

Chart of Service Tax Provisions under Reverse Charge Mechanism

1. Point of taxation under reverse charge mechanism is date of payment to the service provider provided payment must happen within 6 months from the date of invoice otherwise point of taxation will be date of invoice. Invoice needs to be issued by the service provider within 30 days of completion of each event/service. If invoice is not issued within the specified time, point of taxation will be the date of completion of provision of service.

Provided that in case of “associated enterprises”, where the person providing the service is located outside India, the point of taxation shall be the date of debit in the books of account of the person receiving the service or date of making the payment whichever is earlier.

For any service whose point of taxation has been determined and whole liability affixed before 1.7.2012/7.8.2012, the new provisions will not apply. Merely because payments are being made on or after 1.7.2012/7.8.2012 will not add any additional liability on the service receiver in respect of such services.

2. Service tax under reverse charge is applicable even if service provider is exempt from service tax up to the taxable value of 10 Lac. There is no threshold limit of exemption for the service receiver under reverse charge mechanism.

3. Input credit of service tax paid by recipient under reverse charge mechanism can be availed on the basis of tax payment challan. In case of Banks and NBFCs, Rule 6(3B) of CENVAT rules will also apply to input credit of service tax paid under reverse charge mechanism.

4. In the following cases, 100% service tax liability rests with the service provider only if service provider is a corporate entity:-

- i. Renting of motor vehicle
- ii. Manpower services & security Services
- iii. Works contract

In the above cases, service recipient will pay nothing under reverse charge mechanism.

5. It is the responsibility of service recipient to determine whether particular works contract covered under 11(a) to 11(c) is leviable to VAT or not. Service recipient is liable under reverse charge mechanism even if service provider does not charge VAT/WCT in invoice if VAT/WCT is otherwise applicable.

6. Provisions relating to works contract are applicable even if material is purchased from a separate person other than the person rendering services or under separate agreement or under separate invoice.

7. Valuation of Works Contract covered under 11(a) to 11(c) = Gross amount charged in invoice by service provider for labour and material used in execution of works contract (excluding taxes) plus fair market value of goods supplied by the service recipient used in execution of works contract (excluding taxes) less amount charged by service recipient from service provider in respect of goods supplied in relation to works contract.

If the service provider segregates the amount of labour and material in the invoice, service provider (non-company) will charge service tax @ 6.18% on labour amount in invoice and the same amount of service tax calculated @ 6.18% on labour amount as mentioned in the invoice will be paid by service recipient under reverse charge mechanism to the Government directly. However, if the service provider is a company, it will charge service tax @ 12.36% on labour amount in invoice and service recipient will pay nothing under reverse charge mechanism to the Government. If segregation is not possible, service tax rate as per chart will be applicable.

Valuation of other Services = Gross amount charged in invoice by service provider in respect of services (excluding taxes)

Chart

Sl. No.	Description of a service	Explanation	ST rate applicable to service recipient under reverse charge mechanism	ST rate to be charged by service provider in invoice (non-company)	ST rate to be charged by service provider (company, refer point no. 4 of notes)
1	Services of an insurance agent to any person carrying on insurance business w.e.f. 01/07/2012. This was in effect even before finance act, 2012.	Covered: Payment to insurance agents by insurance companies for their services. Service recipient's liability is 100%.	12.360%	-	-
2	Services of goods transport agency in respect of transportation of goods by road w.e.f. 01/07/2012. This was in effect even before finance act, 2012.	Covered: Transportation of goods by road through a GTA which issues a consignment note, by whatever name called. Person who pays or is liable to pay freight shall be treated as the person who receives the service. Excluded: Courier, express cargo, carriage of certain food/drink items, freight upto Rs. 750/- per consignee per carriage and upto Rs. 1500/- per goods carriage. Service recipient's liability is 100%.	3.090%	-	-
3	Services by way of sponsorship w.e.f. 01/07/2012. This was in effect even before finance act, 2012.	Covered: All sponsorships. Excluded: Advertisement/business promotion, certain sports related sponsorships. Service recipient's liability is 100%.	12.360%	-	-
4	Services of an arbitral tribunal w.e.f. 01/07/2012.	Covered: Any payment for any service. Service recipient's liability is 100%.	12.360%	-	-
5	Services of advocates (individual/firm) w.e.f. 01/07/2012.	Covered: Advice, consultancy or assistance in any branch of law, in any manner and includes representational services before any court, tribunal or authority. Service recipient's liability is 100%.	12.360%	-	-

6	Services of directors of a company w.e.f. 07/08/2012.	Covered: Any payment to non-executive directors for any service e.g. sitting fee, reimbursements. Excluded: Executive/directors in employment. If Company itself arranges lodging, fooding, travelling etc. for the non-executive directors and the bill is raised in the name of the Company. However, it may be covered under any other category e.g. car hire charges. Service recipient's liability is 100%.	12.360%	-	-
7	Support services by Government or Local Authority w.e.f. 01/07/2012.	Covered: Services of police, fire, ambulance etc. Excluded: Renting of immovable property, services of Department of Posts by way of speed post, express parcel post, life insurance and agency services, services in relation to an aircraft or a vessel, transport of goods or passengers, municipal, public convenience and other public services like water supply, sanitation, and solid waste management. Service recipient's liability is 100%.	12.360%	-	-
8	Import of service w.e.f. 01/07/2012. This was in effect even before finance act, 2012.	Covered: Any payment for import of taxable services from any place outside India. Service recipient's liability is 100%.	12.360%	-	-
9	(a) Renting of a motor vehicle designed to carry passengers on abated value w.e.f. 01/07/2012.	If service provider is not availing input credit, 9(a) is applicable otherwise 9(b) is applicable. Covered: Hiring passenger cars, cabs, buses etc. Excluded: Radio taxi, metered cab, three wheeler, auto rickshaw, stage carrier, contract carriage and packaged tour, public transport not predominantly for tourism purpose e.g. Meru cabs, bus having contract permit hired for transportation of employees. Service recipient's liability is 100% in case of 9(a) and in case of 9(b) service recipient's liability is 40% and service provider's liability is 60%.	4.944%	-	4.944%
	(b) Renting of a motor vehicle designed to carry passengers on non abated value w.e.f. 01/07/2012.		4.944%	7.416%	12.360%

10	Supply of manpower for any purpose w.e.f. 01/07/2012 or security services w.e.f. 07/08/2012.	Covered: Payment for services of the staff seconded/deputed with the company under an arrangement where the staff remains on the payroll of the original employer only, payment for services of staff (not on payroll of the recipient of service) supplied by an agent/person under an arrangement where it is placed operationally under the superintendence or control of the recipient of service (e.g. housekeeping staff supplied by manpower agency), all security/detective services. Excluded: Joint employment, outsourcing the activity/service itself e.g. outsourcing house-keeping work to an outside agency instead of getting the manpower supplied by an agent for house-keeping work, Recruitment/placement agency service. Service recipient's liability is 75% and service provider's liability is 25%.	9.270%	3.090%	12.360%
11	(a) Works contract w.e.f. 01/07/2012.	Covered: Any contract involving the use of labour plus material on which VAT is leviable under any schedule of VAT Act on any material used in execution of works contract and such contract is for any new construction; any addition and alteration to abandoned or damaged structures on land that are required to make them workable; any erection, commissioning or installation of plant, machinery or equipment or structures, whether pre-fabricated or otherwise. Service recipient's liability is 50% and service provider's liability is 50%.	2.472%	2.472%	4.944%

	(b) Works contract w.e.f. 01/07/2012.	Covered: Any contract involving the use of labour plus material on which VAT is leviable under any schedule of VAT Act on any material used in execution of works contract and such contract is for maintenance or repair or reconditioning or restoration or servicing of any goods e.g. AMC of movable items/office equipments. Service recipient's liability is 50% and service provider's liability is 50%	4.326%	4.326%	8.652%
	(c) Works contract w.e.f. 01/07/2012.	Covered: Any contract involving the use of labour plus material on which VAT is leviable under any schedule of VAT Act on any material used in execution of works contract and such contract is other than as mentioned under 11(a) & 11(b) or is for maintenance, repair, completion and finishing services such as glazing, plastering, floor and wall tiling, installation of electrical fittings of an immovable property e.g. interior and furnishing work, electrical work of items other than movable ones. Service recipient's liability is 50% and service provider's liability is 50%	3.708%	3.708%	7.416%

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