SERVICE TAX

VCES

VOLUNTARY
COMPLIANCE
ENCOURAGEMENT
SCHEME

Be smart, make a fresh start.

The countdown has begun

Service Tax Offices Open on Saturday

The Institute of Chartered Accountants of India

Dear Firends,

The introduction of service tax in the year 1994 changed whole gamut of taxation in the country. Since then, the area has gradually evolved and in the year 2012 it was expanded to cover all services under its ambit, barring those that are specifically excluded under negative list. However, due to lack of knowledge or otherwise many prospective taxpayers have not paid the taxes that they are liable to pay.

To give such tax payers an opportunity to join the mainstream and pay all 'tax dues' from the period 01.10.2007 to 31.12.2012 without interest, penalty and other legal proceedings including prosecution, a golden opportunity has been given in form of Service Tax Voluntary Compliance Encouragement Scheme, 2013. The scheme is open till 31.12.2013.

The Institute of Chartered Accountants of India (ICAI) welcomes the Government's move for bringing one time amnesty scheme in service tax as it will enable many assessees to pay tax without interest and penalty. The ICAI has been front runner in giving technical inputs on this amnesty scheme based on suggestions/feedback received from members spread across the length and breadth of the country. At this juncture, I am happy to inform you that many of our suggestions have been favourably considered.

I would like to compliment the Hon'ble Finance Minister, Shri P. Chidambaram for his initiatives towards streamlining the systems and efforts in educating the masses to avail the benefits of such initiatives. I would like to appeal to all my professional brethren to proactively compliment the efforts taken by the Ministry.

As the period is fast coming to a closure, I would like to make this appeal to all the colleagues to encourage their clients to come forward to avail this scheme. I hope that all the professionals would surely ensure that there would be a resounding response to the scheme. Please do not wait for any further clarification or the last date since non-registered declarants have to make a declaration and also pay duty before 31.12.2013. So, it is our responsibility to ensure that no potential declarant is denied this chance.

Jai Hind

Place : New Delhi

Dated : 13.12.2013

CA. Subodh K. Agrawal
President,
The Institute of Chartered Accountants of India

Hon'ble Finance Minister's Visits Across India

The Hon'ble Finance Minister(FM) has held a series of interactive sessions for building greater awareness on the VCES. He commenced with Chennai and then held meetings in major cities such as Delhi, Mumbai, Kolkata, Bangalore and Hyderabad. He exhorted all to take advantage of the fair and generous offer available under the scheme. The Hon'ble FM highlighted the fact that there are many service tax providers who are not paying service tax. It was emphasized that stern action would be taken against defaulters, and the several cases of arrest which have recently taken place all over the country were referred to.

The Hon'ble FM expressed his concern that there were several service providers who were collecting the tax and not remitting to the Government. These would definitely face stern measures as the department has the wherewithal to track all people through various methods including their financial transactions.

The Hon'ble FM responded very positively to all the problems raised by members of the trade and various associations and allayed their fears in coming forward under this scheme. Four clarifications have been issued by the Central Board of Excise & Customs which are available on the CBEC website at www.cbec.gov.in. The pace of filing declarations has picked up and continues to increase.

Though the last date is 31st December , 2013, it would be advisable if the declarants start the process a week earlier as they would require to take registration prior to filing the declaration. All field formations are open on Saturday and the officers are available to assist the trade.

Dear Friends,

A dynamic shift in the area of taxation happened in 1994, with the introduction of service tax on three services. Ever since, successive Finance Acts have added new services under its ambit. The Budget 2012-13, has brought into all service under the tax net, barring a few that have been specifically mentioned in the negative list.

We appreciate the Government move for bringing ***Service Tax Voluntary Compliance Encouragement Scheme*** which is a need of the hour. This scheme provides one time amnesty by way of (i) waiver of interest and penalty; and (ii) immunity from prosecution, to the Defaulters i.e., stop filers, non-filers or non-registrants or service providers (who have not disclosed true liability in the returns filed by them during the period from October 2007 to December 2012), who make a truthful declaration of all his pending "tax dues" (from October1, 2007 to December 31, 2012) and pay the same.

The Institute of Chartered Accountant is always proactively involved in the initiatives of the government, be it, pre and post budget, suggestion/issue in making the scheme effective, etc.

I must thank the Hon'ble Finance Minister for bestowing his faith and appeal to my professional brothers/sisters to proactively complement the efforts of the Ministry of Finance and make the Scheme a great success.

Place : New Delhi
Dated : 13.12.2013

CA. K Raghu
Vice President, ICAI
The Institute of Chartered Accountants of India

A FLOW CHART SHOWING THE WORKING OF VCES

Scope & Applicability

- VCES applicable only for tax due or payable under the Chapter V of Finance Act, 1994 or any other amount due or payable under section 73A
- Tax payable only for the period beginning from the 1st day of October, 2007 and ending on the 31st day of December, 2012 and unpaid as on the 1st day of March, 2013. (Tax under VCES to Pay after 10th May 2013)

Who Can Apply

- Person on whom any enquiry or investigation in respect of service tax not levied, not paid or short levied or short paid or audit has not been initiated as on 1st day of March, 2013.
  Note : 'Audit Initiation' means visit of audit team to the premises of assessee.

Who Can't Apply

- Person who have filed the return u/s 70 and disclosed his true liability but have not paid the disclosed amount of service tax or part thereof
- Any Person against whom any notice or an order of determination u/s 72, 73 or 73A has been issued or made before 1st March, 2013.
- A person to whom a notice or an order or determination has been issued in respect of any period or any issue, no declaration shall be made of his tax dues on the same issue for any subsequent period. (except Inquiry/Audit Notice in which VCES for subsequent period can be filed)

How To Apply

Take registration under rule 4 of the Service Tax Rules, 1994, if not already registered

Make the declaration to the designated authority in Form VCES -1 on or before the 31-12-2013 in respect of "tax dues"

Procedure

The Designated Authority issues acknowledgment in the Form VCES-2 within a period of seven working days on the receipt of declaration.

If inquiry has already been initiated against such declarant (for the period filed under VCES, the Designated Authority shall reject the Form VCES-1

On the receipt of acknowledgement in the Form VCES-2, the declarant shall:

» Pay not less than 50% of the tax dues, so declared on or before 31-12-2013
» Balance amount is required to be deposited on or before 30-6-2014
» If the declarant fails to make balance payment, the same is required to be deposited on or before 31-12-2014 with interest (to be calculated from 1-7-2014)

Other Points to be Kept in Mind by The Declarant

» No CENVAT credit shall be utilised for payment of "tax dues" under the Scheme.
» furnish the details of payment made from time to time under this Scheme along with a copy of acknowledgement in the form VCES-2 to the designated authority
» the designated authority shall issue an acknowledgement to the declarant in Form VCES-3 within a period of seven working days from the date of furnishing of details of payment of tax dues in full along with interest, if any, by the declarant
» No refund of amount paid is allowed under this scheme under any circumstances

Complete Immunity

On receipt of acknowledgment from Designated Authority in the Form VCES-3, the declarant gets complete immunity from penalty, interest or any other proceeding under the provisions of Finance Act, 1994 and no matter shall be reopened thereafter.

Misc Points

Where the declarant fails to pay the tax dues, either fully or in part, as declared by him, such dues along with interest thereon shall be recovered under the provisions of Section 87 of the Finance Act, 1994

Where the Commissioner of Central Excise has reasons to believe that the declaration made by a declarant under this Scheme was substantially false, he may, for reasons to be recorded in writing, serve notice on the declarant in respect of such declaration, before the expiry of one year from the date of declaration, requiring him to show cause why he should not pay the tax dues not paid or short-paid. Further, the power to issue notice is irrespective of declarant has been issued VCES-3 for the period or not.

To make the working of this scheme easier, Notification 10/2013, dated 13-5-2013 has been published for formally acknowledging the VCES Rules, 2013. These rules incorporate the form and manner of declaration, form and manner of acknowledgement of declaration, manner of payment of tax dues and form and manner of issuing acknowledgement of discharge of tax dues under the Service Tax Voluntary Compliance Encouragement Scheme, 2013.

Apart from this the department has also issued certain clarifications in the name of circular 169/2013-ST, 170/2013 and 174/2013 regarding the working of VCES. ***http://www.cbec.gov.in/rhs-misc/vces/st-vces-idx.htm***

Please start the process well in advance to complete the process of registration, filing of VCES declarations and making the 50% payment of the tax dues before 31-12-2013.

F. No. B1/19/2013-TRU (Pt.)
Government of India
Ministry of Finance
Department of Revenue
Central Board of Excise & Customs
(Tax Research Unit)
***

New Delhi the 11th December, 2013

To,

All Chief Commissioners of Central Excise/Service Tax
Director General Service Tax
All Commissioners of Central Excise/Service Tax

Madam/Sir,

Sub: The Service Tax Voluntary Compliance Encouragement Scheme – issues for clarification – reg

The undersigned is directed to state that the Board has issued clarifications on issues concerning various aspects of the VCES, vide circulars dated 13.05.2013, 8.08.2013 and 25.11.2013. A FAQ has also been issued on VCES. However, certain instances have come to notice, as mentioned below, that the declarants under the VCES are still facing difficulties.

2. In one instance, the Designated Authority has asked a declarant, who has "tax dues" only for a part of the period covered by the Scheme, to furnish an undertaking that he had no unpaid "tax dues" for the remaining period covered by the Scheme. However, the Scheme does not envisage furnishing of any such undertaking. A declarant may have tax dues only for a part period covered by the Scheme. In terms of the Scheme a declaration of tax dues has to be made in Form VCES-I, which includes an undertaking that the information given in the declaration is correct and complete. Therefore, the Designated Authority should not ask for any other undertaking or declaration beyond what has been prescribed in the Scheme or Rules made there under.

3. In another instance, the Designated Authority has objected to the payment of the first tranche of 50%, payable by 31.12.2013, in installments. It is clarified that the Scheme only prescribes that the declarant would pay a minimum amount of 50% of the tax dues by 31.12.2013. Rest of the payment may be made by 30.6.2014, without any interest, and any amount remaining unpaid on 30.6.2014 shall be paid by 31.12.2014, with interest for the period of delay beyond 30.6.2014. There is no bar to pay these amounts in installments. For example a declarant may pay the 50% amount that he is required to pay by 31.12.2013 in more than one installment. Therefore, payment of 50% "tax dues" in lump-sum may not be insisted to.

4. In some instances, it has been observed that the Designated Authority has raised frivolous/unnecessary queries as regards the veracity and the manner of calculation of tax dues. While the designated authority may cause arithmetical check as regards the correctness of computation of tax dues, the Scheme does not envisage investigation by the designated authority into the veracity of declaration. Only if the Commissioner has reason to believe that the declaration filed by the declarant is substantially false he may, for reasons to be recorded in writing, serve notice on the declarant requiring him to show cause why he should not pay the tax dues not paid or short-paid.

Yours faithfully,

(S.Jayaprahasam)
Technical Officer (TRU)
Tel. No.: 2309 5547.