TAXATION

Amendments made by Finance Act, 2011 (For A.Y. 2012-13)

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Basic Concepts

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☞ ***Rates of Income Tax for Assessment Year 2 0 1 2 -1 3 [In the Case of Individual /HUF]***

1. For woman, resident in India and below the age of 60 at any time during the previous year.

Upto ₹ 1,90,000	Nil
Next ₹ 3,10,000	10%
Next ₹ 3,00,000	20%
Balance Income	30%

2. For an individual (man or woman), resident in India who is of the age of 60 years or more at any time during the previous year [Senior Citizen]

Upto ₹ 2,50,000	Nil
Next ₹ 2,50,000	10%
Next ₹ 3,00,000	20%
Balance Income	30%

3. For For an individual (man or woman), resident in India who is of the age of 80 years or more at any time during the previous year [Very Senior Citizen]

Upto ₹ 5,00,000	Nil
Next ₹ 3,00,000	20%
Balance Income	30%

4. Other Individual / HUF :-

Upto ₹ 1,80,000	Nil
Next ₹ 3,20,000	10%
Next ₹ 3,00,000	20%
Balance Income	30%

Surcharge : ***No surcharge is payable as it has been abolished for above persons.***

Education cess : Education cess of 2% shall be levied on the Income tax.

Secondary and Higher Education cess :- 1% shall be levied on the Income tax.

☞ *Rates of Income Tax for A.Y. 2012-13*

	Amount of Tax	**Surcharge**
Firms/LLP	@ 30%	Nil
Local Authority	@ 30%	Nil
Co-operative Societies	Upto ₹ 10,000 @ 10% Next ₹ 10,000 @ 20% Balance Income @ 30%	Nil
Companies	Domestic Company @ 30%	@ ***5%*** on tax payable shall be levied where total income of the co. exceeds one crore rupees.
	Foreign Company 5 0 % of specified royalties & fees for technical services and 40% on the balance of the total income.	@ ***2%*** on tax payable shall be levied where total income of the foreign company exceeds one crore rupees.

For all assessee - Education Cess @ 2%, and 'Secondary and Higher Education Cess' @ 1% on income tax (inclusive of surcharge if applicable) shall be chargeable.

Income from Salaries

(iv) Allowances allowed to transport employees given to the employee working in any transport system, to meet his personal expenditure during the course of running of such transport from one place to another. The amount of exemption shall be

(a) 70% of such allowance or (b) ₹ ***10,000 p.m.*** whichever is less.

However he should not be receiving daily allowance.

Profits and Gains of Business of Profession

☞ Expenditure on Scientific Research Section 35

Deduction :-

(2) In case of contribution to outsiders -

Contribution to	Weighted deduction ***(w.e.f. A.Y. 2012-13)***
an approved university, college, National Laboratory, Indian institute of technology or an approved research association for the use of scientific research related or unrelated to the business of assessee **(for approved programme)** [sec.35(2AA)].	***200%***
an approved university, college, National Laboratory, Indian institute of technology or an approved research association for the use of scientific research related or unrelated to the business of assessee **(programme is not approved by the prescribed authority)** [sec.35(1)(ii)].	***175%***
an approved university, college or an approved association which has as its object the undertaking of research in social sciences or statistical science related or unrelated to the business of assessee [sec.35(1)(iii)]	125%
a company to be used by such company for scientific research [sec.35(1)(iia)]	125%

☞ Investment-linked tax incentive for specified business Section 35AD :-

Specified business	Date of Commencement of business
Setting up and operating a cold chain facility, warehousing facility for storage of agricultural produce.	On or after 1-4-2009.
Laying and operating a cross-country natural gas or crude or petroleum oil pipeline network for distribution, including storage facilities being an integral part of such network	• On or after 1-4-2007, in the case of laying and operating & a cross-country natural gas pipeline network for distribution or storage. • In other cases, on or after 1-4-09.
Business of building and operating anywhere in India a new hotel of 2 star or above category, a new hospital with at least 100 beds for patients, developing and building a housing project under a scheme for slum redevelopment or rehabilitation.	On or after 1-4-2010.
Developing and Building a housing project & production of fertilizer in India	***On or after 1-4-2011.***

P. 1. Raj Ltd. furnishes the following particulars for the P.Y.2011-12. Compute the deduction allowable under section 35 for A.Y. 2012-13, while computing its income under the head "Profits and gains of business or profession".

	Particulars	₹
1.	**Amount paid to Goenka College , Delhi , for scientific research (Programme is not approved by the prescribed authority)**	**1,00,000**
2.	**Amount paid to IIT, Delhi for an approved scientific research programme**	**2,50,000**
3.	**Amount paid to X Ltd., a company registered in India which has as its main object scientific research and development, as is approved by the prescribed authority**	**4,00,000**
4.	**Expenditure incurred on in-house research and development facility as approved by the prescribed authority**	
(a)	**Revenue expenditure on scientific research**	**3,50,000**
(b)	**Capital expenditure (including cost of acquisition of land ₹ 5,00,000) on scientific research**	**7,50,000**

P.1. Solution :- Computation of deduction under section 35 for the A.Y. 2012-13.

Particulars	₹	Section	% of weighted deduction	Amount of deduction (₹)
Indian Institute of Science	1,00,000	35(1)(ii)	175%	1,75,000
IIT, Delhi	2,50,000	35(2AA)	200%	5,00,000
X. Ltd.	4,00,000	35(1)(iia)	125%	5,00,000
Expenditure incurred on in-house research and development facility				
Revenue expenditure	3,50,000	35(2AB)	200%	7,00,000
Capital expenditure (excluding cost of acquisition of land ₹5,00,000)	2,50,000	35(2AB)	200%	5,00,000
Deduction allowable under section 35				**23,75,000**

☞ **Other Deduction Section 36(1) -**

(18) **Contribution by an employer towards a pension scheme.**

Capital Gains

☞ **Cost Inflation Index (CII) as notified by Central Government is as under :-**

Financial Year **2011-12**	**785**

Deductions

☞ **Aggregate amount of deduction Section 80CCE -**

The aggregate amount of deductions under section 80C, section 80CCC and Section 80CCD shall not exceed ₹ 1,00,000.

Note : The Contribution made by the Central Government or any other employer to a pension scheme under section 80CCD(2) shall be excluded from the limit of ₹ 1,00,000 provided under section 80CCE.

Charitable Income

☞ **Charitable Purpose Section 2(15) :-**

It is defined to include

relief of the poor,
education,
medical relief,
Preservation of environment (including watersheds, forests and wildlife),
preservation of monuments or places or objects of artistic or historic interest and the advancement of any other object of general public utility.

However, the advancement of any other object of general public utility shall not be a charitable purpose if it involves the carrying on of -

(a) If it involves the carrying on of :

  (i) any activity in the nature of trade, commerce or business, or

  (ii) any activity of rendering of any service in relation to any trade, commerce or business, for a fee or cess or any other consideration, irrespective of the nature of use of application of the income from such activity, or the retention of such income, by the concerned entity ***and***

(b) If the total receipts from any such activity in the nature of trade, commerce or business, or any activity of rendering any service in relation to any trade, commerce or business exceeds ₹ ***25 lakh*** in the previous year.

Return of Income

Exe.1. Explain different types of Form for Income Tax Return :

Solution :- Form for Income Tax Return

Form No.	Description
ITR - 1 (SAHAJ)	For individuals, whose total income includes chargeable under the head - (a) "Salaries" or income in the nature of family pension under section 57(iia); (b) "Income from house property", where the assessee does not own more than one house property and does not have any brought forward loss under the head; (c) "Income from other sources", except winnings from lottery or income from race horses.
ITR - 2	For individuals & HUFs not having income from Business or Profession.
ITR - 3	For individuals/HUFs being partners in firms and not carrying out business or profession under any proprietorship
ITR - 4	For individuals & HUFs having income from a proprietory business or profession.
ITR - 4S (SUGAM)	For presumptive business income covered under section 44AD and 44AE
ITR - 5	For firms, AOPs and BOIs
ITR - 6	For Companies other than companies claming exemption under section 11
ITR - 7	For persons including companies required to furnish return under section 139(4A) or section 139(4B) or section 13(4C) or section 139(4D). (Not available for e-Filing)
ITR - V	INDIAN INCOME TAX RETURN VERIFICATION FORM This Form is to be used where the data of the Return of Income in Form ITR-1, ITR2, ITR-3, ITR-4 and ITR-5 transmitted electronically without digital signature.

Tax Deducted at Source

☞ TDS from Salary **Section 192** :-

(1)	**Who is liable to deduct tax**	Employers
(2)	**Type of Recipient**	Employee
(3)	**Nature of Payment**	Salary
(4)	**Rate of TDS**	Rates of tax as applicable to the individual
(5)	**Exemption**	No TDS If income under head Salaries does not exceed ◆ ₹ ***5,00,000*** (Resident very senior citizen), ◆ ₹ ***2,50,000*** (Resident Senior Citizen), ◆ ₹ ***1,90,000*** (Resident woman), ◆ ₹ ***1,80,000*** (Other individual),
(6)	**When TDS is to be deducted**	At the time of Payment
(7)	**Time for deposit of TDS**	In case of Government :- Same day In case of others :- One week from the last day of the month
(8)	**Certificate of TDS**	Form No. 16 along with Form No. 12BA
(9)	**Deduction of Tax at lower rate or non-deduction of Tax**	Employee shall make an application in Form No. 13 to A.O. A.O. shall issue certificate in Plain Paper. The same is to be furnished to the employer.

Service Tax

Rule 5B of Service Tax Rules, 1994 [w.e.f. 1-4-2011]

Date for determination of rate & Point of Taxation of Taxable Services or Determination of Taxable Event : Subject to certain exceptions, the rate of tax in case of services provider, or to be provider, shall be the rate prevailing at the time of issue of invoice, or, receipt of payment , whichever is earlier.

☞ **Determination of Taxable event Point of Taxation of Taxable Services [Point of Taxation Rules, 20 11]**

Rule 3 :-

Point of Taxation : Thus, point of taxation i.e. deemed date of provision of service shall be(a) the date of issue of invoice, if such invoice is issued within 14 days of completion of service

[in case of continuous supply of service, the invoice must be issued within 14 days from each of the event dates specified in the contract for payment by service receiver].

(b) the date of completion of service, if such invoice is not issued within 14 days as aforesaid, (c) the date on which the payment is received by the service provider,

whichever is the earliest.

Rule 4 :-

Determination of point of taxation in case of change in effective rate of tax] -

(a) In case a taxable service has been provided before the change in effective rate of tax-

Invoice Issued	Payment Received	Point of Taxation
(i) After the Change	After the Change	whichever is earlier
(ii) Before the Change	After the Change	Date of issuing of Invoice
(iii) After the Change	Before the Change	Date of Payment

(b) In case a taxable service has been provided after the change in effective rate of tax-

Invoice Issued	Payment Received	Point of Taxation
(i) Before the Change	After the Change	Date of Payment
(ii) Before the Change	Before the Change	whichever is earlier
(iii) After the Change	Before the Change	Date of issuing of Invoice

Rule 5. Payment of tax in cases of new services - Where a service, not being a service covered by rule 6, is taxed for the first time, then, -

(a) no tax shall be payable to the extent the invoice has been issued and the payment received against such invoice before such service became taxable;

(b) no tax shall be payable if the payment has been received before the service becomes taxable and invoice has been issued within the period referred to in rule 4A of the Service Tax Rules, 1994.

Rule 6. In case of continuous supply of service - Where the provision of the whole or part of the service is determined periodically on the completion of an event in terms of a contract, which requires the service receiver to make any payment to service provider, the date of completion of each such event as specified in the contract shall be deemed to be the date of completion of provision of service.

Rule 7. Determination of point of taxation in case of specified or persons - As per the provisions of rule 7, in case of following specified classes of persons/services, the point of taxation shall be the date of making or receiving the payment, as the case may be, namely :

(a) Export of services as per Export of Services Rules, 2005;

(b) Persons, where the obligation to pay tax is on the service receipient in terms of rule 2(1)(d) read with section 68(2) of the Finance Act, 1994;

(c) Individuals, proprietorships and partnership firms providing following taxable services; namely-

(i) Chartered Accountant,

(ii) Cost Accountant,

(iii) Company Secretary,

(iv) Architect,

(v) Interior Decorator,

(vi) Legal, Scientific and Technical consultancy services,

(vii) Consulting Engineer [w.e.f. 1-7-2011].

Rule 8. Determination of point of taxation in case of copyrights, etc. - In respect of royalties and payments pertaining to copyrights, trademarks, designs or patents, where the whole amount of the consideration for the provision of service is not ascertainable at the time when service was performed, and subsequently the use or the benefit of these services by a person other than the provider gives rise to any payment of consideration, the service shall be treated as having been provided each time when a payment in respect of such use or the benefit is received by the provider in respect thereof, or an invoice is issued by the provider, whichever is earlier.

Rule 6 of Service Tax Rules, 1994 - Payment of Service Tax

Rule 6 of Service Tax Rules, 1994 - Payment of Service Tax

(1) According to Section 68 of the Finance Act, 1994 read with Rule 6(1) of the Service Tax Rules 1994, the service tax shall be paid to the credit of the Central Government in the following manner.

Assessee	Duration of payment	Time of Payment
Individual, Proprietary firm, or, a Partnership firm	Quarterly	(1) If tax is paid electronically throught internet banking : by 6 th of the month (2) In any other case : by the 5th of month, immediately following the quarter in which the service is deemed to be provided as per the rules framed in this regard. [w.e.f. 1- 4- 20 11]
Any other assessee	Monthly	(1) If tax is paid electronically through internet banking: by 6th of the month (2) In any other case : by the 5th of the month, immediately following the month in which the service is deemed to be provided as per the rules framed in this regard [w.e.f. 1 -4 - 20 11]

Service deemed to be provided in month/quarter ending on 31st March - Payable by 31st March itself [w.e.f. 1-4-2011] : The service tax on the service deemed to be provided in the month of March, or the quarter ending in March, as the case may be, shall be paid to the credit of the Central Government by the 31st day of March of the calendar year.

(1A) Without prejudice to the provisions contained in sub-rule (1), every person liable to pay service tax, may, on his own choice, pay an amount as service tax in advance, to the credit of the Central Government and adjust the amount so paid against the service tax which he is liable to pay for the subsequent period :

Provided that the assessee shall -

(i) intimate the details of the amount of service tax paid in advance, to the jurisdictional Superintendent of Central Excise within a period of fifteen days from the date of such payment, and

(ii) indicate the details of the advacne payment made, and its adjustment, if any in the subsequent return to be filed under section 70 of the Act .

(2) Method of Deposit :-

The assessee shall deposit the service tax liable to be paid by him with the bank designated by CBEC for this purpose in form GAR-7 or in any other prescribed manner.

Provided that an assessee shall deposit the service tax electronically through internet banking if he has paid the total service tax of ₹ 10 lakh or more (including the amount of service tax paid by utilisation of CENVAT credit) in the preceding financial year.

Failure to pay service tax electronically when the person is so required shall attract a penalty of an amount upto ₹ 10,000.

(2A) If the assessee deposits the service tax by cheque :-

The date of presentation of cheque to the bank designated shall be deemed to be the date on which service tax has been paid subject to realization of that cheque.

(3) Adjustment of Excess Service Tax Paid :-

Where an assessee has issued an invoice, or received any payment , against a service to be provided which is not so provided by him either wholly or partly for any reason or where the amount of invoice is renegotiated due to deficient provision of service, or any terms contained in a contract , the assessee may take the credit of such excess service tax paid by him, if the assessee -

(a) has refunded the payment or part thereof, so received for the service provided to the person from whom it was received; or

(b) has issued a credit note for the value of the service not so provided to the person to whom such an invoice had been issued.

(4) Provisional Assessment :-

When an assessee is, for any reason, unable to correctly estimate, on the date of deposit, the actual amount payable for any particular month or quarter, as the case may be, he may make a request in writing to the AC/DC of Central Excise, giving reasons for payment of service tax on provisional basis.

On receipt of such request, the AC/DC may allow payment of service tax on provisional basis on such value of taxable service as may be specified by him.

(4A) & (4B) When excess amount of Service Tax is paid for any other reasons :-

Where an assessee has paid to the credit of Central Government any amount in excess of the amount required to be paid the assessee may adjust such excess against the service tax liability for the next quarter/month.

Adjustment shall be possible only if the following conditions are satisfied :-

(i) the excess amount paid is not on account of reasons involving interpretation of law, taxability, classification, valuation or applicability of any exemption notification.

(ii) excess amount paid by assessee having centralized registration, because of delayed receipt of details of payments can be adjusted without any limit.

(iii) for others the maximum amount that can be adjusted is ₹ ***2,00,000*** for a relevant month or quarter.

(iv) the details of such adjustment shall be intimated to Superintendent within 15 days from the date of such adjustment.

Rule 7C of STR, 1994 - Penalty for delay in furnishing return

Where the return prescribed under Rule 7 is not furnished within due date, the person liable to furnish the return shall pay to the Cenral Government, for the period of delay.

Period of Delay, from the date of submission	Amount of be paid
upto 15 days	₹ 500
More than 15 days but upto 30 days	₹ 1,000
More than 30 days	₹ 1,000 + ₹ 100 for each day in excess of 30 days. (Maximum ₹ 20,000)

Provided also that where the gross amount of service tax payable is nil, the Central Excise officer may, on being satisfied that there is sufficient reason for not filing the return, reduce or waive the penalty.

☞ **E-filing of returns made mandatory for assessees paying service tax of ₹ 10 lakh or more in the previous year :-**

The facility of e-filing of returns was earlier optional for the assessees. Proviso inserted to rule 7 (2) has now made the electronic filing of returns mandatory for the assessee who has paid total service tax ₹ 10 lakh or more including the amount of service tax paid by utilization of CENVAT credit in the preceding financial year. ***(provision applicable upto 30-9-2011)*** .

W.e.f. 1-10-2011 every assessee shall submit the half yearly return electronically.

☞ **Delayed return may be filed with late fee Section 70(1)**

Every person liable to pay service tax shall himself assess the tax due on the services provided by him and shall furnish to the Superinendent of Central Excise, a return in such form and in such manner and at such frequency as may be prescribed.

Section 70(1) to provide filing of periodical return after the due date with the prescribed late fee of not more than ₹ 20,000.

☞ **Service tax collected from the recipient of service must be paid to The Central Government Section 73A -**

Every person, who is liable to pay service tax and has collected any amount in excess of the service tax assessed and paid on any taxable service from the recipient of taxable service in any manner as representing service tax, must pay the amount so collected immediately to the credit of the Central Government.

This provision ensures that the service provider does not collect excess amount from the recipient of the service in the name of service tax.

☞ **Interest on Amount Collected in excess Section 73B -**

Where an amount has been collected, in excess of the tax assessed and paid, for any taxable service from the recipient of such service, the person who is liable to pay such amount shall, in addition to the amount, be liable to pay interest. The interest shall also be payable by the person who has collected any amount, which is not required to be collected as service tax.

The interest shall be payable at the rate of ***18% per annum*** from the first day of the month succeeding the month in which the amount ought to have been paid till the date of payment of such amount.

☞ **Interest on late payment of service tax Section 75 -**

If the service tax is paid after the due date, simple interest is paid @ ***18% p.a.*** for late payment of tax u/s 75 for the period of delay.

This payment is mandatory and there is no provision to waive interest on delayed payment. Interest is paid for the period of delay and not for the whole month.

If delay is for 10 days, interest will be paid for 10 days only. Period of delay is counted from the first day after the due date till the actual payment of service tax is made.

> ***Note :*** Rate of Interest for Small Scale Sector Assessee : ***15% p.a.***
>
> The term "Small Scale Sector" means a service provider whose value of taxable services does not exceed ₹ 60 lakh either during any of the years covered by the notice or during the last financial year.

☞ **Penalty for failure to make payment of service tax by due date Section 76 -**

Quantum of Penalty :- (A) Rs, 100 per day for every day during which such failure continues

(B) At the rate of 1% of such tax, per month, [i.e. 12%p.a.] whichever is **higher**.

However, total amount of penalty payable under this section shall not exceed 50% of the service tax that the assessee has failed to pay.

Period for which penalty is to be levied :- Beginning with the first day after the due date and ending with the date of actual payment.

☞ **Penalty for non-registration Section 77(1)(a) -**

A person who is liable to pay service tax or is required to take registration, fails to take registration within stipulated time, shall be liable to pay a penalty of higher of the following two amounts:

(a) Any amount upto ₹ 10,000. (b) 200 for every day during which failure continues.

☞ Special rate for payment of Service Tax :-

➢ **Life Insurance Service**

Means : An insurer or Re-insurer carrying on life insurance business.

Options to Pay Service Tax : An insurer carrying on life insurance business liable for paying service tax in relation to the risk cover in life insurance provided to a policy holder shall have the option to pay service tax @ 1.5% plus Education cess & SHEC of the gross amount of premium charged by such insurer.

Key Note :- The option shall be payable only in relation to composite policy (which consist of risk as well as saving components in insurance premium).

➢ **Air Travel Agent**

Option given to the air travel agent in payment of Service Tax :-

- Option to pay tax @ 0.618% of basic fare-domestic and @ 1.236% international bookings instead of 10.30% of value of taxable service.
- If the option is once exercised it cannot be changed during the financial year.

➢ **Works contract Service** :-

Composition Amount @ 4% (plus 2% EC & 1% SHEC) of gross amount charged [works contract (Composition Scheme for payment of Service Tax) Rules, 2007]:

➢ **Games of Chance Service [Section 65(105)(zzzzn)]** :-

Rate	Condition
Rs 6000/- on every Rs 10 lakh (or part of Rs 10 lakh) of aggregate face value of lottery tickets printed by the organising State for a draw	If the lottery scheme is one where the guaranteed prize payout is more than 80%.
Rs 9000/- on every Rs 10 lakh (or part of Rs 10 lakh) of aggregate face value of lottery tickets printed by the organising State for a draw.	If the lottery or lottery scheme is one where the guaranteed prize payout is less than 80%.

Note : In case of **Online Lottery**, the aggregate face value of lottery tickets will be the aggregate value of tickets **Sold**.

➢ **Travel by Air Service :**

Case	Service Tax payable (net of exemption)
(a) for passengers travelling in economy class, within India;	10% of the gross value of the ticket or ₹ 150 per journey, whichever is less
(b) for passengers embarking in India for an international journey in economy class	10% of the gross value of the ticket or ₹ 750 per journey, whichever is less

☞ Money Changer

Determination of value of service in relation to money changing [Rule 2B of the Service Tax (Determination of Value) Rules, 2006; W.E.F. 1-4-2011] : Subject to the provisions of section 67, the value of taxable service provided, so far as it pertains to purchase or sale of foreign currency, including money changing, shall be determined by the service provider in the following manner :-

(i) for a currency, when exchanged from, or to, Indian Rupees (INR) :

Value = Difference in the buying rate or selling rate and the RBI reference rate for that currency at that time × Total units of currency.

Example 1 - Purchase of foreign currency by money-changer :

US$1000 are sold by a customer at the rate of ₹ 45 per US$

RBI reference rate for US$ ₹ 45.50 at that time.

The taxable value = (RBI Rate - Buying Rate) × No. of units of foreign currency bought = (₹ 45.5 - ₹ 45) per US$ × 1000 US$ = ₹ 500.

Example 2 - Sale of foreign currency by money-changer : INR

70000 is changed into Great Britain Pound (GBP)

The exchange rate offered is ₹ 70, thereby giving GBP 1000.

RBI reference rate at that time for GBP is ₹ 69.

The taxable value = (Selling Rate - RBI Rate) × No. of units of foreign currency sold = (₹ 70 - ₹ 69) per GBP × 1000 GBP = ₹ 1,000.

If no RBI rate available, Value = 1% of INR : In case where the RBI reference rate for a currency is not available, the value shall be 1% of the gross amount of Indian Rupees provided or received, by the person changing the money.

(b) In case where neither of the currencies exchanged is Indian Rupee (i.e. One foreign currency is exchanged for another foreign currency) : Value shall be computed as follows -

Amount 1 = Foreign Currency sold × RBI Reference Rate of that currency to Indian rupees at that time	**xxx**
Amount 2 = Foreign Currency Bought × RBI Reference Rate of that currency to Indian rupees at that time	**xxx**
Gross Indian Rupees - Amount 1, or Amount 2, whichever is less	**xxx**
Value = 1% of the Gross Indian Rupees	**xxx**

Money-changing services provided by a foreign exchange broker - Option to discharge service tax at specified percentage of gross amount of currency exchanged [Rule 6(7B) of Service Tax Rules, 1994, AMENDED W.E.F. 1-4-2011] : The person liable to pay service tax in relation to purchase or sale of foreign currency, including money changing, provided by a foreign exchange broker, including an authorised dealer in foreign exchange or an authorized moeny changer shall have the option to pay an amount calculated at the following rate towards discharge of his service tax liability instead of paying service tax at the rate specified in section 66 -

(i) 0.1% of the gross amount of currency exchanged for an amount upto ₹ 1,00,000, subject to the minimum amount of ₹ 25; and

(ii) ₹ 100 + 0.05% of the gross amount of currency exchanged for an amount of rupees exceeding ₹ 1,00,000 and upto ₹ 10,00,000; and

(iii) ₹ 550 + 0.01% of the gross amount of currency exchanged for an amount of rupees exceeding ₹ 10,00,000, subject to maximum amount of ₹ 5,000.

Option once exercised to apply for that financial year and not to be withdrawn : The person providing the service shall exercise such option for a financial year and such option shall not be withdrawn during the remaining part of that financial year.

Exemption from Service Ta

(4) Exemption to developer of, or units located in, Special Economic Zone.

Notification No. 17/2011-S.T., dated 1-3-2011] The exemption available to developer of, or units located in, a Special Economic Zone (SEZ) is as follows -

(a) Domestic or Imported Services - Exemtpion : All taxable services specified u/s 65(105), which-

(i) are chargeable to tax under section 66 or section 66A of the Finance Act, and

(ii) received by a Unit located in a SEZ or Developer of SEZ for the authorised operations are exempt from service tax.

SEZ units liable to pay service tax on non-exempt services (Circular No. 105/08/2008 dtd. 16-9-2008]: Section 66 doesnt exclude SEZs from scope of its levy. Therefore, service tax is applicable on taxable services provided by SEZ units, except such services which are exempt as aforesaid. Accordingly, SEZ units, providing taxable services to any person for consumption in Domestic Tariff Area (DTA) or providing any taxable service which is otherwise not exempt, are liable to pay service tax.

(b) Exemption to be by way of refund, except in case of services wholly consumed within SEZ : The exemption shall be provided by way of refund of service tax paid on the specified services (i.e. services for which approval has been obtained) received for the authorised operations in a SEZ. However, where the specified services received and used for authorised operations are wholly consumed within the SEZ, the provider of such services or the receiver of such services on reverse charge basis, as the case may be, has the option not to pay the service tax.

(c) Proportionate refund when services not wholly consumed within SEZ : Where the specified services received by Unit or Developer, are not wholly consumed within SEZ, i.e., shared between authorised operations in SEZ Unit and Domestic Tariff (DTA) Unit, refund shall be restricted as follows -

$$\textbf{Maximum Refund} = \frac{\text{Export Turnover of SEZ Unit for the period}}{\text{Total Turnover for the period}} \times \text{Service Tax paid on specified services used for SEZ Authorised Operations shared with DTA unit for the period}$$

(A) **"Total turnover"** means the sum total of the value of all output services and exempted services provided, including, the value of services exported, bought out goods sold, during the period to which the invoices pertain and the exporter claims the facility of refund under this notification.

(B) **"Turnover of SEZ Unit"** shall mean the sum total of the value of final products and output services exported during the period of which the invoices pertain and the exporter claims the facility of refund under this notification.

(d) No CENVAT credit of specified services on which refund claimed : In order to avail this exemption, no CENVAT credit of service tax paid on the specified services used for the authorised operations in a SEZ must been taken under the CENVAT Credit Rules, 2004.

☞ New PAN Based Service Tax Code

The department has decided to introduce Service Tax Code based on PAN. Accordingly, it is compulsory for all concerns registered under the Service Tax Rules to obtain PAN whether or not they pay income tax. The Service Tax Code is a 15 digit alphanumeric code. First 10 digits will be 10 character PAN issued by Income Tax authorities. Next two characters will be 'ST'. Last three will be numeric code- 001, 002, 003, 004 etc. The concerned person should apply in prescribed form.

Taxable Services

(1) Commercial Training & Coaching Service [Section 65(105) (zzc)] :-

Means : Any Institute or establishment providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field with or without issuance of a certificate & includes coaching or tutorial classes.

Includes :

- Coaching or training center providing commercial coaching by sending individuals to the premises of service receivers.
- Postal coaching (including the amount of postal charges).
- A computer-training institute,
- Commercial training or coaching services provided for preparing applications for Board examinations and competitive exams.
- Payment made by employers hiring an outside commercial training or coaching centre for imparting training to their employees.
- Any centre or institute, by whatever name called, where training or coaching is imparted for consideration, whether or not such centre or institute is registered as a trust or a society or similar other organisation under any law for the time being in force and carrying on its activity with or without profit motive and the expression "commercial training or coaching" shall be construed accordingly.

Excludes :

(i) Pre-school coaching,

(ii) Sports,

(iii) Vocational training institutes,

(iv) Recreational training institute,

(v) Individuals providing servies at the premises of a service receiver,

(vi) Issuing certificate under any law,

(vii) Certain recognised institutes have delegated some part of training to other coaching centers. If the training is essential part of courses of such certificate, such training will be exempt,

(viii) Sale value of standard textbooks which are priced and shown separately in invoice.

(ix) ***Donations and Grants-in-aid received by a Charitable Foundation imparting free livelihood training to the youth not liable to service tax.***

Note :-

(i) "computer training institute" means a commercial traning or coaching centre which provides coaching or training relating to computer software or hardware;

(ii) "recreational training institute" means a commercial training or coaching centre which provides coaching or training relating to recreational activities such as dance, signing, martial arts, hobbies.

(iii) "Vocational training institute" means an Industrial Training Institute (ITI) / Industrial Training Centre (ITC) affiliated to the National Council for Vocational Training, offering courses in designated trades as notified under the Apprentices Act, 1961.

List of designated trades :-	
• cutting and tailoring trades	• beautician trades
• agricultural trades	• electrical trades
• glass and ceramic trades	• heat engine trades
• hi-tech trades	

(iv) ***Exemption :-*** The above exemption from the service tax has been extended to the commercial training or coaching centre services provided in relation to "Modular Employable Skill courses" provided by a vocational training provider registered under 'Skill Development Initiative Scheme' with the Directorate General of Employment and Training. Ministry of Labour and Employment.

(2) Information Technology software service [Section 65(105) (zzzze)] :-

Means : It means any representation of instructions, data, sound or image, including source code and object code, recorded in a machine readable form, and capable of being manipulated or providing interactivity to a user, by means of a computer or an automatic data procesing machine or any other device or equipment.

Taxable Services : If the above service is provided in the course, or furtherance, of business or commerce, it is chargeable to service tax.

The scope of the taxable services has now been expanded to tax such service even if the service provided is used for purposes other than business or commerce. ***(w.e.f. 1-7-2010)***.

Includes : It includes the following -

(a) development of information technology software;

(b) study, analysis, design and programming of information technology software;

(c) adaptation, upgradation, enhancement, implementation and other similar services related to information technology software;

(d) providing advice, consultancy and assistance on matters related to information technology software, including conducting feasibility studies on implementation of a system, specifications for a database design, guidance and assistance during the startup phase of a new system, specifications to secure a database, advice on proprietary information technology software;

(e) providing the right to use information technology software for commercial exploitation including right to reproduce, distribute and sell information technology software and right to use software components for the creation of and inclusion in other information technology software products;

(f) providing the right to use information technology software supplied electronically.

Excludes :- It does not include services provided to -

(i) government or

(ii) charitable institutions.

Exemption :- Exemption to right to use the packaged/canned software subject to certain specified conditions

The taxable service of providing the right to use the packaged/canned software, pre-packed in retail packages intended for single use has been exempted from the service tax under 'information technology software services' subject to the following conditions:-

1. The document providing the right to use such software is packed along with the software.
2. **(a) In case of import :** The importer has paid the custom duty on the entire amount received from the buyer.

   (b) In case of domestic production : The manufacturer/duplicator/the person holding the copyright to software has paid the excise duty on the entire amount received from the buyer.
3. The benefit under the following notifications has not been avialed:-
   - Notificaiton No. 17/2010 CE dated 27.02.2010.
   - Notificaiton No. 31/2010 Cus dated 27.02.2010.

(3) Practicing Chartered Accountant [Section 65(105) (s)] :-

Means : A person who is a member of the Institute of Chartered Accountants of India and is holding a certificate of practice granted under the Chartered Accountants Act, 1949 and includes any concern.

Taxable Service : Means any service provided or to be provided to any person by a practicing Chartered Accountant in his professional capacity, in any manner.

Includes : Service tax is payable on following services

(i) Accounting and auditing;

(ii) Cost accounting and cost auditing;

(iii) Secretarial auditing;

(iv) Certification under Companies Act;

(v) Certification for exchange control purpose under FEMA; and

(vi) Certification in respect of valuation of instruments or assets under wealth tax. (vii) Verification of declaration of compliance for obtainin certificate of commencement of business under the Companies Act.

(viii) Fee charged for representing a client before any statutory authority in the course of proceeding under any law shall now be covered under Service Tax. [w.e.f. 1-05-2011]

(4) Consulting Engineer Service [Section 65(105) (g)] :-

Means : A professionally qualified engineer, any body corporate, any other firm

Taxable Service : Means any service provided or to be provided to any perosn, by a consulting engineer in relation to advice, consultancy or technical assistance in any manner in one or more disciplines of engineering.

Includes : Advice or consultancy or technical assistance in any discipline of engineering ***including hardware and software*** engineering.

Excludes : Service provided on transfer of technology is exempt from service tax to the extent of amount of cess paid on transfer of technology under the Research and Development Cess Act.

(5) Scientific or Technical Consultancy Service [Section 65(105)(za)]

Means : Scientific or technical consultancy means -

(a) any advice, consultancy or scientific or technical assistance,

(b) rendered in any matter, either directly or indirectly,

(c) by a scientist or a technocrat or any science or technology institution or organisation, (d)

to any person,

(e) in one or more disciplines of science or technology.

Taxable Service : Taxable service means any service -

(a) provided or to be provided to any person by a scientist or technocrat or any science or technology institution or organisation,

(b) in relation to scientific or technical consultancy in any manner.

Includes : Following are covered -

(a) Public funded research institutions like CSIR, ICAR, DRDO, IITs, IISc., regional engineering colleges, etc. are liable to service tax, if they provide any scientific or technical consultancy service to anyone (including a government department) on payment basis.

(b) However, in case they receive grant or aids from the Government for conducting research/project work, then, such activity is not liable to service tax, as it doesn't involve any service.

Excludes : Services rendered by doctors, medical colleges, nursing homes, hospitals, diagnostic and pathological labs, etc. as they are not commonly known as 'scientist or a technocrat or any science or technology institution or organisation'.

(6) Technical Testing and Analysis Service [Section 65(105)(zzh)]

Means : Technical Testing and Analysis means any service -

(a) in relation to physical, chemical, biological or any other scientific testing or analysis of -

(i) goods or

(ii) material or

(iii) information technology software or

(iv) any immovable property

(b) but does not include any testing or analysis service provided in relation to -

(i) human beings or

(ii) animals.

Includes : Technical Testing & Analysis includes -

➢ testing and analysis undertaken for the purpose of clinical testing of drugs and formulations;

Excludes : Technical Testing & Analysis

➢ does not include testing or analysis for the purpose of ➢

determination of the nature of diseased condition,

➢ identification of a disease,

➢ prevention of any disease or disorder in ➢

human beings or

➢ animals.

Exemption :

(a) Testing of water quality by Government Laboratory (b)

Clinical trials of new drugs

(c) Seed Testing Lab or Seed Certification Agency

Note :-

(i) **Technical Testing and Analysis Agency :** Technical Testing and Analysis Agency means - any agency or person engaged in providing service in relation to technical testing and analysis.

(7) Mandap Keeper Service [Section 65(105) (m)] :-

Means :- Mandap keeper means a person who allows temporary occupation of a Mandap for consideration, for organizing any official, social or business function.

Includes :-

(i) Hotels and Restaurants which let out their banquet halls, rooms, gardens etc. for holding or organising any marriages, parties etc. are covered within the definition of a 'Mandap Keeper'.

(ii) Marriage is a social function :- The expression social function has been defined to include marriage, Accordingly, mandap keeper service in relation to marriage are also liable to service tax.

Taxable Services :- Taxable service means any service provided or to be provided to any person, by a mandap keeper in relation to the use of mandap in any manner including the facilities provided or to be provided to such person in relation to such use and also services, if any, provided or to be provided as a caterer.

Abatement :- Abatement of 40% shall be given if providing catering service also i.e. supply of food etc.

Exemption :-

(i) Exempt at religious places.

(ii) Letting of only furniture or any other item no taxable.

(8) Business Exhibition Services

Means : "Business Exhibition" means an exhibition-

- to market; or
- to promote; or
- to advertise; or
- to showcase;

any product or service, intended for the growth in business of the producer or provider of such product or service, as the case may be.

Taxable Services : **Taxable service** means any service provided or to be provided;

- to an exhibitor,
- by the organiser of a business exhibition, -

in relation to business exhibition.

Includes : Business Exhibition includes

- Trade fairs,
- Road shows, Fashion shows,
- display showcases kept in airports, railway stations, and hotels

Exemption :

(i) Display of consumer goods in shops or shopping centers by the shop keepers for displaying such goods for customers, to select and purchase, will not be covered under this taxable service, as normally no separate charge are collected by the shopkeepers for displaying such goods. However, in case any amount is collected for merely displaying an item, the same would be chargeable to service tax.

(ii) Services provided by an organizer of business exhibition for holding a business exhibition outside India. Such service will be exempt from the whole of service tax.

SERVICE TAX

Problem and Solutions

P. 1 Answer the following

(a) Is an unincorporated association liable to pay any service tax? (b)

Is e-filling of service tax return permitted?

(c) Should service tax be paid even if not collected from the client or Service Receiver?

(d) Will the payment to a hotilier of ₹ 20,000 on behalf of an architect by a service receiver be included in the value of taxable services?

P. 2 Answer the following

(a) An assessee who has collected Service Tax from a client is unable to perform the service. Briefly explain the situations in which and the conditions subject to which he can adjust the service tax relating to above, against his forthcoming service tax liability.

(b) Can Ramesh & Co., providing services from different locations and billing the clients from each location, opt for centralized service tax registration

(c) Can it be said that if the taxable service is not capable of ascertainment, the same cannot form part of value of taxable services?

(d) In case of import of service, is a recipient of such services in India liable to pay service tax?

P. 3 Answer the following

(a) A service provider maintains books of accounts on mercantile basis relating to the taxable services provided by him, will service tax be payable on the accrual basis?

(b) What are the documents to be submitted along with the service tax return? (c)

What are the due dates for filiing service tax returns?

(d) Is the service provider allowed to pay service tax on the provisional basis?

(e) Who is liable to pay service tax in relation to service provided by a goods transport agency?

(f) What are the due dates for payment of Service Tax?

P.4 Answer the following

(a) Briefly explain the nature of the service tax.

(b) A particular service has been brought into service tax net with effect from 1/9/2011. Mr. Santosh has provided this service on 10/8/2011, the payment for the same was received on 20/08/2011, and the invoice was issued on the 18/08/2011. Is the service tax payable on the same?

(c) Mr. Prakash has collected sum of ₹ 40,000 as a service tax from a client mistakenly, even though no service tax is chargeable for such service. Should the amount so collected be remitted to the credit of the central government?

(d) Who are the persons liable to file service tax return?

P.5 Ms Rani rendered taxable services to a client . A bill of ₹ 5, 00,000 was raised on 20/4/2011. ₹ 3,00,000 was received from a client on 30/5/2011 and the balance on 13/6/2011. No service tax was separately charged in the bill. The questions are:

(a) Is Ms Rani liable to pay service tax, even though the same has not been charged by her? (b)

In case she is liable, what is the value of taxable services and the service tax payable?

P.6 Answer the following

(a) Briefly explain the charge of service tax.

(b) Mr. Shyam has rendered freely, a service to a client which is taxable, but has not charged or received any fee from a client. Is service tax payable on such free services?

P.7 Answer any five of the following:

(a) Explain as to how and when the amendments made in the finance bill in respect of the service tax matter come into the force.

(b) Who is responsible to pay service tax when the receipient of sponsorship is located outside India?

(c) Whether free services after the sale of motor vehicle given by the authorized dealer for which they are reimbursed by the vehicle manufacturer are subject to the service tax?

(d) Whether life insurer carrying on the life insurance business has option to calculate service tax at some different rate?

(e) Who is liable to make E-payment of Service Tax? (f)

Can service tax return be revised by a person?

P.8 Answer the following:

(a) Mr. Suresh a service provider who pays service tax regularly, was of the opinion that a particular service was not liable for service tax. He, therfore, did not charge service tax in his bill. He received the bill amount without service tax. How will service tax liability of Mr. Suresh be determined in such case?

(b) Whether service tax return can be furnished after the due date?

(c) Discuss the accountability of an "input service distributor" who may not be liable to pay service tax.

(d) When does a small service provider require to register under the Service Tax Act, but not liable to collect and pay Service Tax?

P.9 Answer the following:

(a) How the value of taxable services determind when the consideration against taxable services is received in other than monetary terms?

(b) What are the sources of Service Tax Law?

P.10 Answer the following questions:

(a) Mr. Sohan is a multiple service provider and files only a single return. State with reasons whether he can do so?

(b) State with reason in brief whether the following statement is TRUE or FALSE with reference to the provisions of Service Tax:

Mr. Arun, an architect has received the fees of ₹ 6,30,000 after the deduction of Income Tax of ₹ 70,000. The Service Tax is payable on ₹ 6,30,000.

P.11 Answer the following:

(a) Whether export service provided by Service Provider is excluded for the purpose of Payment of Service Tax?

(b) List the documents to be submitted along with the First Service Tax Return. (c)

What is the due date for payment in case of e-payment of Service Tax?

P.12 Ms. Dipti, a proprietress of Royal Security Agency received ₹ 2,00,000 *b*y an account payee cheque, as advance while signing a contract for providing taxable services. She receives ₹ 4,00,000 by credit card while providing the service and another ₹ 7,00,000 by a pay order after completion of service on 28/2/2012. All three transactions took place during financial year 2011-2012. She seeks your advice about her liability towards value of taxable service and the service tax payable by her.

P.13 Answer the following:

(a) M/s Akash, a registered service provider did not render any services during the financial year 2011-2012. Whether he is required to file service tax return?

(b) Mr. Govinda is a registered service provider. He transfers his business to Mr. Rohan on 31/8/2011. Explain the requirement to be complied with by Mr. Govinda and Mr. Rohan on such transfer under the provisions of Service Tax.

(c) Which Act and Rule governs the levy of Service Tax in India?

P.14 State briefly whether the following services provided are taxable services under the Finance Act, 1994 as amended:

(a) Services provided in the State of Haryana by a person having a place of business in the State of Jammu and Kashmir.

(b) Services provided by the Reserve Bank of India to any person. (c)

Services provided by any person to RBI.

P.15 Rajendra has paid the amount of service tax for the quarter ending September 30, 2010 by cheque. The date of presentation of cheque to the designated bank is October 5, 2010 and it is realised by the bank on October 7, 2010? What is the date of payment of service tax in this case? Whether any interest and penalty is attracted in this case?

P.16 Determination of Point of Taxation :-

Date of Completion of Services	**Date of Invoice**	**Date of which payment Rec.**
(i) May 15, 2011	May 25, 2011	May 30, 2011
(ii) May 15, 2011	May 31, 2011	May 30, 2011
(iii) May 15, 2011	May 25, 2011	May 20, 2011
(iv) May 20, 2011	June 15, 2011	May 15, 2011 (Part) June 12, 2011

P.17 With reference to commercial training or coaching services, state whether service tax is applicable in the following cases:

(a) Rajhans Institute offering courses on personality development and grooming.

(b) BTL Engineering College Offering B.Tech to students. However, the college has been derecognized by the All India Council for Technical Education.

P.18 Santosh, a software consultant, has developed a software for ABC Ltd. He has raised a bill of ₹ 4,50,000 on ABC Ltd. on 05.03.2012. A sum of ₹ 2,50,000 was received from ABC Ltd. on 20.03.2012 and the balance on 20.07.2012. The questions are:

(a) Is the service provided by Santosh liable to service tax? If yes, then whether Santosh will be liable to pay service tax, even though the same has not been charged by him?

(b) In case Santosh is liable to service tax, what is the value of taxable service and the service tax payable by him for the financial year 2011-12?

P.19 Arun Ltd. is engaged in providing consultancy in software engineering. It provided the taxable services of the value of ₹ 1,20,00,000 in the financial year 2010-11 and of ₹ 80,00,000 in financial year 2009-10. Arun Ltd. is of the opinion that e-filing of return is optional for the assessees and it does not wish to file its return electronically. You are required to advice Arun Ltd. whether it should file the return electronically or otherwise for the financial year 2011-12.

P.20 Answer the following with reference to *Notification No. 17/2009 dated 07.07.2009* relating to exemption to specified services received by an exporter and used for export of goods (refund of service tax paid) :-

(a) What is the minimum amount of refund claim admissible? (b)
What is the time limit for filing the refund claim?

P.21 On April 1, 2011, CA. Anil Kumar Agrawal is unregistered "service provider". He provides the following details in respect of taxable services provided during the financial year 2011-12:

Date of transaction	*Particulars*	*Amount of bill (excluding service tax)*	*Payment received ₹*
June 30, 2011	Advance received from a customer (on July 14, 2011 Bill No. 001 was issued)		1,00,000
July 14, 2011	Bill No. 001 issued	1,00,000	-
September 30, 2011	Bill No. 002 issued	9,50,000	-
September 30, 2011	Part payment received against Bill No. 002		4,00,000
December 31, 2011	Bill No. 003 issued (for taxable services rendered during December 2011)	2,00,000	-
December 31, 2011	Money received against Bill No. 003		2,00,000
January 31, 2012	Bill No. 004 issued (for taxable services rendered during January 2012)	3,00,000	-
January 31, 2012	Money received against Bill No. 004		3,00,000
March 31, 2012	Bill No. 005 issued (for taxable services rendered during March 2012)	2,50,000	-
March 31, 2012	Money received against Bill No. 005		2,50,000

The service tax provider complies with the provisions of registration and collection of service tax as per servie tax laws. He gets registered during the financial year. Compute the service tax liability of service provider for the year 2011-12 considering the rate of service tax @ 10.3%.

P. 2 2 . Ajay Ltd. has agreed to render services to Mr. Guru. The following are the chronological events:

Conract for services entered into on 31.8.2011	₹
Advance received in September, 2011 towards all services	60,000
Total value of services, billed in February, 2012	2,10,000
Above includes non-taxable services of	70,000
Balance amount is received in March, 2012	

When does the liable to pay service tax arise and for what amount ? Contract contains clear details of services; consideration and service tax are charged separately, as mutually agreed upon.

P. 2 3 . A partnership firm, gives the following particulars relating to the services provided to various clients by them for the half-year ended on 30.9.2011 :

(i) Total bills raised for ₹ 13,75,000 (excluding service tax) out of which bill for ₹ 75,000 was raised on an approved International Organisation and payments of bills for ₹ 1,00,000 were not, received till 3 0.9.2011.

(ii) Amount of ₹ 50,000 was received as an advance from XYZ Ltd. on 25.9.2011 to whom the services were to be provided in October, 2011.

You are required to work out the :

(a) Taxable value of services

(b) Amount of Service Tax payable.

P. 2 4 . Computation of Service Tax :

A service provider provided taxable services, the gross amount charged in respect of which is ₹ 20,00,000 plus ₹ 2,06,000 towards service tax charged separately in the bill, the total bill amount being ₹ 22,06,000. Compute the amount of service tax payable by him, in the following cases --

(i) the client pays ₹ 22,00, 000 in full and final settlement of the bill; or

(ii) the client pays ₹ 20 ,00, 000 in full and final settlement of the bill; or

(iii) the client pays ₹ 16, 00,000 in full and final settlemetn of the bill.

P. 2 5 . Discuss whether the following person are liable to apply for registration under the service tax law and if yes, by which date --

(a) A provider of taxable service, whose aggregate value of taxable services is ₹ 7,80,000 upto 31.3.2012.

(b) A provider of taxable service, whose aggregate value of taxable services is ₹ 9,01,000 on 1.12.2011. (c) A provider of taxable service, who has provided services as follows :

Aggregate value of services upto 31.5.2011 (i.e. before the service became taxable) ₹ 6,00,000.

Aggregate value of taxable services from 1.6. 2011 to 31.3.2012 ₹ 7,95,000.

(d) A provider of taxable service who starts his business w.e.f. 11.8.2011 and whose aggregate value of taxable services as on 10.10.2011 becomes ₹ 9,02,000.

P.26. Mr. Fardeen, the owner of a property had entered into an agreement with a bank. The agreement was entered into on 1.4.2011 to give ground floor of the property on rent on monthly rent of ₹ 75,000 p.m. The bank had taken the property for commercial purpose. Explain whether Mr. Fardeen is liable to pay service tax on the transaction with bank ?

P.27. Mr. Arun, a consulting engineer raised a bill of ₹ 2,20,600 (including service tax) on his client for consulting services rendered by him in the month Aug., 2011. A partial payment of ₹ 1,65,450 was received by Mr. Arun in the month March, 2012. Compute the service tax amount payable to Mr. Arun and the due date by which service tax can be deposited.

P.28. Certain services have become taxable for the first time on 1-6-2011. The Following Details are furnished by a Service provider in respect of the services for the financial year 2011-12. You are required to compute the amount of Service tax payable @ 10.30%.

Bill No.	Value of service (₹)	Date of actual provision of service	Date of issue of invoice	Date of receipt of payment	Amount exclu - sive of Taxes
B-001	25,00,000	10-04-2011	22-04-2011	05-05-2011	25,00,000
B-002	18,00,000	06-05-2011	27-05-2011	30-05-2011	14,00,000
				10-06-2011	4,00,000
B-003	12,50,000	30-05-2011	12-06-2011	30-05-2011	12,50,000
B-004	22,00,000	05-06-2011	18-06-2011	30-06-2011	22,00,000
B-005	15,00,000	07-07-2011	10-07-2011	01-06-2011	15,00,000

P.29. M/s. Subhay Coaching Ltd. provides coaching in the field of engineering. One of the students, Mr. X, paid ₹ 15,000 in cash and a gold chain valuing ₹ 35,000 (cost to Mr. X's father who is a jeweller. ₹ 28,000) to M/s. PQR Ltd. Compute the amount of service tax payable by M/s. Subhay Ltd. thereon @ 10.3%. Make suitable assumptions.

P.30. Determine the point of taxation in the following cases given that : Rate of service tax upto 31-5-2011 is 10%; while that on or after 1-6-2011 is 8% on account of a concessional exemption. Compute the amount of service tax payable :

Bill No.	*Value of Taxable service (₹)*	*Date of actual provision of service*	*Date of issue of invoice*	*Date of receipt of payment*
B-1	5,00,000	01-04-2011	11- 04-2011	01-06-2011
B-2	18,00,000	31-05-2011	14-06-2011	22-06-2011
B-3	20,00,000	30-05-2011	12-06-2011	31-05-2011

P.31. (a) Briefly explain the Commercial Training or Coaching centre.

(b) State briefly whether the following services provided are taxable services under the Finance Act, 1994 as amended:

(i) Pre-school coaching & coaching leading to recognized degree. (ii)

Services for holding business exhibition outside India.

Service Tax
[Solutions]

P.1(a) Yes, An unincorporated association is liable to pay Service Tax.

Unincorporated associations or body of persons providing taxable services to its members for cash, deferred payment or any other valuable consideration are liable to pay Service Tax.

(b) Yes.

(c) Yes

It has to be paid even if the service provider fials to charge the service tax from the service receiver. If however, the service provider fails to recover service tax from the client in lieu of services rendered, it will be taken to be inclusive of service tax.

$$\text{Value of taxable service} = \frac{\text{Gross amount charged} \times 100}{(100 + \text{Rate of tax})}$$

$$\text{Service tax} = \frac{\text{Gross amount charged} \times \text{Rate of tax}}{(100 + \text{Rate of tax})}$$

(d) Yes.

Section 67 of Finance Act, 1994 provides that taxable value shall be "gross amount charged" for the service. Service Tax (Determination of Value) Rule, 2006 provides that where any expenditure or costs are incurred by the service provider in the course of providing taxable service, all such expnditure or costs shall be treated as consideration for the taxable service provided or to be provided and shall be included in the value for the purpose of charging service tax on the said service.

P.2(a) Rule 6(3) of Service Tax Rules, 1994

(b) Rule 4(2) of Service Tax Rules, 1994

(c) Section 67 of Finance Act, 1994 provides that in a case where the provision of service is for a consideration which is not ascertainable, then value of service shall be determined in such manner as prescribed by Service Tax (Determination of Value) Rules, 2006.

(d) Yes

Section 66A of Finance Act, 1994 &

Rule 2(1)(d) of Service Tax Rules, 1994.

P.3(a) Rule 3 of the Point of Taxation Rules, 2011.

[Rule 6(1) of Service Tax Rules, 1994]

(b) Along with ST-3 return following documents should be attached:

(i) copies of GAR-7 challans

(ii) a memorandum in form ST-3A giving full details of the difference between the amount of provisional amount of tax deposited and the actual amount payable for each month. Form-ST-3A is to be attached only when the assessee opts for provisional payment of service tax.

(c) Section 70 of Finance Act, 1994 &

Rule 7 of Service Tax Rules, 1994.

(d) Rule 6(4) of Service Tax Rules, 1994.

(e) Rule 2(1)(d)(v) of Service Tax Rules, 1994.

(f) Rule 6(1) of Service Tax Rules, 1994.

P.4(a) Service tax is in nature of Indirect Tax. Service Tax is a tax on service. If there is no service, there is no tax. There is no 'Service Tax Act ' as such. Service tax is imposed by ameding Chapter V of Finance Act, 1994 from time to time.

(b) All payments received and invoice issued prior to 1-9-2011, hence, not taxable as per Rule 5(a) of the Point of Taxation Rules, 2011.

(c) Mr. Prakash shall deposit the amount of ₹ 40,000 to the credit of Central Government. [Section 73A of Finance Act, 1994]

(d) Person liable to file service tax return :-

- Service provider who is liable to pay service tax.
- Service receiver who has been made liable to pay service tax under Service Tax Rules, 1994.
- Service provider who is providing exempted services but who has provided services of value in excess of ₹ 9 lakhs [Service Tax (Registration of Special Categoery of Persons) Rules, 2005].
- Input Service Distributor.

P.5(a) Rani is liable to pay service tax even though the service tax has not been collected by her.

It has to be paid even if the service provider fials to charge the service tax from the service receiver. If however, the service provider fails to recover service tax from the client in lieu of services rendered, it will be taken to be inclusive of service tax.

(b)
$$\text{Value of taxable service} = \frac{\text{Gross amount charged} \times 100}{(100 + \text{Rate of tax})}$$

$$= \frac{5,00,000 \times 100}{(100 + 10.30)} = 4,53,309$$

$$\text{Service Tax} = \frac{\text{Gross amount charged} \times \text{Rate of tax}}{(100 + \text{Rate of tax})}$$

$$= \frac{5,00,000 \times 10.30}{(100 + 10.30)} = 46,691$$ (Due Date = 5 July, 2011)

P.6(a) Section 66 of Finance Act, 1994

(b) Mr. Shyam shall not be liable to pay service tax on services rendered without any consideration.

P.7(a) Service tax amendments made by a Finance Bill are generally applicable from the date when the Finance Bill is given assent by the President. Immediately after the President's assent , the Finance Bill becomes Finance Act.

Amendment is applicable from the date notified by the Central Government. These notifications are issued after the Finance Bill is given assent by the President and the amendment is applicable from the notified date.

(b) In relation to sponsorhip services, the person sponsoring the event is liable to pay service tax if he is located in India. [Rule 2(1)(d)(vii) of Service Tax, Rule 1994]

However, where the recipient of sponsorship services is located outside India, the service provider will be responsible to pay service tax.

(c) Free after sale service is provided by authorized dealer to the purchaser of motor vehicles. The vehicle manufacturer later on reimburses the amount. Since for the service provider, it is not "free service", it is liable for service tax.

(d) An insurer carrying on life insurance business shall have the option to pay tax :

(i) on the gross premium charged from a policy holder reduced by the amount allocated for investment, or savings on behalf of policy holder, if such amount is intimated to the policy holder at the time of providing of services;

(ii) 1.5% of the gross amount of premium charged from a policy holder in all other cases;

towards the discharge of his service tax liability instead of paying service tax at the rate specified in section 66 of the Finance Act, 1994.

However, such option shall not be available in cases where the entire premium paid by the policy holder is only towards risk cover in life insurance.

(e) Who has paid Total Service Tax of Rs 10 lacs or above (including the amount of Service Tax paid by utilisation of CENVAT credit) in the preceding FY, shall deposit the Service Tax liable to be paid by him electronically, through internet banking. [Rule 6(2) of Service Tax Rules, 1994].

(f) Yes. [Rule 7(B) of Service Tax Rules, 1994].

P.8(a) Mr. Suresh is liable to pay service tax even though the Service Tax has not been collected by his.

It has to be paid even if the service provider fials to charge the service tax from the service receiver. If however, the service provider fails to recover service tax from the client in lieu of services rendered, it will be taken to be inclusive of service tax.

(b) Delayed return may be filed with late fee. [Section 70(1)] [Rule 7C of Service Tax Rules, 1994]

(c) Input Service Distributor :-

Registration :- Input Service Distributor will require registration as per Service Tax (Registration of Special category of persons) Rules, 2005 within thirty days of the commencement of business. [Registration Form ST-1]

Return :- Input Service Distributor shall also file return showing the credit availed and credit distributed by it.

(d) Service Tax (Registration of Special Category of Person) Rules, 2005.

P.9(a) Rule 3 of Service Tax (Determination of Value) Rules, 2006.

(b) Sources of Service Tax Law :-

(i) Chapter V of Finance Act 1994. (ii)

Rules on Service Tax:-

➢ Service Tax Rules, 1994

➢ Service Tax (Determination of Value) Rules, 2006 ➢

Cenvat Credit Rules, 2004.

➢ Taxation of Service (Provided From Outside India and Received In India) Rules, 2006.

➢ Service Tax (Registration of Special Category of Persons) Rules, 2005 ➢

Export of Service Rules, 2005.

➢ Point of Taxation Rules, 2011.

(iii) Circulars of Central Board of Excise & Customs.

(iv) Judicial Decisions.

P.10(a) Mr. Sohan who provides more than one taxable service, filing of a single return is sufficient. However, the details in each of the columns of the Form ST-3 have to be furnished separately for each of the taxable service rendered by him. Thus, instead of showing a lump sum figure for all the services together, service-wise details should be provided in the return.

(b) Statement is False:

Service tax is payable on gross amount charged by the service provider for the services provided or to be provided. Service Tax is payable On ₹ 7,00,000. If service tax is not separately charged, it will be assumed that ₹ 7,00,000 is inclusive of service tax.

$$\text{Service Tax} = \frac{\text{Gross amount charged} \times \text{Rate of tax}}{(100 + \text{Rate of tax})}$$

$$\frac{7,00,000 \times 10.30}{(100 + 10.30)}$$

P.11(a) Export of Service Rules, 2005

(b) The following documents should be submitted along with First Service Tax return :-

(i) all the records prepared or maintained by the assessee for accounting of transactions in regard to -

(a) providing of any service, whether taxable or exempted;

(b) receipt or procurement of input services and payment for such input services; (c) receipt, purchase, manufacture, storage, sale, or delivery, as the case may be, in regard to inputs and capital goods;

(d) other activities, such as manufacture and sale of goods, if any.

(ii) all other financial records maintained by him in the normal course of business.

(iii) Copy of GAR-7 Challan.

(c) Rule 6(1) of Service Tax Rules, 1994.

P.12 If Dipti is a new service provider, then there is no service tax liability so long as the value of taxable services does not exceed ₹ 10,00,000. However, registration is required if the value of taxable of services exceeds ₹ 9,00,000.

Out of ₹ 13,00,000, ₹ 10,00,000 is not chargeable to service tax. If service tax is not separately charged, it will be assumed that ₹ 3,00,000 is inclusive of service tax.

$$\text{Value of taxable service} = \frac{\text{Gross amount charged} \times 100}{(100 + \text{Rate of tax})}$$

$$= \frac{3{,}00{,}000 \times 100}{(100 + 10.30)} = 2{,}71{,}985$$

$$\text{Service Tax} = \frac{\text{Gross amount charged} \times \text{Rate of tax}}{(100 + \text{Rate of tax})} = \frac{3{,}00{,}000 \times 10.30}{(100 + 10.30)} = 28{,}015$$

Note :- If Dipti is not a new service provider (service tax was levied last year), then the entire amount of ₹ 13,00,000 will be subject to service tax. If service tax is not separately charged, it will be assumed that ₹ 13,00,000 is inclusive of service tax.

$$\text{Value of taxable service} = \frac{13{,}00{,}000 \times 100}{(100 + 10.30)} = 11{,}78{,}604$$

$$\text{Service Tax} = \frac{13{,}00{,}000 \times 10.30}{(100 + 10.30)} = 1{,}21{,}396$$

P.13(a) Yes.

M/s Akash is required to file Nil Service Tax Return.

(b) Requirement to be complied with by Mr. Govinda (The Transferor) : Every registered assessee, who ceases to provide the taxable service for which he is registered, shall surrender his registration certificate immediately.

Requirement to be complied with by Mr. Rohan (The Transferee) :- He shall obtain a fresh certificate of registration.

(c) Chapter V of the Finance Act, 1994 & Service Tax Rules, 1994

P.14(a) As per section 64(1) of the Finance Act, 1994 as amended, service tax provisions do not extend to the State of Jammu and Kashmir. Therefore, service tax will not be payable if service is provided in Jammu & Kashmir. However, since service tax is a destination based consumption tax, if a person from Jammu & Kashmir provides the taxable service outside Jammu & Kashmir in any other part of India, the service will be liable to service tax, as the location where service is provided is relevant . Hence, the service provided in Haryana from Jammu & Kashmir would be liable to service tax.

(b) The services provided by the Reserve Bank of India to any person is exempt.

(c) Taxable services provided or to be provided by any person to RBI is exempt from service tax only if the person liable to pay service tax in respect of that service is RBI.

P.15 Rule 6(1) of the Service Tax Rules, 1994, inter alia, provides that service tax on the value of taxable services received by an individual during any quarter is payable by the 5th day of the month immediately following the said quarter. Therefore, in the given case, the due date for payment of service tax is 05/10/2010.

Further, in case, if the assessee deposit the service tax by cheque, the date of presentation of cheque to the bank designated shall be deemed to be the date on which service tax has been paid subject to realization of that cheque. Thus, in this case, the date of payment will be 5th October 2010 as the cheque has been realized on 7th October, 2010.

Since, the service tax has been paid on the due date, no interest and penalty is chargeable as there is no delay in payment of service tax.

P.16(i) May 25, 2011

Invoice issued in 14 days and before receipt of payment.

(ii) May 15, 2011

Invoice not issued within 14 days and payment received after completion of service.

(iii) May 20, 2011

Invoice issued in 14 days but payment received before invoice. (iv)

May 15, 2011 (for partly payment rec.)

May 20, 2011

Invoice not issued in 14 days, Part Payment before completion remaining later.

P.17(a) The institutes offering general course on improving communication skills, how to be effective in group discussions or personal interviews, personality development, general grooming and finishing etc. are not covered under the definition of vocational training institute because they only improve the chances of success for a candidate possessing required skill and do not impart training to enable the trainee to seek employment or self-employment. (Circular No. 107/01/2009 ST)

Thus, Rajhans Institute is not entitled to exemption under the above notification and is liable to service tax.

(b) BTL Engineering College being derecognized by All India Council for Technical Education shall be liable to service tax.

P.18(a) Yes. As per section 65(105)(zzzze), development of software is liable to service tax under information technology software services.

It has to be paid even if the service provider fials to charge the service tax from the service receiver. If however, the service provider fails to recover service tax from the client in lieu of services rendered, it will be taken to be inclusive of service tax.

(b) Since, service tax is payable on date of issue of invoice or date of receipt of payment (whichever is earlier) in the F. Y. 2011-2012, Then ₹ 4,50,000 will be liable to service tax. If service tax is not separately charged, it will be assumed that ₹ 4,50,000 is inclusive of service tax.

$$\text{Value of taxable service} = \frac{4{,}50{,}000 \times 100}{(100 + 10.30)} = 4{,}07{,}978$$

$$\text{Service Tax} = \frac{4{,}50{,}000 \times 10.30}{(100 + 10.30)} = 42{,}022$$ (Due Date : 31/03/2012)

Note: It has been assume that Mr. Santosh is not a small service provider.

P.19 The facility of e-filing of returns was earlier optional for the assessees. Proviso inserted to rule 7(2) of the Service Tax Rules, 1994 has now made the electronic filing of returns mandatory for the assessee who has paid total service tax of ₹ 10 lakh or more including the amount of service tax paid by utilization of CENVAT credit in the preceding financial year. Serice Tax paid by Arun Ltd. in the financial year 2010-11 is ₹ 12,36,000 (10.30% of ₹ 1,20,00,000). Therefore, it is mandatory for Arun Ltd. to file the return electronically for the financial year 2011-12.

Note :- w.e.f 1-10-2011 every assessee shall submit the half yearly return electronically.

P.20 (a) The minimum amount of refund claim admissible under the said notification is five hundred rupees.

(b) The claim for refund shall be filed within one year from the date of export of the said goods. The date of export shall be the date on which the proper officer of Customs makes an order permitting clearance and loading of the said goods for exportation under the Customs Act, 1962.

P.21 Computation of service tax liability-

	₹
Total amount receipt	12,50,000
Less exemption available to Small Service Provider	10,00,000
Taxable Value for Service Tax	2,50,000
Service Tax @ 10.30%	25,750

Notes : CA. Anil Kumar Agrawal is small service provider during the financial year 2011-2012 and therefore he is entitled to claim exemption of ₹ 10 lakhs.

P. 2 2 . Solution :-

Advance Portion	₹
Adv. received towards all services in Sep. 2010	60,000
Amount billed for taxable services [2,10,000 - 70,000]	1,40,000
Proportionate adv. received towards taxable services	
(60,000 x 1,40, 000 / 2,10,000)	40,000
Service tax @ 10% on ₹ 40,000	4,000
Add : Education Cess @ 2%	80
Add : SHEC @ 1%	40
Total Service Tax liability (Due Date 5.10.2011)	4,120
Total Amount billed (February, 2012)	2,10,000
Less : Amount for non-taxable	70,000
	1,40,000
Less : Amount already taxable	40,000
	1,00,000
Service Tax 1,00,000 x 10.30 / 100 (Due Date 5-3- 2012)	10,300

P. 2 3 . Solution :-

	₹
Total bills raised	13,75,000
Less : Bills raised for an approved international organisation	
(not liable to service tax)	75,000
	13,00,000
Add : Amount received in Advance	50,000
	13,50,000
Service tax payable 13, 50, 000 × 10.30 / 100 =	1,39,050

Note : As per the Point of Taxation Rules, 2011, the point of taxation is date of invoice or the date of receipt of payment , whichever is earlier. In this case, the bill has already been raised during 30-9-2011, while the payment is received after that date, accordingly, the point of taxation lies on 3 0- 9- 2011 itself.

P. 2 4 . Solution :-

As per Point of Taxation Rules, 2011 the point of taxation is date of issue of invoice or the date of receipt of payment of the service, whichever is earlier. Since, here, the invoice had been raised first in order, hence, the service tax was payable with reference to the date of invoice. Accordingly, the service provider shall be liable to pay a service tax of ₹ 2,06,000 as indicated in the bill.

If, in this case, it is assumed that the settlement referred to in (i) to (iii) above relates to re-negotiation due to deficient provision of service, or any terms contained in a contract , then, the service provider shall be eligible for credit of the excess service tax paid by him, which has been computed below :

(i) The excess service tax, of which credit can be availed by the service provider, relatable to the amount adjusted against the bill = ₹ 22,06,000 - 22,00,000 = ₹ 6,000 (inclusive of service tax). Accordingly, the service tax credit under Rule 6(3) of Service Tax Rules = 6,000 × 10.3 ÷ 110. 3 = ₹ 560

(ii) Service tax credit under Rule 6(3) of Service Tax Rules = 2,06,000 × 10.3 ÷ 110.3 = ₹ 19, 237

(iii) Service tax credit under Rule 6(3) of Service Tax Rules = 6,06,000 × 10.3 ÷ 110.3 = ₹ 56, 589.

However, if the settlement of bill is due to any other reasons e.g. bad debts, etc., then, the benefit of Rule 6(3) shall not be available and the service tax shall continue to be ₹ 2,06,000.

P. 2 5 . Solution :-

(a) Not liable for registration, as aggregate value of taxable services does not exced ₹ 9 lakhs. (b) Liable for registration, application to be made upto 31.12.2011.

(c) Not liable for registration.

(d) Liable for registration, application to be made upto 9.11.2011.

P. 2 6 . Solution :-

The total value of service provided durin the financial year is ₹ 9,00,000. In case Mr. Fardeen is not providing any other taxable services, there shall be no liability to pay service tax as the value of services provided during the year is less than ₹ 10, 00, 000.

P. 2 7 . Solution :-

Value of services rendered (excluding service tax) ₹ 2,20,600 × 100 / 110.30 = ₹ 2,00,000
Amount received (excluding service tax) ₹ 1,65, 450 × 100/110. 30 = ₹ 1,50,000
Service tax payable - ₹ 1,50,000 × 10.30/100 = ₹ 15, 450.
Due date of deposit - 31.3.2012.

P.28. Solution :-

Bill No.	Value of service (₹)	Taxable Value of service	Reason for computing taxable value (Date of service becoming taxable = 1-6 -2011)
B-001	25,00,000	0	All payments received and invoice issued prior to 1 - 6 - 2011, hence, not taxable as per Rule 5 (a) of the Point of Taxable Rules , 20 11.
B-002	18,00,000	4,00,000	Payments of ₹ 14,00,000 received and invoice issued prior to 1 -6 -2 0 11 , hence, not taxable as per Rule 5 (a) of the Point of Taxation Rules , 2 0 11 . The balance consideration of ₹ 4 , 0 8 , 0 0 0 received on 1 0-06-2011 (i.e. on or after 1 -6 -20 11 shall be liable to service tax) .
B-003	12,50,000	0	The payment has been received prior to 1- 6 -2 011 and the invoice has been issued within the time-limit of 1 4 days . Hence, not liable to service tax as per Rule 5 (b) of the Point of Taxation Rules , 2 0 11 .
B-004	22,00,000	22,00,000	Liable to service tax , as the same is not covered by any of the clauses (a) or (b) of Rule 5 of the Point of Taxation Rules , 2 0 11.
B-005	15,00,000	15,00,000	Liable to Service tax .
Total		41,00,000	
Tax @ 1 0 . 3 %		4,22,300	

P.29. Solution :-

It is a case covered by section 67(1)(ii), whereunder it is provided that in a case where the provision of service is for a consideration not wholly or partly consisting of money, the value shall be such amount in money as, with the addition of service tax charged, is equivalent to the consideration.

In this case, M/s. Subhay Coaching Ltd. has received ₹ 15,000 in cash and gold valuing ₹ 35,000, therefore, the total consideration received by M/s. Subhay Coaching Ltd. is ₹ 50,000 (inclusive of taxes). Hence, the service tax payable by M/s. Subhay Coaching Ltd. = ₹ 50,000 × 10.3% ÷ 110.3% = ₹ 4,669 approx.

P.30. Solution :-

The point of taxation under Rule 4 of the Point of Taxation Rules, 2011 and applicable rate of service tax under Rule 5B of the Service Tax Rules, 1994 along with computation of service tax is as follows -

Bill No.	*Value (₹)*	*Point of Taxation under Rule 4 of Point of Taxation Rules, 2011*	*Rate of Service Tax applicable*	*Service Tax (₹)*
B-1	5,00,000	11- 4-2011 - Refer Rule 4(a)(ii)[Service provided and invoice issued prior to change in rate of tax; only payment received after change.]	10%	50,000
B-2	18,00,000	14-06- 2011 - Refer Rule 4(a) (i) [Only service provided before change; both issue of invoice and receipt of consideration after change of rate.]	8%	1,44,000
B-3	20,00,000	31-05-2011 - Refer Rule 4(a)(iii) [Service provided and payment received prior to change; only issue of invoice after change of rate of tax.]	10%	2,00,000
		Total Service Tax		3,94,000
Add : EC and SHEC @ 3%				11,820
		Total Service Tax Liability		4,05,820

P. 31. Solution :

(a) **Commercial Training or Coaching Centre means** any institute or establishment - Providing commercial training or coaching for imparting skill or knowledge or lessons on any subject or field other than sports, with or without issuance of a certificate and includes coaching or tutorial classes.

(b) (i) Preschool Coaching & coaching leading to recognized degree are exempt from service tax.

(ii) Taxable services provided by an organiser of business exhibition for holding a business exhibition outside India shall be exempt from service tax.

TAXABLE SERVICES

Problem and Solutions

P. 1. The Shivam, a Hotel registered as mandap keeper under service tax law, provides the following information (all amounts exclusive of service tax) -

Value of food and beverages expected sold in the course of providing taxable services	14,00,000
Catering Charges charged in respect of such taxable services	10,00,000

Assume that Shivam hotel opts for abatement permissible under law. Compute its service tax liability.

P. 2. State with reasons in brief whether the following statements are correct or incorrect with reference to the provisions of service tax-

(i) The scope of taxable service shall include any service provided (or to be provided) to business entity, by any other business entity, in relation to advice, consultancy or assistance in any branch of law including service provided by way of appearance before any Court, Tribunal or authority.

(ii) Service tax provisions are not applicable in J & K because the State Government concurrence was not obtained in respect of Finanace Act, 1944.

P.3. Industrial Training Institute (ITI), Delhi offered "Modular Employable Skill Courses" for the month of June, 2011. It is registered under Skill Development Initiative Scheme' with the Directorate General of Employment and Training, Ministry of Labour and Employment. Revenue raised the demand for the service tax on the services provided by it.

Examine whether the demand raised by Revenue is correct in law.

P.4. M/s. Haa-Haa Ho Ho Money Ltd., Delhi is an authorised money changer registered under FEMA, 1999. It has opted to discharge its service tax liability under Rule 6(7B) of the Service Tax Rules, 1994. It furnishes the following data of transactions of purchase and sale of foreign currency and requests you to compute its service tax liability therefrom :

(i) 10 transactions involving currency exchange of ₹ 22,000 per transaction; (ii) 400 transactions involving currency exchange of ₹ 85,000 per transaction; (iii) 200 transactions involving currency exchange of ₹ 8,00,000 per transaction; (iv) One Transactions involving currency exchange of ₹ 25 lakh; and
(v) 20 transactions involving currency exchange of ₹ 10 crore per transaction.

P.5. Santosh Software Systems is an information technology software company. The receipts during financial year 2011-12 are as under :-

Particulars	**Amount (₹)**
Receipts for development of information technology software	2,00,000
Receipts for implementation related to information technology software	3,00,000
Receipts for providing the right to use information technology software supplied electronically	8,50,000
Receipts for programming of information technology software	2,50,000
Receipts for providing right to use the packaged software on which the amount of excise duty has been paid and benefit and benefit under Notification No. 17/2010 CE dated 27.02.2010 has not been availed.	7,75,000

Determine the value of taxable services and amount of service tax payable by Santosh Software Systems for the financial year 2011-12.

In financial year 2010-11, it has provided the taxable services of value of ₹ 18 lakh. The amount of service tax has been charged separately.

P.6. A&B Co. is providing taxable information technology software services. The firm furnishes the following information relating to the services rendered, bills raised, amount received pertaining to this service, for the financial year ending on March 31, 2012-

(i)	Amount received being 10% of the assignment fees on March 31, 2012 for the upgradation and enhancement of software services to be rendered during the financial year 2012-13 (Service tax inclusive)	6,00,000
(ii)	Services provided to UNICEF, an international Organisation in Gandhinagar, for analysis, design and programming of latest information technology software	5,00,000
(iii)	Services billed to clients (Service Tax extra) In one Bill Amount received for services rendered (₹ 3,00,000) (Service tax was not charged) Another Bill of ₹ 8,00,000 plus 82,400 service tax being the charges for right to use I .T. Software but service tax is not recovered from the service receiver	2,00,00,000
(iv)	Amount received for services rendered during current financial year (excluding payment for 2 bills in item (iii) above for which payment received during current financial year)	1,04,78,500

Service tax and education cess have been charged separately in all the bills except wherever mentioned when it is not so charged separately.

Compute the value of total taxable services and service tax payable thereon for the year ending March 31, 2012, assigning reason in brief to the treatment of all items.

P. 7. Anand Mohan is a qualified Chartered Accountant. He acquired the certificate of practice from the ICAI in November, 2010. For the quarter ended on March, 2012, his receipts are as follows :-

Particulars	Amount (₹)
Certification of documents under Export and Import Policy of Government of India	3,00,000
Preparation of the financial statement of ABC Ltd.	8,00,000
Representation of the client before ITAT	3,50,000
Receipts for tax consultancy provided in the month of Dec., 2011	6,00,000
Filling of Return & Other Documents	3,00,000
Providing Coaching to Students	9,00,000

Using the above information, calculate the value of taxable chartered accountant services for the quarter ended on March, 2012. The above receipt are exclusive of service tax. In F.Y. 2010-11, it has provided the taxable service of value of ₹ 15 lakh.

P. 8. Mr. Sushil, a consulting engineer provides the following particulars in respect of various services rendered by him during the quarter ending December 2011 :

Particulars	Amount (₹)
1. Professional advice to one of his friend	35,000
2. Consultancy services in computer hardware engineering	75,000
3. Technical assistance in computer hardware & software engineering	1,25,000
4. Advice in relation to metallurgical engineering	40,000
5. Consultancy in relation to setting up of a power project	80,000

₹ 5,000 has been paid by him as cess payable under section 3 of the Research and Development Cess Act, 1986 in respect of the above-mentioned services. Compute the service tax payable by Mr. Sushil for the quarter ending December, 2011. Service tax has been charged separately by Mr. Sushil and is not included in any of the receipts mentioned above. Mr. Sushil is not entitled to the benefit of small service provider available under Notification No. 6/2005 ST dated 01.03.2005.

P.9 M/s. Gulbahar Lotteries, established on 10-10-2011, is a distributor of lotteries organized by the State of Rajasthan. On account of festivals, two schemes of lotteries were announced as follows-

Particulars	Super Dhamaka	Bumper Dhamaka
Total No. of tickets proposed under the scheme	10,60,000	80,000
Face Value per ticket	100	500
Value of guaranteed prize payouts	70%	90%
Actual No. of tickets payouts	9,80,000	72,500
Mode of conducting the scheme	Printed (10,60,000 tickets)	Online

Though M/s. Gulbahar Lotteries receives commission, however, it has learnt that there is some composition scheme under service tax law to discharge its service tax liability. If wishes to opt therefore tand asks you to compute its service tax liability thereunder.

P.10 M/s. Bhabha Institute of Technology registered under service tax, had a total of ₹ 70 lakhs to the credit of its Income and Expenditure Account for the year, which includes the following-

(i) Scientific & Technical Consultancy to private firms : ₹ 20 lakhs;

(ii) Scientific & Technical Consultancy to governments departments : ₹ 10 lakhs; (iii) Grants from the Government for conducting research work : ₹ 32 lakhs;

(iv) Receipts from conducting classes for students in a college run by it : ₹ 8 lakhs;

Compute the value of taxable service under 'Scientific or Technical Consultancy' falling u/s 65(105)(za); and the service tax, if any, payable thereon by M/s. Bhabha Institute of Technology for this service only.

P.11 M/s. Preety Ltd. has received the following sums (exclusive of service tax) for its various activities during the year :

(i) Organizing trade fairs to market the products of various companies : ₹ 4 lakh

(ii) Organizing road shows to advertise the products of soft-drink companies : ₹ 18 lakh (iii) Preparation of hoardings used in various roadshows : ₹ 20 lakh

(iv) Organizing fashion shows to promote the sales of designs by eminent fashion designers : ₹ 5 lakh

(v) Organizing of a Jewellery Trade Fair in Hongking : ₹ 8 lakh

You are required to compute the value of taxable services falling under 'Business Exhibition Services' u /s 6 5(10 5)(zzo) of the Finance Act , 1994 and determine the service tax payable by Preety Ltd.

P.12 M/s. Vibhuti Labs, having various labs located in the State of Delhi, is registered under Service tax law. The firm had a total gross receipts of ₹ 80 lakhs during the year from various testing and other services, which includes the following -

(i) Technical Testing and analysis of computer software : ₹ 10 lakhs

(ii) Biological Testing and analysis of fertility of agricultural lands : ₹ 20 lakhs

(iii) Clinical Testing of Drugs and Formulations : ₹ 15 lakhs (out of which 60% pertains to testing of new drugs on human participants) - Vibhuti Labs is approved by Drug Controller General of India.

(iv) Testing of diseases in humans / animals (like blood testing, CT-scan, etc.) where diseases were actually detected : ₹ 30 lakhs

(v) Testing in the case of humans where no disease was defected : ₹ 5 lakh

Compute the value of taxable service under "Techincal Testing and Analysis Service" falling u/s 65(105) (zzh); and the service tax, if any, payable thereon by M/s. Vibhuti Testing Labs for this service only.

P.13 Doraemon Coaching Centre engaged in commercial training and coaching service furnishes you the following information and the amount received by it for the half-year ended 31-03-2012:

Coaching fees for Civil Service examinations	7,00,000
Postal coaching fees for University examinations	3,00,000
Sports coaching fee from a local college	2,80,000
Fee for management diploma of a foreign university (not recognized by law in force in India)	4,00,000
Coaching & training provided by sending staff to the residence of service receivers	6,00,000

Determine value of taxable service. Your answer must be with reasons.

Taxable Services
[Solutions]

P.1. Solution :- The service tax payable shall be computed as follows -

Value of food and beverages expected sold in the course of providing taxable services	14,00,000
Catering Charges charged in respect of such taxable services	10,00,000
Total Gross Amount Charged (as per abatement notification)	24,00,000
Less : Abatement @ 40%	9,60,000
Value of taxable service, liable to service tax	14,40,000
Service Tax thereon @ 10.30%	1,48,320

P.2. Solution :-

(i) Incorrect.

Service pertaining to appearance before any Court, Tribunal or authority is not subject to service tax. The authority may be statutory or non-statutory.

(ii) Incorrect.

It is not Finance Act, 1944 but the Finance Act, 1994.

P.3. Solution :- No, the demand raised by the Revenue is not vaild in law. Notification No. 23/2010-ST dated 29.04.2010 has exempted the commercial training or coaching centre services provided in relation to "Modular Employable Skill courses" provided by a vocational training provider registered under "Skill Development Initiative Scheme" with the Directorate General of Employment and Training, Ministry of Labour and Employment. Therefore, Industrial Training Institute (ITI), Delhi is not liable to pay service tax.

P.4. Solution :- The service tax liability under Rule 6(7B) of the Service Tax Rules, 1994 is as follows:

Currency Exchanged per transaction	Service Tax per transaction		No. of trans-actions	Total Service Tax
	Computation	Amount ₹		
22,000	0.1% of currency exchanged, subject to the minimum amount of ₹ 25.	25	10	250
85,000	0.1% of currency exchanged, subject to the minimum amount of ₹ 25.	85	400	34,000
8,00,000	₹ 100 + 0. 05% of the gross amount of currency exchanged for amount of rupees exceeding ₹ 1,00, 000.	450	200	90,000
25,00,000	₹ 550 + 0.01 % of gross currency exchanged for sum exceeding ₹ 10 , 00, 000, subject to maximum of ₹ 5,000.	700	1	700
10,00,00,000	₹ 550 + 0.01 % of gross currency exchanged for sum exceeding ₹ 10 , 00, 000, subject to maximum of ₹ 5,000.	5,000	20	1,00,000
Total				2,24,950
Add : EC and SHEC @ 3%				6749
Total Service Tax Liability				231699

P.5. Solution :- Computation of the value of taxable services and amount of service tax payable by Santosh Software Systems for the financial year 2011-12:-

Particulars	**Amount (₹)**
Receipts for development of information technology software	2,00,000
Receipts for implementation related to information technology software	3,00,000
Receipts for providing the right to use information technology software supplied electronically	8,50,000
Receipts for programming of information technology software	2,50,000
Total value of taxable service	16,00,000
Service tax @ 10% (₹ 16,00,000 × 10%)	1,60,000
Add: Education cess @ 2% (₹ 1,60,000 × 2%)	3,200
Add: Secondary and higher education cess @ 1% (₹ 1,60,000 × 1%)	1,600
Service tax payable	**1,64,800**

Note :

1. Receipts for providing the right to use the packaged software on which the excise duty has been paid and benefit under Notification No. 17/2010 CE dated 27.02.2010 has not been availed are exempt from service tax vide Notification No. 02/2010 dated 27.02.2010. Therefore, receipts of ₹ 7,75,000 are not liable to service tax.

P.6. Solution :- Computation of value of service tax -

Amount received for upgradation of software (amount received is always inclusive of service tax, value of taxable service will be ₹ 6,00,000 × 100÷110. 3)	5,43,971
Service provided to UNICEF (not chargeable to service tax)	Nil
Bill of ₹ 3 ,00,000 received separately but service tax is not charged (₹ 3,00,000 × 100 ÷ 110. 3)	2,71,985
Bill of ₹ 8, 82,4 00 which includes service tax but service tax is not recovered from the service receiver (no concession is available for bad debts)	8,00,000
Other bills (2, 00,0 0,0 00 - 3,00, 000 - 8,00,000)	1,89,00,000
Value of taxable service	2,05,15,956
Service tax (10.3% of ₹ 2,05,15, 956)	21,13,143

P.7. Sol. : Calculation of the value of taxable services for the quarter ended on March, 2012:-

Particulars	Amount ₹
Certification of documents under export and Import Policy of Government of India	3,00,000
Preparation of the financial statement of ABC Ltd.	8,00,000
Representation of the client before ITAT	3,50,000
Receipts for tax consultancy provided in the month of December, 2011	6,00,000
Filling of Return & Other Documents	3,00,000
Providing Coaching to Students (Not taxable under this head)	
Value of taxable services under chartered accountant	23,50,000

Note :

1. The taxable services provided by a practising Chartered Accountant in his professional capacity, to a client, relating to representing the client before any statutory authority in the course of proceedings initiated under any law for the time being in force, by way of issue of notice, is taxable under this head.
2. Providing coaching to students is taxable under head Commercial Training & Coaching Services.

P.8. Sol. : Computation of service tax payable :-

Particulars	Amount ₹
Professional advice to one of his friend	35,000
Consultancy services in computer hardware engineering	75,000
Technical assistance in computer hardware & software engineering	1,25,000
Advice in relation to metallurgical engineering	40,000
Consultancy in relation to setting up of a power project	80,000
Value of taxable services	3,55,000
Service tax @ 10%	35,500
Less : Cess payable u/s 3 of the Research and Development Cess Act, 1986	5,000
	30,500
Add : Education cess @ 2%	610
Add : Secondary and higher education cess @ 1%	305
Net Service Tax payable	31,415

Note :

1. Advice to friend is taxable as service rendered to any person is taxable.
2. Consultancy and technical assistance in relation to both computer hardware and software engineering are taxable.

3. Advice in relation to any branch of engineering is taxable.
4. R&D Cess paid on transfer of technology is deductible from service tax and EC & SHEC to be added after exemption.

P.9 Solution :- M/s. Gulbahar Lotteries can very well opt for the composition scheme for payment of service tax. The service tax liability shall be as under -

Particulars	Super Dhamaka	Bumper Dhamaka
Total No. of tickets (In case of Super Dhamaka scheme, the total no . of tickets printed shall be taken; while in case of Bumper Dhamaka, since the lottery is conducted online, hence, the actual no. of tickets sold shall be taken)	10,60,000	72,500
Face Value per ticket	100	500
Aggregate face value of lottery tickets	10,60,00,000	3,62,50,000
Value of guaranteed prize payouts	70%	90%
Service Tax payable (for every ₹ 10 lakhs or part thereof)	9,000	6,000
No . of Units of ₹ 10 lakhs or part thereof **[Any part of ₹ 10 lakhs shall be fully covered]**	106	37
Service Tax payable 9,54,0002,22,000		
Total Service Tax	11,76,000	
Add : EC and SHEC @ 3%	35,280	
Total Service Tax Liability	12,11,280	

P.10 Solution :- The relevant issues are answered herein below-

Total credits to the Income & Expenditure Account	70,00,000
Less : Grants/Aids - These are not consideration for providing any service, hence, not liable to service tax under any service.	-32,00,000
Less : Receipts from conducting classes for students in a college run by it- Not liable to service tax, as college fees is not liable to service tax.	-8,00,000
Taxable Value	30,00,000
Service Tax thereon @ 10.3%	3,09,000

P.11 Sol. :- Computation of the value of taxable service under 'Business Exhibition Services' (₹)

(i) Organizing trade fairs to market the products of various companies	4,00,000
(ii) Organizing road shows to advertise the products of soft-drink companies	18,00,000
(iii) Preparation of hoardings doesn't amount to actual 'exhibition' or 'display' of the products. It is mere display of 'visual representation" of the products, which is covered under 'Advertisement Services'. Not liable to service tax under this service.	Not covered
(iv) Organizing fashion shows to promote sales of designs of fashion designers	5,00,000
(v) Organizing of a Jewellery Trade Fair in Hongkong - Jewellery Trade Fair organized outside India - Exempt	Exempt
Taxable Value	27,00,000
Service Tax thereon @ 10.3%	2,78,100

P.12 Sol. :- The relevant issues are answered hereinbelow -

Total gross receipts of the year	80,00,000
Less : Clinical Testing of Drugs of Formulations - Taxable. However, exemption in respect of clinical testing of new drugs on human participants is available, as Vibhuti Labs is approved by DCGI for clinical trials. Exemption = 15 lakhs × 60%.	-9,00,000
Less : Testing of diseases in humans and animals is excluded from the scope of levy of service tax under this service whether or not disease is detected. [30 lakh + 5 lakh]	-35,00,000
Taxable Value	36,00,000
Service Tax thereon @ 10.3%	3,70,800

P.13 Sol. :- The value of taxable service is computed hereinbelow (amounts in ₹)-

Coaching fee for Civil Service examinations	7,00,000
Postal coaching fees for University examinations	3,00,000
Sports coaching fee from a local college - 'Sports coaching not covered	Not liable
Fee for management diploma of a foreign university (not recognized by law in force in India) - Liable to service tax, as course not recognized by law in force in India	4,00,000
Coaching and training provided by sending staff to the residence of service receivers - Liable to service tax, as the staff is sent by a Home Tuition Centre, which is a commercial training or coaching centre	6,00,000
Taxable Value	20,00,000

Some Important Tips for the Examination

Do's

1. **Starting Question Should be Correct :** First Read the Question Paper thoroughly. Choose from that question that's you know very well. Because you first impersonation should be good.
2. **Start each Question or his part from a fresh Page :** As like if you are going to solve Q. No. 3 part (a), it should be mention on the top of the page in Center with Bold Letter. After that for Q. No. 3 (b) always use new page and mention full Q. No. in place of only (b).
3. **True or False Question :** Always start your Answer from the heading True or False and reason should be given from the Second Line.
4. **Optional Question :** Start this Question with Your Heading **"Correct Answer -( )"** and reason should be given from the Second Line.
5. **Final Answer :** After properly solve your question again read the last part of Question and find that what is the demand of Question, if in question asked for exempt Amount, your Answer end point should be in Bold Letter "Exempt Amount ₹ ... .".
6. **Theoretical Question :** Always Answer point to point and try your best that starting point of your answer should be fully correct. As like for any question, if you know only three points fully confident out of 5 point your answer should be start from that point.

Don't

1. **Start from a Large Question :** If you are not fully confident that you may solve that question correctly, never start from this question.
2. **Marking of the Question at left side of Answer Book :** Always Mark your Answer No. most visible place, due to this it's clear in the mind of Examiner that your answer is for this particular No. of Question.
3. **True/False Question :-** Never start your answer with YES/NO. It should be TRUE/FALSE.

Best of Luck