SERVICE TAX ON HEALTHCARE SERVICES
Introduced in the Finance Act 2010

Small write up is given below on the levy of service tax on healthcare services.

Section 65(19b)
"business entity" includes an association of persons, body of individuals, company or firm but does not include an individual.

Section 65 (105) Taxable service means any service provided (or to be provided)-

(zzzzo) **by any hospital, nursing home or multi-specialty clinic**-

(i) To an employee of any **business entity**, in relation to health check-up or preventive care, where the payment for such check-up or preventive care is made by such **business entity** directly to such hospital, nursing home or multi-specialty clinics; or
(ii) To a **person covered by health insurance scheme**, for any health check-up or **treatment**, where the payment for such health check-up or treatment is made by the insurance company directly to such hospital, nursing home or multi-specialty clinic;

1. Services provided by hospital, nursing home or multi-specialty clinic are only taxable. Hence health-check up and preventive care facilities provided by labs and diagnostic centres and individual doctors are not taxable.

2. Any services provided to an individual will not fall within the ambit of Service Tax.

3. In case of treatment to a person covered by insurance scheme is only taxable. Hence bills paid by individuals and other business entities on behalf of its employees will not attract service tax. Here the basic criteria for taxability is that the person undergoing treatment should be covered under health insurance scheme.

4. **Registration:-**

   As per Rule 4(2) of Service Tax Rules, 1994 where the assessee is rendering services from more than one premises and has got a centralized billing and centralized accounting services then he can apply for centralized registration. Where the assessee has got more than one location for centralized billing and accounting then at the option of the assessee he can register any of the premises where centralized billing and accounting is carried out.

   As per Rule 3 (3A) if the assessee is rendering service from different place and not having centralized billing and accounting system then he has to make a separate application for registration of each place of business from where taxable service is provided. This is confirmed by the circular NO 97/8/2007 – ST dated 23.08.2007.

5. **Payment**

   Payment can be made as per the Rule 6 of the Service Tax Rule, 1994 i.e. on realization/receipt basis.

6. **Availing CENVAT credit on inputs where there are taxable service and exempted service.**

   As per CENVAT CREDIT RULES, 1994, Rule 6 (3)(i) we need to pay 6% of the exempted service or as per Rule 6(3)(ii) service tax on input services utilized to render exempted service should be paid. This also we need to work out the feasibility with numbers and see the result.

A small example is provided for a better understanding here bellow:-

Patient Mr. A who is working in corporate is admitted for CABG (open heart surgery). In this case following types of situations will arise with respect the payment.

SL NO	Payment Made By	Taxability
1	Paid by Mr. A (Individual)	Not Taxable
2	Paid by a charitable welfare trust on behalf of Mr. A (Being Mr. A is not sound enough to pay)	Not Taxable
3	Paid by corporate (Being Mr. A an employee)	Not taxable
4	Paid by TPA since A is covered by Health Insurance Scheme	Taxable

Usually treatment can be of three types viz. Preventive care, Curative care and Palliative care.

Preventive care covers health check-up and diagnostic services which are carried out to prevent the occurrence any disease.

Other two types of care are not preventive in nature.

If the objective of the taxman is to tax the treatment bills paid by the business entity, then in the first limb of the section also they should have used the word treatment. But the same word is used in the second limb of the definition. That makes the difference here.

Second the tax should be on the business receipts and payments. In case of business entities they pay the bill of employees as a corporate social responsibility or as a part of compensation. If the business entities are asked to pay tax on this they may opt to discontinue the medical coverage for its employees. Whereas in case of insurance health insurance is a business, on premium they are charging service tax as well as they are making payment against the premium which is their expense. Hence the taxability of bills paid by insurance companies may have a primary objective of taxing the chain whereby they can take cenvat credit on payment of service tax on premium.

In view of the above it is felt that there is a huge difference between the first clause and the second clause of section 65(105)(zzzzo).