FAQ's on reduction of service tax rate

Notification No 8/2009 – ST dated 24.02.2009 has been issued to exempt the service tax that is in excess of 10%. On the other hand this is reduction of service tax rate from the existing rate of 12% to 10%.

1. ***What is the effective date for the new rate?***

   Ans. The new rate is effective from 24.02.2009 on all services.

2. ***Whether all the receipts that is to be received after 24.02.2009 is taxable at 10%?***

   Ans. No, the receipts pertaining to service provided after 24.02.2009 is liable for service tax at 10% and not for the receipts pertaining to service provided prior to that rate.

3. ***In case the service is provided on 10.02.2009 and the bill is also raised on the same day charging service tax at the rate of 12%, and amount is to be realized in March. At what rate service tax has to be paid to the department?***

   Ans. It is very important to note that in case of service tax, the point of levy is on the service provided and point of collection is on realization. Therefore the service tax has to be paid at the rate prevailing at the time of provision of service on the date of realization. Therefore the service tax has to be paid at 12%.

4. ***In case consideration was received in advance and the service tax was paid on the same at 12% for the service to be provide in March 2009, whether service tax can be refunded?***

   Ans. Any service provided or to be provided is covered under the taxable service. Therefore when the consideration is received in advance for provision of certain service, it is deemed taxable service that is provided, therefore the same is not eligible for refund.

5. ***In case the bill is to be raised on 25.02.2009 for the service provided on 10.02.2009, then the service tax has to be charged at what rate?***

   Ans. The date of billing is not the criteria for deciding the rate of service tax, but the rate prevailing on the date of provision of service (completion of service) is rate to be adopted. In this case since the service was provided on 10/02/2009, when the rate of service tax was at 12%, therefore 12% has to be charged although billed and to be realized after 24.02.2009. However services provided from 10^{th} till 25^{th} Feb would be at 10%.

6. ***X, a security agency has to Rs. 3000 for its client for proving the taxable service for the month of February 2009.How the service tax has to be charged?***

   Ans. In such case the consideration has to be bifurcated from 01.02.2009 to 24.02.2009 and has to charge service tax at 12% (Rs. 2379) and for the balance at 10%

7. ***In case an ongoing turnkey or a composite contract. How the rate reduction is to be given effect?***

   Ans. In case of turnkey or a composite contract the works executed till 23.02.2007 has to be charged at 12% and the work done there after can be charged at 10%. Usually the time gap between the completion of work and raising of RA Bills (Running Bill) will be more than 30days, therefore the bill raised after 24.02.2009 can also have 12%. No changes if opted for composition.

8. ***In the construction industry, usually the retention amount shall be with hold by the principle and shall be released only after the completion of the project. Now if the retention pertaining to RA Bills raised prior is 24.02.2009 is paid in March 2009, at what rate service tax has to be paid?***

Ans. Since the service tax has to be paid on the rate applicable as on the date of provision of service for the retention amount paid in March 2009 service tax has to be paid at 12% itself.

9. ***Whether there is any reduction in composition rate of service tax of 4% for the contractors and also the special rate of 0.6 and 1.2 in case of Air travel agent?***

Ans. No, there is no any reduction in these special rates of service tax. However rates that arise out of the abatement under 1/2006-ST dated 01.03.2006 will change accordingly.

10. ***Whether the rate reduction is applicable in case of Import of Service also?***

Ans. Yes, this if for the reason that section 66A deems the service provided in case of import of service as taxable service in the hands of recipient and all the provision of the Chapter V is applicable for the same. Since the reduction is by way of exemption to section 66, reduction is applicable to import of service also.

Case	**Rate prevailing at the time of provision of service**	**Rate prevailing at the time of Billing/Invoicing**	**Rate prevailing at the time Realization of the consideration**	**Applicable rate of service tax**
I	12%	12%	10%	12%
II	12%	10%	10%	12%
III	10%	10%	10%	10%
IV	10%	12%	10%	12%
V	10%	10%	12%	12%