SERVICE TAX

Service Tax act / Rules has provided exemption to small scale service provider from service tax up to aggregate value of taxable services provided of 10 lakh in a Financial Year . This exemption was available before 01.07.2012 and continued even after 01.07.2012 in negative list regime with few changes wef 01.04.2012.

If in the previous financial year the aggregate value of taxable services provided by you was less than Rs.10 lakh and in the present financial year the aggregate value of taxable services provided by you is also less than Rs.10 lakh. Then no need to pay service tax .

If in the previous financial year aggregate value of taxable services provided was less than 10 lakh but this year aggregate value of taxable services provided is more than 10 lakh then you start paying service tax after crossing the threshold of Rs 10 lakh.

If in the previous financial year aggregate value of taxable services provided was more than 10 lakh but this year aggregate value of taxable services provided is less than 10 lakh them you start paying service tax from rupee one.

Plz refer Below Chart:

Aggregate value of Taxable Services Provided		Service Tax Applicable
Preceding F.Y	Current F.Y	
Less than 10 Lakh	Less than 10 Lakh	No Service Tax
Less than 10 Lakh	More than 10 Lakh	Service Tax Applicable After 10 Lakh
More than 10 Lakh	Less than 10 Lakh	Service Tax applicable from Rupee One , No Exemption Applicable

The Finance Act 2012, has amended the provision relating to small scale exemption recognizing that the **aggregate value** up to Rs 10 Lakhs will be in terms of invoices issued / to be issued for taxable services and not payments received.(Notification no.33/2012-ST dated 20.6.2012). This is w.e.f 1.7.2012.

1.Meaning of Aggregate Value : The small service provider exemption of 10 Lakh is available towards "aggregate value not exceeding 10 Lakhs", means the sum total of value of taxable services charged in the first consecutive invoices issued during a financial year but does not include value charged in invoices issued towards such services which are exempt from whole of service tax leviable thereon under section 66B of the said Finance Act under any other notification.

The definition of the 'aggregate value' has been amended w.e.f. 01.04.2012 whereby the sum total of the value of taxable services charged in the first consecutive invoices issued/required to be issued during the financial year shall be considered instead of payments received.

The exemption as to small service provider is provided for the keeping the small service provider outside the tax net.

2. **Single Limit for all services By same person :** where a taxable service provider provides one or more taxable services , the exemption under this notification shall apply to the aggregate value of all such taxable services and not separately for each services.

Suppose A person is providing service XXX and YYY . To avail this exemption aggregate service provided for service XXX and YYY should be less than 10 Lakh the aggregate value of taxable services rendered by a provider of taxable service from one or more premises, does not exceed ten lakh rupees in the preceding financial year.

3. Single Limit for all offices /Location : where a taxable service provider provides taxable services from one or more premises, the exemption under this notification shall apply to the aggregate value of all such taxable services and from all such premises and not separately for each premises;

Example: In service Tax person can get separate registration for deferential location To calculate 10 lakh Limit ,Aggregate value of taxable services at all location ,even having different registration number , is to be considered.

In brief this exemption is available person wise not location or service wise.

4. Cenvat Credit not available if Exemption of 10 lakh has been availed.

5. Exemption is optional not mandatory : This exemption is optional so that even such small service providers can opt to pay tax instead of availing the benefit of exemption. In case of such opting to pay service tax, the service provider would get the benefit of CENVAT Credit of duties and taxes paid on capital goods, inputs and input services. By this mechanism the CENVAT credit can get passed on whereby the basic cost of output service would get reduced if the service receiver can avail CENVAT credit.

6.Once exercised Can not be reversed : The option as to non-availment of such small scale exemption and opting to pay tax once exercised, cannot be withdrawn during the remaining part of such financial year.

7.No exemption where service tax is payable under Reverse Charge: However the above exemption shall not be available to the person made liable to pay service tax under sec (68)(2) [Reverse Charge and Joint Charge liabilities]

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 obliged to pay under the partial reverse charge mechanism.

8. No Exemption If Service are provided under brand name or trade name of others : The person providing service under the brand name or trade name of others. Some persons are providing the services under name of brand name owner. These service providers would not be eligible to the exemption which is available to the small service providers.

If service provided under own brand name or trade name then eligible : If a person is providing a service under his own brand name, he would be entitled to the exemption.

9. The Basic Exemption subject to above condition is available to all type of Person : The Basic Exemtion is not restricted only to Individual & Partnership but is available to all assesses. ‘Person’ is not restricted to natural Person. ‘Person has been defined in section 65B of the Act. The following shall be considered as persons for the purposes of the Act:

1. an individual
2. a Hindu undivided family
3. a company
4. a society
5. a limited liability partnership
6. a firm
7. an association or body of individuals, whether incorporated or not
8. Government
9. a local authority, or
10. every artificial juridical person, not falling within any of the preceding sub-clauses.

10. Abatement and exempted services is not to be counted for calculation of Lakh: Various services has been exempted from service tax vide notification 25/2012 .If service provider is providing both exempted and taxable services than turnover of exempted services is not be added for calculation of 10 lakh . Similarly abatement from gross amount charged by service provider has been defined in notification 26/2012 .To calculate 10 lakh part only taxable part after abatement is to be considered…………………………………………………….....

Example: Person is providing services of renting motor vehicle designed to carry passengers. In a given financial year he has charged gross Rs 20 lakh for services . In notification 26/2012 only 40% part i.e 8 Lakh is taxable for renting of motor vehicle designed to carry passengers (40% of 20 Lakh) . So he can can avail 10 lakh exemption available to small service provider ,as taxable part of services provided by him is less than 10 lakh Limit……………………………………………..

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Source:Internet