REVERSE CHARGE MECHANISM

1. ***What are the taxable services on which reverse charge mechanism is applicable with effect from 01.07.2012?***

Accordingly, in terms of Notification No. 30/2012-ST, dated 20.6.2012 as amended by Notification No. 45/2012-ST dated 07.08.2012, (issued in supersession of Notification No. 15/2012-ST, dated 17.3.2012 and Notification No. 36/2004-STdated 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 there under;

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;

(iva) provided or agreed to be provided by a director of a company to the said company

(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 security services 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

Sl. No	***Description of a service***	***Percentage service payable by person providing service***	***Percentage service payable by person receiving 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%*
5A	*In respect of services provided or agreed to be provided by a director of a company to the said company*	*Nil*	*100%*

Sl. No	***Description of a service***	***Percentage service payable by person providing service***	***Percentage service payable by person receiving service***
6	*In respect of services provided or agreed to be provided by Government or local authority by way of support service 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 passenger 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 passenger 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 or security service*	*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*	*Nil*	*100%*

Sl. No	Description of a service	Percentage service payable by person providing service	Percentage service payable by person receiving service
	by any person who is located in a non-taxable territory and received by any person located in the taxable territory		

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.

2. ***What does a service provider need to indicate on the invoice when he is liable to pay only a part of the liability under the partial reverse charge mechanism?***

*The service provider shall issue an invoice complying with Rule 4A of the Service Tax Rules 1994. Thus the invoice shall indicate the name, address and the registration number of the service provider; the name and address of the person receiving taxable service; the description and value of taxable service provided or agreed to be provided; and the service tax payable thereon. As per clause (iv) of sub-rule (1) of the said rule 4A "**the service tax payable**" thereon' has to be indicated. The service tax payable would include service tax payable by the service provider.*

Thus , yes a service provider need to indicate on the invoice when he is liable to pay only a part of the liability under the partial reverse charge mechanism

3. ***If the service provider is exempted being a SSI (turnover less than Rs 10 lakhs), how will the reverse charge mechanism work?***

The liability of the service provider and service recipient are different and independent of each other. Thus in case the service provider is availing exemption owing to turnover being less than Rs. 10 lakhs, he shall not be obliged to pay any tax. However, the service recipient shall have to pay service tax which he is required to pay under the partial reverse charge mechanism.

Even if the service recipient is SSI, he needs to pay his service tax liability under reverse charge mechanism.

4. ***Will the credit of such tax paid be available to the service recipient?***

Normally, the credit of the entire tax paid on the service received by the service receiver would be available to the service recipient subject to the provisions of the CENVAT Credit Rules, 2004. The credit of tax paid by the service provider would be available on the basis of the invoice subject to the conditions specified in the CENVAT Credit Rules, 2004. The credit of tax paid by the service recipient under partial reverse charge would be available on the basis on the tax payment under GAR -6challan, again subject to conditions specified in the said Rules.

5. ***What shall be the point of taxation for the service recipient? When will he need to pay the service tax in respect of his liability?***

Both the service provider and service recipient are governed by the Point of Taxation Rules, 2011 in respect of the service provided or received by him. Usually it is the invoice or date of receipt of payment which is the point of taxation for the service provider. However for the service recipient, in terms of rule 7 of the said rules, point of taxation is the date of payment of value of service . Thus in the case where the invoice is issued in say July 2012 and the service recipient pays for the same in August 2012 the point of taxation for the service provider will be the date of issue of invoice in July 2012. The point of taxation for the service recipient shall be the date of payment in August 2012. The service provider would be required to pay tax (to the extent liability is affixed on him) by 5th/6th August, 2012 or 5th/6th October 2012 depending upon the admissibility of benefit under the proviso to Rule 6 of the Service Tax Rules 1994. The service recipient would need to pay tax (to the extent liability is affixed on him) by 5th/6th September 2012.

6. ***How is the service recipient required to calculate his tax liability under partial reverse charge mechanism? How will the service recipient know which abatement or valuation option has been exercised by the service provider*?**

The service recipient would need to discharge liability only on the payments made by him. Thus the assessable value would be calculated on such payments done. (Free of Cost material supplied and out of pocket expenses reimbursed or incurred on behalf of the service provider need to be included in the assessable value in terms of Valuation Rules) The invoice raised by the service provider would normally indicate the abatement taken or method of valuation used for arriving at the taxable value. However since the liability of the service provider and service recipient are different and independent of each other, the service recipient can independently avail or forgo an abatement or choose a valuation option depending upon the ease, data available and economics.

7. ***Is the reverse charge applicable on services provided and completed before1.7.2012 though payments were made after 1.7.2012?***

For any service whose point of taxation has been determined and whole liability affixed before 1.7.2012 the new provisions will not apply. Merely because payments are being made after 1.7.2012 will not add any additional liability on the service receiver in respect of such services