PAYMENT OF SERVICE TAX

1. ***Who is liable to pay service tax?***

   According to section 68 of the Finance Act, 1994, as amended:

   (1) Every person providing taxable service to any person shall pay service tax at the rate specified in section 66B in such manner and within such period as may be prescribed.

   (2) Notwithstanding anything contained in sub-section (1), ***in respect of such taxable service as may be notified by the Central Government*** *in the Official Gazette, the service tax thereon shall paid by such person and in such manner as may be prescribed at the rate specified in section 66B and all the provisions of this chapter shall apply to such person as if he is the person liable for paying the service tax in relation to such service.*

   Thus, every service provider (except SSI) and service recipient as notified under Section 68(2) shall be liable to pay service tax

2. ***What are the taxable services notified by the Central Government in relation to payment of service tax?***

   Accordingly, in terms of Notification No. 30/2012-ST, dated 20.6.2012 applicable w.e.f. 1.7.2012, (issued in supersession of Notification No. 15/2012-ST, dated 17.3.2012 and Notification No. 36/2004-ST dated 31.12.2004, *the Central Government hereby notifies the following taxable services and the extent of service tax payable thereon by the person liable to pay service tax for the purposes of the said sub-section, namely:—*

   I. *The taxable services,—*

   (A)

   (i) provided or agreed to be provided by an insurance agent to any person carrying on the insurance business;

   (ii) provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road, where the person the person liable to pay freight is,—

   a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);

   b) any society registered under the Societies Registration Act, 1860 (21 of 1860) or under any other law for the time being in force in any part of India;

   c) any co-operative society established by or under any law;

   d) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder;

   e) any body corporate established, by or under any law; or

   f) any partnership firm whether registered or not under any law including *association of persons;*

(iii) *provided or agreed to be provided by way of sponsorship, to anybody corporate or partnership firm located in the taxable territory;*

(iv) *provided or agreed to be provided by, -*

A. *an arbitral tribunal, or*

B. *an individual advocate or a firm of advocates by way of support services, or*

C. *Government or local authority by way of support services excluding,—*

1) *Renting of immovable property, and*

2) *services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act,1994,*

to any business entity located in the taxable territory;

(v) *provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers to any person who is not in the similar line of business or supply of manpower for any purpose or service portion in execution of works contract by any individual, Hindu Undivided Family or partnership firm, whether registered or not, including association of persons, located in the taxable territory to a business entity registered as body corporate, located in the taxable territory;*

(B) *provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory;*

II. *the extent of service tax payable thereon by the person who provides the service and the person who receives the service for the taxable services specified in (I) shall be as specified in the following Table, namely:-.*

Table

S. No.	***Description of a service***	***Percentage of service tax payable by the person providing service***	***Percentage of service tax payable by the person receiving the service***
1	*in respect of services provided or agreed to be provided by an insurance agent to any person carrying on insurance business*	*Nil*	*100%*
2	*in respect of services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road*	*Nil*	*100%*
3	*in respect of services provided or agreed to be provided by way of sponsorship*	*Nil*	*100%*
4	*in respect of services provided or agreed to be provided by an arbitral tribunal*	*Nil*	*100%*
5	*in respect of services provided or agreed to be provided by individual advocate or a firm of advocates by way of legal services*	*Nil*	*100%*

6	*in respect of services provided or agreed to be provided by Government or local authority by way of support services excluding,- (1) renting of immovable property, and (2) services specified in sub-clauses (i), (ii) and (iii) of clause (a) of section 66D of the Finance Act,1994*	*Nil*	*100%*
7	*(a) in respect of services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers on abated value to any person who is not engaged in the similar line of business* *(b) in respect of services provided or agreed to be provided by way of renting of a motor vehicle designed to carry passengers on non abated value to any person who is not engaged in the similar line of business*	*Nil* *60%*	*100 %* *40%*
8.	*in respect of services provided or agreed to be provided by way of supply of manpower for any purpose*	*25%*	*75 %*
9.	*in respect of services provided or agreed to be provided in service portion in execution of works contract*	*50%*	*50%*
10	*in respect of any taxable services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory*	*Nil*	*100%*

Explanation-I. - The person who pays or is liable to pay freight for the transportation of goods by road in goods carriage, located in the taxable territory shall be treated as the person who receives the service for the purpose of this notification.

Explanation-II. - In works contract services, where both service provider and service recipient is the persons liable to pay tax, the service recipient has the option of choosing the valuation method as per choice, independent of valuation method adopted by the provider of service.

3. *What is the Due date for Payment of Service Tax*

Due date for the payment of service tax has been laid down in amended Rule 6(1) of the Service Tax Rules, 1994, namely:—

"(1) The service tax shall be paid to the credit of the Central Government,—

(i)by the 6th day of the month, if the duty is deposited electronically through internet banking; and

(ii)by the 5th day of the month, in any other case,

immediately following the calendar month in which the service is deemed to be provided as per the rules framed in this regard.

Provided that in case of individual or proprietary firm or partnership firm, the payment of service tax is made quarterly .Thus, the due date of service tax shall be the 6th day/ the 5th day of the month, as the case may be, immediately following the quarter in which the service is deemed to be provided as per the rules framed in this regard.

Provided further that the due date of service tax for the service deemed to be provided in the month of March, or the quarter ending in March, shall be 31st day of March of the calendar year."

Provided also that in case of individuals and partnership firms whose aggregate value of taxable services provided from one or more premises is fifty lakh rupees or less in the previous financial year, the service provider shall have the option to pay tax on cash basis rather than accrual basis.

Due date for depositing the service tax in case of various assessee as mentioned in Rule 6(1) of Service Tax Rules, 1994 can be summarized as follows:

TABLE

Particulars	***Date For Non-Corporate***	***Due Date For Corporate Assessee***
For Quarter/month ended on 31st March	*31st March*	*31st March*
For Month ended on 30th April	—	*5th/6th May*
For Month ended on 31st May	—	*5th/6th June*
For Quarter/month ended on 30thJune	*5th/ 6th July*	*5th/6th July*
For Month ended on 31st July	—	*5th/6thAug*
For Quarter/month ended on 30th Sep.	*5th/6th Oct*	*5th/6th Oct.*
For Quarter/month ended on 31st Dec	*5th/6th Jan*	*5th/6th Jan.*

One day extension is available to assessee opting for electronic payment.

4. *What is the due date in case of transitional stage from cash basis to accrual basis?*

If at the time of switching over from cash basis to accrual basis, that is, on 1.4.2011 or 1.7.2011 as the case may be, the provision of service is already completed or invoices has already been issued, due date for payment of tax in respect of such services or invoice issued shall be 5th/ 6th of the month immediately following the calendar month or quarter as the case may be, in which the payment is received towards the value of taxable service. It is also clarified that the payments received before 1.4.2011 or 1.7.2011 as the case may be, i.e. when Point of Taxation Rules, 2011 come into force do not require any transitional provisions as they are already required to pay tax on payment basis.

For the purpose of making the payment of service tax, only GAR-7 forms under the major head of Account "0044 Service Tax" has to be used by the assessee.

5. ***What is the mode of payment of Service Tax?***

   Form G.A.R.7 (previously known as TR6 Challan) is the mode of payment of service tax. Payment of service tax may be made at the specified branches of the designated banks. The details of such Banks and branches may be obtained from the nearest Central Excise Office/Service Tax Office.

6. ***What is the accounting code under which the Service Tax amount is to be paid?***

   For the purpose of making the payment of service tax, only GAR-7 forms under the major head of Account "0044 Service Tax" has to be used by the assessee

7. ***What is E- Payment of Service tax and is it mandatory?***

   E-*Payment is a payment made through which a Taxpayer can remit his tax dues to the Govt. (CBEC) using Internet Banking Service. It is an additional facility being offered by the banks besides conventional procedure.*

   Provided that the assessee, who has paid service tax of rupees ten lakhs or more including the amount paid by utilization of CENVAT credit, in the preceding financial year, shall deposit the service tax liable to be paid by him electronically, through internet banking."

8. ***What is the Procedure of e-payment of Service Tax?***

   Procedure of e-payment of Service Tax is explained as follows:

   For e-payment, assessees should open a net banking account with one of the authorized banks (currently there are 28 banks, list of which is available on the EASIEST (Electronic Accounting System in Excise and Service Tax) website of CBEC, maintained by NSDL (https://cbec.nsdl.com/EST).

   For effecting payment, assessees can access the ACES website (http://www. aces.gov.in/) and click on the e-payment link that will take them to the EASIEST portal (https://cbec.nsdl.com/EST/) or they can directly visit the EASIEST portal.

   Procedure for e-Payment:

1. *To pay Excise Duty and Service Tax online, the assessee has to enter the 15 digit Assessee Code allotted by the department under erstwhile SACER/SAPS or the current application ACES.*
2. *There will be an online check on the validity of the Assessee Code entered.*
3. *If the Assessee code is valid, then corresponding assessee details like name, address, Commissionerate Code, etc. as present in the Assessee Code Master will be displayed.*
4. *Based on the Assessee Code, the duty/tax i.e. Central Excise duty or Service Tax to be paid will be automatically selected.*
5. *The assessee is required to select the type of duty/tax to be paid by clicking on Select Accounting Codes for Excise or Select Accounting Codes for Service Tax, depending on the type of duty/tax to be paid.*
6. *At a time the assessee can select up to six Accounting Codes.*
7. *The assessee should also select the bank through which payment is to be made.*
8. *On submission of data entered, a confirmation screen will be displayed. If the taxpayer confirms the data entered in the screen, it will be directed to the net-banking site of the bank selected.*
9. *The taxpayer will login to the net-banking site with the user id/ password, provided by the bank for net-banking purpose, and will enter payment details at the bank site.*
10. *On successful payment, a challan counterfoil will be displayed containing CIN, payment details and bank name through which e-payment has been made. This counterfoil is proof of payment made.*

9. Are there any geographical restrictions on Banks?

No. Customer can effect payment from anywhere for the Commissionerate in which he is registered with, provided that particular bank is designated and authorized to collect revenue for that Commissionerate.

10. Up to what time in a day the e-Payments can be made?

E-*Payment can be made 24 hours a day using Internet banking service of Bank. Payment made up to 8 pm will be accounted on the same day. However payments effected after 8 pm will only be included in next working day's scroll by the Focal point Branch. So, to ensure timely payment, e-payment should be made latest by 8 p.m. on the due date.*

11. Does the Internet banking service give any receipt/confirmation for the e-Payment?

Yes. *on successful payment the Internet banking user gets a Cyber Receipt for the Tax payment, which he can save or print for his record.*

12. How does the taxpayer get the regular Challan stamped and receipted by Bank?

The respective Focal Point Bank on the next working day will send the Challan copies duly receipted and stamped to the taxpayer by courier at the mailing address provided by the *taxpayer.*

13. ***Can service tax be paid by Cheque? When paid by cheque, which date will be treated as date of payment?***

__Yes.__ Service tax can be paid by Cheque__.__ In cases where the payment of service tax is made by cheque on or before the due date .The date of deposit of cheque shall be the date of payment of service Tax date if service tax amount has been deposited by an assessee in the authorized Bank, by cheque, before the due date and such cheque is not dishonored later. In that case, the Department need not initiate proceedings for recovery of interest or penalty, etc.

If the cheque is dishonoured, it would mean as if the Service Tax has not been paid and the relevant penal consequences would follow. [Rule 6(2) of the STR, 1994]

14. ***Can the Service Tax be deposited in Non-designated banks?***

__No.__ For payment of Service Tax, specific bank has been nominated for every Central Excise/Service Tax Commissionerate. If Service Tax is deposited in a Branch /Bank other than the nominated Bank / Branch, it amounts to non-payment of Service Tax [Rule 6(2) of the STR, 1994]. In any case, a non-designated bank will not accept service tax challans

15. ***Can Service tax be paid in advance?***

Sub-rule (1A) of Rule 6 was inserted in Service Tax Rules, 1994 by Notification No. 4/2008-ST dated 1-3-2008 which provides that without prejudice to the provisions contained in sub-rule (1), every person liable to pay service tax, may, on his own volition, pay an amount as service tax in advance, to the credit of the Central Government and adjust the amount so paid against the service tax which he is liable to pay for the subsequent period. However, the assessee shall intimate the details of the amount of service tax paid in advance, to the jurisdictional Superintendent of Central Excise within a period of fifteen days from the date of such payment; and indicate the details of the advance payment made, and its adjustment, if any in the subsequent return to be filed under section 70 of the Act.

16. ***Can service tax be adjusted when no service provided or amount of invoice renegotiated?***

Rule 6(3) of Service Tax Rules, 1994 as amended w.e.f. 1.4.2011 provides that where an assessee has issued an invoice, or received any payment, against a service to be provided which is not so provided by him either wholly or partially for any reason or where the amount of invoice is renegotiated due to deficient provision of service, or any terms contained in a contract, the assessee may take the credit of such excess service tax paid by him, if the assessee.-

(a) *has refunded the payment or part thereof, so received for the service provided to the person from whom it was received; or*

(b) *has issued a credit note for the value of the service not so provided to the person to whom such*

an invoice had been issued.

However, such adjustment is not possible in case of bad debts in view of clarification issued by CBEC in Departmental Letter F. No. 341/34/2010-TRU, dated 31.3.2011. However, it is litigative issue in view of extra burden going to be imposed on the assessee for the amount not collected by them at all.

17. *Is there any provision of Adjustment of excess service Tax?*

From 1st of March, 2007, in rule 6, the following sub-rules have been inserted which have later been amended in 2011 and 2012 to provide as follows:—

(4A) Notwithstanding anything contained in sub-rule (4), where an assessee has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month or quarter, as the case may be, the assessee may adjust such excess amount paid by him against his service tax liability for the succeeding month or quarter, as the case may be.

(4B) The adjustment of excess amount paid, under sub-rule (4A),
shall be subject to the following conditions, namely:—

(i) excess amount paid is on account of reasons not involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification,

(ii) excess amount paid by an assessee registered under sub-rule (2) of rule 4, on account of delayed receipt of details of payments towards taxable services may be adjusted without monetary limit,

(iii) in cases other than specified in clause (ii) above, the excess amount paid may be adjusted with a monetary limit of rupees two lakh rupees for a relevant month or quarter, as the case may be,

(iv) the details and reasons for such adjustment shall be intimated to the jurisdictional Superintendent of Central Excise within a period of fifteen days from the *date of such adjustment."*

However, Condition No. (ii), (iii) & (iv) have been omitted vide Service Tax (Amendment) Rules, 2012 vide Notification no. 3/2012-ST dated 17-3-2012, w.e.f. 1.4.2012)]

(4C) Notwithstanding anything contained in sub-rules (4), (4A) and (4B), where the person liable to pay service tax in respect of services provided or to be provided in relation to renting of immovable property, has paid to the credit of Central Government any amount in excess of the amount required to be paid towards service tax liability for a month or quarter, as the case may be, on account of non-availment of deduction of property tax paid in terms of notification No. 24/2007-Service Tax, dated the 22nd May, 2007, from the gross amount charged for renting of the immovable property for the said period at the time of payment of service tax, the assessee may adjust such excess amount paid by him against his service tax liability within one year from the date of payment of such property tax. The details of such

adjustment shall be intimated to the Superintendent of Central Excise having jurisdiction over the service provider within a period of fifteen days from the date of such adjustment.

18. *What are the penal consequences on failure to pay Service Tax?*

Failure to pay service tax also attracts a penalty under section 76 of the Act, which shall not be less then Rs. 100 (Rs. 200/- upto 7.4.2011) for every day during which such failure continues or at the rate of 1% (2% upto 7.4.2011) of such tax per month, whichever is higher, starting with the first day after the due date till the date of actual payment of the outstanding amount of service tax. However, such penalty would not exceed fifty percent of (hundred percent upto 7.4.2011) service tax payable.

19. *When payment is made by a client to an assessee after deducting his Income Tax liability under the Tax deduction at source (TDS) provision, whether the Service Tax liability of the assessee is only towards the amount actually received from that client or tax is to be paid on the amount including the Income Tax deducted at source also?*

Service Tax is to be paid on the gross value of taxable service which is charged by a Service Tax assessee for providing a taxable service. Income tax deducted at source is includible in the charged amount. Therefore, service Tax is payable on the gross amount including the amount of Income Tax deducted at source also.

20. *What is the interest rate applicable on delayed payment of Service Tax?*

Every person, liable to pay the service tax in accordance with the provisions of section 68 of the Act or rules made there under, who fails to credit the tax or any part thereof to the account of the Central Government within the period prescribed, shall pay simple interest @ 15% per annum if the turnover of assessee is below 60 lakhs otherwise 18%. Interest is payable for the period from the first day after the due date till the date of payment of any defaulted service Tax amount. [Refer to Section 75 of the Finance Act, 1994]

21. *Can interest be waived, and by whom?*

Interest payments are mandatory in nature and the same cannot be waived.

22. *Whether Service tax not paid after self-assessment u/s 70(1) is recoverable?*

A new sub-rule (6A) has been inserted in Rule 6 of Service Tax Rules, 1994 w.e.f. 1.4.2011 vide Service Tax (Amendment) Rules, 2011, dated 1.3.2011 to provide that where an amount of service tax payable has been self-assessed under sub section (1) of section 70 of the Act, but not paid, either in full or part, the same, shall be recoverable along with interest in the manner prescribed under section 87 of the Act.