WHAT GOES DOWN

UNION BUDGET 2012-13

How has the Budget affected you?

Proposals relating to

SERVICE TAX

WHAT GOES UP

Presented by:

CA Virendra Parwal

Changes in Rate of Service Tax *w.e.f* 1-4-2012

Category	*Rate of Service Tax*
General Rate of Service Tax *(N. No. 8/2009 rescinded by 2/2012)*	@12% + cess
Service in relation to purchase and sale of foreign currency including money changing;	✓0.12% upto Rs.1 Lac (min Rs.30) ✓ 0.06% from +1 Lac upto Rs.10 Lacs + Rs.120. ✓ 0.012% on exceeding Rs.10 Lacs + Rs.660. (Subject to Maximum Rs. 6000)
Reversal of cenvat credit under rule 6(3)(i).	✓ 6% of value of the exempted goods and exempted services.
Service of promotion, marketing, organizing lottery;	✓ If Guarantee prize is more than 80% - Rs. 7000 on every Rs.10 Lac. ✓ If Guarantee prize is Less than 80% - Rs.11000 on every Rs.10 Lac.
Works contract service;	@ 4.8% + Cess
Life Insurance Service	✓3% for the first year premiums; ✓1.5% for the subsequent years; ✓Availment of full cenvat credit is being allowed.
Air Travel Service	✓Ad Valorem rate of @12% after abatement of 60%. (No Cenvat credit of input & Cap.

Exemptions

Renting of Immovable Property Service

No penalty if service tax paid along with interest (which is payable on 6-3-2012) within 6 months from the date of enactment of the Finance Bill, 2012.

Retrospective Exemptions in Certain Services

Category	Period Covered
Management, Maintenance or Repair of Roads	16-6-2005 to 26-7-2009.
Management, maintenance or repair of Non-commercial Government buildings	16-6-2005 to till the date on which section 66B comes into force.
Club or Association including Co-operative societies for setting up of facilities for treatment and recycling of effluents & solid waste	From 16-6-2005 to all material times.

Time limit for Filing Refund Application:- 6 months from the date on which the

Retrospective exemption for Supply of taxable services to SEZ

Category	Period Covered
Exemption from reversal of CENVAT credit on supply of taxable services to the authorized operations of SEZ.	With effect from 10-2-2006 to all material time.

Reverse Charge Mechanism

(N. No. 15/2012 Dt. 17-3-12 effective after enactment of Finance Act.)

1. Reverse charge will be in respect of following services -
   - Insurance agent providing service to insurance co.
   - Goods Transport Agency providing transportation by Road to specified persons
   - Sponsorship service to body corporate or P. firm
   - Arbitral tribunal or individual advocate providing service to business entity
   - Support service by Govt. to business entity
   - Service provided by any person located in non-taxable territory and received by any person located in taxable territory.
2. Put onus of payment of service tax on reverse charge basis partly on service

S. No	Description of service	Service provider	Service recipient
1.	Hiring of a motor vehicle designed to carry passengers: (a) with abatement (b) without abatement	Nil 60%	100% 40%
2.	Supply of manpower for any purpose	25%	75 %
3.	Works contract service	50%	50%

Amendment in Time Limit

Issuance of Show Cause Notice u/s 73(1)

The *one-year* time limit for issuance of notice for specified category of offences prescribed under section 73(1) of the Finance Act, 1994, is being increased to *18 months*

- ✓ Statement of tax due for the subsequent period, served on the assessee with reference to the earlier demand notice, will be deemed as a notice under section 73(1) of the Finance Act, 1994 *(new section 73 (1A).*

Appeals to Commissioner of Central Excise (Appeals) u/s 85

An appeal shall be presented within ***two months*** from the date of receipt of the order of adjudicating authority.

- ✓ Commissioner may further allow period of ***one month***

Appeals to Appellate Tribunal u/s 86

The ***assessee*** can appeal against order u/s 73 or u/s 85 within ***three months*** of the date of receipt of the order.

The Committee of Chief Commissioners or Committee of Commissioners can appeal against order u/s 85 within ***four months*** of the date of receipt of the order.

New Provisions in line with Central Excise Act,1944

Special Audit

A new section 72A is being inserted to introduce provisions relating to special audit in the service tax law on the lines of section 14A and section 14AA of the Central Excise Act, 1944. Under this newly introduced section, special audit can be ordered under specified circumstances :-

- Fail to declare or determine the value of taxable service correctly
- availed and utilized credit incorrectly
- operations spread out in multiple locations

Settlement Commission

Section 83 is being amended to make Settlement Commission provisions applicable to service tax in line with the similar provisions contained in sections 31, 32, 32A to 32P of the Central Excise Act, 1944.

Revision Mechanism

Section 83 is being amended to make the revision mechanism prescribed in section 35EE of the Central Excise Act, 1944, applicable to service tax, to the extent possible.

Amendments in CENVAT Credit Rules, 2004 (w.e.f. 1-4-2012)

Rule 4: Conditions for allowing Cenvat credit

✓Credit without bringing inputs & capital goods to the premises of provider of output service when the same are delivered to such provider subject to due documentation regarding their delivery and location.

Rule 5: Refund of CENVAT Credit

The new scheme does not require the kind of correlation that is needed at present between exports and input services used in such exports. Duties or taxes paid on any goods or services that qualify as inputs or input services will be entitled to be refunded in the ratio of the export turnover to total turnover.(N. No. 18/2012)

Rule : 9

Rule 9(1)(e) is being amended to allow availment of credit on the basis tax challan in case of payment of service tax is made by the service recipient on reverse charge basis.

Amendments in CENVAT Credit Rules, 2004 (w.e.f. 1-4-2012)

Rule : 7 Manner of distribution of credit by input service distributor

- ✓ Credit of service tax attributable to service used wholly in a unit shall be distributed only to that unit.
- ✓ Credit of service tax attributable to service used in more than one unit shall be distributed prorata on the basis of the turnover of the concerned unit to the sum total of the turnover of all the units to which the service relates.
- ✓ Credit of S. Tax attributable to service used in a unit exclusively providing exempt service shall not be distributed.
- ✓ Credit distributed against a document referred to does not exceed the amount of service tax paid thereon.

Rule : 10A

Transfer of unutilised CENVAT credit of additional duty leviable to counter balance the VAT u/s 3(5) of the Custom Act may be made by one premises to another premises by the manufacturer. A monthly return will be submitted.

Rule : 14

Interest shall be levied when the CENVAT credit has been “taken and utilised” wrongly. (Earlier the words were “taken or utilised”)

Amendments in CENVAT Credit Rules, 2004 (w.e.f. 1-4-2012)

CENVAT Credit on Motor Vehicles

Capital Goods

Presently credit on all Motor vehicles is not available except to a few specified service providers. This is being liberalized and credit on all motor vehicles to all the service providers shall now be allowed except following:

S.No	Tariff Heading	Description of motor Vehicle
1.	8702	Motor Vehicles For The Transport Of Ten Or More Persons, Including The Driver
2.	8703	Motor Cars and Other Motor Vehicles Principally Designed For The Transport of Persons (Other Than Those Of Heading 8702), Including Station Wagons And Racing Cars
3.	8704	Motor Vehicles For The Transport Of Good
4.	8711	Motorcycles (Including Mopeds) And Cycles Fitted With An Auxiliary Motor, With Or Without Side-Cars;
5.		Chassis of all the motor vehicle prescribed above
The above Motor vehicles would be capital goods only for specified service providers.		

Amendments in CENVAT Credit Rules, 2004 (w.e.f. 1-4-2012)

<u>Input Services</u>

Till date the only following input services related to motor vehicle were allowed as CENVAT Credit and that too only to the specified service provider:

(1) General Insurance Service

(2) Rent-a-cab

(3) Authorised service Station service

(4) Right to use of intangible goods services

Now the credit of service tax on services related to motor vehicle will be allowed as follows:-

Name of service	Credit allowed when and to whom
(i) Rent –a- cab (ii) Right to use tangible goods	Where Motor vehicle is capital goods.
(i) General insurance service (ii) Authorised service station	Manufacturer and Insurance companies in respect of vehicles manufactured or insured by them.

Amendment in Service Tax Rules, 1994 (w.e.f. 1-4-2012)

Rule 4A: Issue of Invoice	
Provider of banking and other financial services	**45** days from the date of completion of taxable service or receipt of any payment
Any other case	**30** days from the date of completion of taxable service or receipt of any payment (At present 14 days)
No invoice required to be issued to such extent	Where the amount received in excess upto Rs. 1000/- then the amount mentioned in the original invoice.

Adjustment of excess payment without limit

The restrictions in Rule 6(4B) omitted allowing permission of adjustment of excess amount paid without any limit (Undisputed). No intimation required to Suptd.

Rule 6

✓ Export of Services Rules, 2005: Time limit for payment of service tax would not apply where the payment is received within the time allowed by the Reserve Bank of India, including extended period.

✓ In case of Ind. & P. firm (where aggregate value of taxable service provided during previous F.Y. is upto Rs. 50 lacs) option to pay S. Tax on taxable service provided upto Rs. 50 lacs in current F.Y. on the basis of receipt of payment.

Changes w.r.t Threshold limit of Rs. 10 lacs

The definition of aggregate value as provided in explanation (b) to notification No. 6-2005-ST dt. 1-3-2005 is amended by notification No.5/2012-ST dt. 17-3-2012 to incorporate following changes w.e.f. 1-4-2012:-
The threshold exemption limit has been amended to provide that the first clearance upto Rs.10 Lacs will be considered on the basis of invoices issued and not merely on payments received.

Simplified registration and Return (Draft amendment to S. T. Rules)

- ✓ A common simplified registration format for Central Excise and Service Tax is placed for public comments.
- ✓ A common one page return for central excise and service tax, to be named EST.
- ✓ Cycles for payment of service tax and filing return should coincide as follows:-

Payment & Return of Service Tax

Category	Time limit
Assessee who Paid tax of Rs. 25 Lacs or more in Previous year	Monthly
New assessee other than Ind. & firms	Monthly
Others (including Ind. & firms)	Quarterly

Amendment in Point Taxation Rules, 2011 (w.e.f. 1-4-2012)

Date of payment (New Rule 2A)	
Date on which the payment is entered in the books of accounts or credited to the bank account of the person liable to pay tax.	Earlier of the two dates
where there is change in effective rate of tax	Date of credit in the bank account
When a service is taxed for the first time	
✓ No impact if the invoice is the basis for POT. ✓All advance recd. be deposited in bank upto 31st March 2012.	

Continuous Supply of service
✓Change in definition of continuous supply of service :- Means any service provided continuously or on recurrent basis, under a contract, for a period exceeding 3 months with the obligation for payment periodically or from time to time.
✓Rule 3- continuous supply of service included in this rule: ✓Date of completion of each event as specified in the contract shall be deemed to be date of completion of service. ✓ Consequently Rule 6 deleted.

Amendment in Point Taxation Rules, 2011 (w.e.f. 1-4-2012)

Payment of Tax in Case of New Service(Rule 5)

- ✓No tax where invoice issued and payment received before such service became taxable.
- ✓No tax where payment has been received and invoice issued within 14 days when service became taxable.

Rule 7- Determination of point of taxation in case of specified services

- ✓ In case of reverse charge where service tax is required to pay by recipient of service, POT shall be the date on which the payment is made. (if payment is not made within six months than normal rule will apply)
- ✓ In case of associate enterprises where the service provider is located outside India, POT shall be the date of debit in the books of accounts the person receiving the service or date of making payment whichever is earlier.

New Rule 8A is inserted

Central Excise Officer may determined the point of taxation to best of his judgment where POT cannot be determined as per POT rules in absence of details.

Service Tax (Determination of Value) Rules, 2006: (After enactment of Fin. Act 2012)

Rule 2A: Determination of value of taxable services in "works contract service'

Gross Amount charged (GAC) Less Value of property transferred in goods.

- ✓ Vat shall be excluded from GAC.
- ✓ value of transfer of property in goods shall be the value taken for VAT purposes.
- ✓ If the value is not so deduced, the value shall be as per following specified percentage of the total value:
  - a. Original works: 40% of the total amount; (where the land is included then 25% of total amount)
  - b. other contracts (including completion & finishing service) : 60% of the total amount;
- ✓"Original works" means

(i) All new constructions

(ii) All types of additions and alterations to abandoned or damaged structures to make them workable.

- "Total amount" means the gross amount plus the value of any material supplied under the same contract or any other contract. Where the value of goods or services supplied free of cost, value shall be determined on FMV.
- No input tax credit of excise duty paid on goods, property transferred in execution of works contract.
- However taxes paid on capital goods and input services will be available.

Service Tax (Determination of Value) Rules, 2006 is being amended as follows:

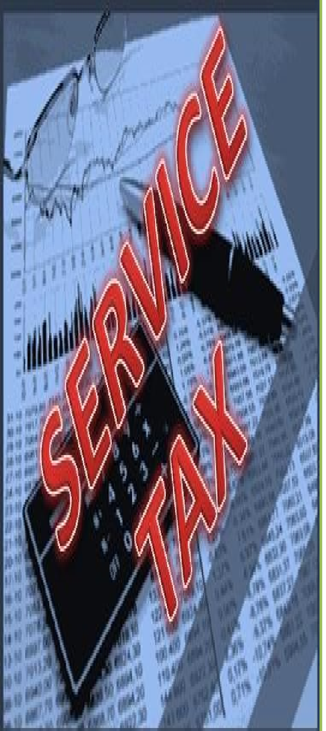
Rule 2C: Determination of value of taxable services involved in supply of food and drinks in a restaurant or as outdoor catering			
The taxable portion shall be as follows:			
S. No	Description of service	Existing taxable portion	Proposed taxable portion
1.	Service portion in the supply of food or any other article of human consumption or drink at a restaurant	30%	40%
2.	outdoor catering	50%	60%

Rule 6: Inclusion & Exclusion in Taxable Value	
Inclusion	**Exclusion**
any amount realized as demurrage, or by any other name, for the provision of a service beyond the period originally contracted or in any other manner relatable to the provision of service	interest on (a) deposits; and (b) delayed payment of any consideration for the provision of services/goods.
	accidental damages due to unforeseen actions not relatable to the provision of service
Interest on loans will now be an exempt income rather than an exclusion from value.	

Negative List Approach

for Levy of Service Tax

BUDGET
2012



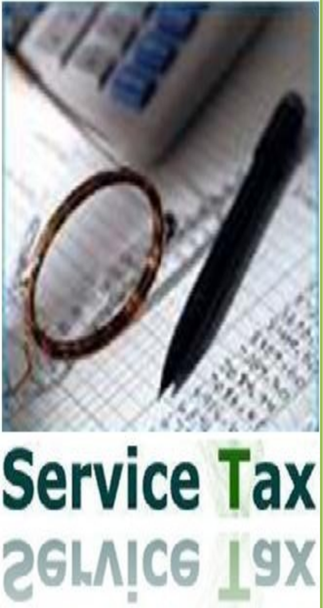
Introduction of Negative List Approach

- A Negative List approach to taxation of services is being introduced vide new sections proposed in Chapter V of the Finance Act, 1994.

- The services specified in the ‘Negative List’ shall remain outside the tax net.

- Negative list approach to taxation of services shall come into effect from a date to be notified, after the Finance Bill, 2012 receives the assent of the President.

- Provisions relating to positive list approach, namely, sections 65, 65A, 66, and 66A currently appearing in Chapter V of the Finance Act, 1994, will cease to operate from a date to be notified later, as and when the negative list approach begins to operate.



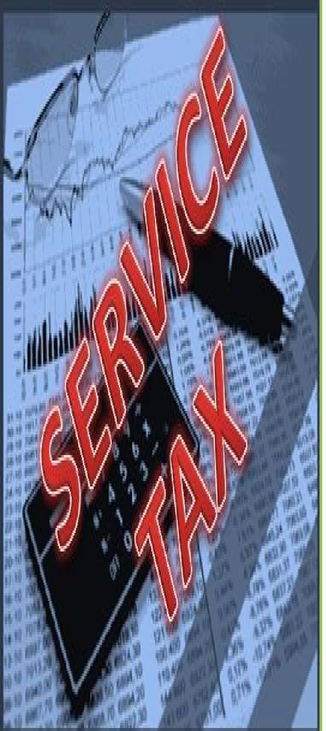
Draft Guidance Paper

- ✓ **What is service ?**
- ✓ **Taxability of services**
- ✓ **Negative List**
- ✓ **Declared service**
- ✓ **Exemptions**
- ✓ **Rules of interpretation**

Exhibit1:Negative List of services

Exhibit2: Exemptions in mega notification

Exhibit3: Other exemptions



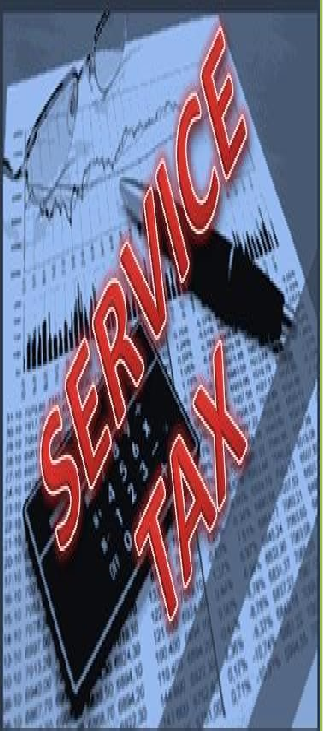
What is service ?

Service’ has been defined in clause (44) of the new section 65B and means :

- any activity
 -for consideration
 -carried out by a person for another
 -and includes a declared service.

The said definition further provides that ‘Service’ does not include –

- ✓ any activity that constitutes only a transfer in title of (i) goods or (ii)immovable property by way of sale, gift or in any other manner
- ✓ a transaction only in (iii) money or (iv) actionable claim
- ✓ any service provided by an employee to an employer in the course of the employment.
- ✓ fees payable to a court or a tribunal set up under a law for the time being in force



Explanation Under Definition of Service

***Explanation 1**.— nothing contained in* this clause shall apply to,—

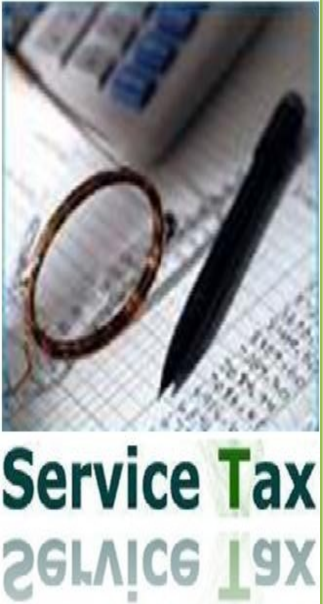
- *the functions performed by the Members of Parliament, Members of State Legislative,* Members of Panchayats, Members of Municipalities and Members of other local authorities who receive any consideration in performing the functions of that office as such member; or
- *the duties performed by any person who holds any post in pursuance of the provisions* of the Constitution in that capacity; or
- *the duties performed by any person as a Chairperson or a Member or a Director in a* body established by the Central Government or State Governments or local authority and who is not deemed as an employee before the commencement of this section.

Explanation 2

- an unincorporated association or a body of persons, as the case may be, and a member thereof shall be treated as distinct persons;
- an establishment of a person in the taxable territory and any of his other establishment in a non-taxable territory shall be treated as establishments of distinct persons.

Explanation 3

- *A person carrying on a business through a branch or agency or* representational office in any territory shall be treated as having an establishment in that territory;

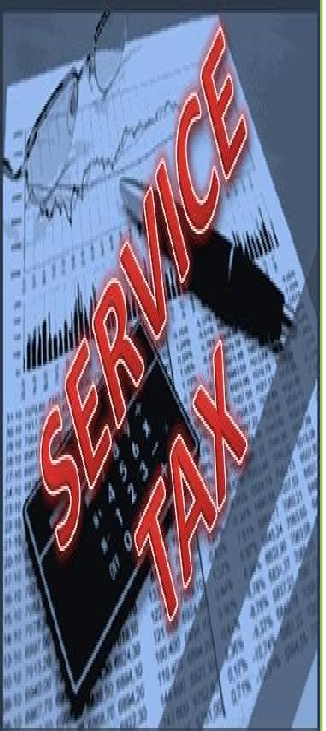


Taxability of Services

The taxability of services or the charge of service tax has been specified in section 66B of the Act.

To be a taxable a service should be –

- ✓provided or agreed to be provided by a person to another
- ✓in the taxable territory
- ✓and should not be specified in the negative list.



Negative List of Services

In terms of Section 66B of the Act, service tax will be leviable on all services provided in the taxable territory by a person to another for a consideration other than the services specified in the negative list.

The services specified in the negative list therefore go out of the ambit of chargeability of service tax. The negative list of service is specified in the Act itself in Section 66 D.

In all, there are seventeen heads of services that have been specified in the negative list.

Proposed Negative List of Services in Finance Bill 2012

S. No	Service Category	Remarks
1.	Service by Govt. or a Local Authority	All services **excluding** the following services to the extent they are not covered elsewhere: (i) services by the Department of Posts by way of speed post, express parcel post, life insurance and agency services provided to a person other than Government; (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport; (iii) transport of goods or passengers; or (iv) support services, other than services covered under clauses (i) to (iii) above, provided to business entities.
2.	Services by RBI	All services
3.	Services by a foreign diplomatic mission located in India	All Services
4.	Trading of goods.	
5.	Any process amounting to manufacture or production of goods.	

Proposed Negative List of Services in Finance Bill 2012

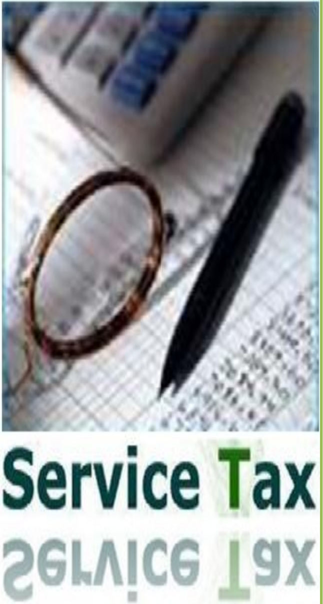
S. No	Category	Remarks
6.	Services relating to agriculture	Services relating to agriculture by way of – (i) agricultural operations directly related to production of any agricultural produce including cultivation, harvesting, threshing, plant protection or seed testing; (ii) supply of farm labour; (iii) processes carried out at an agricultural farm including tending, pruning, cutting, harvesting, drying, cleaning, trimming, sun drying, fumigating, curing, sorting, grading, cooling or bulk packaging and such like operations which do not alter essential characteristics of agricultural produce but make it only marketable for the primary market; (iv) renting or leasing of agro machinery or vacant land with or without a structure incidental to its use; (v) loading, unloading, packing, storage or warehousing of agricultural produce; (vi) agricultural extension services; (vii) services by any Agricultural Produce Marketing Committee or Board or services provided by a commission agent for sale or purchase of agricultural produce.

Proposed Negative List of Services in Finance Bill 2012

S. No	Category	Remarks
7.	Selling of space or time slots for advertisements **other than** advertisements broadcast by radio or television.	
8.	Service by way of access to a road or a bridge on payment of toll charges.	
9.	Betting, gambling or lottery.	
10.	Admission to entertainment events or access to amusement facilities.	
11.	Transmission or distribution of electricity by an electricity transmission or distribution utility.	
12.	Education Related Service	Services by way of – ✓ pre-school education and education up to higher secondary school or equivalent; ✓ education as a part of a curriculum for obtaining a qualification recognized by law; ✓ education as a part of an approved vocational education course.
13.	Services by way of renting of residential dwelling for use as residence;	
14.	Funeral, burial, crematorium or mortuary services including transportation of the deceased.	

Proposed Negative List of Services in Finance Bill 2012

S. No	Category	Remarks
15.	Loan & Advance	Services by way of – ✓ extending deposits, loans or advances in so far as the consideration is represented by way of interest or discount; ✓ inter-se sale or purchase of foreign currency amongst banks or authorized dealers of foreign exchange or amongst banks and such dealers;
16.	Transportation of Passengers	Service of transportation of passengers, with or without accompanied belongings, by – ✓a stage carriage; ✓railways in a class **other than** – (A) first class; or (B) an air conditioned coach; ✓metro, monorail or tramway; ✓ inland waterways; ✓ public transport in a vessel of less than fifteen tonne net, **other than** predominantly for tourism purpose; and ✓ metered cabs, radio taxis or auto rickshaws;
17.	Transportation of goods	Services by way of transportation of goods – ✓by road **except** the services of – (A) a goods transportation agency; or (B) a courier agency; ✓ by an aircraft or a vessel from a place outside India to the first customs station of landing in India; or ✓ by inland waterways;



Declared services

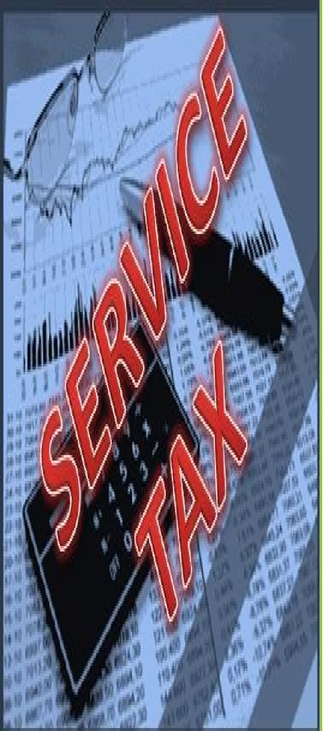
In the definition of ‘service’ contained in clause (44) of section 65B of the Act it has been stated that service includes a declared service.

The phrase ‘declared service’ is also defined in the said section as an activity carried out by a person for another for consideration and specified in section 66E of the Act

Declared Services

S. No	Category
1	Renting of immovable property;
2	Construction of a complex, building, civil structure or a part thereof, including a complex or building intended for sale to a buyer, wholly or partly, except where the entire consideration is received after issuance of completion-certificate by the competent authority.
3	Temporary transfer or permitting the use or enjoyment of any intellectual property right;
4	Development, design, programming, customisation, adaptation, upgradation, enhancement, implementation of information technology software;
5	Agreeing to the obligation to refrain from an act, or to tolerate an act or a situation, or to do an act;
6	Transfer of goods by way of hiring, leasing, licensing or in any such manner without transfer of right to use such goods;
7	Activities in relation to delivery of goods on hire purchase or any system of payment by installments;
8	Service portion in the execution of a works contract;
9	Service portion in an activity wherein goods, being food or any other article of human consumption or any drink (whether or not intoxicating) is supplied in any

Exemptions & Abatement



Under the present system there are 88 exemption notifications. The need for exemptions is not obliterated with the introduction of negative list.

While some existing exemptions have been built into the negative list, others, wherever necessary, have been retained as exemptions.

In addition new exemptions are proposed to be introduced in the context of the negative list.

- **Exemptions in Mega notification(Exhibit2)**
- **Other Exemptions (Exhibit3)**

Proposed Exemptions under Mega Notification

S. No	Category
1.	Services provided to the United Nations or a specified international organization;
2.	Health care services by a clinical establishment, an authorised medical practitioner or para-medics;
3.	Services by a veterinary clinic in relation to health care of animals or birds;
4.	Services by an entity registered under section 12AA of the Income tax Act, 1961 (43 of 1961) by way of charitable activities;
5.	Services by a person by way of:-- (a) renting of precincts of a religious place meant for general public; or (b) conduct of any religious ceremony;
6.	Services provided to any person other than a business entity by:- (a) an individual as an advocate; or (b) a person represented on and as arbitral tribunals;
7.	Services by way of technical testing or analysis of newly developed drugs, including vaccines and herbal remedies, on human participants by a clinical research organisation approved to conduct clinical trials by the Drug Controller General of India;
8.	Services by way of training or coaching in recreational activities relating to arts, culture or sports;

Proposed Exemptions under Mega Notification

S. No	Category
9.	Services provided:- (a) to an educational institution by way of catering under any centrally assisted mid – day meals scheme sponsored by Government; (b) to or by an institution in relation to educational services, where the educational services are exempt from the levy of service tax, by way of transportation of students or staff; (c) to or by an institution in relation to educational services, where the educational services are exempt from the levy of service tax, by way of services in relation to admission to such education;
10.	Services by way of sponsorship of tournaments or championships organized:- (a) by a national sports federation, or its affiliated federations, where the participating teams or individuals represent any district, state or zone; (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India, All India Sports Council for the Deaf, Paralympic Committee of India, Special Olympics Bharat; (c) by Central Civil Services Cultural and Sports Board; (d) as part of national games, by Indian Olympic Association; or (e) under Panchayat Yuva Kreeda Aur Khel Abhiyaan (PYKKA) Scheme;

Proposed Exemptions under Mega Notification

S. No	Category
11.	Services provided to the Government or local authority by way of erection, construction, maintenance, repair, alteration, renovation or restoration of:– (a) a civil structure or any other original works meant predominantly for a non-industrial or non-commercial use; (b) a historical monument, archaeological site or remains of national importance, archaeological excavation, or antiquity specified under Ancient Monuments and Archaeological Sites and Remains Act, 1958 (24 of 1958); (c) a structure meant predominantly for use as (i) an educational, (ii) a clinical, or (iii) an art or cultural establishment; (d) canal, dam or other irrigation works; (e) pipeline, conduit or plant for (i) drinking water supply (ii) water treatment (iii)sewerage treatment or disposal; or (f) a residential complex predominantly meant for self-use or the use of their employees or other persons specified in the *Explanation 1 to clause 44 of section 65 B of the said Finance Act;*
12.	Services provided to a recognised sports body by:- (a) an individual as a player, referee, umpire, coach or manager for participation in a tournament or championship organized by a recognized sports body; (b) another recognised sports body;

Proposed Exemptions under Mega Notification

S. No	Category
13.	Services provided by way of erection, construction, maintenance, repair, alteration, renovation or restoration of:- (a) road, bridge, tunnel, or terminal for road transportation for use by general public; (b) building owned by an entity registered under section 12 AA of the Income tax Act, 1961(43 of 1961) and meant predominantly for religious use by general public; (c) pollution control or effluent treatment plant, except located as a part of a factory; or (d) electric crematorium;
14.	Services by way of erection or construction of original works pertaining to:- (a) airport, port or railways; (b) single residential unit otherwise as a part of a residential complex; (c) low- cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority empowered under the 'Scheme of Affordable Housing in Partnership' framed by the Ministry of Housing and Urban Poverty Alleviation, Government of India; (d) post- harvest storage infrastructure for agricultural produce including a cold storages for such purposes; or (e) mechanised food grain handling system, machinery or equipment for units processing agricultural produce as food stuff excluding alcoholic

Proposed Exemptions under Mega Notification

S. No	Category
15.	Temporary transfer or permitting the use or enjoyment of a copyright covered under clause (a) or (b) of sub-section (1) of section 13 of the Indian Copyright Act, 1957 (14 of 1957), relating to original literary, dramatic, musical, artistic works or cinematograph films;
16.	Services by a performing artist in folk or classical art forms of (i) music, or (ii) dance, or (iii) theatre, excluding services provided by such artist as a brand ambassador;
17.	Services by way of collecting or providing news by an independent journalist, Press Trust of India or United News of India;
18.	Services by way of renting of a hotel, inn, guest house, club, campsite or other commercial places meant for residential or lodging purposes, having declared tariff of a room below one thousand rupees per day or equivalent;
19.	Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year, and which has a licence to serve alcoholic beverages;
20.	Services by way of giving on hire:- (a) to a state transport undertaking, a motor vehicle meant to carry more than twelve passengers; or (b) to a goods transport agency, a means of transportation of goods;

Proposed Exemptions under Mega Notification

S. No	Category
21.	Services by way of transportation by rail or a vessel from one port in India to another of the following goods:- (a) petroleum and petroleum products falling under Chapter heading 2710 and 2711 of the First Schedule to the Central Excise Tariff Act, 1985 (5 of 1986); (b) relief materials meant for victims of natural or man-made disasters, calamities, accidents or mishap; (c) defence or military equipments; (d) postal mail, mail bags or household effects; (e) newspaper or magazines registered with Registrar of Newspapers; (f) railway equipments or materials; (g) agricultural produce; (h) foodstuff including flours, tea, coffee, jaggery, sugar, milk products, salt and edible oil, excluding alcoholic beverages; or (i) chemical fertilizer and oilcakes;
22.	Services provided by a goods transport agency by way of transportation of:– (a) fruits, vegetables, eggs, milk, food grains or pulses in a goods carriage; (b) goods where gross amount charged on a consignment transported in a single goods carriage does not exceed Rs. 1500/-; or (c) goods, where gross amount charged for transportation of all such goods for a single consignee in the goods carriage does not exceed Rs. 750/-;

Proposed Exemptions under Mega Notification

S. No	Category
23.	Transport of passengers, with or without accompanied belongings, by:– (a) air, embarking or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Baghdogra located in West Bengal; or (b) a contract carriage for the transportation of passengers, excluding tourism, conducted tour, charter or hire;
24.	Services by way of motor vehicle parking to general public excluding leasing of space to an entity for providing such parking facility;
25.	Services provided to the Government or a local authority by way of:– (a) repair of a ship, boat or vessel; (b) effluents and sewerage treatment; (c) waste collection or disposal; (d) storage, treatment or testing of water for drinking purposes; or (e) transport of water by pipeline or conduit for drinking purposes;
26.	Services provided by an incubatee up to a total business turnover of fifty lakh rupees in a financial year subject to the following conditions, namely:- (a) the total business turnover had not exceeded fifty lakh rupees during the preceding financial year; and (b) a period of three years has agreement as an incubatee;

Proposed Exemptions under Mega Notification

S. No	Category
27.	Services of general insurance business provided under following schemes:– (a) Hut Insurance Scheme; (b) Cattle Insurance under Swarnajaynti Gram Swarozgar Yojna (earlier known as Integrated Rural Development Programme); (c) Scheme for Insurance of Tribals; (d) Janata Personal Accident Policy and Gramin Accident Policy; (e) Group Personal Accident Policy for Self-Employed Women; (f) Agricultural Pumpset and Failed Well Insurance; (g) premia collected on export credit insurance; (h) 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; (i) Jan Arogya Bima Policy; (j) National Agricultural Insurance Scheme (Rashtriya Krishi Bima Yojana); (k) Pilot Scheme on Seed Crop Insurance; (l) Central Sector Scheme on Cattle Insurance; (m) Universal Health Insurance Scheme; (n) Rashtriya Swasthya Bima Yojana; or (o) Coconut Palm Insurance Scheme;

Proposed Exemptions under Mega Notification

S. No	Category
28.	Service by an unincorporated body or an entity registered as a society to own members by way of reimbursement of charges or share of contribution:– (a) as a trade union; (b) for the provision of exempt services by the entity to third persons; or (c) up to an amount of 5000/- per month per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex;
29.	Services by the following persons in respective capacities:– (a) a sub-broker or an authorised person to a stock broker; (b) an authorised person to a member of a commodity exchange; (c) a mutual fund agent or distributor to mutual fund or asset management company for distribution or marketing of mutual fund; (d) a selling or marketing agent of lottery tickets to a distributer or a selling agent; (e) a selling agent or a distributer of SIM cards or recharge coupon vouchers; or (f) a business facilitator or a business correspondent to a banking company or an insurance company in a rural area;
30.	Services by way of making telephone calls from:– (a) departmentally run public telephones; (b) guaranteed public telephones operating only for local calls; or (c) free telephone at airport and hospitals where no bills are being issued;
31.	Services by way of slaughtering of bovine animals;

Proposed Exemptions under Mega Notification

S. No	Category
32.	Carrying out an intermediate production process as job work in relation to:– (a) agriculture, printing or textile processing; (b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Chapter 71 of the Central Excise Tariff Act ,1985 (5 of 1986); (c) any goods on which appropriate duty is payable by the principal manufacturer; or (d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of one hundred and fifty lakh rupees in a financial year subject to the condition that such aggregate value had not exceeded one hundred and fifty lakh rupees during the preceding financial year;
33.	Services by an organiser to any person in respect of a business exhibition held outside India;
34.	Services received from a service provider located in a non- taxable territory by - (a) the Government, a local authority or an individual in relation to any purpose other than industry, business or commerce; or

Gist of Other Exemptions

S. No	Category	Remarks
1.	Small Scale Exemption	For the taxable services of aggregate value not exceeding ten lakh rupees in a financial year subject to certain conditions.
2.	Exporters/ SEZ	✓ Transportation of export goods by Goods Transport Agency in a goods carriage received by an exporter for transport of the said goods directly from – ✓ Refund of service tax paid on certain specified taxable services received by an exporter of goods and used for export of goods, subject to certain specified conditions. ✓ Taxable services, received by a unit located in a Special Economic Zone or Developer of SEZ for the authorised operations.
3.	Import of Technology	Cess payable under the provisions of section 3 of the Research and Development Cess Act, 1986.
4.	Services to foreign diplomatic mission	Taxable services provided to foreign diplomatic mission or consular post in India.
5.	Services by TBI or STEP	Taxable services provided by a Technology Business Incubator (TBI) or a Science and Technology Entrepreneurship Park (STEP) recognized by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India.
6.	Renting of an immovable property	Taxable service of renting of an immovable property, from so much of the service tax leviable thereon, as is in excess of the service tax calculated on a value which is equivalent to the gross amount charged for renting of such immovable property less taxes on such property, namely property tax levied and collected by local bodies.

Abatement

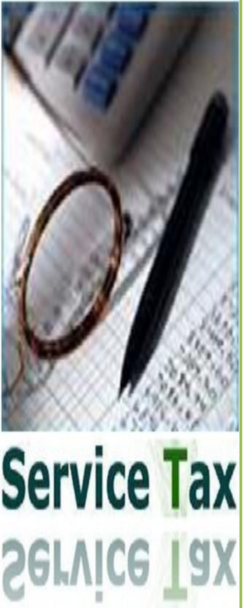
S. No	Category	%)	Remarks
1.	Financial leasing services including equipment leasing and hire purchase	90%	
2.	Transport of goods by rail	70%	
3.	Transport of passengers, with or without accompanied belongings by rail	70%	
4.	Supply of food or any other article of human consumption or any drink, in a premises, including hotel, convention center, club, pandal, shamiana or any place specially arranged for organizing a function	30%	CENVAT credit on any goods classifiable under chapter 1 to 22 of the Central Excise Tariff Act, 1985 (5 of 1986) has not been taken under the provisions of the CENVAT Credit Rules, 2004.

Abatement

S. No	Category	(%)	Remarks
5.	Transport of passengers by air, with or without accompanied belongings	60%	CENVAT credit on inputs or capital goods, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
6.	Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes	40%	Same as above.
7.	Transport of goods by road by Goods Transport Agency	75%	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
8.	Services provided in relation to chit	30%	Same as above
9.	Renting of any motor vehicle designed to carry passengers	60%	Same as above

Abatement

S. No	Category	(%)	Remarks
10.	Transport of goods in a vessel from one port in India to another	50%	CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004.
11.	(i) Services provided or to be provided to any person, by a tour operator in relation to a package tour	75%	(i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The bill issued for this purpose indicates that it is inclusive of charges for such a tour.
	(ii) Services provided or to be provided to any person, by a tour operator in relation to a tour, if the tour operator is providing services solely of arranging or booking accommodation for any person in relation to a tour	90%	(i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii) The invoice, bill or challan issued indicates that it is towards the charges for such accommodation. (iii) This exemption shall not apply in such cases where the invoice, bill or challan issued by the tour operator, in relation to a tour, only includes the service charges for arranging or booking accommodation for any person and does not include the cost of such accommodation.
	(iii) Services, other than services specified in (i) and (ii) above, provided or to be provided to any person, by a tour operator in relation to a tour	60%	(i) CENVAT credit on inputs, capital goods and input services, used for providing the taxable service, has not been taken under the provisions of the CENVAT Credit Rules, 2004. (ii)The bill issued indicates that the amount charged in the bill is the gross amount charged for such a tour.



Rules of Interpretation

Section 66F lays down the principles of interpretation of specified descriptions of services and bundled services:

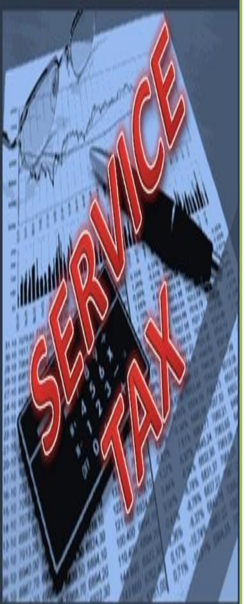
(1) Reference to a main service shall not include reference to a service which is used for providing main service.

(2) Where a service is capable of differential treatment for any purpose based on its description, the most specific description shall be preferred over a more general description.

(3) The taxability of a bundled service shall be determined in the following manner, namely:—

- (a) if various elements of such service are naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which gives such bundle its essential character;
- (b) if various elements of such service are not naturally bundled in the ordinary course of business, it shall be treated as provision of the single service which results in highest liability of service tax.

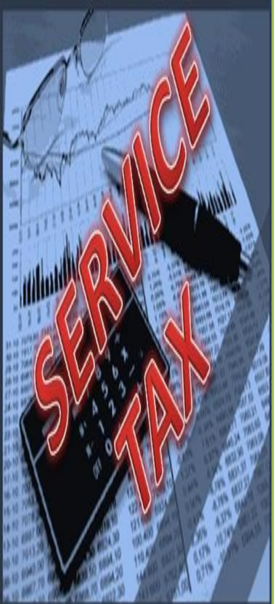
Explanation.— For the purposes of sub-section (3), the expression "bundled service" means a bundle of provision of various services wherein an element of provision of one service is combined with an element or elements of provision of any other service or services.';



Place of Provision of Services Rules, 2012

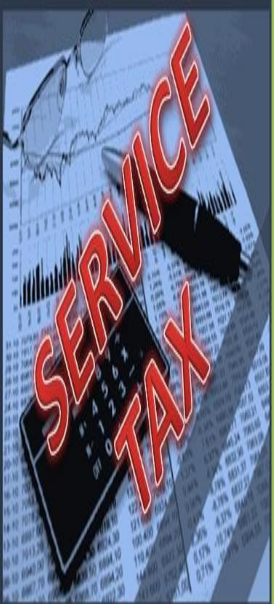
The important key for implementation of this rule is to identify the taxing jurisdiction for a service.

Rules	Place of Provision of service
3. Generally	Location of the service receiver; ✓ in case the location of service receiver is not available then place of provision shall be the location of service provider.
4. Performance based Services	In following cases place of provision shall be location where the services are actually performed; (a) services provided in respect of goods that are required to be made physically available by the service receiver to the service provider, in order to provide the service; ☎✓ When such services are provided from a remote location by way of electronic means the place of provision shall be the location where goods are situated at the time of provision of service; (b) services provided in conjunction with the supply of goods under another contract by the service provider; (c) Services provided entirely or predominantly, in the ordinary course of business, in the physical presence of an individual, represented either as the service receiver or a person acting on behalf of the receiver.



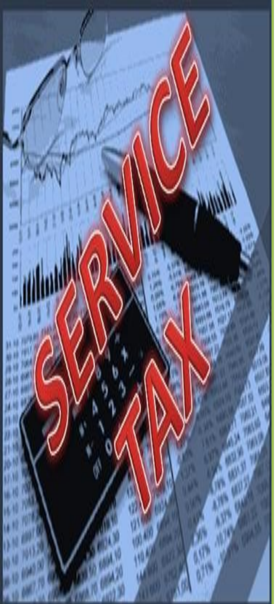
Place of Provision of Services Rules, 2012

Rules	Place of Provision of service
5. Relating to Immovable Property	In relation to an immovable property, including services provided in this regard by experts and estate agents, provision of hotel accommodation by a hotel, inn, guest house, club or campsite, by whatever, name called, grant of rights to use immovable property, services for carrying out or coordination of construction work, including architects or interior decorators, shall be the ***place where the immovable property is located or intended to be located.***
6. Services Relating To Events	The place of provision of services provided by way of admission to, or organization of, a cultural, artistic, sporting, scientific, educational, or entertainment event, or a celebration, conference, fair, exhibition, or similar events, and of services ancillary to such admission, shall be ***the place where the event is actually held.***
7. Services Provided at more than one Location	Where any service referred to in rules 4, 5, or 6 is provided at more than one location, including a location in the taxable territory, its place of provision shall be ***the location in the taxable territory where the greatest proportion of the service is provided.***



Place of Provision of Services Rules, 2012

Rules	Place of Provision of service
8. Services where provider and receiver are located in Taxable Territory	Where the location of the service provider as well as that of the service receiver is in the taxable territory, place of provision shall be ***the location of the service receiver*.**
9. Specified Services	The place of provision of following services shall be the ***location of the service Provider*** (a) Services provided by a banking company, or a financial institution, or a non-banking financial company, to account holders; (b) Telecommunication services provided to subscribers; (c) Online information and database access or retrieval services; (d) Intermediary services; (e) Service consisting of hiring of means of transport, upto a period of one month.



Place of Provision of Services Rules, 2012

Rules	Place of Provision of service
10.Goods Transportation Services	The place of provision of services of transportation of goods, other than by way of mail or courier, shall be the place of ***destination of the goods***. ✓The place of provision of services of goods transportation agency shall be the location of the person liable to pay tax.
11.Passenger Transportation Services	The place of provision in respect of a passenger transportation service shall be the place ***where the passenger embarks on the conveyance for a continuous journey.***
12. Services Provided on Board a Conveyance	Services provided on board a conveyance during the course of a passenger transport operation, including services intended to be wholly or substantially consumed while on board, shall be ***the first scheduled point of departure of that conveyance for the journey.***

Virendra Parwal

+91-9829888807

vparwal@kalanico.com