



Finance Act 2012

... New Service Tax Legislation

Seminar on Service Tax – 13-10-12
Durgapur

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Negative List of Services

Mega Exemption Notification





- Concept of taxation of services based on a negative list principle was put forth initially for public discussion by the FM by release of Concept Paper on “**Taxation of service based on a negative list of services**” in August 2011;
- “Negative List” introduced for the first time in Union Budget 2012-13 – **made effective w.e.f. 01-07-12**;
- Hitherto (**prior to 01-07-12**), 119 specified services were subjected to tax – Post 01-07-12, all the services, except those specified in Negative List, subjected to tax;
- Negative List **comprises of 17 heads** and has been drawn up, keeping in view 3 factors:
 - ✓ Federal Nature of our Policy;
 - ✓ Best International Practices; &
 - ✓ Socio-Economic Requirements.
- Negative List of Services are listed in **Section 66D** of the Finance Act, 1994.



- Services by **Government or a Local Authority** **EXCEPT** for services:
 - ✓ by **Posts Department** by way of speed post, life insurance & agency services to **Non-Govt. Entity**;
 - ✓ in relation to **Vessel/Aircraft**;
 - ✓ **transport of Goods/Passengers**; &
 - ✓ **support Services to Business entities**.

*For support services provided by the Govt. to business entities, **other than by way of renting of immovable property**, ST would be payable **by the service recipient** i.e. the business entities under **Reverse Charge Mechanism**. However, services which are provided by Govt. **in terms of their sovereign right** to business entities are not support services*

- Services by **RBI**;
- Services by a **foreign diplomatic mission** located **in India**;
- Services relating to **Agriculture or Agricultural Produce**;
- **Trading of goods** [including future contracts in commodities];

- Any **process amounting to manufacture or production** of goods;
- **Selling of space/time slots** for advertisements **EXCEPT** advertisements **broadcast by radio or television**;
Sale of space or time for advertisement in print media, bill boards, buildings, cell phones, internet, ATM, aerial advertising are not taxable. However, services provided by advertisement agencies for preparing advertisements are taxable.
- Services by way of **access to a road or a bridge** on payment of **toll charges**;
- **Betting, gambling or lottery**;
- Admission to **Entertainment Events** or access to **Amusement Facilities**;
- **Transmission or distribution of electricity** by an electrical transmission or distribution authority;
- **Services by way of education** - (i) pre-school education & 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**;



- Services by way of **renting of residential dwelling** for use as **residence**;
- 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;
- **Service by way of transportation of passengers**, with or without accompanied belongings, by (i) a stage carriage; (ii) railways [except for first class & air conditioner 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 & (vi) metered cabs, radio taxis or auto rickshaws;
- **Service by way of transportation of goods** by (i) road **except for goods transportation agency & courier agency**; (ii) an aircraft or a vessel from a place outside India up to the customs station of clearance in India; or (iii) by inland waterways;
- **Funeral**, burial, crematorium or mortuary **services including transportation of the deceased**.

Mega Exemption Notification



- 88 Specific Exclusions and Exemption Notification under old regime replaced by **one Mega Exemption Notification**;
- Notification No. 25/2012 dated 20-06-2012, w.e.f 01-07-2012, contains a compilation of exemptions provided to **39 categories of services** specified therein;
- Unlike Negative List, services under exemption notification are taxable service but are exempted by CG by notification;
- Broadly, most of the exemptions made available under the erstwhile Regime has been covered in exemption notification;
- Services exempted under the Mega Exemption Notification can be broadly classified under different categories of services.



Category of Services Exempted
Medical Services
Religious & Charitable Services
Art & Culture
Sports
Educational Services
Hospitality Services
Construction Services
Transportation Services
Intermediary Services
International Transaction
Public Utility Services
Other Services

■ **Medical Services**

- ✓ Clinical Establishment, an authorised Medical Practitioner or Para-Medics;
- ✓ Veterinary clinic in relation to health care of animals or birds; &
- ✓ Approved Clinical Research Organisation engaged in technical testing or analysis of new drugs on human participants.



■ **Religious & Charitable Services**

- ✓ Charitable activities by an entity registered u/s 12AA of Income Tax Act; &
- ✓ Renting of precincts of religious place meant for **general public** or conducting of religious ceremony.



■ **Art & Culture**

- ✓ Training or coaching in recreational activities in arts or culture; &
- ✓ Performance by artist in **folk or classical art** forms of music, dance, or theatre excluding **services provided by such artist as a brand ambassador**.



■ Sports

- ✓ Training or coaching in recreational activities in sports;
- ✓ Services by individual [as player, referee, umpire, coach or team manager] or a recognised sports body to another **recognized sports body**; &
- ✓ Sponsoring of sporting events of specified organization or federation.



■ Educational Services

- ✓ Services to or by an educational institution in respect of education **exempted from service tax**, by way of (a) Auxiliary educational services or (b) renting of immovable property; &
- ✓ Public libraries by way of lending of books & publications.



■ Hospitality Services

- ✓ Renting of hotel, inn, guest house, club or other commercial places meant for residential or lodging purposes having **declared tariff < ₹ 1,000/day** &
- ✓ Serving of food or beverages by restaurant, eating joint or mess provided it is not air-conditioned **AND** do not hold licence to serve alcohol.



■ Construction Services

Construction, erection, repair, maintenance, renovation or alteration of:

For Government , Local Authority & Government Authority

- o Civil structure meant for use other than for business or profession;
- o Structure meant for use as educational/clinical/cultural establishment;
- o Canal, dam, any other irrigation works or pipeline; &
- o Residential complex meant for self-use or employees or other persons specified in Explanation 1 to Section 65B(44).



For any person

- o Road, bridge, tunnel, or terminal for road transportation for use by general public;
- o Civil Structure pertaining to specified scheme;
- o Building of Registered entity [12AA of IT Act] & used for **religious purpose** by **general public**;
- o Pollution control or effluent treatment plant [**except when located as a part of factory**];
- o Airport, port or railways, including monorail or metro [**except for repair & maintenance**];
- o Single residential unit **other than a part of a residential complex**;
- o Post-harvest storage (incl. cold storage) for agricultural produce & mechanised food grain handling system for agricultural produce as food stuff excluding alcoholic beverages.

■ **Transportation Services**

Transportation by Rail or Vessel within India

- o Petroleum & petroleum products, chemical fertilizer and oilcakes;
- o Relief materials for victims of natural or man-made disasters;
- o Newspaper, defence equipments, mail bags & household effects;
- o Registered with the Registrar of Newspapers;
- o Railway equipments & agricultural produce & foodstuff (excl. alcoholic beverages).



Transportation by Goods Transport Agency

- o Fruits, vegetables, eggs, milk, food grains or pulses in a goods carriage; or
- o Other Goods [amount charged in **single carriage** ≤ ₹ 1,500 or **all goods for single consignee** ≤ ₹ 750].

Transport of passengers through (a) Air [embarking from or terminating in an airport located in North-Eastern State or Bagdogra, West Bengal]; (b) Contract carriage; & (c) ropeway or cable car or tramway;

Service by way of hire (a) to a **state transport undertaking** motor vehicle for carrying > 12 passengers or (b) vehicle meant for transportation of goods to a **goods transport agency**;

Service by way of vehicle parking to general public except leasing of space for parking facility.

■ Intermediary Services

- ✓ Services by (a) sub-broker or an authorised person to a stock broker.....;
- (h) **sub-contractor providing services by way of works contract** to another contractor providing **works contract services which are exempt**;
- ✓ Job working in relation to (a) agriculture, printing or textile processing;;
- (c) goods on which appropriate duty is payable **by principal manufacturer....**



■ International Services

- ✓ Services by organiser towards business exhibition held outside India;
- ✓ Services by Service Provider located in a non-taxable territory to
- (a) Government/**individual** for purpose except for business or profession;
- (b) Registered Entity [Section 12AA] or (c) Person in a non-taxable territory.



■ Public Utility Services

- ✓ Services to Government for (a) carrying out activity ordinarily entrusted on municipality - public health, sanitation etc. (b) Repair of a vessel or an aircraft;
- ✓ Services by departmentally run public telephone or free telephone at airport/hospital;
- ✓ Providing of public conveniences like public toilets, lavatories, urinals etc.



■ Other Services

- ✓ Services provided to **UN** or a specified international organization;
- ✓ Services provided by **(a) an arbitral tribunal** or **(b) an advocate** or **firm of advocates** by legal services to (i) person **except business entity** or (ii) **business entity with turnover < ₹ 10 Lakh in Preceding FY**;
- ✓ Services provided by **an advocate** or **firm of advocates** by legal services to similar entities;
- ✓ **Temporary transfer or permitting the use or enjoyment of a copyright** relating to **original** literary, dramatic, musical, artistic works or cinematograph films;
- ✓ Services by way of **collecting or providing news**;
- ✓ Services of **general insurance business** provided under specified schemes;
- ✓ Services provided by **an incubatee** up to **turnover of ₹ 50 Lakh** subject to the certain conditions;
- ✓ Service by an **unincorporated body** or a **non- profit entity** to its own members by way of **reimbursement of charges or share of contribution** (a) as trade union ; (b) for carrying out exempt services or (c) up to **₹ 5000 /month**;
- ✓ Services by way of **transfer of a going concern**, as a whole or an independent part thereof.

For any further assistance, you may contact us at:



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Thank You