

NOTIFICATION ISSUED BETWEEN 01.05.2010 TO 30.04.2011**INCOME-TAX****1. Notification No. 41/2010 dated 31.05.2010****Substitution of Rules 30, 31 and 31A in the Income-tax Rules, 1962.****☆ Time limit for deposit of TDS [Rule 30(1)]**

Tax Deductor	Time limit of deposit
<u>Government :</u>	
a) TDS U/S 192(2A)	Within one week from the last day of the month in which deduction is made
b) TDS under other Sections	Same day of deduction
<u>Any other person :</u>	
a) TDS U/S 192(2A)	Within one week from the last day of the month in which deduction is made
b) <u>TDS under other Sections :</u>	
➤ If the amount is credited to the account of the payee as on the last date of the accounting year	Within 1 months from the last date of the accounting year (i.e. on or before 30th April)
➤ In any other case	Within one week from the last day of the month in which deduction is made

Special cases where tax deducted at source can be deposited quarterly :

In the following cases, the Assessing Officer may with the prior approval of the Joint Commissioner, allow payment of TDS quarterly as follows :

192 : Salaries	Quarterly on July 7, October 7, January 7 and April 30
194A : Interest other than interest on securities	
194D : Insurance commission	
194H : Commission or brokerage	

Note : After 31.03.2008, all Corporate assesseees and other assesseees (who are subject to compulsory audit under Section 44AB) will have to make electronic payment of tax through internet banking facility offered by authorised banks. Alternatively, these taxpayer can make electronic payment of tax through internet by credit or debit card [**Circular No. 5/2008, dated July 17, 2008**].

☆ Forms for filing quarterly statement/return[Rule 31A]

Section 200(3) : Any person deducting any sum in accordance with provisions of Chapter - XVII or, as the case may be, any person being an employer referred to in Section 192(1A) shall, after paying the tax deducted to the credit of the Central Government within the prescribed time, prepare quarterly statements/return for the period ending on the 30th June, the 30th September, the 31st December and the 31st March in each financial year and deliver to the prescribed income-tax authority [DGIT (Systems) or any person authorized by him] within such time as may be prescribed.

The following forms for filing quarterly statement/return have been prescribed under Rule 31A :

Payments	Residential Status of Deductee	Return Form*
Salary	Resident/Non-resident	Form No. 24Q
Others	Resident	Form No. 26Q
	Non-resident	Form No. 27Q

These quarterly statements should be delivered to the prescribed income-tax authority on or before 15th July, 15th October, 15th January in respect of the first three quarters of the financial year and on or before the **15th May** following the last quarter of the financial year.

Certificate for tax deducted **[Rule 31]**

The payer of income is suppose to issue a certificate of tax deduction (i.e. TDS certificate) in the following forms as per Rule 31 :

Payments	Form No.
Salary	Form No. 16
Others	Form No. 16A

The time limit for issue of TDS certificate as per Rule 31 :

Payments	Time Limit
Salary	Annually by 31st May of the financial year immediately following the financial year in which the income was paid and tax deducted
Others	Quarterly within 15 days from the due date for furnishing the statement of TDS under Rule 31A

2. Notification Nos. 48/2010 dated 9.7.2010 & 77/2010 dated 11.10.2010

Subscription to long-term infrastructure bonds of Industrial Finance Corporation of India, Life Insurance Corporation of India, Infrastructure Development Finance Company Limited and a non-banking Finance Company classified as an Infrastructure Finance Company by the Reserve Bank of India would qualify for deduction under section 80CCF. Further, subscription to long-term infrastructure bonds of India Infrastructure Finance Company Ltd. would also qualify for deduction under section 80CCF.

3. Notification No. 69/2010 dated 26.08.2010

With effect from 1st September, 2010 interest credited on the balance to the credit of the employee in excess of 8.5 percent shall be deemed to have been received by the employee in the previous year and shall be included in the total income of the employee. Prior to this date, the interest credited in excess of 9.5% was deemed to be the income of the employee.

Example : If interest @ 9.5% is credited in the provident fund account of the employee as on 31st March, 2011 for the year 2010-11, then, according to the above notification, the amount of interest credited upto 31.08.2010 (i.e. 9.5%) is exempt from tax and w.e.f 01.09.2010 the interest credited @1% (i.e. 9.5% - 8.5%) is deemed to be the income of the employee for A.Y.2011-12.

SERVICE TAX

1. Circular No. 127/09/2010 – ST dated 16th August, 2010

Whether ‘donation’ is ‘consideration’ :

Whether donations and grants-in-aid received from different sources by a charitable Foundation imparting free livelihood training to the poor and marginalized youth, will be treated as ‘consideration’ received for such training and subjected to service tax under ‘commercial training or coaching service’?

The important point here is regarding the presence or absence of a link between ‘consideration’ and taxable service. It is a settled legal position that unless the link or nexus between the amount and the taxable activity can be established, the amount cannot be subjected to service tax. Donation or grant-in-aid is not specifically meant for a person receiving such training or to the specific activity, but is in general meant for the charitable cause championed by the registered Foundation. Between the provider of donation/grant and the trainee there is no relationship other than universal humanitarian interest. In such a situation, service tax is not leviable, since the donation or grant-in-aid is not linked to specific trainee or training.

2. Circular No. 134/3/2011 – ST dated 8th April, 2011

Applicability of service tax exemption to Education Cess and Secondary and Higher Education Cess where ‘whole of service tax’ stands exempted :

In the case of M/s. Balasore Alloys Ltd. Vs CCE (CESTAT-KOL), it was held that Education Cess and Secondary and Higher Education Cess are leviable and collected even where ‘whole of service tax’ stands exempted.

Though Tribunal’s Order referred above is in favor of revenue, it is inconsistent with the policy intention of the Government to exempt education cess in addition to service tax, where ‘whole of service tax’ stands exempted. According to section 95(1) of Finance (No.2) Act, 2004 and section 140(1) of Finance Act, 2007, Education Cess and Secondary and Higher Education Cess are leviable and collected as service tax, and when whole of service tax is exempt, the same applies to education cess as well. Since Education Cess is levied and collected as percentage of service tax, when and wherever service tax is NIL by virtue of exemption, Education Cess would also be NIL.

3. Notification No. 50/2010 - ST dated 8th October, 2010

This notification exempts the persons marketing the lottery tickets (hereinafter referred to as ‘**such person**’), other than the distributors or selling agents appointed or authorised by the lottery organising State (hereinafter referred to as ‘**such distributor or selling agent**’), from the whole of service tax leviable thereon, if the optional composition scheme under Rule 6(7C) is availed of by **such distributor or selling agent**, in respect of such lottery during the financial year.

Provided that if **such person** also markets lottery tickets for distributors or selling agents who have not so opted, then nothing contained in this notification shall apply to the value of service provided to the distributors or selling agents who have not so opted.

4. Notification No. 53/2010 - ST dated 21st December, 2010

This notification exempts the packaged or canned software (hereinafter referred to as ‘said goods’) from the whole of service tax, subject to the condition that :

1. the value of the said goods domestically produced or imported, for the purposes of levy of the duty of Central Excise or the additional duty of customs, if imported, as the case may be, has been determined under Section 4A of the Central Excise Act 1944 (hereinafter referred to as 'such value'); and
2. the appropriate duties of excise on such value have been paid by the manufacturer, duplicator or the person holding the copyright to such software, as the case may be, in respect of software manufactured in India; or
3. the appropriate duties of customs including the additional duty of customs on such value, have been paid by the importer in respect of software which has been imported into India;
4. a declaration made by the service provider on the invoice relating to such service that no amount in excess of the retail sale price declared on the said goods has been recovered from the customer.

5. Special provision for the distributor or selling agent of lottery tickets [Rule 6(7c)]

Rule 6(7C) has been introduced by Notification No. 49/2010 – ST Dt. the 8th October, 2010.

The distributor or selling agent, liable to pay service tax for the taxable service of promotion, marketing, organising or in any other manner assisting in organising lottery shall have the option to pay service tax as follows (instead of paying service tax @ 10%) :

Service Tax Payable	Condition
Rs 6000/- on every Rs 10 Lakh (or part of Rs 10 Lakh) of aggregate face value* of lottery tickets printed by the organising State for a draw	If the lottery or lottery scheme is one where the guaranteed prize payout is more than 80%
Rs 9000/- on every Rs 10 Lakh (or part of Rs 10 Lakh) of aggregate face value* of lottery tickets printed by the organising State for a draw	If the lottery or lottery scheme is one where the guaranteed prize payout is less than 80%

*Provided that in case of **online lottery**, the **aggregate face value** of lottery tickets shall be taken as the **aggregate value of tickets sold**.

Provided further that the distributor or selling agent shall exercise such option within a period of one month of the beginning of each financial year and such option shall not be withdrawn during the remaining part of the financial year.

Provided also that the distributor or selling agent shall exercise such option for financial year 2010-11, within a period of one month of the publication of this sub-rule in the Official Gazette (i.e. within one month from 8th October, 2010 i.e. upto 7th November, 2010)) or, in the case of new service provider, within one month of providing of service and such option shall not be withdrawn during the remaining part of that financial year.

6. Notification No. 50/2010 - ST dated 8th October, 2010

This notification exempts the persons marketing the lottery tickets (hereinafter referred to as '**such person**'), other than the distributors or selling agents appointed or authorised by the lottery organising State (hereinafter referred to as '**such distributor or selling agent**'), from the whole of service tax leviable thereon, if the optional composition scheme under Rule 6(7C) is availed of by **such distributor or selling agent**, in respect of such lottery during the financial year.

Provided that if **such person** also markets lottery tickets for distributors or selling agents who have not so opted, then nothing contained in this notification shall apply to the value of service provided to the distributors or selling agents who have not so opted.

7. Notification No. 17/2011 – ST dated 1st March, 2011

Through this notification the Central Government has exempted the taxable services specified in Section 65(105), received by a Unit located in a Special Economic Zone (hereinafter referred to as SEZ) or Developer of SEZ for the authorized operations, from the whole of the service tax, education cess and secondary and higher education cess leviable thereon.

1. Conditions for claiming exemption

The exemption contained in this notification shall be subject to the following conditions, namely :

- (a) the exemption shall be provided **by way of refund** of service tax paid on the specified services received for the authorised operations in a SEZ. However, where the specified services received and used for authorised operations are **wholly consumed** within the SEZ, the provider of such services or the receiver of such services on reverse charge basis, as the case may be, has the option ***not to pay the service tax ab initio***.
- (b) for the purpose of claiming exemption, the Developer or Unit of SEZ shall obtain a list of taxable services as are required for the authorised operations approved by the Approval Committee (hereinafter referred to as the specified services) of the concerned SEZ;
- (c) the Developer or Unit of SEZ **who does not own or carry out any business other than SEZ operations**, shall furnish a declaration to that effect in **Form A-1**, for the purpose of claiming exemption;
- (d) where the specified services received by Unit or Developer, are not **wholly consumed** within SEZ, i.e., shared between authorised operations in SEZ Unit and Domestic Tariff Area (DTA) Unit, refund shall be restricted to the extent of the ratio of export turnover to the total turnover for the given period to which the claim relates, i.e., :

$$\text{Maximum refund} = \frac{\text{Service tax paid on specified services used for SEZ Authorised Operations}}{\text{Total turnover for the period}} \times \text{Export turnover of SEZ Unit}$$

- (e) any Developer or Unit of SEZ claiming the exemption shall declare that the specified services on which exemption and/or refund is claimed to have been **actually used** for the authorized operations;
- (f) the Developer or unit of SEZ claiming the exemption, **by way of refund** has actually paid the amount indicated in the invoice/bill, including the service tax payable, to the person liable to pay the said tax or the amount of service tax payable under reverse charge, as the case may be, under the provisions of the Finance Act, 1994;
- (g) no CENVAT credit of service tax paid on the specified services used for the authorized operations in a SEZ has been taken under the CENVAT Credit Rules, 2004;
- (h) the developer or unit of a SEZ, who intends to avail exemption and or refund under this notification, shall maintain proper account of receipt and use of the specified services on which exemption is claimed.

2. procedure to be followed for claiming the benefit of the exemption

The following procedure should be adopted for claiming the benefit of the exemption contained in this notification :

- (a) the Developer or Unit of a SEZ shall avail the exemption by filling a claim for refund of service tax paid on specified services used for the authorised operations;
- (b) the Developer or Unit of a SEZ who is registered as an assessee under the Central Excise Act, 1944 or the Finance Act, 1994, shall file the claim for refund to the Assistant Commissioner/Deputy Commissioner of Central Excise, as the case may be, in **Form A-2**;
- (c) the Developer or Unit of a SEZ who is not registered under Central Excise Act, 1944 or the Finance Act, 1994, shall, before filing a claim for refund under this notification, file a declaration with the Assistant Commissioner/Deputy Commissioner of Central Excise, as the case may be, in **Form A-3**;
- (d) the Assistant Commissioner/Deputy Commissioner of Central Excise, as the case may be, shall, after due verification, allot a service tax code number to the Developer or Unit of SEZ within seven days from the date of receipt of the declaration, in Form A-3;
- (e) claim for refund shall be filed, within **one year from the end of the month in which actual payment of service tax was made** by such developer or unit to the registered service provider or such extended period as the Assistant Commissioner/Deputy Commissioner of Central Excise, as the case may be, shall permit;
- (f) the refund claim shall be accompanied by the following documents, namely :
 - i) a copy of the list of specified services as are required for the authorized operations in the SEZ, as approved by the Approval Committee and declaration in Form A-1, if applicable;
 - ii) invoice/bill issued in the name of the Developer or Unit of a SEZ, by the registered service provider, along with proof of payment for such specified services used for the authorised operations and service tax paid, in original;
 - iii) a declaration by the Developer or Unit of SEZ, claiming such exemption, to the effect that :
 - [A] the specified services on which refund of service tax claimed, has been actually used for the authorized operations in the SEZ ;
 - [B] proper account of the specified services received and used for the authorised operations are maintained by the developer or unit of the SEZ and the same shall be produced to the officer sanctioning refund, on demand;
 - [C] accounts or documents furnished by the Developer or Unit as proof of payment of service tax claimed as refund, based on the invoice/bill issued by the registered service provider indicating the service tax paid on such specified services, are true and correct in all respects;
- (g) the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, after verifying that :
 - i) the refund claim is complete in all respects;

- ii) the information furnished in Form A-2 and in supporting documents correctly indicate the service tax involved in the specified services used for the authorised operations in the SEZ, which is claimed as refund, and has been actually paid to the service provider,

shall refund the service tax paid on the specified services;

- (h)** where any refund of service tax paid on specified services is erroneously refunded for any reasons whatsoever, such service tax refunded shall be recoverable under the provisions of the Finance Act, 1994 and the rules made there under, as if it is recovery of service tax erroneously refunded;