**Notification No. 51-52/2010 – Service Tax**

The aforesaid Notification ***withdraws the earlier service tax exemption granted to right to use packaged or canned software***.

**Notification 53/2010 – Service Tax**

Through this Notification CBEC has provided conditional exemption from service tax to the right to use packaged/canned software. Prior December 21, 2010 Notification No. 2/2010 and 17/2010 was present for similar kind of exemption. The table pasted below depicts the conditions to be fulfilled prior and post December 21, 2010 for availing exemption from Service tax:

| S. No. | Prior December 21,2010 | Post December 21, 2010 |
|---|---|---|
| 1 | Intended for single use and packed accordingly | The value of the packaged or canned software 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. |
| 2 | The document providing the right to use packaged or canned software, by whatever name called, if any, is packed along with the software | A declaration made by the service provider on the invoice relating to taxable service referred in clause (v) of Section 65 (105) of the Finance Act, 1994 that no amount in excess of the retail sale price declared on the packaged or canned software has been recovered from the customer |
| 3 | (a) In respect of software manufactured in India - The manufacturer, duplicator, or the person holding the copyright to software has paid the appropriate duties of excise on the entire amount received | (a) In respect of software manufactured in India - The manufacturer, duplicator, or the person holding the copyright to software has paid the appropriate duties of excise on the entire amount received |

| | | |
|---|---|---|
| | from the buyer<br>(b) In case of software Imported into India - The importer has paid the appropriate duties of customs on the entire amount paid by him | from the buyer<br>(b) In case of software Imported into India - The importer has paid the appropriate duties of customs on the entire amount paid by him |

According to the new exemption Notification condition of single use of packaged software and document providing the right to use to be packed along with the packaged software are removed. However to avail exemption from service tax post December 21, 2010 following conditions needs to be fulfilled:

- Excise/Custom duty needs to be paid on the value of the packaged software
- Value of the packaged software needs to be determined according to Section 4A of the Central Excise Act, 1944 (MRP based valuation of Goods)
- A Declaration is required on the invoice for the value of packaged software

This new Notification seeks to provide better clarity as far as exemption from service tax is related with ***retail sale of packaged or canned software***. However certain questions are still unanswered:

- What will happen if the packaged/canned software is purchased by corporate/institutional buyers?
- How the exemption is to be availed when packaged/canned software is downloaded electronically?

**Notification 54/2010 – Service Tax**

This notification expands the scope of exemption in relation to Management, maintenance or repairs service. Earlier exemption was restricted only in relation to management, maintenance or repair of roads. Now exemption is available also in relation to management, maintenance or repair of bridges, tunnels, dams, airports, railways and transport terminals.

**Notification 55/2010 – Service Tax**

This Notification specifies the date (i.e. April 1, 2011) of withdrawal of Notification No. 33/2009 which exempts the taxable service provided by government railways to any person in relation to transport of goods by rail whether in containers or not and by non government railways in relation to transport of goods by rail not in containers.

**<u>Notification 56/2010 – Service Tax</u>**

This Notification specifies the date from which the exemption in relation to transport of **certain specified goods** by rail shall be available. Earlier the exemption was available with effect from January 1, 2011. The same shall now be available from April 1, 2011 onwards.

**<u>Notification 57/2010 – Service Tax</u>**

This Notification prescribes the date (i.e. April 1, 2011) from which the benefit of abatement under Notification no. 1/2006 can be availed in relation to Transport of goods by rail.

**<u>Notification 58/2010 – Service Tax</u>**

This Notification exempts taxable service in relation to general insurance business provided under the Weather Based Crop Insurance Scheme or the Modified national Agricultural Insurance Scheme, approved by the Government of India and implemented by the Ministry of Agriculture.