would come into effect from 1st June, 2015. (Notification No.14/2015-Service Tax, dated 19th May, 2015 refers)

2.4.1 A consequential amendment in S. No. 30 of notification No. 25/2012-ST dated 20th June, 2012, to exclude intermediate production of alcoholic liquor for human consumption from ambit of the exemption, will also come into effect from 1st June, 2015. [Notification No. 06/2015-ST dated 1st March 2015 Entry at Sl. No. 1.(ix)] (Notification No.16/2015-Service Tax, dated 19th May, 2015 refers)

2.5 An entry in the Negative list covers betting, gambling or lottery [Section 66D (i)]. This entry has been amended by section 109 (3) of the Finance Act, 2015 so as to include an explanation that “betting, gambling or lottery” shall not include the activity carried out by a lottery distributor or selling agent in relation to promotion, marketing, organising, selling of lottery or facilitating in organising lottery of any kind, in any other manner. The objective of making these exclusions was to make it explicitly clear that while lottery *per se* is not subject to service tax, aforesaid services in relation to lottery will be taxable. This will come into effect from 1st June, 2015. (Notification No.14/2015-Service Tax, dated 19th May, 2015 refers)

2.6 In respect of certain services like money changing service, service provided by air travel agent, insurance service and service provided by lottery distributor and selling agent, the service provider has been allowed to pay service tax at an alternative rate subject to the conditions as prescribed under rules 6(7), 6(7A), 6(7B) and 6(7C) of the Service Tax Rules, 1994. Consequent to the upward revision in Service Tax rate, the said alternative rates shall also be revised proportionately.

2.6.1 Amendments to this effect have been made in the Service Tax Rules which will also come into effect from 1st June, 2015, that is the date with effect from which the increase in the Service Tax rate is made effective. [Notification No. 05/2015-ST 1st March 2015 Entry at Sl. No. 2(a)(e)(ii)] (Notification No.15/2015-Service Tax, dated 19th May, 2015 refers)

3. Presently, services provided by Government or a local authority, excluding certain services specified under clause (a) of section 66D, are covered in the Negative List. An enabling provision has been made, by amending section 66D (a) (iv), to exclude all services provided by the Government or local authority to a business entity from the Negative List [section 109(1) of Finance Act, 2015]. Consequently, the definition of “support service” [section 65 B (49)] is also to be omitted from date to be notified [section 107(h) of Finance Act, 2015].

As and when this amendment is given effect to, all services provided by the Government or local authority to a business entity, except the services that are specifically exempted, or covered by any another entry in the Negative List, shall be liable to service tax. **The date from which this amendment would come into effect will be notified in due course.**

4. An enabling provision has been incorporated in the Finance Act, 2015 vide section 117 (Chapter VI) to impose a Swachh Bharat Cess on all or any of the taxable services at a rate of 2% or lower on the value of such taxable services. This cess shall be levied on such services at such rate from such date as may be notified by the Central Government. **The date from which this amendment would come into effect will be notified in due course.**

5. **In other words, date of effect of the provisions discussed in para 3 & 4 above are not being notified at present.**

6. Amendments have been made by Sections 113, 114 and 115 in the Finance Act, 1994, in order to impart greater clarity and align the service tax provisions with those in Central Excise by adding provisions relating to closure of proceedings in sections 76, 78 and 78B. A similar alignment with the central excise provisions has been done in sections 76(2) and 78(2) with respect to cases where the appellate authority increases the duty or penalty. These changes have come into effect immediately after enactment of Finance Bill, 2015.

7. All the above changes may be brought to the notice of trade and industry and wide publicity may be made in this regard.

With warm regards,

Yours sincerely,

(Alok Shukla)
Joint Secretary (TRU-I)

To:

All Principal Chief Commissioners

All Chief Commissioners / Directors General,

Copy to:

All Principal Commissioners, All Commissioners, Director DPPR / Logistics /
Legal Affairs / Data Management

2.1.1 To know whether a service has been provided or agreed to be provided for a consideration and its point of taxation, three main ingredients i.e. provision of taxable service, raising of invoice and receipt of payment are important. Service provided or agreed to be provided cannot be considered as taxable service if there is no consideration. Consideration is known only if invoice is raised or payment is made. In view of Section 67A of the Finance Act, services where there is no confusion in time of provision of service, receipt of payment and raising on invoice, rate of service tax will be as applicable at the time when taxable service has been provided or agreed to be provided. However, in case of complex situations, where it is not possible to determine the time, when the taxable service has been provided or agreed to be provided, point of taxation would be determined as per Rule 4 of the Point of Taxation Rules, 2011.

Therefore, rule 4 would be applicable as under:

Sr. No.	Service Provided	Invoice w.r.t. rate change	Payment w.r.t. rate change	Point of Taxation Rule	Rate of service Tax
1.	Before rate change	After	After	4(a)(i)	14%
2.	-do-	Before	After	4(a)(ii)	12.36%
3.	-do-	After	Before	4(a)(iii)	12.36%
4.	After rate change	Before	After	4(b)(i)	14%
5.	-do-	Before	Before	4(b)(ii)	12.36%
6.	-do-	After	Before	4(b)(iii)	14%