Changes In Rates Of Excise Duty

) The effective rate of excise duty of 10% on non-petroleum products is being increased to 12% with a few exceptions where exemptions/concessions have been given.

2) Concessional rate of excise duty of 5% on non-petroleum products is being increased to 6%.

3) The lower rate of 1% on non-petroleum products is being increased to 2%. However, precious metal jewellery, coal and fertilizers would remain at 1%.

SECTOR SPECIFIC PROPOSALS

I. CEMENT:

The excise duty structure on cement manufactured and cleared in packaged form is being rationalized. The graded RSP slabs for the purpose of charging of duty on cement manufactured and cleared in packaged form are being done away with. The rates on cement and cement clinkers are also being revised as under:

Description Revised rate of duty

1. cement manufactured and cleared in packaged form:—

(a) from mini cement plants 6% ad valorem + Rs.120 per tonne

(b) from other than mini cement plants 12% ad valorem + Rs.120 per tonne

2. Cement cleared other than in packaged form. 12% ad valorem

3. Cement Clinker 12% ad valorem

Cement is also being notified under section 4A, that is, retail sale price (RSP) based assessment with an abatement of 30% from RSP.

II. PRECIOUS METALS:

1) **At present, branded jewellery of precious metals attracts excise duty of 1%. The scope of the levy is extended to include unbranded jewellery within its ambit. However, the duty on such unbranded jewellery would be charged on 30% of transaction value declared in the invoice.**

2) Unbranded silver jewellery is already exempt. Branded silver jewellery is being exempted from excise duty.

3) Excise duty on gold jewellery sold from EOUs into domestic tariff area (DTA) is being increased from 5% to 10%.

4) **Excise duty on refined gold is being increased from 1.5% to 3%.**

5) Excise duty on gold produced from copper smelting is being increased from 2% to 3%.

6) Excise duty on silver produced from copper smelting is being reduced from 6% to 4%.

7) Full exemption from excise duty is being provided on articles of goldsmith and silversmith wares of precious metals or of metals coated with precious metals, not bearing a brand name.

8) Gold coins of purity 99.5% and above and silver coins of purity 99.9% and above are being fully exempted from excise duty.

III. TOBACCO PRODUCTS:

1) Cigarettes are being notified under section 4A for RSP based assessment with abatement of 50% from RSP.

2) The basic excise duty on hand-rolled bidis is being increased from Rs.8 to Rs.10 per thousand and on machine-rolled bidis from Rs.19 to Rs.21 per thousand.

3) The rates of duty per machine applicable to pan masala, guthka, chewing tobacco, zarda scented tobacco and unmanufacture tobacco under the compounded levy scheme are being increased.

IV. MASS CONSUMPTION ITEMS:

1) Refills and inks used for the manufacture of writing instruments of value not exceeding Rs.200 per piece are being fully exempted from excise duty subject to actual user condition.

2) Exemption limit on footwear is being enhanced from Rs.250 per pair to Rs.500 per pair. Footwear above Rs.500 per pair would attract excise duty of 12%.

3) Excise duty on iodine is being reduced from 10% to 6%.

V. ENVIRONMENT FRIENDLY GOODS:

1) Excise duty is being reduced from 10% to 6% on battery packs supplied to manufacturers of electric vehicles for use as spares and OEMs subject to end-use condition.

2) Excise duty is being reduced from 10% to 6% on specific parts of Hybrid vehicles supplied to manufacturers of hybrid vehicles subject to end-use condition.

3) Excise duty on LED lamps is being reduced to 6%.

VI. TEXTILES:

1) ***For the purpose of charging excise duty on ready-made garments bearing a brand name or sold under a brand name, the level of abatement from the retail sale price (RSP) is being increased from 55% to 70%.***

VII. MISCELLANEOUS:

1) Full exemption from excise duty is being provided to food preparations containing fruits and vegetables falling under Chapter 20, which are prepared in a hotel, restaurant or a retail outlet, whether or not such food is consumed in such hotels/restaurants/retail outlets.

2) Excise duty on parts of mobile phones, other than those cleared to a manufacturer of mobile phones, is being reduced from 10% to 2%, provided no Cenvat credit is taken.

3) Excise duty is being reduced from 10% to 6% on:

(a) Matches manufactured by semi-mechanized units (c) Processed food products of soya

4) Exemption from excise duty is being restored on intra ocular lens.

Service tax provisions as amended by Budget 2012

1. Rate of Service Tax Increased from 10% to 12% across all the services; (effective date 1st April, 2012)

2. Consequent rates changes in the service tax have been made in specific and compounding rates of tax for the following (effective date 1st April, 2012):

a) Service in relation to purchase and sale of foreign currencyincluding money changing, existing rates increased proportionately by 20%;

b) Service of promotion, marketing, organizing or in any manner assisting in organizing lottery by raising the specified amounts from Rs. 7000/- to Rs. 11000/-;

c) Works Contract Services from 4% to 4.8%; and

d) Reversal of Cenvat Credit under rule 6(3)(i) from present 5% to 6% of

3. In case of Life Insurance Premium, where the premium is not towards risk cover, the first premium shall be taxed @ 3% and subsequent premiums @ 1.5% (effective date 1st April, 2012);

4. Transport of passengers embarking in India for domestic and international journey will now be taxed @ 12% of the ticket value (after abatement of 60%) effective service tax shall be 4.944% of the ticket amount. (effective date 1st April, 2012)

5. Introduction of Negative List of Services (Section 66D) mentioning 17 services out of the purview of Service Tax, the details are as under: (effective after Notified date)

(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.

(c) Services by a foreign diplomatic mission located in India.

(d) Services relating to agriculture by way of –

(i) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or seed testing;

(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 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.

(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 recognized by law;

(iii) education as a part of an approved vocational education course.

(m) Services by way of renting of residential dwelling for use as residence;

(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 in a vessel of less than fifteen tonne net, other than predominantly for tourism purpose; and

(vi) metered cabs, radio taxis or auto rickshaws;

(p) Services by way of transportation of goods –

(i) by road except the services of –

(A) a goods transportation agency; or

(B) a courier agency;

(ii) by an aircraft or a vessel from a place outside India to the first customs station of landing in India; or

(iii) by inland waterways;

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

6. Place of Provision of Services Rules, 2012 (Section 66C) is proposed containing the principles on the basis of which taxing jurisdiction of Service can be determined. (Effective date shall be from the receipt of assent to the Finance Bill by the President). On these rules becoming effective, the existing Export of Services Rules, 2005 and Taxation of Services (provided from outside India and received in India) Rules, 2006 will be rescinded;

A transaction will qualify as exports when it meets following requirements

(i) The service provider in located in taxable territory;

(ii) Service recipient is located outside India;

(iii) Service provided is a service other than in the negative list;

(iv) The place of provision of service is outside India;

(v) The payment is received in convertible foreign exchange.

7. Valuation Rules for Works Contract Services and for catering services revised.

a) For Works Contract Transactions the value of services will be computed by reducing VAT Taxable Component from the Sale Proceeds and balance will be chargeable for service tax;

b) If the value of the goods are not intimated to the VAT Authorities, then the assesee can still calculate the actual value of goods and the same will be relevant to deduce the value of the services involved;

c) If still the value is not deduced then there shall be an computed @ 40% of the total amount for original works, 60% in case of other contracts and for contracts involving construction of complex or building for sale where any part of consideration is received before the completion of the building it shall be chargeable for the 25% of the total amount;

d) The Input Tax Credit on goods forming part of the property on which VAT is payable shall not be available. However, tax paid on capital goods and Input Services will be available including for tax paid on 25% of theservice tax charged for construction of complex or building;
e) For catering services the taxable portion shall be 40% in case the supply of food or any other article of human consumption or drink at a restaurant and if provided from elsewhere it shall be 60% of such amount resulting into effective rate of 4.944% and 7.416% respectively.

8. Valuation Rule 6 amended to prescribe inclusion on account of demurrage charges received, exclusion of interest on loan over and above sales consideration and amount received on account of accidental damages on account of unforeseen actions not relatable to the provision of services;

9. Abatement reduced in certain services wherein now for convention centre or mandap with catering, pandal or shamiana contractors with catering will be chargeable on 70% of the bill amount, accommodation in hotel will be

chargeable on 60% of the total amount, railway goods no change with cenvat credits made available as per the rules specified;

10. New Levy on Passenger fares on 30% of the ticket amount (on first class and AC travels) with cenvat credit made available;

11. In case of coastal shipping the taxable amount will now be on the 50% of the bill amount and no cenvat credit will be available;

12. Section 67A to be inserted to prescribe the value of taxable service (more particularly for Import and Export of Taxable Services) and the rate of tax shall be determined in terms of Point of Taxation Rules, 2011 (effective date enactment of the Finance Bill);

13. Section 72A to be inserted to introduce provisions related to Special Audit in the Service Tax Law on the lines of Section 14A and Section 14AA of the Central Excise Act, 1944.

Provision of these Sections reads as under: (effective date enactment of the Finance Bill);

SPECIAL AUDIT IN CASES WHERE CREDIT OF DUTY AVAILED OR UTILISED IS NOT WITHIN THE NORMAL LIMITS, ETC.

(1) If the Commissioner of Central Excise has reason to believe that the credit of duty availed of or utilised under the rules made under this Act by a manufacturer of any excisable goods -

(a) Is not within the normal limits having regard to the nature of the excisable goods produced or manufactured, the type of inputs used and other relevant factors, as he may deem appropriate;

(b) Has been availed of or utilised by reason of fraud, collusion or any willful mis-statement or suppression of facts,

He may direct such manufacturer to get the accounts of his factory, office, depot, distributor or any other place, as may be specified by him, audited by a accountant nominated by him.

(2) The accountant so nominated shall, within the period specified by the Commissioner of Central Excise, submit a report of such audit duly signed and certified by him to the said Commissioner mentioning therein such other particulars as may be specified.

(3) The provisions of sub-section (1) shall have effect notwithstanding that the accounts of the said manufacturer aforesaid have been audited under any other law for the time being in force or otherwise.

(4) The expenses of, and incidental to, such audit (including the remuneration of the accountant) shall be determined by the Commissioner of Central Excise (which determination shall be final) and paid by the manufacturer and in default of such payment shall be recoverable from the manufacturer in the manner provided in section 11 for the recovery of sums due to the Government.

(5) The manufacturer shall be given an opportunity of being heard in respect of any material gathered on the basis of the audit under sub-section (1) and proposed to be utilised in any proceeding under this Act or rules made there under.

14. The one year time limit for issuance of Notice under Section 73(1) for evasion, short payment or nonpayment of collected taxes increased to 18 months. New Section 73(1A) introduced to prescribe follow on notices issued on the same grounds need not repeat the grounds but to state the amount of service tax chargeable to the subsequent period. (effective date enactment of the Finance Bill)

15. Section 83 is being amended to make Settlement Commission provisions applicable to the Service Tax and to make revision mechanism prescribed in Section 35EE of the Central Excise Act, 1944(effective date enactment of the Finance Bill);

16. Section 68(2) of the Finance Act amended to put the onus of payment of service tax on reverse charge basis partly on service provider and partly on service receiver on three types of Services i.e. hiring of Transport, Construction and Man power Supply, separate Notification for the charge of the same shall be issued in case of the three services;

The details are as under

Sl. No	Description of Service	Service Recipient	Service Provider
1	Hiring of motor vehicle designed to carry passengers (a) With abatement; (b) Without abatement	 100 % 60%	 Nil 40%
2	Supply of man power for any purpose	75%	25%
3	Works Contract Service	50%	50%

It is clarified that the liability of the two persons is for the respective amounts and is not influenced by the compliance or lack of it by the other side.

17. Rule 2(1)(d) of the Service Tax Rules, 1994 is being suitably amended for definition “person liable to pay”

18. Exemption of Service Tax on repairs of roads is exempted vide Notification No. 24/2009 dt, 27.07.2009, the period of exemption increased from 16.06.2005 onwards;

19. Management, Maintenance and Repairs Service undertaken in relation to non commercial Government buildings is being exempted from Service Tax vide Section 98 with effect from 16.06.1995. The same shall be chargeable under Section 66B from the date on which Section 66B becomes effective;

20. Sub-rule 6-A inserted under Rule 6 of the Cenvat Credit Rules, 2004 to protect Domestic Tariff Area from the reversal of Cenvat Credit when they supply taxable services under exemption to the Authorised Operations of SEZ. (Retrospective effect from 10.02.2006);

21. Exemption made retrospective (i.e. from 16.06.2005) to the services provided by an Association of Dyeing Units in relation to Common Effulent Treatment Plants;

22. Waiver of penalty for the taxes due paid along with interest within six months in respect of Service Tax on Rent on Immovable Properties.

Amendment in Cenvat Credit Rules

1. Existing Rule 5 to be replaced with new rule to simplify the procedures for refund of non utilized Cenvat Credit on account of exports;

2. Credit of tax paid on motor vehicles to be allowed in case of the supply of such vehicles for services on vehicle rent, insurance and repairs shall also be allowed;

3. Credit of Tax paid for Insurance and Service Station Services is allowed to insurance Companies in respect of motor vehicles insured and re-insured by them and manufacturers in respect of motor vehicles manufactured by them;

4. Rule 4(1) and Rule 4(2) is being amended to provide credit for the taxes paid to take the credit of input of service tax on delivery of goods, subject to compliance of certain conditions as against availment of credit only after they are brought to the premises of the Service provider;

5. Rule 7 in respect of Input Service Distributors is being amended to provide that the credit for the service tax attributable to service used wholly in a unit shall be distributed only to that unit and that the credit of service tax attributable to service used in more than one unit shall be distributed on pro-rata on the basis of the turnover of the concerned unit to the total turnover of all the units;

6. Rule 9(1)(e) is being amended to provide for the credit for the taxes paid by Challan by the Service recipient on reverse charge mechanism;

7. Interest on loan being an exempt service will require reversal of credits used for earning such income. For banking and financial institutions, provisions are available to reverse credits upto 50% in rule 6(3D), It is proposed to change the formula to actual basis, subject to a minimum of 50% of the interest paid on deposits and for the non financial sector, it is proposed that they may reverse credits on gross interest basis.

Other Rules

1. Time Limit for issue of invoices is increased presently from 14 days to 30 days in case of assessee other than bank and financial institutions. In their case, the time limit shall be 45 days from the date of completion of service (Rule 4A of

the Service Tax Rules). Similarly, Clause 89(a) of the provisions in relation to the prosecution for non issue of invoice is being replaced with “knowingly evades payment of service tax” to meet the demand of business that mere non issue of invoices should not be made punishable with prosecution;

2. Central Excise Section 35EE made applicable for revision of the Orders. Similarly Power of Advance Ruling Authority to hear cases relating to Cenvat Credit;

3. Rule 6(4A) is being amended to provide unlimited amount of permissible adjustments which is for service tax paid excess in advance for any month or quarter or the case may be. At present the said excess is allowed to be adjusted only in the subsequent month or the quarter as the case may be.

4. At present in case of Export and Individuals and firms rendering eight specified services, the date of payment shall be the date of rendering services and the special dispensation is shifted from the Point of Taxation Rules to the Service Tax Rules;

5. For Exporters, the period extended by RBI on specific requests is also being included in the period of deferment of the tax liability.

6. The option of deferred payment is being allowed to all service providers rather than for specific services. Now this facility will only be available to individuals and partnership firms (including LLP) upto a turnover of services of Rs. 50 lakhs, subject to the condition that their turnover of taxable service in previous year was below Rs. 50 lakhs. The limit of Rs. 50 lakhs is for whole entity with all the registered units and not for single registration.

7. Amount paid as refund for service tax to the extent of unrealized sale proceeds of the shipping bill will be recoverable from the exporters in future at any point of time. Necessary amendments to these effects are made.

8. Common EST-1 Form for Excise and Service Tax Registration introduced and Common EST-3 Form for Excise and Service Tax Returns filing introduced.

9. Filing of Appeals for Service Tax are being aligned with that of the Central Excise.

10. New Scheme for tax recovery from the registrants collected the tax and not paid to the Government to be introduced;

Point of Taxation Rules Amended

1. Definition of continuous supply of services amended to include recurring nature of services and the obligation for periodically payment from time to time;

2. The effective rate of taxation shall be effective at the new rates on the continuous supply of services also, definition of the date of payment, option to determine the point of taxation in respect of advances upto Rs. 1000 received in excess of the amount indicated in the invoice or completion of the service rather than payment;

3. Incorporation of new residual rule to ascertain point of taxation in cases where the same cannot be ascertained by the rules prescribed;

4. Reverse charge mechanism amended to tax received from Jammu and Kashmir;

5. The exemption of Rs. 10 lakhs for exemption, will be in terms of invoices and not mere payments received;

Changes in Payment of Service Tax

1. Assesee having made payment of Service Tax of Rs. 25 lakhs or more in the previous year and new assesees other than individual and firms – Monthly payments for others Quarterly; (Effective date from 1st April, 2012)

General

1. Guidance Notes issued as under

a) Guidance Note-2 : What is service;

Services means all the services other than listed in the negative list. It includes any activity for consideration carried out by a person for another and includes a declared service and excludes any activity which constitutes only transfer in title of goods or immovable property by way of sale, gift or in any other manner, a transaction involving any money or actionable claim, any service provided by an employee to an employer in the course of the employment, fees payable to court or tribunal set up under a law for the time being in force.

b) Guidance Note-3 : Taxability of service;

Appropriate steps given to define the scope and method of valuation of the services.

c) Guidance Note-4 : Negative List;

List of 17 services

d) Guidance Note-5 : Declared Services;

e) Guidance Note-6 : Exemptions;

f) Guidance Note-7 : Rules of Interpretation;

Assuring you of our Best services.

Professionally yours,
FROM,
DARSHANKUMAR MEHTA
(TAX CONSULTANT)

DM CONSULTANCY

(One Stop Tax Solutions)
147, SHREE NAMAN PLAZA,
BEHIND SHOPPERS STOP, S.V.ROAD,
KANDIVALI WEST MUMBAI
MAHARASHTRA- INDIA- 400067
CELL: 09869480924
LANDLINE : 91-22-42660056

MY BLACKBERRY PIN:269DBA9C
URL: www.dmconsultancy.net

FOR ONLINE CHAT :
GMAIL:dmconsultancy@gmail.com

SKYPE: dm.consultancy

We wish you a successful financial year ahead

Best Regards

Our gamut of services:

Basic services provided by us:

1) Accounts Supervision & Analysis.

2) Income Tax Compliance

3) TDS Compliance include E-TDS

4) Internal Audit.

5) VAT & Sales Tax.

6) Profession Tax

7) Service Tax

8) Tax Planning

9) Excise

Innovation & Quality is our hallmark and service of the client, our broader goal