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 cannot claim general exemption limit of 10 Lakh rupees. So he has to pay even on 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 applicability 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.

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.**) 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 60%	100 % 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%	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	100%

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.

<table>
<tr><th>Sl. No.</th><th>Description of a service</th><th>SERVICE PROVIDER</th><th>SERVICE RECIVER</th></tr>
<tr><td>1</td><td>services provided by an insurance agent to any person carrying on insurance business</td><td>ANY</td><td>ANY</td></tr>
<tr><td>2</td><td>services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road</td><td colspan="2">where the consignor or the consignee 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;</td></tr>
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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 (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)

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 [S*ecurity 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 read here

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 already 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.