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A Note on Krishi Kalyan Cess

In this write up, I have made an attempt to explain about **'Krishi Kalyan Cess'** hoping that it will help you in your day to day compliance work. Though I have made all efforts to make it error free but it is possible that some error might have crept, if it is so please bring it in my notice and I will definitely remove it. If you have any suggestion to improve this book, you are requested to forward the same to us.

I have compiled this information based on the various material available and this write up is purely for informational purpose and sharing knowledge.

It is my

kind request to go through original statute, notification and circular etc before relying on the matter given here.

If you feel that this has really helped you in improving your knowledge or understanding of the subject matter, I request you to take few minutes out of your precious time and provide your valuable feedback at **"cackbajpai@gmail.com"**. Your feedback is important and will help in improving it.

With Thanks:

CA C.K.Bajpai

Honourable Finance minister in last budget(2015) had increased the service tax rate from 12.36 (including cess) to 14% . We are at the verge of GST and under GST regime it is expected that rate would be somewhere between 17%-18%, it seems that rate is slowly moving towards coming GST regime rate, further in November 2015 a new levy naming 'Swachchh bharat Cess' also introduced and rate became 14.5% w.e.f. 15th November 2015.

Now in budget 2016, Hon'ble Finance Minister announced & proposed a new cess named "KRISHI KALYAN CESS' It would be imposed at the rate of 0.5% on all taxable service. Thus effective rate of service would be 15% from 1st June 2016.

In this write up I am not going to discuss about GST or comparison between GST & present tax structure but just making an effort to understand implementation of Krishi Kalyan Cess (KKC) in following paragraphs.

A Cess is a tax which is collected by the government to be used for **a specific purpose**. Thus collections from levy of cess can be used only for the purpose for which it has been collected and not for any other purpose, Finance Minister has mentioned in his budget speech that proceeds of KKC would be **exclusively used for financing initiatives relating to improvement of agriculture and welfare of farmers**.

The Finance Minister made the following announcement (vide para 152 of Budget speech) on Krishi Kalyan Cess-

*"I propose to impose a Cess, called the Krishi Kalyan Cess, @ 0.5% on all taxable services, proceeds of which would be **exclusively used for financing initiatives relating to improvement of agriculture and welfare of farmers**. The Cess will come into force with effect from 1st June 2016. Input Tax credit of this cess will be available for payment of this cess."*

Thus collection from KKC shall be exclusively used for the benefit of Agriculture & Farmers.

Chargeability of KKC

Clause 158 of Chapter VI of Finance Bill (now Act w.e.f 14.05.2016) has levied KKC @0.5% on the value of Taxable service and same shall be effective from 01st June 2016.

If value of taxable service is Rs.100 then tax would be calculated as under:-

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Particulars	Amount in Rs.
Value of taxable service	100
Service Tax @14%	14
Add:- Swachcha Bharat Cess @0.5%	0.5
Add:- Krishi Kalyan Cess @ 0.5%	0.5
Total Value including service tax & cess	**115**

KKC Applicability

KKC shall be_levied with effect from 1st June, 2016, thus KKC shall be charged on all services provided **on or after 1st June, 2016**

Disclosure of KKC on Invoice:-

KKC shall be chargeable on invoices **separately** as KKC like Swachh Bharat Cess. Charging Service Tax @ 15 percent (14% Service Tax, 0.50% SBC and 0.50% KKC) is not legally correct.

KKC when abatement is available on the value of service

KKC shall be calculated on the value of taxable service after availing the benefit of abatement for example in case of GTA services abatement is 70% thus service tax is leviable on 30% of the value. Say GTA bill amount is Rs.1000/-

Particulars	Amount in Rs.
Gross value of taxable service	1000
Less:- Abatement@70%	700
Taxable Value of service	**300**
Service Tax @14%	42
Add:- Swachcha Bharat Cess @0.5%	1.5
Add:- Krishi Kalyan Cess @ 0.5%	1.5
Total Value including service tax & cess	**45**

KKC when liability is under Reverse charge Mechanism

The Central Government vide Notification No. 27/2016-ST dated May 26, 2016, has amended/clarified that the Reverse Charge Notification shall be applicable mutatis mutandis for the purposes of KKC also.

Thus Service recipient liable to pay under reverse charge (Full/partial) shall pay KKC alongwith service tax on his liability portion.

KKC when services are exempt or falling under negative list

Notification No. 28/2016-ST dated 26 may 2016 has provided that KKC shall not be leviable on services which are exempt by notification issues under section 93(1) or special order issued under section 93(2) of the Finance Act 1994 or otherwise not leviable to service tax under section 66B thereof.

Thus it is cleared that following would not be liable for KKC:-

(i) Activity not falling within meaning of service under section 65B(44) of the Finance Act,

(ii) Services falling under section 66D of the Act i.e. Negative List,

(iii) Service exempted by notification u/s 93(1) 0f the Act i.e.

(a) Exempted services under Mega exemption notification (25/2012-ST dated 20.06.2012 as amended time to time)

(b) Abatement value of Service on which certain percentage of the value is exempt through Abatement Notification No 26/2012-ST dated 20.06.2012

(iv) Services exempted by Special Order under section 93(2) of the Act

Determination of value of service for KKC purpose:-

For the purpose of KKC, Value of taxable services shall be the value as determined in accordance with the Service Tax Valuation Rules. Thus value be determined first as applicable rule in particular service like in case of works contract, Rule-2A shall determine the value of taxable service then tax shall be calculated thereon.

How does KKC apply on 'Works Contract Service'?

The value of services would be calculated as per Rule 2A of Service Tax (Determination of Value) Rules, 2006. Tax needs to be applied on the value so arrived at the rate of 15%. Effective rate of tax in case of original works and other than original works would be 6% (15%*40%) and 10.5% (15%*70%) respectively.

Payment of KKC:-

KKC shall be paid in accounting head as given under:-

KKC (Minor Head)	Tax Collection	Other Reciepts (Interest)	Deduct Refunds	Penalties
0044-00-507	00441509	00441510	00441511	00441512

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CENVAT of KKC:- (Notification No. 28/2016-CE (N.T.) dated May 28, 2016)

The cenvat credit of KKC shall be available and shall be utilized only for the payment of KKC. Thus, separate accounts needs to be maintained.

Cenvat credit in respect of KKC shall be utilised only towards payment of KKC.

Point of Taxation for New Levy of KKC:

It is pertinent here to note that Explanation 1 & 2 to Rule 5 of Point of Taxation Rules, 2011 ("the POT Rules") have been inserted w.e.f March 1, 2016. Explanation 1 provides that point of taxation in case of new levy on services shall be governed by Rule 5 of the POT and as per Explanation 2, new levy or tax shall be payable on all cases other than specified in Rule 5.

Rule 5 of the POT covers two specific situations where new levy shall not be payable:

1. Invoice issued and payment received against such invoice before such service becomes taxable;
2. Payment received before the service becomes taxable and invoice has been issued within 14 days of the date when the service is taxed for the first time,

Point of taxation in case of new levy on services shall be governed by Rule 5 of POT Rules. As per the Rule 5 read with explanations, only in two situations (mentioned above), the KKC shall not be payable and in all others, KKC is to be paid.

Sl.No	Invoice value	Invoice date	Payment received	Date of payment	Remark
1	100000	28.05.2016	100000	29.5.2016	KKC not applicable
2	100000	28.5.2016	90000	29.5.2016	No KKC on amount received before 01st June,16 & remaining amount would be taxable if payment received after 31st May 16
3	100000	02.06.2016	100000	29.5.2016	KKC not applicable, because receipt of payment before 1 st June 2016 while invoice issued within 14 days from taxability of service.

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4	100000	20.6.2016	100000	30.5.2016	Taxable because requirement of issue of invoice within 14 days from the date of service is not fulfilled
5	Total value of service is Rs.100000	Invoice for Rs.60000 issued on 29.5.2016	100000	30.5.2016	Non Taxable to the extent of 60000 because invoice issed and payment received but remaing payment would be taxable as invoice was issued after 14 days from the date of service rendered /payment received.

Point of Taxation for KKC under Reverse Charge:-

POT in case of reverse charge is governed by Rule 7 of the POT Rules, In terms of Rule 7 of the POT Rules, point of taxation under reverse charge (except associated enterprises located outside India), shall be as under:

Payment made within 3 months	Date of Payment
Payment not made within 3 months	Date immediately following the end of 3 months

In case of associated enterprises, where the person providing the service is located outside India, POT shall be earlier of the following:

→Date of debit in the books of account of service receiver;

→Date of Payment

It would not be out of place here to mention that a proviso has been inserted in Rule 7 of the POT Rules vide *Notification No. 21/2016-ST dated March 30, 2016*, to provide that where there is change in the liability or extent of liability of Service tax to be paid under Reverse Charge:

Service has been provided and the invoice issued **before** the date of such change, but payment has not been made as on such date, the POT shall be the **date of issuance of invoice**

Rebate of KKC fro exports

Vide Notification No. 29/2016-ST dated 26.05.2016, it has been notified that w.e.f. 1.6.2016, rebate of duty or Service Tax used in providing taxable services which are exported, under

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Notification No. 39/2012-ST dated 20.06.2012 shall also be available to Krishi Kalyan Cess (KKC)

Refund of KKC to Special Economic Zone (SEZ)

Vide Notification No. 30/2016-ST dated 26.05.2016, it has been notified that w.e.f. 1.6.2016, developer of Special Economic Zones (SEZ) or a unit in SEZ under Notification No. 12/2013-ST dated 1.7.2013 shall be entitled to refund of Service Tax paid on specified services on which *ab initio* exemption is admissible but not claimed and amount distributed to it as per clause III (a) of Notification. Further, refund of KKC shall also be allowed like that of SBC by multiplying total Service Tax distributed to it by sum of effective rates of SBC and KKC and dividing the product by rate of Service Tax as per section 66B of the Finance Act, 1994

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Annexures

Rate of Service Tax post 01.06.2016 in case of Abated services

S.No.	Income Heads	Rates Effective From 01.06.2016				
		Taxable Value	Effective ST Rate	Effective SBC Rate	Effective KKC Rate	Total Effective Tax
1	Services in relation to financial leasing	10%	1.40%	0.05%	0.05%	1.50%
2	Transport of Goods in containers by rail by any person other than	40%	5.60%	0.20%	0.20%	6.00%
2A	Transport of Goods by Rail other than as	30%	4.20%	0.15%	0.15%	4.50%
3	Transport of Passengers with or without accompanied belongings by	30%	4.20%	0.15%	0.15%	4.50%
4	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	70%	9.80%	0.35%	0.35%	10.50%
5	Transport of passengers by air with or without accompanied belongings in	40%	5.60%	0.20%	0.20%	6.00%
5A	Transport of passengers	60%	8.40%	0.30%	0.30%	9.00%
6	Renting of inns, hotels, Guest houses, clubs, campsites or other commercial places	60%	8.40%	0.30%	0.30%	9.00%

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7	Services of goods transport agency in relation to transportation of goods other than	30%	4.20%	0.15%	0.15%	4.50%

Rate of services where alternate rate is provided post 01.06.2016

Service Provider	Services	Effective Service Tax	Effective SBC	Effective KKC	Effective Total Rate
Money Changer	Services in relation to purchase or sale of foreign currency for an amount upto	0.14%	0.005%	0.005%	0.15%
	Services in relation to purchase or sale of foreign currency for an amount exceeding Rs. 100,000 but upto rupees 1000,000	Rs. 140 + 0.07%	Rs. 5 + 0.0025%	Rs. 5 + 0.0025%	Rs. 150 + 0.075%
	Services in relation to purchase or sale of foreign currency for an amount	Rs. 770 + 0.014%	Rs. 27.5 + 0.0005%	Rs. 27.50 + 0.0005%	Rs. 825 + 0.015%
Lottery	Guarantee payout more than 80%	Rs 8200 on every Rs 10 Lakh (or part thereof)	Rs 293 on every Rs 10 Lakh (or part	Rs 293 on every Rs 10 Lakh (or part thereof)	Rs 8,786 on every Rs 10 Lakh (or part thereof)
	Guarantee payout less than 80%	Rs 12,800 on every RS 10 Lakh (or part thereof)	Rs 457 on every Rs 10 Lakh (or	Rs 457 on every Rs 10 Lakh (or part thereof)	Rs 13,714on every RS 10 Lakh (or part thereof)
Insurance	First year of Policy	3.50%	0.125%	0.125%	3.75%
	Subsequent years	1.75%	0.063%	0.063%	1.88%
Air Trav	Domestic Travel	0.70%	0.025%	0.025%	0.75%
	Foreign Travel	1.40%	0.050%	0.050%	1.50%

Effective Rate of Service Tax post 01.06.2016 in case of Valuation

Particular	Taxable Value	Effective Service	Effective SBC	Effective KKC	Total Effective Tax
Works Contract - Original Works	40%	5.60%	0.20%	0.20%	6.00%
Works Contract - Others	70%	9.80%	0.35%	0.35%	10.50%
Restaurant	40%	5.60%	0.20%	0.20%	6.00%

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Outdoor Catering	60%	8.40%	0.30%	0.30%	9.00%

Effective Rate of services in case of reverse charge post 01.06.2016

S.No.	Service	Rates Effective From June 1, 2016				
		Taxable Value	**Effective Service**	**Effective Swach Bharat**	**Effeciv e Krishi Kalya**	**Total effective Tax**
1	Rent A Cab - with abatement	40%	5.60%	0.20%	0.20%	6.00%
2	Rent A Cab - without abatement	50%	7.00%	0.25%	0.25%	7.50%
3	Manpower Supply	100%	14.00%	0.50%	0.50%	15.00%
4	Security Services	100%	14.00%	0.50%	0.50%	15.00%
5	Payment to Advocates and Lawyers	100%	14.00%	0.50%	0.50%	15.00%
6	Payment for Spnsorship	100%	14.00%	0.50%	0.50%	15.00%
7	Transportation of Goods By Road	30%	4.20%	0.15%	0.15%	4.50%
8	Payment to Independent Director	100%	14.00%	0.50%	0.50%	15.00%
9	Works Contract- For Original	20%	2.80%	0.10%	0.10%	3.00%
9	Works Contract- For Other Works	35%	4.90%	0.18%	0.18%	5.25%
10	Payment to Arbiteral tribunal	100%	14.00%	0.50%	0.50%	15.00%