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Service Tax & Cenvat Credit rules applicable on Hotel Industry w.e.f 01.07.2012

The major impact and changes in the provisions of Service Tax law and eligibility to claim Cenvat credit to the Hotel industry can be tabulated as under:

S No	Provision	Prior to 1-7-2012	Post 1-7-2012
1	Taxability of Food supplied in Restaurants serving liquor and being Air conditioned	Taxable	Taxable
	Accommodation in a Hotel for declared tariff of more than R1,000/- per day	Taxable for period for less than continuous three months	Taxable without any exclusion of period
	Mandap Keepers' Service, Outdoor catering Service	Taxable	Taxable
	Laundry Services (i.e. 'Dry cleaning' as well as 'wet cleaning') , Telephone services, No Show charges, cancellation charges, etc.	Not taxable unless specifically defined	**Taxable** in view of the expanded definition of services
	Sale of space/time for advertisement other than by radio/television broadcast	Taxable	**Exempt**
2	**Valuation**		
	Food supplied in Restaurants serving liquor and being Air conditioned	Taxable value : 30%	Taxable value : 40%
	Accommodation in a Hotel for declared tariff of more than R1,000/- per day	Taxable value : 50%	Taxable value : 60%
	Bundled service by way of supply of food as a part of function together with renting of premises	Taxable value: 60%	Taxable value: 70%
	Any other Service (excluding Banking and Financial Services)	Taxable value: 100%	Taxable value: 100%

3	Cenvat Credit	
	Food supplied in Restaurants serving liquor and being Air conditioned	Cenvat credit of **input services** and **capital goods**[1] is available. Cenvat credit of excise duty on food items not available.
	Accommodation in a Hotel for declared tariff of more than R1,000/- per day	Cenvat credit of **input services** is available. Cenvat credit of inputs and capital goods is not available.
	Supply of food as a part of function for renting	Cenvat credit of input services and **capital goods**[1] is available. Cenvat credit of excise duty on food items not available.

Classification in case of Bundled Services

In case of an event, which is a mix of various overlapping services, the service which gives the most pre-dominant color would be the category under which the same should be taxed as per the new Section 66F of the Finance Act, 1994 as made applicable from 1-7-2012.

For Example-

a) **In case of 2N/3D package for accommodation with meals-**

The pre-dominant category would be accommodation even if the customer has food in the same restaurant like other walk- in customers. Hence, the hotel needs to charge service tax on 60% value of the total consideration.

b) **In case of a Residential conference or a marriage-**

Where a package has been designed for say three days including conference facilities, food and accommodation; since the pre-dominant intention is arranging of a function, the correct classification would be "Mandap keeper" and hence the hotel needs to charge service tax on 70% value of the total consideration.

Conclusion

The new definition of service; coupled with issues in interpreting the exclusions and exemptions is going to be a challenge for every service provider. Additionally, the responsibility to pay tax in case of new categories for reverse charge mechanism and even the joint mechanism - casting responsibility to pay tax on payment to contractors as well - would pose immense challenge before the industry in complying with the law. <u>The only positive take away of all the amendments post 1-7-2012, is the eligibility to avail CENVAT credit to a great extent which was hitherto not available.</u>

[1] Capital goods used only for the purpose of providing restaurant and outdoor catering services and not used for other purposes.

Cenvat Credit of Input Services can be availed.