FAQs on Service Tax

Source: http://www.trpscheme.com/trp/FAQ.jsp
(Website of Service Tax Return Preparer)

Q : When service tax return has to be file by a proprietorship assessee?
A : Assessee has to file half yearly return i.e. April-Sept. 25th of the Oct; and Oct - March by 25th of April.

Q : If service provide
r provides more than one service does he need to file service tax return (ST 3) separately?
A : No, legally he has to file only one ST-3, for more than one taxable service but he has to fill separate columns for each service.

Q : A company has different branches and provides taxable service from each branch. Should it file single ST-3 for all or separate for each branch?
A : If company has centralised registration then it has to file one ST-3 (in triplicate) but if each branch has separate legal entity that is separate service tax registration no., then it has to file separate ST-3for each branch or premises.

Q : Can a STRP quote his/her name and Id in ST-3?
A : Yes. If STRP is going to file the ST-3 return for the period. April Sept-2009 and Oct-March 2009, then there is column for his/ her name and identification no. in ST-3.

Q : Can online service tax return (ST-3) be filed?
A : Online filing service tax return is not mandatory but if the assessee has been allotted user id and password from the department, then he can file online ST-3 return.

Q : What should one do for allotment of Id and password?
A : An assessee who has STC, may put up an application to the AC or DC for allotment of Id and password by simple application with valid email Id.

Q : Is the email Id is compulsory to file the form ST-3?
A : No.

Q : Should GAR-7 challan be attached with return ST-3
A : Original copy of GAR 7 should be retained by assessee and a photo copy of GAR - 7 should be attached with the return ST-3.

Q : A person collected the service tax at rate of 12 per cent instead of 10 per cent (including of 2 per cent EC and 1 per cent SHEC)? What would be the treatment regarding service tax provisions?
A : If possible then assessee should issue credit note and refund the excess service tax amount (Including EC and SHEC) to the service receiver. But if it is not possible to issue a credit note then the same amount should be deposited with the government account on due date and also such amount should also be declared in ST-3 return in 12 percent column with a suitable note.

Q : When assessee can apply for registration or file ST-1?
A : An assessee should apply for registration or file ST-1.

Q : What are exceptions of threshold limit for registration?
A : Thresh hold limit of registration is not applicable for the following type of person if he is:
(a) Input service distributor
(b) He provides service by brand name of other
(c) He is liable to pay service tax in reverse charge method

Q :) What are the important documents for filing ST-1?
A : Important documents for filing application for service tax registration along with ST-1 are:
(1) Copy of PAN Card (if PAN Card is not available then copy of acknowledgement of PAN Card application should be attached.)
(2) Proof of residence
(3) Proof of constitution (Partnership deed, MOA or any agreement)
(4) Power of attorney if application is signed by authorized person

Q : Can company get more than service tax registration numbers?
A : Yes, it can get more than one registration number if company has different branches or not opted for centralized registration.

Q : What is fee for service tax registration and what will be made of payment?
A : There is no fee for service tax registration, hence, no mode of payment.

Q : Is there any penalty for non registration or late registration of service tax?
A : Yes, penalty may be imposed for delayed registration non-registration up to Rs. 5000/-

Q : When assessee can apply for registration or file ST-1?
A : An assessee should apply for registration or file ST-1.
(a) When he is liable to pay service tax in reverse charge method or,
(b) When he is service provider and exceeds the gross amount of service tax more than threshold limit in any preceding year or in current year, he has received the gross amount of more than threshold limit of Rs. 9,00,000/-.

Q : A registered partnership firm (i.e. registered under service tax) has been converted into private ltd, company. What should be done for service tax due to such conversion?
A : First of all the partnership firm should surrender the registration certificate and the newly incorporated company should apply for fresh registration in Form No. ST-1 within the stipulated period of 30 days. However, such registration is required only if the company provides any taxable service or is liable to pay service tax on reverse charges In order to surrender old registration certificate, all dues should be cleared and return should be submitted.

Q : Please state the due date of deposit of service tax?
A : If assessee is an individual, proprietorship or a partnership-firm, then service tax has to be deposited quarterly, i.e., April-June, July Sept, Oct.-Dec, Jan-March, by 5th of the next months (6th in case of e-payment) after ending of quarter.
If assessee is other than an individual, proprietorship or partnership-firm, then service tax has to be deposited on monthly basis by 5th of next months (6th incase of e-payment).

Q : Can service tax payment be made for more than one taxable service in single GAR-7 Challan?
A : Yes, but accounting code should quote separately for each services and column limitation of GAR-7 may restrict.

Q : How to calculate the due date if due date is a holiday?
A : If due date holiday then next working day will be assumed as due date.

Q : What are the consequences of late payment or non-payment of service tax?
A : Interest will be charged @13 percent p.a. on non-payment or late payment of service tax.

Q : When is e-payment mandatory?
A : An assessee has to pay service tax by e-payment as mandatory if he has paid more than 50 lakhs of duty in proceeding year or current year in form of cash and Cenvat Credit.

Q : Service tax payment liability is also on TDS amount which are deducted by service receivers?
A : Yes, gross amount or assessable value is inclusive of TDS amount which has been deducted by service receivers.

Q : By whose name cheque should be issued for payment of service tax?
A : By Yourself.

Q : When a person deposits his service tax on due date by cheque payment, but cheque is realized after the due date. Does he attract late payment of service tax?
A : When a person deposits the challan GAR-7 by cheque on or before the due date but cheque is realized after due date, then in such a case the date of presentation of cheque (and not the date of realization) shall be considered as the date of payment, thus in such a case there is not penalty for late payment

Q : Is e-payment mandatory for all assessee?
A : An assessee who has paid service tax of Rs 50 lakhs or more during the preceding year or already paid in cash in through current year, then e-payment is mandatory with effect from 01-10-2006. While computing above limit, service tax paid through CENVAT credit shall also be considered as payment.

Q : How many copies of GAR-7 should be deposited in bank?
A : Single copy of duly filled GAR-7 form should be deposited in the bank. Bank will retains upper portion of the form and counterfoil will be given to the assessee.

Q : What are the accounting codes of EC and SHEC ?
A : Accounting codes of EC and SHEC are 00440298 and 00440426 respectively.

Q : A person could not pay his service tax along with EC and SHEC till the due date. Is interest payable on EC and SHEC ?
A : Yes, interest shall be charged on EC and SHEC also at the prescribed rate, (presently 13 percent p.a.) till the date of payment.

Q : Can a proprietorship /partnership firm deposit its service tax on monthly basis?
A : A person (proprietorship or partnership) liable to pay service tax shall pay by the 5th (6th incase of e-payment) of month following the quarter in which payments are received (but service tax pertaining of last quarter shall be paid by 31stMarch). If such a person pays service tax on monthly basis then it will be assumed to be an advance payment of service tax.

Q : A person is registered for service tax and is providing taxable service.But if he could not deposit his service tax on due date then what will be the consequences?
A : If a person collects service tax, then it shall be deposited on or before the due date to the Government. If he fails to deposit the required service tax on or before the due date, then he shall be liable to pay interest at the rate 13 percent per annum (present rate). In addition to above interest, penalty of higher of Rs. 200 per day of delay or 2% per month on the outstanding amount of tax, can be levied.

Q : An assessee received advance amount against the taxable service. Is he liable to pay service tax on advance amount?
A : As per the provisions of service tax law, service tax is to be paid on value of taxable services received by the assessee, hence, whenever the assessee received any advance money against the taxable service to be provided by him, then, he in such a case he is liable to pay service tax (including EC and SHEC) on such advance money received. The date of payment will be decided by considering the date of receipt of advance. received.

Q : What is the meaning of Cenvat credit?
A : Normally service providers provide taxable service and in order to provided same, they can consume input service and utilize capital goods. Whenever they discharge their service tax liability, they may reduce their liability by an amount paid or payable as excise duty, service tax, customs duty, etc., by following certain rules. This is known as Cenvat credit.

Q : Can a person claim abatement and Cenvat credit both together?
A : A if person cannot avail Cenvat credit:
(a) He is paying service tax in reverse charge method.
(b) He has claimed abatement in particular service
(c) He is a GTA service provider or receiver.
(d) He is paying service tax in composition scheme.

Q : What are the documents required to avail the CENVAT Credit?
A : List of duty payment documents which are required to avail the cenvat credit.
(1) Invoice of manufacture from factory.
(2) Invoice of manufacture from his depot or premises.
(3) Invoice issued by registered importer.
(4) Invoice issued by registered first stage or second stage dealers.
(5) Bills of entry, etc.
(6) Invoice bill or challan issued by provider of input service.
Cenvat credit cannot be availed by providing photocopy of the above documents.

Q : When can a person avail Cenvat credit of inputs, input services and capital goods?
A : If a person consumes input services for providing taxable service, then he can avail Cenvat credit when he receives the input in his premises and whole amount can be availed for Cenvat credit in case of input service when he makes payment of service tax amount to the service tax providers.
But if he utilised capital goods CENVAT credit against capital goods in two phase 50 percent in current year and 50 percent in the following years.

Q : Can Cenvat credit be utilized by other branch or unit of the same assessee?
A : No, if each branch/unit has different service tax registration, it cannot do so.

Q : A person sold second hand capital goods and also utilized cenvat credit? Does he need to pay any liability to the government on sale of the capital goods ?
A : Whenever a service provider disposes capital goods while in working condition then he shall pay an amount equal to cenvat credit on said capital goods after deducting an amount equal to 2.5% for each quarter or part thereof from the date of availing the cenvat credit.

Q : How can a person avail cenvat credit on input service and capital goods under rule 6(3)(iii) ?
A : Whenever a person is providing taxable service along with exempted service, he can avail the cenvat credit under rule 6(3)(iii). He shall be liable to pay an amount equal to 6% (from 01-04-2008 to 06-07-2009 it was 8%) of value of exempted services, provided or to be provided by him, and on such payment he can avail full cenvat credit.

Q : Cenvat credit is available on capital goods. Is service tax to be paid by GAR-7 challan mandatory?
A : If an assessee has the balance of cenvat credit then the amount of service tax payable by him shall be adjusted from the available balance of cenvat credit and after such adjustment, if any liability of Service-tax is left then it shall be paid by GAR-7 challan.

Q : How do we calculate service tax liability in case of abatement?
A : When an assessee avails the abatement, then service tax liability will be as below:
Abated Rate 40 percent (assume)
AV of services = Rs 10,000/-
Abated amount @40 % = Rs 4,000/-
Balance = Rs 6,000/-
Service tax @10% = Rs 600/-
EC @ 2 % = Rs 12/-
SHEC @% = Rs 6/-
Total liability = Rs 618/-

Q : When do we decide the option of abatement or Cenvat credit?
A : When a financial year starts, assessee should decide whether he has to opt for abatement option or Cenvat credit option. One option opted once cannot be changed during the financial year.

Q : Is abatement or composition scheme of payment of service tax same?
A : No, both are different.

Q : How to charge service tax in case of outdoor catering services?
A : Explained on phone and also mail has been sent.

Q : What is partial abatement?
A : There are some taxable services in which abated rate is available. It is not available for all taxable services.

Q : Can an assessee avail the Cenvat credit for an exempted service?
A : No.

Q : If STRP prepared ST-3 of an assessee had made errors, is he liable to responsible?
A : Yes, STRP is responsible for error.

Q : Can STRP file also can central excise return?
A : No, STRP has not been given such facility by the department.

Q : Any documents like acknowledgment challan can be retained by STRP?
A : No, he/she should provide to assessee after the filing of the return.

Q : What is the remuneration for filing service tax return (ST-3) by STRP?
A : Assessee shall pay a fee to STRP as mutually agreed between assessee and STRP, but the government has provided a yardstick fee of Rs. 1000/- per return.

Q : How can an assessee find location code?
A : Location code can be searched from www.exciseandservicetax.nic.in based on:
(a) State/district/area of locality of central excise
(b) State/Commissionerate/Division/Range

Q : Where location code is filling up?
A : Location code is filled up in ST-2 and Challan GAR-7.

Q : Is location code will be different for different branch/unit of same assessee?
A : Yes, if each branch/unit has different registration number, then location code may be different.

Q : Where to quote Accounting code?
A : If an assessee paying any service tax liability amount, EC, SHEC, penalties, interest, etc. proper accounting code must be quote in GAR-7 challan for appropriate type of payment. If any payment is made and respective accounting code is not available, then payment should be made with a common code, i.e, 0440252.

Q : What is common code and when is it applicable?
A : Common Accounting code, i.e., 0440252 is very useful when we make the payment through GAR-7 but when accounting code not allotted by the department, then common code should be quoted therein.

Q : Where can we find correct accounting code?
A : Correct accounting code can be found from www.cbec.gov.in or any text book of service tax or software provider to STRP by TAXMANN.

Q : Can without accounting code in GAR-7 payment be made?
A : No, if accounting code in not available then common accounting code should be quoted in GAR-7 Challan.

Q : If service tax has been paid with wrong accounting code is the assessee liable to further pay service tax?
A : Once service tax has been paid with wrong accounting code, to pay assessee is not liable further service tax, but it is subject to litigation with the department.

Q : Whether STRP/TRPs can file return only in his/her area?
A : No, he/she can file return all over India but he/she should quote his/her unique identification number along-with name in return if there is a column available.

Q : What is the accounting code of EC and SHEC for service tax?
A : EC accounting code is 00440298 and SHEC accounting code is 0044426 for service tax.

Q : Assessee is distributor of SIM Cards of Reliance, is it liable to pay service tax on sale of SIM cards ?
A : No.

Q : What is format of service tax invoice?
A : There is no specific format of invoice to be issued by service provider. But under sub rule (1) of rule 4A, whenever an assessee providing taxable service, he shall issued an invoice, a bill, or a challan, having following:
a) The name, address and registration number of such assessee,
b) The name and address of the person receiving taxable service,
c) Description, classification and value of taxable service provided or to be provided,
d) The service tax payable on value of taxable service
Beside the above contents serial no. must be maintained.

Q : Is sub contractor liable to pay service tax?
A : If main contractor is providing exempted service under any exemption, the subcontractor shall not be liable to pay service tax, but if main contractor provides taxable service then liability of sub-contractor can be as follow:
a) if sub contractor is providing post construction service of completion like repairs, alteration, renovation, etc., then such service is liable to service tax
b) If sub contractor is providing the service for new building or separate unit of building and completed the work then he shall liable to pay service tax
c) If sub contractor does the pre construction work like earth foundation work, etc., only then he shall not be liable to pay service tax.

Q : How to calculate service tax in case of outdoor catering services ?
A : In case of outdoor catering services, service tax can be calculated by one of the following methods:
a) When cost of material includes service charge and no separate service charge is shown in invoice - 50% of bill value would be value of taxable service, but service provider cannot avail cenvat credit on inputs, input services and capital goods
b) When cost of material is not included in service charges but shown separately in invoice then taxable value of service would be service charge only

Q : What are the important documents for filing ST-1?
A : Important documents for filing application for service tax registration along with ST-1 are:
(1) Copy of PAN Card (if PAN Card is not available then copy of acknowledgement of PAN Card application should be attached),
(2) Proof of residence,
(3) Proof of constitution (Partnership deed, MOA or any agreement) and
(4) Power of attorney if application is signed by authorised person.

Q : How many services are under the composition scheme for payment of service tax?
A : On following service, the facility of composition payment is available:
a) Air travel agent-rate is 0.60% for basic fare of domestic booking and 1.2% for basic fare in case of international booking
b) Foreign exchange broking- rate @ 0.25% of turnover
c) Work contract service-rate @ 4% of value of contract, upto 01-03-2008 such rate was 2%

Q : When GTA service is provided to a company, it can discharge its liability by cenvat credit?
A : In case of GTA, service tax is payable by consignee or consignor who is paying the fright but such payment can be made only through GAR-7 challan, hence service tax liability in such a case cannot be adjusted from cenvat credit. [Top]