

Krishi Kalyan Cess(KKC) – Question & Answer

Finance minister, Mr. Jaitley had proposed to impose a Cess, called the **Krishi Kalyan Cess (KKC)**, at 0.5% on all taxable services during Budget 2016. Effective date of Krishi Kalyan Cess is 1st June 2016. In this article, we are trying to answer most commonly asked questions about this new tax.

As you know, Service tax is a tax levied by the government on service providers on certain service transactions, but is actually borne by the customers. It is categorized under Indirect Tax and came into existence under the Finance Act, 1994.

During last year's budget (2015), the FM had increased the Service Tax Rate from 12.36% to 14%. Moreover from 15th Nov 2015, Swachh Bharat Cess at 0.5% also came into effect. Therefore, after introduction of KKC, the effective rate of Service Tax will become 15% post 1st June 2016.

It appears that the Service Tax rate is slowly being increased to bring it closer to the goods and services tax (GST) rate of 17-18% which is expected to be applicable soon.

Lets find out more about this new tax:

1) First things first – What is a Cess?

A cess is a tax that is levied by the government to raise funds for a specific purpose. Collections from the Education Cess and the Secondary and Higher Education Cess, for instance, are supposed to be used for funding primary and higher and secondary education respectively.

As per Article 270 of the Constitution, cesses imposed by the Parliament for earmarked purposes need not be shared with state governments. If there is an unspent amount, it is simply carried forward for use in the following year. While the Centre has to mandatorily share the revenue from other taxes with the States, it gets to retain the entire kitty with a cess.

2) What is the meaning of Krishi kalyan Cess (KKC)?

It is a Cess which shall be levied and collected in accordance with the provision of Chapter VI of the Finance Act, 2015 called Krishi kalyan Cess, as Service Tax on all Taxable Services at the rate of 0.5% of the value of Taxable Services.

3) How KKC will be calculated?

Krishi Kalyan Cess would be calculated in the same way as Service tax is calculated. Therefore, KKC would be levied on the same taxable value as service tax. KKC is not to be calculated on Service Tax but on the taxable value of the service provided.

Example of Krishi Kalyan Cess calculation –

For a service worth Rs. 100, Service Tax will be Rs. 14 at 14% rate and Swachh Bharat Cess (SBC) will be Rs. 0.50 at 0.5%. Similarly, Krishi Kalyan Cess will be Rs. 0.50 at 0.5%.

So the total chargeable amount will be Rs. 115.

Check few calculation examples below:

Time of issuance of invoice as well as amount of Invoice	Time of receipt of payment as well as amount of payment received	Position of Taxability
28.5.2016 for Rs 5,00,000	29.5.2016 for Rs 5,00,000	Non Taxable as issue of invoice and receipt of payment before 1 st June 2016
28.5.2016 for Rs 5,00,000	29.5.2016 for Rs 4,00,000	Non Taxable to the extent of 4,00,000 because only part payment has been received for the same before the date of taxability of service or new levy. The Balance Rs 1 Lac, if paid after 31.5.16 will be subject to KKC
4.6.2016 for Rs 5,00,000	29.5.2016 for Rs 5,00,000	Non Taxable as receipt of payment before 1 st June 2016 while invoice issued within 14 days from taxability of service.
20.6.2016 for Rs 2,50,000	24.5.2016 for Rs 2,50,000	Taxable as essential requirement of issue of invoice within 14 days from the date of service is not met.
Total consideration was 6 Lacs. On 28.5.2016 invoice was issued for Rs 2,50,000 and remaining invoice on 19.6.2016	29.5.2016 for Rs 6,00,000	Non Taxable to the extent of 2,50,000 because part payment invoice was issued after 14 days from the date of Invoice.

4) Whether KKC would be required to be mentioned separately in invoice?

KKC would be levied, charged, collected and paid to Government independent of Service Tax. This needs to be charged separately on the invoice, accounted for separately in the books of accounts and paid separately under separate accounting code. S BC may be charged separately after Service tax as a different line item in Invoice.

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5) From Which Date Krishi Kalyan Cess is applicable?

KKC is applicable from 1st June, 2016.

Krishi kalyan Cess is not applicable on Services mentioned in "Negative List" and "Mega Exemption List". As per the Notification No. 22/2015, KKC would not be applicable on services exempted from levy of service tax. Rule 5 of Point of Taxation Rules' 2011 need to be referred for its applicability in case of ongoing contracts on 01.06.2016. Thus, if payment is made before 01.06.2016 then this cess is not applicable.

6) In case of services covered by Abatement, what would be effective rate of tax?

Taxable Services, on which service tax is leviable on a certain percentage of value of taxable service, will attract KKC on the same percentage of value as provided in the Notification No.26/2012-Service Tax dated 20th June, 2012. So, this notification would apply for KKC also in the same manner as it applies for Service Tax.

For instance in case of GTA Service, it would be $15\% \times 30\% = 4.50\%$.

7) Is Krishi Kalyan Cess applicable on Reverse Charge Mechanism (RCM) service?

Yes. KKC would be applicable on all taxable services. Hence, KKC is payable along with service tax on the services availed and covered under reverse charge mechanism.

8) How does Krishi Kalyan Cess apply on 'Works Contract Service'?

The value of services would be calculated as per Rule 2A of Service Tax (Determination of Value) Rules, 2006. Tax needs to be applied on the value so arrived at the rate of 15%. Effective rate of tax in case of original works and other than original works would be 6% ($15\% \times 40\%$) and 10.5% ($15\% \times 70\%$) respectively.

9) What would be the liability in case of Reverse Charge Services, where services have been received prior to 1.6.2016, but consideration paid post 1.6.2016?

In case of reverse charge services, point of taxation as per Rule 7 of Point of Taxation Rules, would be the date on which consideration is paid to service provider. Hence, in such case Krishi kalyan Cess would be payable.

10) Whether Cenvat credit of payment of KKC is permissible under Cenvat Credit Rules, 2004?

Yes. The cenvat credit of KKC shall be available and shall be utilized only for the payment of KKC. Thus, separate accounts needs to be maintained. (Proper amendment in Cenvat Credit Rules' 2004 is awaited). You can also claim the refund of KKC in service tax.

Refund of this KKC shall also be allowed as the cenvat credit is there. Further, refund of this cess shall be allowed to Exporter of Service as well as Exporter of Goods as there is no restriction of its availment. Suitable amendment is awaited in CCR'2004 as well as refund notifications.

11) Whether Krishi kalyan Cess needs to be collected and paid separately from service tax?

KKC would be levied, charged, collected and paid to government independent of service tax. This needs to be charged separately on the invoice, needs to be accounted separately in the books of account and needs to be paid separately under separate accounting code as notified separately.

Whether separate accounting code to be mentioned in Challans while making payment of Krishi kalyan Cess.
Yes. For payment of KKC , a separate accounting code would be notified.

12) What would be the point of taxation for Krishi Kalyan Cess?

Point of taxation means the point when a service shall be deemed to have been provided. KKC Shall be covered under Rule 5 of Point of taxation Rules 2011 (Hereinafter referred to as "POTR 2011"). It reads as follows:

Payment of tax in case of new services- Where a service is taxed for the first time, then,-

(a) no tax shall be levied to the extent the invoice has been issued and the payment received against such invoice before the service became taxable.

(b) No tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within fourteen days of the date when the service is taxed for the first time.

Its important to note that KKC is new levy and not new service. But the government has extended the scope of this rule by inserting two explanation provisions resulting which new levy is covered under the ambit of Rule 5.

Rule 5 of the Point of Taxation Rules, 2011 has been amended with effect from 1st March 2016 by Notification No 10/2016-ST dated 1st March, 2016 and two Explanations (Explanation 1 & 2) have been inserted in said Rule. After the amendment, Rule 5 reads:

Explanation 1: This rule shall apply mutatis mutandis in case of new levy on services.

Explanation 2: New levy or tax shall be payable on all cases other than specified above.

Rule 5(a) provides that when the issuance of invoice and receipt of payment is made before the date of taxability then the service shall be non-taxable.

Rule 5(b) stipulates that if the payment received before date of taxability and invoice is issued within 14 days from the service becoming taxable for the first time even then no service tax to be charged.

Further, new insertion by way of explanation has resulted in expanding the scope of rule 5 to new levy erstwhile limited to new services only.

13) Where can I find legal provisions for KKC?

Krishi Kalyan Cess (KKC) was announced in the Union Budget, 2016-17. A legal provision was made through the Finance Bill, 2016 (Chapter VI, clause 158) for levying the Cess.

In fact, Finance Bill defines KKC as a service tax on all or any of the taxable services at the rate of 0.5 percent on the value of such services for the purposes of financing and promoting initiatives to improve agriculture or for any other purpose relating thereto.

The legal provisions related to service tax including those relating to refunds and exemptions from tax, interest and imposition of penalty shall, as far as may be, apply in relation to the levy and collection of the Krishi Kalyan Cess.

14) How this KKC money will be utilized?

The proceeds of Krishi Kalyan Cess would be exclusively used for financing initiatives relating to improvement of agriculture and welfare of farmers. The proceeds of the Krishi Kalyan Cess shall first be credited to the Consolidated Fund of India and the Central Government may, after due appropriation made by Parliament by law in this behalf, utilise such sums of money of the Krishi Kalyan Cess for such specified purposes.

15) Is KKC similar to the Krishi Kalyan Surcharge?

No, Krishi Kalyan Cess is different from the Krishi Kalyan Surcharge which is announced by the Government in the same Union Budget, 2016-17. In order to provide a stable and predictable taxation regime and reduce black money, it was announced in the budget that domestic tax payers can declare undisclosed income or such income represented in the form of any asset by paying tax at 30%, and surcharge (means an addition to the existing tax) at 7.5% and penalty at 7.5%, which is a total of 45% of the undisclosed income. Such declarants will have immunity from prosecution.

The Finance Minister while declaring the above provision mentioned that Surcharge levied at 7.5% of the undisclosed income will be called as Krishi Kalyan Surcharge, to be used for agriculture and rural economy.