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# REVERSE CHARGE IN SERVICE TAX WEF 01.07.2012 NEW NOTIFICATION 30-2012

Reverse Charge Mechanism in service tax is not a new concept. Under this scheme, service tax is payable by **service recipient instead of service provider .** Under this charge service receiver have to register himself under service tax . Further **service receiver** can not claim general exemption limit of 10 Lakh rupees. So he has to pay even ~~o~~n few rupees of service received.

It will be very harsh on service receiver end where he has received services falls under reverse charge for only few hundred rupees but due to it he has to register himself in service tax and have to file service tax return on prescribed interval. Moreover under service tax act Nil return is also mandatory and every registered person have to file half yearly return .

Now after applicabilty of new service tax regime, new services which is very common like advocate,Hiring vehicle for passenger , has been added under reverse charge.

Complete List is given as under.This is applicable from 01.07.2012.Few new services has been added with partial reverse charge .In case of these services both **service receiver and provider has to pay service tax in prescribed ratio.**

In case of Reverse charge mechanism Point of taxation is Date of Payment to service provider.(Rule-7)
( complete details of Point of taxation under reverse charge and Exception)

Detailed Analysis of Provisions related to works Contract ,Meaning , Valuation, effective Service Tax rate on works contract and reverse charge on works contract wef 01.07.2012

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| Sl.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 | services provided or agreed to be provided by an insurance agent to any person carrying on **insurance business** | Nil | 100% |
| 2 | services provided or agreed to be provided by **a goods transport agency** in respect of transportation of goods by road | Nil | 100% |
| 3 | services provided or agreed to be provided by way of **sponsorship** | Nil | 100% |
| 4 | services provided or agreed to be provided by an **arbitral tribunal** | Nil | 100% |
| 5 | services provided or agreed to be provided by **individual advocate** | Nil | 100% |
| 6 | services provided or agreed to be provided by way **of support service by Government or local authority** | Nil | 100% |
| 7 | ) in respect of services provided or agreed to be provided by way of **renting or hiring any motor vehicle** designed to carry passenger on abated value.<br>) in respect of services provided or agreed to be provided by way of renting or hiring any motor vehicle designed to carry passenger **on non abated** value. | Nil<br>60% | 100 %<br>40% |
| 8. | services provided or agreed to be provided by way of supply of manpower or **Security services** (inserted in notification 45-46 dated 07/08/2012) for any purpose | 25%<br>Director and **Security Services** Under reverse charge Mechanism | 75 % |
| 9. | services provided or agreed to be provided by way of works contract | 50% | 50% |
| 10 | 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(IMPORT OF SERVICES) | Nil | 100% |
| 11 | provided or agreed to be provided by a director of a company to the said company (Inserted through notification 46-47/2012 dated 07/08/2012) | Nil<br>Director and Security Services Under reverse | 100% |

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| | more…..L | charge Mechanism | |

Director and Security Services Under reverse charge Mechanism

Whether Reverse Charge is applicable on New services inserted from 01.07.2012 if it has been provided or paid before 01.07.2012 here

From old list notified vide notification 36/2004 31/12/2004 three service has been deleted

1. Telecommunication
2. General Insurance auxiliary
3. Mutual Fund distributor services.

Support services By Govt or Local authority :Section 65B(49) of Finance Act, 1994 provides the definition of 'support services'. Support services in respect of which service tax is payable by business entity receiving such services from government or local authority are as under:
(i) Infrastructural Support Services;
(ii) Operational support Services;
(iii) Administrative Support Services;
(iv) Logistic Services;
(v) Marketing Services;
(vi) Advertisement Services;
(vii) Promotion Services;
(viii) Construction or Works Contract Services;
(ix) Security;
(x) Testing and Analysis
(xi) Any other support of any kind comprising functions that entities carry out in ordinary course of operations themselves but may obtain as services by outsourcing from others for any reason whatsoever.

Partial Reverse charge :But few new services has been added in the List and for the first time in service tax act /regime partial reverse charge under service tax has been introduced. Now both service receiver and service provider have to pay tax as per prescribed % in case of four services.

The reverse charge is applicable if service receiver /service provider satisfy few condition .In other case service provider has to pay tax on full amount of service.

| Sl.No. | Description of a service | SERVICE PROVIDER | SERVICE RECIVER |
|---|---|---|---|
| 1 | services provided by an insurance agent to any person carrying on insurance business | ANY | ANY |
| 2 | services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road | where the consignor or the consignee is,—<br>(a) any factory registered under or governed by the Factories Act, 1948 (63 of 1948);<br>(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;<br>(c) any co-operative society established by or under any law;<br>(d) any dealer of excisable goods, who is registered under the Central Excise Act, 1944 (1 of 1944) or the rules made thereunder;<br>(e) any body corporate established, by or under any law; or<br>(f) any partnership firm whether registered or not under any law including association of persons; | |
| 3 | services provided or agreed to be provided by way of sponsorship | any | body corporate/partnerhip firm |
| 4 | services provided or agreed to be provided by an arbitral tribunal | Arbitral tribunal | Business entity with a turnover more than rupees ten lakh in the preceding financial year; |
| 5 | Legal Services provided **by advocate** (whether individual or firm) to any business entity | individual or firm | Business entity with a turnover more than rupees ten lakh in the preceding financial year; |

| | | | |
|---|---|---|---|
| 6 | services provided or agreed to be provided by way of support service by **Government or local authority** | Government /Local authority | Business entity |
| 7 | ) services provided or agreed to be provided by way of renting or hiring any **motor vehicle designed to carry passenger** on abated value. | Individual (prop ) /Partnership firm (registered or unregistered) /HUF | **any company** formed or registered under the Companies Act, 1956 (1 of 1956) or a **business entity registered as body corporate located in the taxable territory;** |
| | ) services provided or agreed to be provided by way of renting or hiring any motor vehicle designed to carry passenger on non abated value. | | |
| 8 | services provided or agreed to be provided by way of supply of manpower or security services for any purpose | | |
| 9 | services provided or agreed to be provided by way of works contract | | |
| 10 | 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 | any | any |
| 11 | provided or agreed to be provided by a director of a company to the said company<br><br>(inserted by notification 46/2012 date 07/08/2012) | Director (individual) | Company |

Now, w. e. f. 07.08.2012, following additional services shall be covered by reverse charge mechanism(Notification 45/2012 and 46/2012 dated 07/08/2012)

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## Director and Security Services Under reverse charge Mechanism

| Sl. No. | Nature or Description of service | % of Service Tax payable by service provider | % of Service Tax payable by service Recipient |
|---|---|---|---|
| 1. | *Security Services* provided by Individual, HUF, partnership firm or AOP to body corporate business entity<br><br>[*Security services*" means services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity- *Rule 2(fa) of Service Tax Rules, 1994*] | 25% | 75% |
| 2. | Services by a director of a company to the said company | 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.

Whether Reverse Charge is applicable on New services inserted from 01.07.2012 if it has been provided or paid before 01.07.2012

Register for Service Tax :

So from above now what you should do is that if you are receiving any of these services and fall under specified category of service receiver then you must register your self for service tax .
Amend service tax registration :If you have aly register under service tax act and receiving one of new service added under reverse charge at sr no 4-10 then you have to add this specific service in your service tax registration certificate.

Suppose if a Company is doing some trading of shares and have not registered under service tax but you are hiring vehicle for employee or director for travelling and doing marginal expenses on travelling . After this amendment company has to register under service tax act and have to pay 100% /40 % of service tax as the case may be and have to file service tax return.

Likewise if a business entity has taken a legal opinion from individual advocate or Firm of advocates then business entity have to pay 100% of service tax due on fees and have to register under service tax .

Suppose they have just paid Rs 2000 in full year even then business entity have to register under service tax act and have to deposit 12.36 % tax on 2000/- Rs and have to file service tax return .

And for such work he has to take again professional help.?

After 01.07.2012 Service tax is not payable by Individual advocates and Advocate Firm and service receiver (business entity) have to pay tax on services received from Individual advocate.

All of above amendments are applicable from 01.07.2012.

This is as per notification 30/2012 dates 20.06.2012
Vide notifications 45 & 46/2012 ST Dated 07.08.2012, services provided by non employee directors to the Companies and security agencies have also been subjected to the levy of service tax under Reverse charge mechanism.
Director and Security Services Under reverse charge Mechanism

Detailed Analysis of Provisions related to works Contract ,Meaning , Valuation, effective Service Tax rate on works contract and reverse charge on works contract wef 01.07.2012

## SECURITY SERVICES ,DIRECTOR COVERED IN REVERSE CHARGE MECHANISM

Two New services has been added in reverse charge mechanism in service tax act through notification 45/2012 and 46/2012 dated 07.08.2012. These new services are

1. Services by **director of a company to the said company** (**100% reverse charge on company**)
2. **Security Services** provided 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 **(25 % by service provider and 75 % service Receiver same conditions as given in manpower**)

**Meaning of security services**

"security services" means services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity;"

Complete List of services covered under reverse charge Mechanism under service tax act is available here.

Director and Security Services Under reverse charge Mechanism

Now, w. e. f. 07.08.2012, following additional services shall be covered by reverse charge mechanism:

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**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUBSECTION (i)]**
**Government of India**
**Ministry of Finance**
**(Department of Revenue)**
**Notification No. 45/2012 - Service Tax**
**New Delhi, the 7th August, 2012**

G.S.R. (E).- In exercise of the powers conferred by sub-section (2) of section 68 of the Finance Act, 1994 (32 of 1994), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby makes the following amendment in the notification of the Government of India in the Ministry of Finance (Department of Revenue), No.30/2012-Service Tax, dated the 20th June,2012, published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i), vide number G.S.R. 472 (E), dated the 20th June, 2012, namely:-

In the said notification,-

(a) in para I, in clause (A),-

(i) after the sub-clause (iv), the following sub-clause shall be inserted, namely :-

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

(ii) in sub-clause (v), after the words "manpower for any purpose", the words " or security services"
shall be inserted.

(b) in para II, in the Table,-

(i) after Sl.No. 5, the following S.No. and entries shall be inserted, namely:-

"5A in respect of services provided or agreed to be provided by a director of a company to the said company

**Nil 100%"**

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(ii) in Sl.No. 8, in the entries under the heading „Description of a service‟, after the words "manpower for any purpose", the words **"or security services"** shall be inserted.

[F.No. 334 /1/ 2012-TRU]
(Rajkumar Digvijay)
Under Secretary to the Government of India

Note.- The principal notification was published in the Gazette of India, Extraordinary, vide notification No. 30/2012 - Service Tax, dated 20th June, 2012, vide number G.S.R. 472 (E), dated the 20th June,2012 and the same has not been amended so far.

**[TO BE PUBLISHED IN THE GAZETTE OF INDIA, EXTRAORDINARY, PART II, SECTION 3, SUB-SECTION (i)]**
**Government of India Ministry of Finance (Department of Revenue)**
**Notification No. 46/2012 - Service Tax**
**New Delhi, the 7th August, 2012**

G.S.R. (E).- In exercise of the powers conferred by sub-section (1) with sub-section (2) of section 94 of the Finance Act, 1994 (32 of 1994), the Central Government hereby makes the following rules further to amend the Service Tax Rules, 1994, namely:—

1. (1) These rules may be called the Service Tax (Third Amendment) Rules, 2012.

(2) They shall come into force on the date of their publication in the Official Gazette.

2. In the Service Tax Rules, 1994, in rule 2, in sub-rule (1),-

(A) in clause (d), in sub-clause (i),-

(i) after the item (E), the following item shall be inserted, namely;-

**"(EE) in relation to service provided or agreed to be provided by a director of a company to the said company, the recipient of such service;";**

(ii) in the item (F), in the sub-item (b), after the words "manpower for any purpose", the words " **or security services"** shall be inserted.

(B) after clause (f), the following clause shall be inserted, namely:—

**"(fa) "security services" means services relating to the security of any property, whether movable or immovable, or of any person, in any manner and includes the services of investigation, detection or verification, of any fact or activity;"**

[F.No. 334 /01/2012- TRU]
(Raj Kumar Digvijay)
Under Secretary to the Government of India
Note.- The principal notification was published in the Gazette of India, Extraordinary, Part II, Section 3, Sub-section (i) vide notification No. 2/94-ST, dated the 28th June, 1994 vide number G.S.R. 546(E), dated the 28th June, 1994 and was last amended by notification No. 36/2012-Service Tax, dated the 20th June, 2012 vide number G.S.R. 478 (E), dated the 20th June, 2012.

## SERVICE TAX RETURN DUE DATE EXTENDED TO 25.11.2012(01.04.2012 TO 30.06.12)

It appears that service tax department is functioning on casual basis .Few days Back service tax department has issued a Notification 47/2012 dated 28.09.2012 about service tax return for First Half year for FY 2012 -13.In the said notification it has been informed that this time assessee are required to file service tax return for the period 01.04.2012 to 30.06.2012 instead of 01.04.2012 to 30.09.2012 and due date of return remains the same.

Then it was general query among the assessee what about the return 01.07.2012 to 30.09.2012, then department comes with clarification on 28.09.2012 that they will inform the fate of next period in due course.

Now Department has come again with a new circular,that due date of service tax return for 01.04.2012 to 30.06.2012 is here by extended to 25.11.2012.

RULE 7 OF THE SERVICE TAX RULES, 1994 - RETURNS - EXTENSION OF TIME TO FILE RETURN IN FORM ST3

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ORDER NO. 3/2012 [F.NO.137/99/2011-ST], DATED 15-10-2012

In exercise of the powers conferred by sub-rule (4) of rule 7 of the Service Tax Rules, 1994, the Central Board of Excise & Customs hereby extends the date of submission of the return for the period 1st April 2012 to 30th June 2012, from 25th October, 2012 to 25th November, 2012.

The circumstances of a special nature which have given rise to this extension of time are as follows:

(a) ACES will start releasing the return in Form ST3 in a quarterly format, shortly before the due date of 25th October, 2012.

(b) This will result in all the assessees attempting to file their returns in a short time period, which may result in problems in the computer network and delay and inconvenience to the assessees.

**Update :New Service Tax return form ST-3 For the period 01.04.2012 to 30.06.2012 in excel offline mode is available here**

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