POINT OF TAXATION RULES, 2011
[As per Amendments made by Notification No. 04 / 2011-ST dated 17.03.2012]

Sr. **Particulars**

1 **Rule 2A :--** Rule 2A has been inserted to define the date of payment.

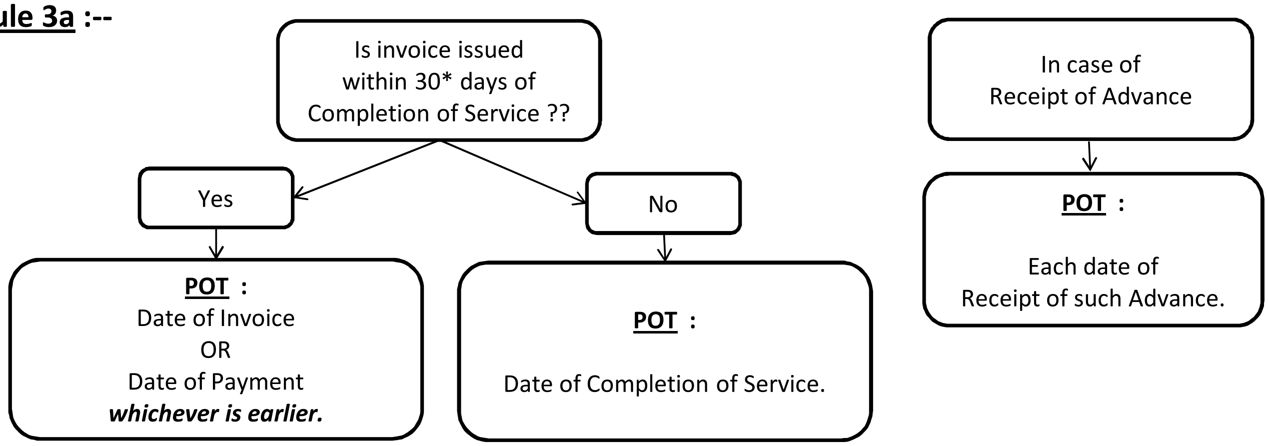
For the purpose of these rules, the date of payment shall be --

Date on which Entry of payment is made in BOA
OR
Date on which Bank A/c is Credited
(of the person liable to pay ST.)
whichever is earlier.

However, as per proviso to Rule 2A --
The date of Payment ---> is the date of Credit in Bank A/c , when --
(i) [During the period between such entry in BOA and Credit to Bank A/c]
- Service is taxed for the 1st time.
- there is change in the effective rate of tax.

(ii) The credit in Bank A/c is ***after 4 working days*** ,
from the date when there is a change in Rate / Service is taxed for 1st time.
(iii) The payment is made by way of --
an instrument (which is credited to a Bank A/c)

2 **Rule 3a :--**



* 45 days , in case of Banks and Financial Institutions,
providing banking and other financial services.

3 **Rule 3b :--**
[I] Applicable only in case of Continuous Supply of Services
> Same as Rule 3a above.
> To determine date of completion of service --
* In case of continuous supply of service,
* where the provision of whole or part of the service,
* is determined periodically on the completion of an event in terms of a contract,
* which requires the service receiver to make any payment to service provider,
* the date of completion of each such event, as specified in the contract,
* shall be deemed to be the date of completion of Service.

Amended definition of Continuous Supply of Service [Sec, 2(c)] :
Continuous Supply of Service means --
(i) any service which is provided, or to be provided continuously or on recurrent basis, under a contract, for a period exceeding three months with the obligation for payment periodically or from time to time.
or
(ii) where the CG, by a notification in official Gazette, prescribes provision of a particular service to be a continuous supply of service, whether or not subject to any condition.
Notified Services : 1. Telecommunication Service 2. **"Service"** portion in execution of Works Contract.

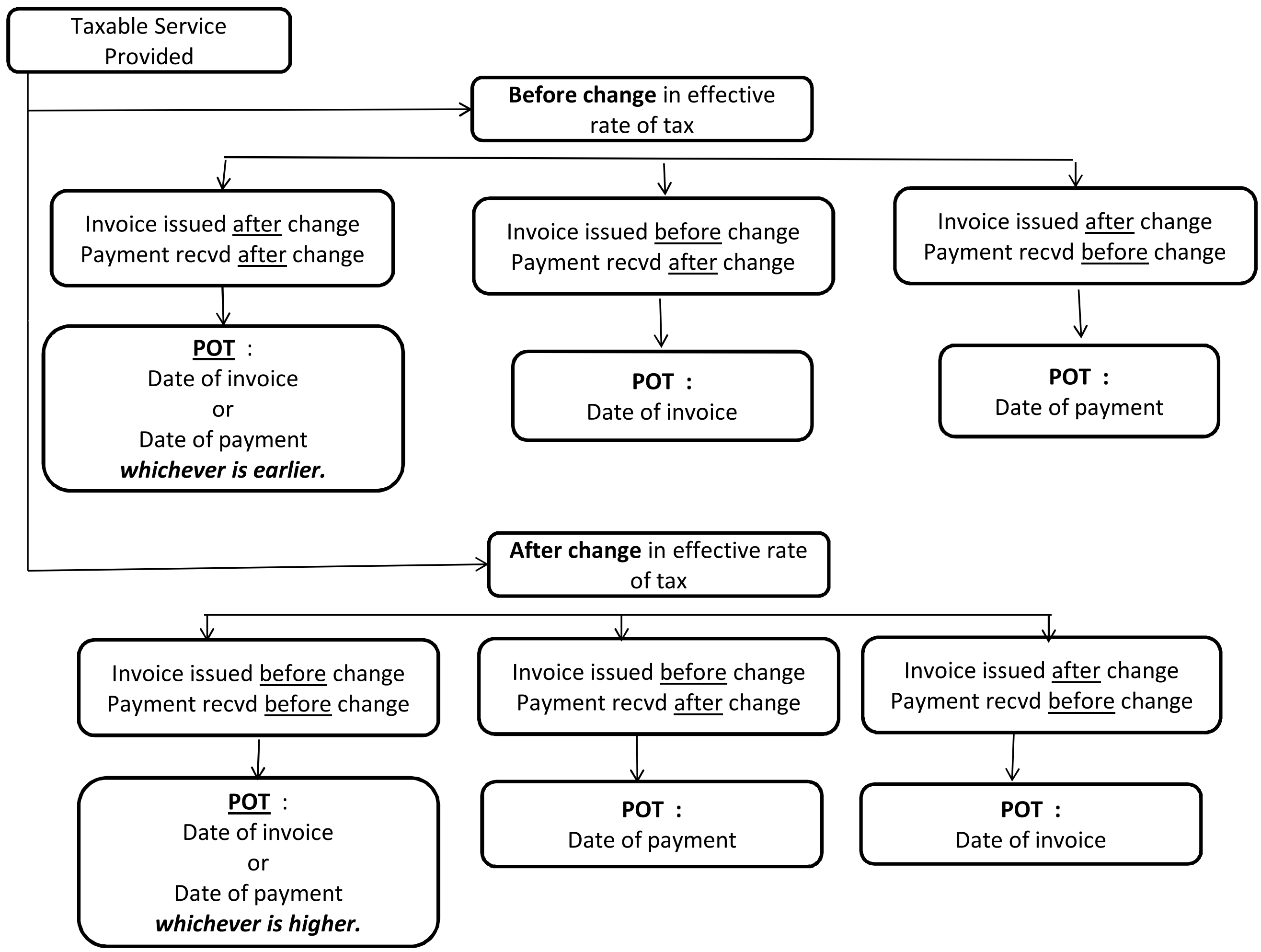
[II] POT , in case a payment upto Rs. 1,000/- received in excess of the invoice amount.

> whenever, service provider receives a payment upto Rs. 1,000/-,
> in excess of the amount indicated in the invoice,
> POT (to the extent of such amount) --------------------------------->

POT :
Date of Invoice
OR
Date of Completion of Service
whichever is earlier.

* Simultaneously an amendment is made in Service Tax Rules, 1994
-- Service provider is not required to issue an invoice,
in aforementioned case, for such excess amount upto Rs. 1,000/-.

4 **Rule 4** :-- For determination of POT in case of change in effective rate of tax.
[Rule 4 shall override Rule 3 of POT.]



5 **Rule 8** :-- When whole amount of consideration not ascertainable at the time of provision of Service.
[Eg. Copyrights , trademarks , designs , etc]

POT :
Date of invoice
or
Date of payment
whichever is earlier.

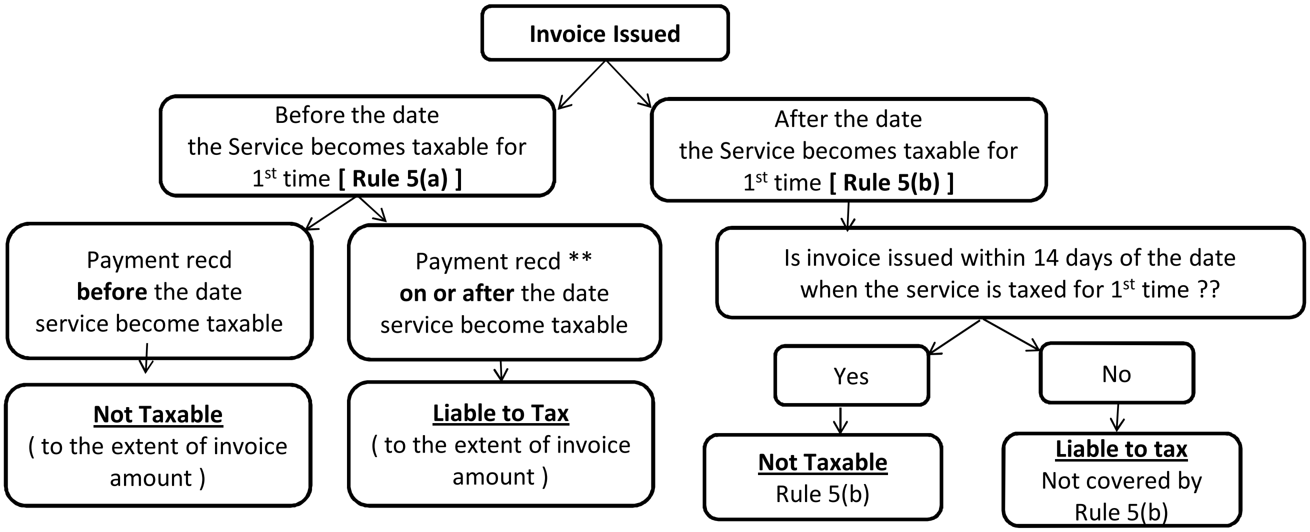
6 **Rule 8A** :-- Where the POT cannot be determined as per other rules as --

* the date of invoice ; or
* the date of Payment ; or
* both

are not available

- CEO may require the concerned person to produce such accounts, documents, other evidence, as he may deem necessary, and
- Determine POT by an order in writing, after giving OBH.

7 **Rule 5** :-- For determination of POT of New Service / Service taxed for 1st time.
[not applicable for continuous supply of services]



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✓ **Here, if in ques., absolute date of payment is given, take it as it is.**
✓ **Otherwise, apply Rule 2A, and determine date of payment, then apply Rule 5(a) &/or Rule 5(b)**

8 **Rule 7** :-- In case, where, service receivers liable to pay ST u/s 68(2). **[i.e. under Reverse Charge Method]**

POT : ***Date of Payment.***

However, in case the payment is not made within 6 months from the date of invoice,
POT shall be determined under normal rules , i.e. as per Rule 3.

9 **Rule 7** :-- Transaction between Associated Enterprises [Holding / Subsidiary]

POT :
Date of debit in Books of A/cs (of person receiving service)
or
Date of payment
whichever is earlier.

10 **"Point of Taxation"** means --
- the point of time
- when service shall be deemed to have been provided.

11 **What is the date of completion of Service ??**
> Service is complete, when not only service is physically complete,
  but all auxiliary activities, that are required for issuing invoice, are completed.
> Eg. -- measurement, quality testing, etc.
> But flimsy or irrelevant grounds
  for delay in issuance of invoice
  are not admissible.