Budget 2015-2016

Service Tax Proposals

Union Budget tabled today on the floor of the lower house of the parliament is a mix of goodies and sorrows for the tax payers. Finance Minister has proposed multiple changes in the Service tax laws which are intended to increase tax collections and pruned the exemptions to widen the tax base. As per the estimate indirect tax proposals are expected to yield Rs. 23,383 crore.

Service tax proposals contained in the Union Budget are discussed in this paper to present an overview. Changes made in the Service tax law are discussed under the following four criteria:

- Changes in the Finance Act, 1994 ("the Act") immediately on the enactment of Finance Bill, 2015 ("the Bill")
- Changes in the Act from the date to be notified after the enactment of the Bill
- Changes with immediate effect i.e. 01 March 2015
- Changes to be effective from 01 April 2015

S. no.	Proposal	Effective date
1	**Effective rate of Service tax has been increased** from 12.36 per cent (including education cess and secondary and higher education cess) **to 14 per cent**. Corresponding amendment has been made in Section 66B of the Act while specific provisions have been provided in the Bill to cease the levy of Education Cess and Secondary and Higher Education Cess.	Date to be notified after enactment of the Bill
2	**Enabling provisions for levy of Swatch Bharat cess on** all or any of the taxable services at **2 per cent of value of such taxable services**.	-do-
3	**Broadening tax base** – **Construction,** repair, maintenance, renovation or alteration services **to Government,** local authority or governmental authority **of buildings or structures meant for use as educational, clinical, art or cultural or for use other than commerce or industry has been made taxable** – **Exemption to construction**, erection, commissioning or installation **of original works to an airport or port** is **withdrawn** – **Service tax on services provided by way of access to amusement facility** such as rides/ theme parks etc, **entertainment events or concerts, pageants, non-recognized sporting events where amount charged is more than Rs. 500.** However, **access to cinematographic films, theater or recognized sports event would continue to be exempt** – **Fee of performing artist in folk or classical art form** of music, dance or theater would be **exempt only to limit of Rs. 1,00,000 per performance. Exemption is not available to brand ambassador.** – **Transportation of food stuff other than food grains, by rail, road or vessel**	01 April 2015

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	would be taxable. Food grains will include rice, pulses, flour, milk and salt – **Agency services** by mutual fund agents and distributors to mutual fund or AMC **are subjected to levy.** Similarly, selling or marketing agency of a lottery to a distributor is also taxable. **However, Service tax is payable by service recipient under reverse charge.** – **Exemption withdrawn on certain telecommunication services provided for public use**	
4	**Extension of benefit to certain sectors** – **All ambulance services** to patients for travelling to and from clinical establishments are **exempted** – **Life insurance** services by way of **Varishtha Pension Bima Yojana would be exempt** – **Exemption to** services of **pre-conditioning, pre-cooling, ripening, waxing, retail packing, labeling of fruits and vegetable** without altering their essential characteristic – **Admission to** museum, zoo, national park, wild life sanctuary and tiger reserve are **exempted** – **Exemption to transportation of goods by road from place of removal extended to land custom station**. Earlier exemption available till inland container depot, container freight station, port or airport. – Service provided by **common effluent plant operator** for treatment of effluent **is exempt**	-do-
5	Owing to piling litigation, word **'Government' has been defined in newly inserted Section 65B (26A)** of the Act. Government would now mean Central, State and Union territory governments along with their departments but excludes certain entities.	Enactment of the Bill
6	Taxability issues on activities by **chit fund foreman** to chit fund and **lottery relates activities** are proposed to be resolved by **amendment in definition of 'service'**. Moreover, abatement of 30 per cent in valuation is withdrawn.	-do-
7	**Clarification on classification of input services** used for providing output services has been made by inserting an illustration under the Section 66F (1) of the Act.	-do-
8	In another step to clarify the position of statue, Bill proposes to amend the definition of **'consideration'** under Section 67 of the Act to empower **inclusion of the value of reimbursements in the value of taxable services in the principle statue**.	-do-

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	Similarly, **amount retained by lottery distributor or selling agent** over and above commission or fee shall be part of **consideration** for service.	
9	**Recovery** can be made under Section 87 of the Act **without** issuance of any **show cause notice** in cases where Service tax has been self-declared in returns but remains un-paid	-do-
10	**Rationalization of penalties** **A** Penalty **in cases of fraud, collusion, mis-statement etc is restricted to 100 per cent** of Service tax levy. However, benefit of reduced penalty is available in following manner: – If Service tax along with interest is paid within 30 days of issuance of SCN, 15 per cent penalty; and – In case where SCN is adjudicated and Service tax along with interest and reduced penalty is paid within 30 days of the order against SCN, 25 per cent penalty **B** Penalty **in cases other than of fraud, collusion, mis-statement etc is restricted to 10 per cent** of Service tax levy. Similar to above, benefit of reduced penalty is available in following manner: – If Service tax along with interest is paid within 30 days of issuance of SCN, Nil penalty; and – In case where SCN is adjudicated and Service tax along with interest and reduced penalty is paid within 30 days of the order against SCN, 25 per cent penalty In both cases i.e. A and B, **if appellate remedy is availed** and subsequently tax is reduced, **benefit of reduced penalty of 25 per cent would be available** if Service tax along with interest and reduced penalty is paid within 30 days of the appellate order	-do-
11	Remedy against the order of Commissioner (Appeals) in **rebate matters would lie to Central Government** by way of application instead of appellate remedy to Tribunal. Pending cases filed from 28 May 2012 till enactment of the Bill will also be transferred to Central Government for disposal	-do-
12	**Service tax is levied on manufacture or job work of liquor for human consumption** by way of amendments in Negative list and mega exemption clauses	Date to be notified after enactment of the Bill
13	**All services provided by Government and local authorities are subjected to Service tax levy** except those are specifically exempted	-do-

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Revision of abatement
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<tr><th>Service</th><th>Earlier abatement</th><th>Proposed abatement</th></tr>
<tr><td>Transport of goods and passengers by rail</td><td>70 per cent</td><td rowspan="3">70 per cent[1]</td></tr>
<tr><td>Transport of goods by road</td><td>75 per cent</td></tr>
<tr><td>Transport of goods by vessel</td><td>60 per cent</td></tr>
<tr><td>Transport of passengers by air in economy class</td><td>60 per cent</td><td>60 per cent</td></tr>
<tr><td>Transport of passengers by air in higher class</td><td>60 per cent</td><td>40 per cent</td></tr>
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<td>01 April 2015</td>
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Reverse charge proposals
– Present system of partial reverse charge on manpower supply and security agency service is proposed to be replaced by full reverse charge
Accordingly, if manpower supply and security agency service are provided by individual, HUF, firm to a body corporate, body corporate will be liable to discharge full Service tax liability.
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<td>-do-</td>
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<td>16</td>
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Relaxation in CENVAT Credit
– Stringent limit of six months for availing credit from date of invoice is relaxed to one year.
– In case of payments under partial reverse charge, service recipient can now avail credit after paying its portion of Service tax.
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01 April 2015</td>
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[1] No credit of Inputs, Capital goods and Input services is allowed

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