SUMMERY OF IMPORTANT SERVICE TAX PROVISIONS

Basic Exemption limits:	Upto Rs 10 Lac
But registration required U/s 69	on Rs 9 Lac
Penalty for failure to get registration	Rs 200/- per day but maximum Rs Rs 10,000/-
Service tax rate	12.36%

Due date in Service Tax:
Payment of service tax:

Company & HUF	Monthly	By 5th of next month By 6th of next month(if paid electronically)
others	Quarterly	By 5th of next quarter By 6th of next quarter(if paid electronically)

Except: last quarter/ 31st March paid tax upto 31st March

Filing of returns:

All assessee	Half yearly	25th of Oct & 25th April

Interest on late payment of service tax:
- 18% pa
- 15% pa (if turnover is upto 60 Lac)

Revised returns:
Within 90 days from the date of submission of original return.

Penalty for failure to pay service tax:
Minimum penalty: 1% pm of tax amount or Rs 100/- per day whichever is higher
Maximum penalty: upto 50% of tax amount

Method of accounting:
Opt for cash basis if the turnover of the immediately preceding financial year is less than Rs 50 Lac.

Liabilities to pay service tax: By following persons:
- Service providers
- Service receiver (on reverse charge mechanism)

PENALTIES IN SERVICE TAX

Delayed	**Amt of Penalties**
Delay in furnishing Service Tax return: • Delay upto 15 days from the due date • Delay more than 15 days but upto 30 days from the due date • Delay more than 30 days from the due date	Rs 500/- Rs 1000/- Rs 1000/- + Rs 100/- per day from 31st Day subject to maximum Rs 20,000/-
Failure to pay service tax	1% of the service tax pm or Rs 100/- per day limited to 50% of tax
Failure to seek registration	Higher of Rs 10,000/- or Rs 200/- per day But restricted to Rs 10,000/-
Failure to keep, maintain or retain books of account & other required documents	Upto Rs 10,000/-
Fails to pay Service tax electronically	Upto Rs 10,000/-
Issued invoice with incorrect or incomplete details or fails to account for an invoice in his book of account	Upto Rs 10,000/-
Penalty for contravention of any provision for which no penalty provided	Upto Rs 10,000/-
Penalty for suppressing value of taxable service	50% of tax amount(if record captured are true) or 100% (if not recorded in books)

CENVAT CREDIT RULES:

Cenvat credit includes:
Credit of excise duty: paid on plant & machinery & other fixed assets
Of raw material for manufacturing of goods
Credit of service tax paid on various service.
Exception:
Cenvat credit of excise duty on motor vehicle & service tax on repair & insurance of motor vehicle(allowed only 7 specified service providers)
Cenvat credit on capital goods: allowed @50% in two financial year

Credit on input service:
Allowed when bill or challan received
In case of reverse charge: when service tax paid

When payment for input service is not made within 3 month:
Pay an amount equal to service tax

REVERSE CHARGE & JOINT CHARGE MACHANIZM

What is reverse charge?

Every person providing a taxable service is required to pay service tax at the prescribed rate. However in certain cases the service recipient is made liable to pay service tax on the services received. Since the person receiving services is made liable to pay service tax, the mechanism of collection of such tax is called as reverse charge (RCM).

Description of a service	Type of service Provider	Type of Service Recipient	% of ST payable by Service Provider	% of ST payable by Service Recipent
1. Insurance Service	Insurance Agent	Any person carrying on insurance business	NIL	100%
2. Goods Transport Service	Any Person	Specified person	NIL	100%
3. Sponsorship Service	Any Person	Any Body Corporate or Partnership Firm	NIL	100%
4. Arbitral Tribunal Service	Any Person	Any Business Entity	NIL	100%
5. Legal Service	a) Individual Advocate or firm of Advocate b) Any person other than mentioned in (a)	Any Business Entity Any Person	NIL 100%	100% NIL
6. Directorship in Company	Director of a company	Company	NIL	100% (if director is not a employee of the company)
7. Support services excluding Renting of Immovable properties & services specified under sub section 66 D (i),(ii) & (iii)	Govt/Local Authorities	Any Business Entity	NIL	100%
8. Service of renting of a	Non body corporate	Body corporate	NIL	100% of the abated value of

motor vehicle designed to carry passengers: Benefit of abatement @60% has been availed by service provider(Cenvat credit not availed by service provider)				40%
9. Any Service	Any Person in non taxable territory	Any Person located in taxable territory	NIL	!00%

What is Joint Charge Mechanism?

Under the concept of joint charge, for one service the service provider as well as service receiver are made liable for payment of service tax to the extent notified. This liability is independent of the other person's liability. In other words the failure to comply with the provisions by one person on his part would not impact the compliance requirement of other person and vice versa.

Description of service	**Type of service providers**	**Type of service recipient**	**% of ST payable by service provider**	**% of ST payable by service recipient**
1. Service of renting of a motor vehicle designed to carry passengers: Benefit of abatement not availed by service provider(Cenvat credit is availed by service provider)	Non body corporate	Body corporate	60%	40%
2. Service by way of supply of manpower for any purpose or security service	Non Body Corporate	Body Corporate	25%	75%

3. Service portion in execution of work contract	Non Body Corporate	Body Corporate	50%	50%

Notes:

1. Non Body Corporate:
   Individual, HUF, Partnership Firm & AOP which are located in taxable territory.
2. Body Corporate:
   Companies defined in Companies Act
3. No basic/minimum exemption for the service recipient.

DETERMINATION OF POINT OF TAXATION IN CASE OF CHANGE IN EFFECTIVE RATE OF TAX

- Rate has been increased from 10% to 12% (w.e.f. 01.04.2012)
- Although the cut of date is 01.04.2012 but the transaction may be taken into consideration for the rate purpose in the period in which **any two out of the following three activities falls:**
    a) Date of invoice
    b) Date of service completed
    c) Date of payment received

- Exception to the above rule are as follows:
  a) Cash basis under rule 7
  b) If the cheque is cleared within four working days from the close of financial year.

VOLUNTARY COMPLIANCE ENCOURAGEMENT SCHEME, 2013

Introduction:

The service tax VCES has offered a lifeline to person who have not complied with the law in the past to set their service tax records straight.

What the scheme offers:

a. The scheme is available in respect of tax dues from 1st October 2007 & upto 31st

December 2012

b. Scheme applicable to:

- Non filers
- Stop filers
- Assessees not disclosed their true liabilities in return
- Who never registered in service tax

c. The scheme not applicable to where as on 01.03.2013:

- summon issued
- an audit/investigation has been pending
- notice or an order has been issued

Benefits under VCES scheme:

a. Waiver of interest due to delay in service tax
b. Waiver of penalties
c. No further prosecution
d. Restriction on opening of the proceeding before any authority or court relating to such declared period

Negatives point of the scheme:

a. if the service tax amount calculated is incorrect & has been paid excess, the assessee will not be eligible for refund.
b. The act does not speak of any remedies if the application made is rejected. The only option is to file a writ petition.
c. The payment of service tax to be paid in cash & cannot be paid by utilizing the CENVAT credit.

Procedure for making declaration & payment of tax dues:

a. First apply for registration in Form ST-1 through ACES (if registration not obtained)
b. Declaration required to be made in Form VCES-1 in duplicate on or before 31st Dec 2013
c. Acknowledgement shall be received in Form VCES-2 within a period of 7 working days from the date of receipt of VCES-1
d. 50% of the declared amount to be paid on or before 31st Dec 2013 by GAR 7 challan & submit the proof of such payment to the designated authority within the due date.
e. Balance of tax due required to be paid within 30th June 2014

f. If any default in the above mentioned payment within the due date , assessee required to pay tax with applicable interest within 31st Dec 2014.

g. Assesssee is to furnish the details of payment from time to time & also upon full payment of the declared amount. Once all dues have been paid off, the designated authority shall issue acknowledgement in Gorm VCES-3

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