Internal Circular

November 20, 2015

Effective Rate of Service Tax Chart (w.e.f 15.11.2015)

1. Service Tax of 14% has been loaded with "Swatch Bharat Cess (SBC) 0.5% on taxable value, hence w.e.f 15.11.2015 total service tax will be 14.5% (14% Basic Service Tax subsuming Secondary and Higher Secondary Education Cess **PLUS** 0.5% SWACHH BHARAT CESS on Basic Value of Service Provided) vide Notification No. 21/2015-ST & 21/2015-ST, dated 6th November, 2015.

Service Tax Rate	Basic Rate	Edu. Cess	H.Edu. Cess	Swachh Bharat Cess (SBC)	Codes
12.36% Till 31.05.2015	12%	2%	1%	---	Basic Code (Respective Services) Edu. Cess - 00440298 H. Edu. Cess - 00440426
14% From 01.06.2015 till 14.11.2015	14%	---	---	---	Only Basic Code (Respective Services) (Inclusive of all Cesses)
14.5% w.e.f. 15.11.2015	14%	---	---	0.5%	Basic Code of Respective Services. Swachh Bharat Cess : 00441493

Briefings in relation to SBC (As Clarified by CBEC):

(a) "SBC" will be levied on Taxable Value of Service Provided by 0.5%.

(b) "SBC" will be equally levied on services on which service tax is to be paid as recipient of services, commonly known as RCM.

(c) "SBC" is to be charged at abated value in case abatement is available.

(d) "SBC" have to be charged separately.

There are interpretational issues in below mentioned two points, but at present have to be followed as clarified by CBEC (vide undated and unsigned clarification)

(e) As clarified by Circular (Undated/Unsigned) Cenvat Credit of “SBC” will not be available.

(f) Cenvat Credit cannot be used for payment of “SBC”, meaning thereby “SBC” have to be paid in cash.

Complete FAQ from CBEC is being provided at the bottom of this circular.

2. The below mentioned table show the effective service tax rate wherein different types of abatements are available,

Sr. No.	Descriptions of Taxable Services	Service Tax Rate	Abatement Value %	Taxable Value %	Effective Service Tax	Effective “SBC”	Total Effective Rate
1	Services in relation to financial leasing including hire purchase	14.5%	90%	10%	1.4%	0.05%	1.45%
2	Transport of goods by rail including transport of goods in containers by rail. (for the present, Transport of passengers with or without accompanied belongings by rail in air-conditioned class/first class also may be paid under this description / accounting code)	14.5%	70%	30%	4.2%	0.15%	4.35%
3	Bundled service by way of supply of food or any other article of human consumption or any drink, in a premises (including hotel, convention center, club, pandal, shamiana or any other place, specially arranged for organizing a function) together with renting of such premises	14.5%	30%	70%	9.8%	0.35%	10.15%

Sr. No.	Descriptions of Taxable Services	Service Tax Rate	Abatement Value %	Taxable Value %	Effective Service Tax	Effective "SBC"	Total Effective Rate
4	Transport of passengers embarking on domestic/international journey by air - economy class - other than economy	14.5% 14.5%	60% 40%	40% 60%	5.6% 8.4%	0.2% 0.3%	5.80% 8.70%
5	Renting of hotels, inns, guest houses, clubs, campsites or other commercial places meant for residential or lodging purposes.	14.5%	40%	60%	8.4%	0.3%	8.70%
6	Transport of goods by road/goods transport agency service	14.5%	70%	30%	4.2%	0.15%	4.35%
7	Rent-a-cab scheme operator services	14.5%	60%	40%	5.6%	0.2%	5.80%
8	Transport of Passengers, with or without accompanied belongings, by - a contract carriage other than motorcab. - a radio taxi	14.5% 14.5%	60% 60%	40% 40%	5.6% 5.6%	0.2% 0.2%	5.80% 5.80%
9	Transport of goods in a vessel	14.5%	70%	30%	4.2%	0.15%	4.35%
10	Tour operator services - solely of arranging/booking accommodation - package tour - other than both above	14.5% 14.5% 14.5%	90% 75% 60%	10% 25% 40%	1.4% 3.5% 5.6%	0.05% 0.125 % 0.20%	1.45% 3.63% 5.80%
11	Construction services other than residential complex, including commercial/industrial buildings or civil structures	14.5%	70%	30%	4.2%	0.15%	4.35%
12	Construction of residential complex service - carpet area is less than 2000 sq.ft. & amount charged is less than 1 Crore. - others	14.5% 14.5%	75% 70%	25% 30%	3.5% 4.2%	0.125 % 0.15%	3.63% 4.35%
13	Banquet (Mandap keeper) service	14.5%	30%	70%	9.8%	0.35%	10.15%

Sr. No.	Descriptions of Taxable Services	Service Tax Rate	Abatement Value %	Taxable Value %	Effective Service Tax	Effective "SBC"	Total Effective Rate
14	Works contract service - original works - maintenance or repair or reconditioning or restoration or servicing	14.5% 14.5%	60% 30%	40% 70%	5.6% 9.8%	0.2% 0.35%	5.80% 10.15%
15	Restaurant Services	14.5%	60%	40%	5.6%	0.2%	5.80%
16	Outdoor Catering	14.5%	40%	60%	8.4%	0.3%	8.70%
17	Other than above services (Full Rate on Full Value)	14.5%	0%	100%	14%	0.5%	14.5%

3. The below mentioned table show the effective service tax rate wherein service tax is payable under RCM [as amended from time to time] category. Effective rates of RCM as applicable are stated considering the increased service tax rate from 14% to 14.5% w.e.f. 15.11.2015.

Sr. No.	Description of a service	Percentage of service tax payable by Service Provider	Percentage of service tax payable by Service Receiver	Effective Rate of service tax payable by Service Provider		Effective Rate of service tax payable by Service Receiver	
				01.06.2015 TO 14.11.2015	From 15.11.2015	01.06.2015 TO 14.11.2015	From 15.11.2015
1	in respect of services provided or agreed to be provided by an insurance agent to any person carrying on insurance business	Nil	100%	0.00%	14.00%	100%	14.50%
1A	in respect of services provided or agreed to be provided by a recovery agent to a banking company or a financial institution or a non-banking financial company	Nil	100%	0.00%	14.00%	100%	14.50%
1B	in respect of services provided or agreed to be provided by a mutual fund agent or distributor, to a mutual fund or asset management company	Nil	100%	0.00%	14.00%	100%	14.50%

Sr. No.	Description of a service	Percentage of service tax payable by Service Provider	Percentage of service tax payable by Service Receiver	Effective Rate of service tax payable by Service Provider		Effective Rate of service tax payable by Service Receiver	
				01.06.2015 TO 14.11.2015	From 15.11.2015	01.06.2015 TO 14.11.2015	From 15.11.2015
1C	in respect of service provided or agreed to be provided by a selling or marketing agent of lottery tickets to a lottery distributor or selling agent	Nil	100%	0.00%	14.00%	100%	14.50%
2	in respect of services provided or agreed to be provided by a goods transport agency in respect of transportation of goods by road to -Factory under the Factories Act,1948, -Society under the Societies Registration Act,1860, -Co-operative society, -dealer of excisable goods under the Central Excise Act, 1944, -any body corporate, -partnership firm including association of persons.	Nil	100%	0.00%	4.20%	0.00%	4.35%
3	in respect of services provided or agreed to be provided by way of sponsorship to any body corporate or partnership firm located in the taxable territory	Nil	100%	0.00%	14.00%	100%	14.50%
4	in respect of services provided or agreed to be provided by an arbitral tribunal	Nil	100%	0.00%	14.00%	100%	14.50%
5	in respect of services provided or agreed to be provided by individual advocate or a firm of advocates by way of legal services	Nil	100%	0.00%	14.00%	100%	14.50%

Sr. No.	Description of a service	Percentage of service tax payable by Service Provider	Percentage of service tax payable by Service Receiver	Effective Rate of service tax payable by Service Provider		Effective Rate of service tax payable by Service Receiver	
				01.06.2015 TO 14.11.2015	From 15.11.2015	01.06.2015 TO 14.11.2015	From 15.11.2015
5A	in respect of services provided or agreed to be provided by a director of a company or a body corporate to the said company or the body corporate	Nil	100%	0.00%	14.00%	100%	14.50%
*6	in respect of services provided or agreed to be provided by Government or local authority 'by way of support services' excluding,- (1) renting of immovable property, and (2) services specified in sub-clauses (i) services by the Department of Posts by way of speed post, express parcel post, life insurance, and agency services provided to a person other than Government (ii) services in relation to an aircraft or a vessel, inside or outside the precincts of a port or an airport (iii) transport of goods or passenger of clause (a) of section 66D of the Finance Act,1994	Nil	100%	0.00%	14.00%	100%	14.50%

Sr. No.	Description of a service	Percentage of service tax payable by Service Provider	Percentage of service tax payable by Service Receiver	Effective Rate of service tax payable by Service Provider		Effective Rate of service tax payable by Service Receiver	
				01.06.2015 TO 14.11.2015	From 15.11.2015	01.06.2015 TO 14.11.2015	From 15.11.2015
7	(a) in respect of services provided or agreed to be provided by way of renting of a motor vehicle (by individual, HUF or partnership firm to body corporate) designed to carry passengers on abated value to any person who is not engaged in the similar line of business.	Nil	100%	0.00%	5.60%	0.00%	5.80%
	(b) In respect of services provided or agreed to be provided by way of renting of a motor vehicle (by individual, HUF or partnership firm to body corporate) designed to carry passengers on non-abated value to any person who is not engaged in the similar line of business.	50%	50%	7.00%	7.00%	7.25%	7.25%
8	in respect of services provided or agreed to be provided by way of supply of manpower for any purpose or security services (by individual, HUF or partnership firm to body corporate)	Nil	100%	0.00%	14.00%	100%	14.50%
9	in respect of services provided or agreed to be provided in service portion in execution of works contract (by individual, HUF or partnership firm to body corporate) - original works	50%	50%	2.80%	2.80%	2.90%	2.90%
	- maintenance or repair or reconditioning or restoration or servicing	50%	50%	4.90%	4.90%	5.075%	5.075%

Sr. No.	Description of a service	Percentage of service tax payable by Service Provider	Percentage of service tax payable by Service Receiver	Effective Rate of service tax payable by Service Provider		Effective Rate of service tax payable by Service Receiver	
				01.06.2015 TO 14.11.2015	From 15.11.2015	01.06.2015 TO 14.11.2015	From 15.11.2015
* 10	in respect of any taxable services provided or agreed to be provided by any person who is located in a non-taxable territory and received by any person located in the taxable territory	Nil	100%	0.00%	14.00%	100%	14.50%
11	in respect of any service provided or agreed to be provided by a person involving an aggregator in any manner	Nil	100%	0.00%	14.00%	100%	14.50%

* in SI. 6 & 10 indicates that the rates are subject to the type of service provided.

4. Detailed Clarifications in Relation to Swachh Bharat Cess (Frequently Asked Questions) :

(as provided by CBEC vide undated and unsigned circular)

A). What is Swachh Bharat Cess (SBC)?

- It is a Cess which shall be levied and collected in accordance with the provisions of Chapter VI of the Finance Act, 2015, called Swachh Bharat Cess, as service tax on all the taxable services at the rate of 0.5% of the value of taxable service.

B). What is the date of implementation of SBC?

- The Central Government has appointed 15th day of November, 2015 as the date from which provisions of Swachh Bharat Cess will come into effect (notification No.21/2015-Service Tax, dated 6th November, 2015 refers).

C). Whether SBC would be leviable on exempted services and services in the negative list?

- Swachh Bharat Cess is not leviable on services which are fully exempt from service tax or those covered under the negative list of services.

D). How will the SBC be calculated?

- SBC would be calculated in the same way as Service tax is calculated. Therefore, SBC would be levied on the same taxable value as service tax.

E). Whether SBC would be required to be mentioned separately in invoice?

- SBC would be levied, charged, collected and paid to Government independent of service tax. This needs to be charged separately on the invoice, accounted for separately in the books of account and paid separately under separate accounting code which would be notified shortly. SBC may be charged separately after service tax as a different line item in invoice. It can be accounted and treated similarly to Education cesses.

F). Whether separate accounting code will be there for Swachh Bharat Cess?

- Yes, for payment of Swachh Bharat Cess, a separate accounting code would be notified shortly in consultation with the Principal Chief Controller of Accounts. These are as follows:-

Swachh Bharat Cess (Minor Head)	Tax Collection	Other Receipts	Penalties	Deduct Refunds
0044-00-506	00441493	00441494	00441496	00441495

G). What would be effective rate of service tax and SBC post introduction of SBC?

- Effective rate of service tax plus SBC, post introduction of SBC, would be [14% + 0.5%].

H). Whether SBC is a 'Cess' on tax' and we need to calculate SBC @ 0.50% on the amount of service tax like we were earlier doing for calculating Education Cess and SHE Cess?

- No, SBC is not a cess on Service Tax. SBC shall be levied @ 0.5% on the value of taxable services.

I). Whether SBC is levied on all or selected services?

- The Central Government was empowered to impose SBC either on all or some of the taxable services. Vide notification No 22/2015-ST dated 6-11-2015, Government has notified that SBC shall be applicable on all taxable services except services which are either fully exempt from service tax under any notification issued under section 93(1) of the Finance Act, 1994 or are otherwise not leviable to service tax under section 66B of the Finance Act, 1994.

J). How will the SBC be calculated for services under reverse charge mechanism?

- In case of reverse charge under section 68(2) of the Finance Act, 1994, the liability has been shifted from service provider to the service recipient. As per section 119 (5) of the Finance Act, 2015, the provisions of Chapter V of the Finance Act, 1994, and the rules made thereunder are applicable to SBC also. Thus, the reverse charge under section 68(2) of the Finance Act, 1994, is made applicable to SBC. In this context, to clarify, Government has issued notification No. 24/2015-Service Tax dated 12th November, 2015 to provide that reverse charge under notification No.30/2012-Service Tax dated 20th June, 2012 shall be applicable for the purpose of levy of Swachh Bharat Cess mutatis mutandis.

K). How will SBC be calculated for services where abatement is allowed?

- Taxable services, on which service tax is leviable on a certain percentage of value of taxable service, will attract SBC on the same percentage of value as provided in the notification No. 26/2012-Service Tax dated 20th June, 2012. So, this notification would apply for SBC also in the same manner as it applies for service tax. For example, in the case of GTA, [Service Tax + SBC] % would be (14% Service Tax + 0.5% SBC) * 30% = 4.35% (4.20%+0.15%).

L). Whether Cenvat Credit of the SBC is available?

- SBC is not integrated in the Cenvat Credit Chain. Therefore, credit of SBC cannot be availed. Further, SBC cannot be paid by utilizing credit of any other duty or tax.

M). What would be the point of taxation for Swachh Bharat Cess?

- As regards Point of Taxation, since this levy has come for the first time, all services (except those services which are in the Negative List or are wholly exempt from service tax) are being subjected to SBC for the first time. SBC, therefore, is a new levy, which was not in existence earlier. Hence, rule 5 of the Point of Taxation Rules would be applicable in this case. Therefore, in cases where payment has been received and invoice is raised before the service becomes taxable, i.e. prior to 15th November, 2015, there is no liability of Swachh Bharat Cess. In cases where payment has been received before the service became taxable and invoice is raised within 14 days, i.e. up to 29th November, 2015, even then the service tax liability does not arise. Swachh Bharat Cess will be payable on services which are provided on or after 15th Nov, 2015, invoice in respect of which is issued on or after that date and payment is also received on or after that date. Swachh Bharat Cess will also be payable where service is provided on or after 15th Nov, 2015 but payment is received prior to that date and invoice in respect of such service is not issued by 29th Nov, 2015.

N). How would the tax (Service Tax and SBC) be calculated on services covered under Rule 2A, 2B or 2C of Service Tax (Determination of Value) Rules, 2006?

- The tax (Service Tax and SBC) on services covered by Rule 2A, 2B or 2C of Service Tax (Determination of Value) Rules, 2006, would be computed by multiplying the value determined in accordance with these respective rules with [14% + 0.5%]. Therefore, effective rate of Service Tax plus SBC in case of original works and other than original works under the works contract service would be 5.8% [(14% + 0.5%)*40%] and 10.15% [(14% + 0.5%)*70%] respectively. Similar, would be the tax treatment for restaurant and outdoor catering services.

O). How would the tax be calculated on restaurant services covered under Service Tax (Determination of Value) Rules, 2006?

- Swachh Bharat Cess would be calculated on the value arrived at in accordance with the Service Tax (Determination of Value) Rules, 2006. For example, the effective Swachh Bharat Cess in respect of services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, having the facility of air–conditioning or central air-heating in any part of the establishment, would be 0.5% of 40% of the total amount, i.e, 0.2% of the total amount. The cumulative service tax and Swachh Bharat Cess liability would be [14% ST + 0.5% SBC] of 40% of the total amount, i.e., 5.8% of the total amount charged.

P). Whether SBC would be applicable on services covered by Rule 6 of Service Tax Rules (i.e. air travel agent, life insurance premium, purchase and sale of foreign currency and services by lottery distributors/selling agents)?

- Sub-rule (7D) to rule 6 has been inserted vide notification 25/2015-Service Tax, dated 12th November, 2015 so as to provide that the person liable for paying the service tax under sub- 6 rule (7), (7A), (7B) or (7C) of rule 6 of Service Tax Rules, shall have the option to pay SBC as determined as per the following formula:-

  Service Tax liability [calculated as per sub-rule (7), (7A), (7B) or (7C)] * 0.5%/14%

The option under this sub-rule once exercised, shall apply uniformly in respect of such services and shall not be changed during a financial year under any circumstances.

Q). How would liability be determined in case of reverse charge services where services have been received prior to 15.11.2015 but consideration paid post 15.11.2015?

- In respect of reverse charge mechanism, SBC liability is determined in accordance with Rule 7 of Point of Taxation Rules, as per which, point of taxation is the date on which consideration is paid to the service provider. Thus, SBC liability in such case will be -
  0.5% * Value of taxable service.

R). Does a person providing both exempted and taxable service and reversing credit @ 7% of value of exempted service under Rule 6 of Cenvat Credit Rules, does he need to reverse the SBC also?

- As SBC is not integrated in the Cenvat Credit chain and reversal under Rule 6 is payment of amount equal to 7% of the value of exempted services, hence, reversal of SBC is not required under Rule 6 of Cenvat Credit Rules, 2004.

5. **Point of Taxation for Swachh Bharat Cess:**

As per Section 119(5) under Chapter VI of the Finance Act, 2015 which is in relation to SBC, All provisions of Chapter V of the Finance Act, 1994 (i.e. Service Tax) and the rules made thereunder (including those relating to refunds and exemptions from tax, interest and imposition of penalty) shall, as far as possible, apply in relation to levy and collection of SBC on taxable services.

Hence addition of 0.5% SBC on value of taxable services will be nothing but change in rate of tax. So Rule 4 of Point of Taxation Rules (POTR) shall apply.

As per the “Point of Taxation Rules”, “Rule 4” takes care of taxation when there is change in rate of taxation, the table below shows that effect on applicable rate from 15.11.2015, what would be the position before change in rate and after change in rate of service tax from 14% to 14.5%.

Sr.No	Rendering service	Invoice Issued	Payment Received	Rate %
1	Before Rate Changes	Before Rate Changes	After Rate Changes	14
2	Before Rate Changes	After Rate Changes	After Rate Changes	14.5
3	Before Rate Changes	After Rate Changes	Before Rate Changes	14
4	After Rate Changes	After Rate Changes	Before Rate Changes	14.5
5	After Rate Changes	Before Rate Changes	After Rate Changes	14.5
6	After Rate Changes	Before Rate Changes	Before Rate Changes	14

This is glimpse of the new rate coming into force from 15.11.2015, for further clarification or discussion please do contact us.

Regards,

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Chartered Accountants.

Shyam Makwana
09033822400

Disclaimer:

The above circular is issued based on reading of the law and circulars issued by CBC on the date of sending of this circular.