

Government of India
Ministry of Finance
(Department of Revenue)

Notification No 42/2012 - Service Tax

New Delhi, the 29th June, 2012

G.S.R.... (E). -In exercise of the powers conferred by sub-section (1) of section 93 of the Finance Act, 1994 (32 of 1994) (hereinafter referred to as the said Act), the Central Government, being satisfied that it is necessary in the public interest so to do, hereby exempts the taxable service received by an exporter of goods (hereinafter referred to as the exporter) and used for export of goods (hereinafter referred to as the said goods), of the description specified in column (2) of the Table below (hereinafter referred to as the specified service), from so much of the service tax leviable thereon under section 66B of the said Act, as is in excess of the service tax calculated on a value up to ten per cent of the free on board value of export goods for which the said specified service has been used, subject to the conditions specified in column (3) of the said Table, namely:-

Table

Sr. No.	Description of the taxable service	Conditions
(1)	(2)	(3)
	Service provided by a commission agent located outside India and engaged under a contract or agreement or any other document by the exporter in India, to act on behalf of the exporter, to cause sale of goods exported by him.	(1) The exporter shall declare the amount of commission paid or payable to the commission agent in the shipping bill or bill of export, as the case may be. (2) The exemption shall be limited to the service tax calculated on a value of ten per cent of the free on board value of export goods for which the said service has been used. (3) The exemption shall not be available on the export of canalised item, project export, or export financed under lines of credit extended by the Government of India or EXIM Bank, or export made by Indian partner in a company with equity participation in an overseas joint venture or wholly owned subsidiary. (4) The exporter shall submit with the half-yearly return after certification of the same as specified in clause (g) of the proviso— (i) the original documents showing actual payment of commission to the commission agent; and (ii) a copy of the agreement or contract entered into between the commission agent located outside India and the exporter in relation to sale of export goods outside India:

Provided that-

- (a) the exemption shall be available to an exporter who,-
(i) informs the Assistant Commissioner of Central Excise or the Deputy Commissioner of Central Excise, as the case may be, having jurisdiction over the factory or the regional office or the head office, as the case may be, in Form EXP3 appended to this notification, before availing the said exemption;

- (ii) is registered with an export promotion council sponsored by the Ministry of Commerce or the Ministry of Textiles, as the case may be;
- (iii) is a holder of Import-Export Code Number;
- (iv) is registered under section 69 of the said Act;
- (v) is liable to pay service tax under sub-section (2) of section 68 of said Act, read with item (G) of sub-clause (i) of clause (d) of sub-rule (1) of rule 2 of the Service Tax Rules, 1994, for the specified service;
- (b) the invoice, bill or challan, or any other document by whatever name called issued by the service provider to the exporter, on which the exporter intends to avail exemption, shall be issued in the name of the exporter.
- (c) the exporter availing the exemption shall file the return in Form EXP4, every six months of the financial year, within fifteen days of the completion of the said six months;
- (d) the exporter shall submit with the half yearly return, after certification, the documents in original specified in clause (b) and the certified copies of the documents specified in column (3) of the said Table;
- (e) the documents enclosed with the return shall contain a certification from the exporter or the authorised person, to the effect that specified service to which the document pertains, has been received and used for export of goods by mentioning the specific shipping bill number on the said document.
- (f) where the exporter is an individual or a proprietorship concern or an HUF or a partnership firm, the documents enclosed with the return shall be certified by the exporter himself and where the exporter is any other person, the documents enclosed with the return shall be certified by the person authorised by the Board of Directors or any other competent person;
- (g) where the amount of commission charged in respect of the specified service exceeds ten per cent. of the free on board value of the export then, the service tax shall be paid within the period specified under rule 6 of the Service Tax Rules, 1994, on such amount, which is in excess of the said ten per cent;

2. This notification shall come into force on the 1st day of July, 2012.

Form EXP3

[See item (i) of clause (a) of proviso]

S.No-----

(to be filled in by the office of jurisdictional Assistant / Deputy Commissioner)

To,

The Deputy Commissioner /Assistant Commissioner of Central Excise

Sir,

I/We intend to avail of the exemption from service tax under Notification No. .../2012-ST, datedJune, 2012 in respect of services provided by a commission agent located outside India, which have been used for export of goods and the relevant particulars are as follows :

1. Name of the exporter.....
2. Service Tax Registration No.....
3. Division Commissionerate
- 4 Membership No. the Export Council.....
- 5 Name of the Export Council.....
6. Address of the registered / head office of exporter:.....
7. Tel. No. and e-mail ID of the exporter.....:
8. Import -Export Code No.....
9. Details of Bank Account (Name of Bank, branch address and account number).....

I/we undertake that I/we shall comply with the conditions laid down in the said notification and in case of any change in aforementioned particulars; I/We shall intimate the same.

Date:.....

Place:.....

Signature and full address of Exporter
(Affix stamp)

Receipt (to be given by office of Assistant Commissioner/ Deputy Commissioner having jurisdiction) Received Form EXP1 dated --/-- submitted by _____ (name of the exporter).
The said intimation is accepted and given acknowledgment No. _____ (S. No. Above)

For Assistant, / Deputy Commissioner
(Stamp)

Form EXP4

[See clause (c) of proviso]

To,

The Deputy Commissioner /Assistant Commissioner of Central Excise

Sir,

I/We have availed of exemption of service tax under Notification No. .../2012-ST, dated, 2012 in respect of services provided by a commission agent, located outside India and have used the same for export of goods and the relevant particulars are as follows:

1. Name of the exporter.....
2. Address of the registered / head office of exporter.....
3. Tel. No. and e-mail ID of the exporter.....:
4. Service Tax Registration No.....
5. Division Commissionerate
6. Membership No. Of the Export Council.....
7. Import Export Code No.....
8. Name of the Export Council.....
9. Details of Bank Account (Name of Bank, branch address and account number).....

Table-A

Sr. No.	Details of goods exported (on which exemption of service tax availed) during the six months ending on.....							
	Details of Shipping Bill/ Bill of export (Please enclose self attested copy of Shipping Bill or Bill of Export) and Details of goods exported (in case of exports of more than one commodity, please fill in the proforma, commodity-wise)							
	No.	Date	Date of Let export order	Export invoice no	Date	Description of goods exported	Quantity (please mention the unit)	FOB value (in rupees in lakh)

Table- B

Details of specified service used for export of goods, covered under the Shipping Bill or Bill of Export mentioned in Table A in respect of which the exemption has been availed during the six months ending on.....				Details of documents attached showing the use of such service for export, the details of which are mentioned in Table A (self attested)	Total amount of service tax claimed as exemption (rupees in lakhs)
Name of service provider	Address of service provider	Invoice No.	Date		

9. Declaration:-

I / We hereby declare that-

- (i) I have complied with all the conditions mentioned in Notification No. .../2012-ST, dated June, 2012;
- (ii) the information given in this application form is true, correct and complete in every respect and that I am authorised to sign on behalf of the exporter;
- (iii) no CENVAT credit of service tax paid on the specified service used for export of said goods taken under the CENVAT Credit Rules, 2004;
- (iv) I / we, am/ are enclosing all the required documents. Further, I understand that failure to file the return within stipulated time or non-enclosure of the required document, duly certified, would debar me/us for the refund claimed aforesaid.

Date:.....

Place:.....

**Signature and full address of Exporter
(Affix stamp)**

Enclosures: as above

[F. No.334/1/2012 -TRU]

(Rajkumar Digvijay)
Under Secretary to the Government of India