SERVICE TAX

(THOROUGHLY AMENDED BY F'ACT 2012 Including Negative list in Service Tax and other notifications)

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UNIT - I
CONCEPTS AND GENERAL PRINCIPLES

CONSTITUTIONAL VALIDITY

Article 246 of the Constitution of India states that the Parliament has exclusive powers to make laws with respect to any of the matters enumerated in various Lists given in the VIIth Schedule to Constitution discussed as below:

VIITH SCHEDULE

List I (Union List)	List II (State List)	List III (Concurrent List)
↓	↓	↓
(Power under jurisdiction of Central Govt.)	(Power under jurisdiction of State govt.)	(Common jurisdiction)

List I (Union List): (It contains the matters in respect of which only the CG has the power to make laws).

Entry No. 82	:	Taxes on income.
Entry No. 83	:	Levy of Customs
Entry No. 84	:	Levy of Excise duty
Entry No. 92A	:	CST.
Entry No. 92C	**:**	**Taxes on Services.**
Entry No 97	**:**	**Any other matter not falling elsewhere (Residual category)**

List II (State list): (Contains entries under jurisdiction of States)
Entry No 54 – Local Sales Tax (VAT)

List III (Concurrent List): (Contains entries where both Union & SG can exercise power.
Law related to Marriage and divorce, infants and minors, adoption, wills etc.
Law related to Trust and trustees.
Law related to stamp duties on non-judicial stamps

GENESIS OF SERVICE TAX IN INDIA

1. Based on the recommendations by the Tax Reforms Committee headed by ***Professor Dr. Raja J.Chelliah*** in 1990.

2. Based on the above recommendations, ***Dr. Manmohan Singh***, the then Union Finance Minister, introduced the concept of service tax in ***1994-95*** by stating that:

"There is no sound reason for exempting services from taxation, when goods are taxed and many countries treat goods and services alike for tax purposes. The Tax Reforms Committee has also recommended imposition of tax on services as a measure for broadening the base of indirect taxes. ***I, therefore, propose to make a modest effort in this direction by imposing a tax on services of telephone, non-life insurance and stock brokers.***

3. Initially service tax was imposed only on 3 services @5% i.e.
    - telephones,
    - non-life insurance, and
    - stock brokers
4. Residual Entry No. 97 of Union List is used to levy Service Tax.
5. ***CBEC*** is the central authority to regulate Service Tax matters.

The Finance Act 2012 has followed Comprehensive approach in India by way of adopting negative list approach.

SOURCES OF SERVICE TAX LAW - [CA May 2009]

1. **Finance Act, 1994**
2. **Rules on Service Tax**
3. **Notifications on Service Tax**
4. **Circulars or Office Letters on Service Tax**
5. **Trade Notices on Service Tax**

S.No	Whether binding on?	Circular	Notification
1	Assessee		
2	Departmental officer		
3	Judiciary (i.e. courts incl Commissioner – Appeals)		
4	Supreme court		

EXTENT, COMMENCEMENT AND APPLICATION - (SEC 64)

1. The Finance Act, 1994 came into force from 01.07.1994.
2. The Act extends to the whole of India ***except the state of J&K***.
   Thus, services ***provided in the state of J&K are not liable to ST***.
3. Applicability of ST provisions shall be decided w.r.t. ***LOCATION OF SERVICES*** and not with reference of location of SERVICE PROVIDER.

Service tax is a destination based consumption tax. [CBEC Circular No. – 56/5/2003 dated 25-04-2003.

4. Thus, Service tax will not be payable only if service is provided in J&K. However, if a person from J&K provides the service outside J&K, the service will be liable to service tax. Merely because the office of the service provider is situated in Jammu and Kashmir, it does not mean that service is provided in Jammu and Kashmir.
   Eg.

Service provider	Service Receiver	Applicability of Service Tax?

Inside J & K	Inside J & K	
Inside J & K	Outside J & K	
Outside J & K	Inside J & K	

5. Service provided within the territorial waters will be liable to service tax as levy of service tax extends to whole of India except Jammu and Kashmir and 'India includes territorial waters". **[CA May 2010]**
6. Indian territorial waters extend upto 12 nautical miles from the Indian land mass. **[1 NM = 1.852 Kms]**
7. The provisions of service tax have been extended to the designated areas in ***Exclusive Economic Zone*** of India also (by N/N 14/2010)

Summary: Applicability of Service tax if service provided in?

India (Incl Territorial Water) (upto 12NM)	J&K	EEZ (Upto 200 NM)	Foreign Countries
?	**?**	**?**	**?**

Discuss the below cases:

S.No	Particulars	Whether ST leviable?	Who will pay ST?
1	M/s D Ltd of Delhi providing technical services in UK		
2	M/s D Ltd of Delhi providing technical services in J&K		
3	M/s J Ltd of J&K providing technical services in Delhi		
4	M/s J Ltd of J&K providing technical services in UK		
5	M/s Albert Ltd of UK providing technical services in Delhi		
6	M/s Albert Ltd of UK providing technical services in J&K		
7	M/s RGTC Ltd. of Mumbai provides services of mineral oil extraction to RNRL Ltd. in EEZ area.		
8.	M/s Manex Ltd. of Mumbai provides manpower services in the business of oil extraction to RNRL Ltd. in EEZ area.	No (It's a export)	
9.	M/s Manex Ltd. of Mumbai provides manpower services to country club group on a cruise in territorial water area.		
10	M/s Albert Ltd. of UK provides manpower services to country club group on a cruise in territorial water area.		

OBJECTIVE TYPE QUESTIONS

1. Service tax was introduced in India in the Year _________________.
2. Service tax was introduced first time on ___________ Services.
3. Service Tax was initially levied in India by the Constitution vide entry No. ____________.
4. The provisions relating to service tax are given in:
   (a) Chapter IV of the Finance Act, 1994.
   (b) Chapter V and VA of the Finance Act, 1994.
   (c) Chapter VII and VIII of the Finance Act, 1994.
   (d) The Service Tax Act, 1994
5. Service Tax was introduced in India on the recommendation of:
   (a) Kelkar Committee
   (b) Dr. Raja J Challiah Committee
   (c) Dr. Man Mohan Singh Committee
6. Service Tax in India is administered by:
   (a) CBDT
   (b) CBEC
   (c) Service Tax Department

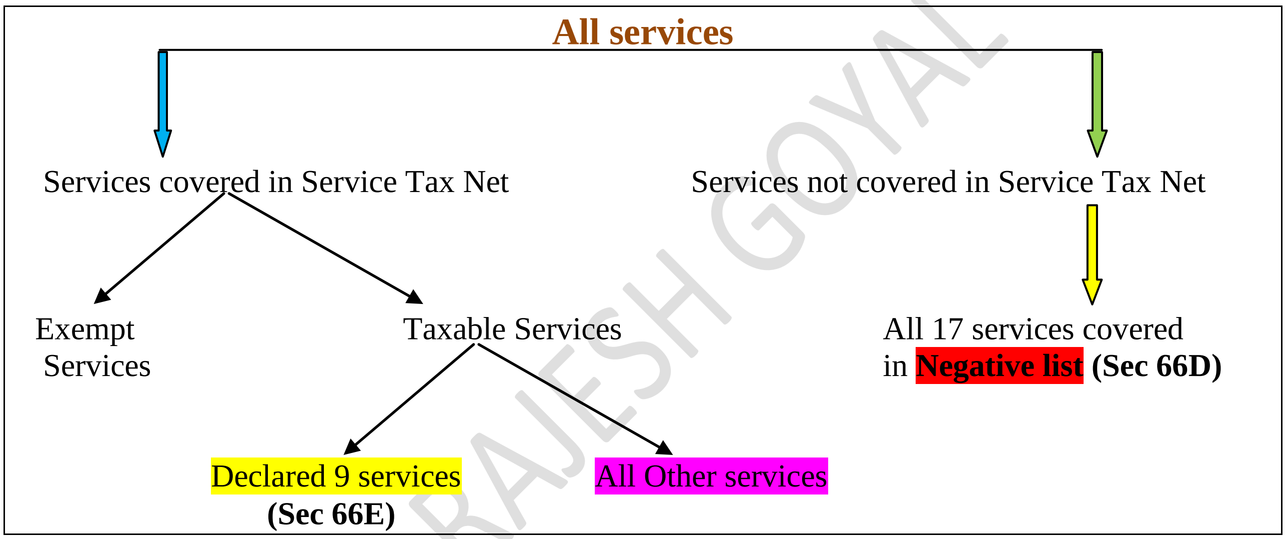
Answers: 1 – 1994; 2 – 3 services; 3 – 97 of the Union List; 4 – (b); 5 – (b); 6 – (b).

UNIT II
CHARGE OF SERVICE TAX

NEW CHARGING SECTION (SECTION 66B)

With effect from 1st July 2012, a new charging Section 66B has been inserted by the F'Act 2012. Section 66B provides that there shall be levied a service tax at the rate of 12% on the value of all services, except the services specified in the negative list.

For clear understanding of the new service tax regime the understanding of declared services, negative list and Mega exemption notification is required.



DECLARED SERVICES

To remove some ambiguities, Sec 66E has been newly inserted which specify that the 9 specific activities or transactions are declared to be covered as 'service'. Such activities includes:-

(1) Renting of ***immovable property***;
(2) ***Construction*** of a complex;
(3) Temporary transfer or permitting the use or enjoyment of any ***intellectual property right***;
(4) Development, design, programming, implementation of ***information technology software***;
(5) Agreeing to the obligation to ***refrain from an act***;

> *By virtue of a non-compete agreement, one party agrees, for consideration, not to compete with the other in any specified products/services/geographical location or in any other manner. Such action on the part of one person is also an activity for consideration and will be covered by the declared services.*

(6) Transfer of goods by way of ***hiring, leasing or licensing*** etc. without transfer of right;
(7) Activities in relation to delivery of goods on ***hire purchase or instalments system***;
(8) Service portion in the execution of a ***works contract***;
(9) Service portion in an activity wherein goods, being food or any other article of human consumption or any drink is supplied in any manner as a part of the activity.

NEGATIVE LIST OF SERVICES

The services specified in the ***'Negative List'*** (Sec 66D) will remain outside the tax net. Negative list approach to taxation of services is effective from July 1, 2012.

Section 66D has been newly inserted which specify the following 17 services in negative list:-

(a) Services by ***Government or a local authority*** ***excluding*** the following services -

(i) services by the Department of Posts by way of speed post, express parcel post etc.

(**However**, the basic mail services known as postal sevices such as post card, inland letter, book post, registered post provided exclusively by the Department of Posts to meet the universal postal obligations would still not be a taxable services)

(ii) services in relation to an aircraft or a vessel.
(iii) transport of goods or passengers.
(iv) support services, other than services covered under clauses (i) to (iii) above, provided to business entities.

Most of the services provided by government are provided ***without a specific charge*** *to the recipient and thus not taxable except the above.*

(b) Services provided by the ***RBI***.

Services provided to RBI, however, would be a taxable service.

(c) Services by a ***foreign diplomatic mission*** located in India.

(d) Services relating to ***agriculture or agricultural produce***.

Meaning of Agricultural produce

Agricultural produce means any produce of agriculture on which either or no further processing is done or such processing is done as is usually done by a cultivator or producer which does not alter its essential characteristics but makes it marketable for primary market - ***Sec.65B(5)***.

Activities that may be covered under agriculture and agricultural produce

- *Activities like breeding of fish, rearing of silk worms, cultivation of ornamental flowers (floriculture) and horticulture, forestry will be covered under the definition of agriculture.*

- *Plantation crops like rubber, tea or coffee will be covered under agricultural produce.*

- *Making of potato chips or tomato ketchup etc will not be covered under agricultural produce because they are manufactured through processes that alter the essential characteristics of farm produce, namely potatoes and tomatoes.*

- *Cleaning of wheat would be covered in the negative list entry even if the same is done outside the farm.*

• Shelling of paddy would not be covered in the negative list entry relating to agriculture as this process is never done on a farm but in a rice sheller normally located away from the farm.

• If shelling is done by way of a service i.e. on job work then the same would be covered under the exemption relating to 'carrying out of intermediate production process as job work in relation to agriculture. (This is covered under the mega notification.)

• Agricultural products like cereals, pulses, copra and jaggery will be covered in the ambit of 'agricultural produce' even if certain amount of processing is done by a person other than a cultivator or producer.

• Loading, unloading, packing, storage and warehousing of agricultural produce would be covered in negative list.

(e) ***Trading*** of goods.

Services provided by the commodity exchanges or clearing houses/agents will not be covered in the negative list.

(f) ***Manufacture or production*** of goods.

(g) ***Selling of space or time slots for advertisements*** other than advertisements broadcast by radio or television.

What kind of sale of space is not taxable?

• Sale of space for advertisement in print media is not taxable.
• Sale of space for advertisement in bill boards, organization, public places, buildings, conveyances, cell phones, automated teller machines, internet are not taxable.
• Aerial (inflight / midair) advertising is also not taxable.

What kind of sale of space is taxable?

• Sale of space or time for advertisement to be broadcast on radio or television.
• Sale of time slot by a broadcasting organization.
• Services provided by advertisement agencies relating to making or preparation of advertisements.
• Commissions received by advertisement agencies from the broadcasting or publishing companies for facilitating business, which may also include some portion for the preparation of advertisement.

(h) Service by way of ***access to a road or a bridge on payment of toll charges***.

The collection charges or service charges paid to any toll collecting authority will not be coverd in negative list. Because As per the principle laid down in section 66F(1) of the Finance Act the reference to a service by nature or description in the Act will not include reference to a service used for providing such service.

(i) Betting, gambling or ***lottery***.

(j) Admission to ***entertainment events or access to amusement facilities***.

(k) Transmission or ***distribution of electricity***.

(l) Services by way of -

(i) ***Pre-school education*** and education up to higher secondary school or equivalent.
(ii) Education for obtaining a qualification ***recognised by any law***.
(iii) Education as a part of an approved ***vocational education*** course.

Training given by private coaching institutes would not be covered as such training does not lead to grant of a recognized qualification.

Private tutors are not covered in the negative list, however they can avail the benefit of threshold exemption.

Placement services provided to educational institutions
Placement services provided to educational institutions for securing job placements for the students does not fall in this category, so taxable.
In the same way fees charged by educational institutions from prospective employers for recruiting candidates through campus interviews are not covered in the negative list.

(m) Services by way of renting of ***residential dwelling*** for use as residence.
(* dwelling – home; private house)

Residential dwelling has not been defined in the Act, but it is usually considered as any residential accommodation, but does not include hotel, guest house, lodge, house boat, inn, motel or any other similar place for temporary stay.

(n) Services by way of -

(i) ***extending deposits, loans or advances*** in so far as the consideration is represented by way of interest or discount;
(ii) inter se sale or purchase of foreign currency ***amongst banks or authorised dealers***.

Services of extending deposits, loans or advances where the consideration is represented by interest or discount will include the following services –

- *Fixed deposits or saving deposits or any other such deposits in a bank or a financial institution for which return is received by way of interest.*
- *Providing a loan or overdraft facility or a credit limit facility in consideration for payment of interest.*
- *Mortgages or loans with a collateral security to the extent that the consideration for advancing such loans or advances are represented by way of interest.*
- *Corporate deposits to the extent that the consideration for advancing such loans or advances are represented by way of interest or discount.*

Any charges or amounts collected over and above the interest or discount amounts would represent taxable consideration.

Sale of foreign exchange to general public will be a taxable service.

(o) Service of ***transportation of passengers***, by

(i) a stage carriage
(ii) railways in a class other than -
(a) first class or
(b) an airconditioned coach

(iii) ***metro***, monorail or tramway
(iv) inland waterways
(v) ***public transport***, other than predominantly for tourism purpose, in a vessel between places located in India and
(vi) metered ***cabs, radio taxis*** or auto rickshaws

(p) Services by way of ***transportation of goods***
(i) by road except the services of-
(a) a goods transportation agency; or
(b) a courier agency
(ii) by an aircraft or a vessel from a place outside India up to the customs station of clearance in India or
(iii) by inland waterways

*The services of a goods transportation agency and courier agency are excluded from the purview of the negative list, **hence taxable**. But some services provided by the goods transport agency are exempted as given in the mega notification* (See point no - 21).

(q) ***funeral***, burial, crematorium or mortuary services including transportation of the deceased.

(FOR SELF READING): Some of the considerations given to decide the negative list of services:
(a) **Administative considerations**: Taxation of government; Difficult to tax sectors e.g. margin based financial services.

(b) Under contractual obligations: Specified international bodies and diplomatic missions

(c) **Welfare considerations**: Welfare of vulnerable sections of society, essential education, public health; public transport, services by non-profit entities, religious services, promotion of art, culture and sports

(d) Economic considerations: Transport of export goods, services meant for agriculture, animal husbandry and infrastructure development

(e) Explicit activities in the nature of services, which are **within the taxing powers of States**: betting and lotteries, tolls etc.

EXEMPTIONS LIST UNDER MEGA NOTIFICATION

The Central Governments vide its N/No 25/2012 has exempted the following taxable services from the whole of the service tax leviable thereon u/s 66B of the said Act, namely:-

1. Services provided to the ***United Nations or a specified international organization***.
Some of the specified international organisations are –
1. International Civil Aviation Organisation
2. World Health Organisation
3. International Labor Organisation
4. Food and Agriculture Organisation of the United Nations

5. UN Educational, Scientific and Cultural Organisation (UNESCO)
6. International Monetary Fund (IMF)
7. International Bank for Reconstruction and Development etc.

2. Health care services (*Allopathy, Homeopathy, Yoga, Ayurveda, Unani etc.*) by a ***clinical establishment/authorized medical practitioner***.

3. Services by a ***clinic in relation to health care of animals or birds***.

4. Services by a ***charitable institution registered u/s 12AA***.

5. Renting of a ***religious place*** meant for general public/ conduct of any religious ceremony.

6. Services provided by-
   a. an arbitral tribunal to -
      i. any person other than a business entity; or
      ii. a business entity with a turnover up to Rs. 10L in the preceding financial year.
   b. an individual advocate or a partnership firm of advocates by way of legal services to,-
      (i) an advocate or partnership firm of advocates providing legal services;
      (ii) any person other than a business entity; or
      (iii) a business entity with a turnover up to Rs. 10L in the preceding financial year; or
   c. a person represented on an arbitral tribunal to an arbitral tribunal.

   In respect of services provided to business entities, with a turnover exceeding rupees 10L in the preceding financial year, tax is required to be paid on ***reverse charge*** *by the business entities.*
   Business entity is defined as 'any person ordinarily carrying out any activity relating to industry, commerce or any other business or profession'. Thus it includes sole proprietors as well.
   The business entity can, however, take input tax credit of such tax paid in terms of Cenvat Credit Rules, 2004, if otherwise eligible.

7. Testing or analysis by ***approved clinical research organisation***.

8. Training or coaching in ***recreational activities relating to arts, culture or sports***.

9. Services provided to or by an educational institution in respect of education exempted from service tax, by way of,-
   (a) auxiliary educational services; or
   (b) renting of immovable property.

10. Services provided ***to a recognised sports body*** by-
   (a) an individual as a player, referee, umpire, coach or team manager for participation in a sporting event organized by a recognized sports body;
   (b) another recognised sports body.

11. Services by way of ***sponsorship of sporting events*** organised,-
   (a) by a national sports federation;
   (b) by Association of Indian Universities, Inter-University Sports Board, School Games Federation of India etc;

(c) by Central Civil Services Cultural and Sports Board;
(d) by Indian Olympic Association; or
(e) under Panchayat Yuva Kreeda Aur Khel Abhiyaan (PYKKA) Scheme.

12. Services provided ***to the Government,*** a local authority or a governmental authority by way of ***construction***, erection, commissioning, installation, repair, maintenance or alteration of -

- a civil structure or
- a historical monument, archaeological site or remains of national importance
- canal, dam or other irrigation works, pipeline or other similar projects

13. Construction, erection, commissioning, installation, repair, maintenance or alteration of,-

- ***a road, bridge, tunnel for use by general public;***
- a civil structure or any other original works pertaining to a notified scheme;
- a building owned by an entity registered u/s 12AA;
- a pollution control or effluent treatment plant, except located as a part of a factory; or
- a structure meant for funeral, burial or cremation of deceased.

14. Services by way of construction, erection or installation of original works pertaining to,-

(a) an ***airport, port or railways, including monorail or metro***;
(b) a single residential unit otherwise than as a part of a residential complex;
(c) low- cost houses up to a carpet area of 60 square metres per house in a housing project approved by competent authority;
(d) infrastructure for agricultural produce including a cold storage; or

15. Temporary transfer or permitting the use of a copyright relating to original literary, dramatic, musical, artistic works or cinematograph films.

16. Services by a performing artist in ***folk or classical art*** forms.

17. Collecting or providing ***news by an independent journalist***, Press Trust of India etc.

18. Renting of a hotel, inn, guest house etc having tariff ***below Rs. 1,000 per day*** or equivalent.

19. Services provided in relation to serving of food or beverages by a restaurant, eating joint or a mess, other than those having-

(i) the facility of air-conditioning or central air-heating in any part of the establishment, at any time during the year, and
(ii) a licence to serve alcoholic beverages.

20. Services by way of transportation by rail or a vessel from one place in India to another of the ***petroleum and petroleum products/ defence or military equipments and other specified goods.***

21. Services provided by a goods transport agency by way of transportation of –

(a) fruits, vegetables, eggs, milk, food grains or pulses in a goods carriage;
(b) goods where gross amount charged for the transportation of goods on a consignment transported in a single goods carriage does not exceed 1,500 rupees; or
(c) goods, where gross amount charged for transportation of all such goods for a single consignee in the goods carriage does not exceed rupees 750.

22. Services by way of giving on hire –

(a) to a state transport undertaking, a motor vehicle meant to carry > 12 passengers; or
(b) to a goods transport agency, a means of transportation of goods.

23. Transport of passengers by -
(a) air, embarking from or terminating in an airport located in the state of Arunachal Pradesh, Assam, Manipur, Meghalaya, Mizoram, Nagaland, Sikkim, or Tripura or at Bagdogra located in West Bengal;
(b) ropeway, cable car or aerial tramway.

24. Services by way of ***vehicle parking*** to general public.

25. Services provided to Government, a local authority or a governmental authority in relation to ***water supply, public health, sanitation conservancy or slum improvement*** etc.

26. Services of general insurance business provided to Cattle Insurance under specified scheme/Scheme for Insurance of Tribals and other prescribed schemes;

27. Services provided by a specified entrepreneur in a specified area (incubate) up to a total turnover of 50L rupees in a financial year subject to the following conditions, namely:-
(a) the total turnover had not exceeded 50L rupees during the preceding financial year; and
(b) a period of 3 years has not been elapsed from the date of entering into an agreement as an incubatee.

*(**"Incubatee"** means an entrepreneur located within the premises of a Technology Business Incubator (TBI) or Science and Technology Entrepreneurship Park (STEP) recognised by the National Science and Technology Entrepreneurship Development Board (NSTEDB) of the Department of Science and Technology, Government of India and who has entered into an agreement with the TBI or the STEP to enable himself to **develop and produce hi-tech and innovative products**)*

28. Service by an unincorporated body or a non- profit entity registered under any law for the time being in force, to its own members by way of reimbursement of charges or share of contribution -
(a) as a trade union;
(b) for the provision of carrying out any exempt service; or
(c) up to an amount of 50,000 rupees p.m. per member for sourcing of goods or services from a third person for the common use of its members in a housing society or a residential complex;

29. Services by the following persons in ***respective capacities***
(a) sub-broker or an authorised person to a stock broker;
(b) authorised person to a member of a commodity exchange;
(c) mutual fund agent to a mutual fund or asset management company;
(d) distributor to a mutual fund or asset management company;
(e) selling or marketing agent of lottery tickets to a distributer or a selling agent;
(f) selling agent or a distributer of SIM cards or recharge coupon vouchers;
(g) business facilitator or a business correspondent to a banking company or an insurance company, in a rural area; or

30. Carrying out an intermediate production process as job work in relation to –
(a) agriculture, printing or textile processing;

(b) cut and polished diamonds and gemstones; or plain and studded jewellery of gold and other precious metals, falling under Central Excise Tariff Act ,1985;
(c) any goods on which appropriate duty is payable by the principal manufacturer; or
(d) processes of electroplating, zinc plating, anodizing, heat treatment, powder coating, painting including spray painting or auto black, during the course of manufacture of parts of cycles or sewing machines upto an aggregate value of taxable service of the specified processes of 150L rupees in a financial year subject to the condition that such aggregate value had not exceeded 150L rupees during the preceding financial year;

31. Services by an organiser to any person in respect of a business exhibition held ***outside India***;

32. Services by way of making telephone calls from –
(a) departmentally run public telephone;
(b) guaranteed ***public telephone*** operating only for local calls; or
(c) free telephone at airport and hospital.

33. Services by way of slaughtering of animals.

34. Services received from a provider of service located in a non- taxable territory by
(a) Government, a local authority, a governmental authority or an individual in relation to any purpose other than commerce, industry or any other business or profession;
(b) a charitable institution registered u/s 12AA; or
(c) a person located in a non-taxable territory.

35. Services of ***public libraries*** by way of lending of books, publications etc.

36. Services by ESIC Corporation.

37. Services by way of transfer of a going concern, as a whole or an independent part thereof.

38. Services by way of ***public conveniences***.

39. Services in relation to any function entrusted to a municipality.

Vide Finance Act, 2012 service tax is applicable on all services except as notified in Negative list or exemption list.

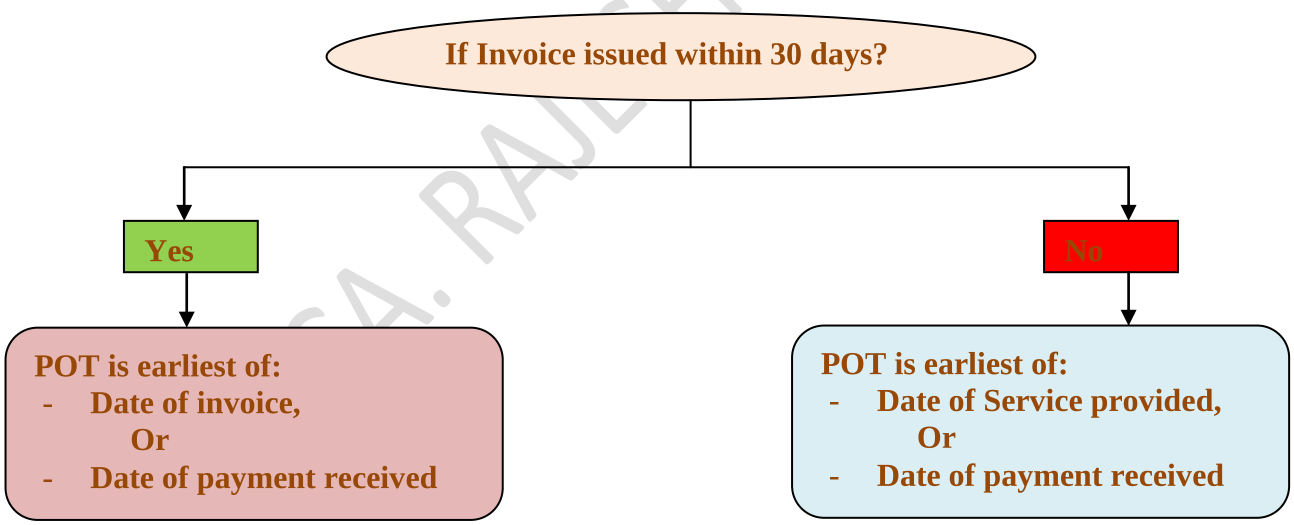
POINT OF TAXATION RULES, 2011

The said rules -a precursor to GST- are effective from 01.04.2011. Earlier, the provider of the service was liable for payment of service tax only when the consideration towards the value of taxable services was 'received'. These rules have shifted the point of taxation for service tax from ***receipt basis to hybrid basis***.

The detailed provisions of the said rules are as under:-

1. **Determination of point of taxation [Rule 3]** - As per rule 3 of the said rules, point of taxation would be determined as follows:-

S.No	Case	Point of taxation would be
1	The invoice is issued within the prescribed period of 30 days from the date of completion of service	(a) Date of invoice or (b) Date of payment; whichever is earlier
2	The invoice is not issued within the prescribed period of 30 days	(a) Date of completion of service or (b) Date of payment; whichever is earlier



Note: ***45 days*** in case of banks and financial institutions providing banking and other financial services.

ILLUSTRATION:

Case	Date of completion of service	Date of invoice	Date on which payment received	Point of Taxation
1	Sept 5, 2012	Sept 15, 2012	September 25, 2012	Sept 15, 2012
2	Sept 5, 2012	Sept 15, 2012	September 10, 2012	Sept 10, 2012

3	Sept 5, 2012	Sept 15, 2012	Sept 2, 2012	Sept 2, 2012
4	Sept 5, 2012	Oct 21, 2012	September 25, 2012	**?**
5	Sept 5, 2012	Oct 21, 2012	Sept 2, 2012	**?**
6	Sept 5, 2012	Sept 21, 2012	Part amount recd -03.09.2012 Remaining on -20.09.2012	**?**
7	10.04.2012	30.05.2012	05.05.2012	?
8	10.04.2012	20.04.2012	15.04.2012	**?**
9	10.04.2012	20.04.2012	15.04.2012 (For part) 30.04.2012 (For balance)	**?**

Hint: In the absence of any specific information, always assume that invoice has been issued within 30 days from the date of completion of service.

Actual Date of payment - Rule 2A:-

Earlier the rules were silent about "What is the actual date of payment".
Now the date of payment shall be earliest of -

a) date on which the payment is entered in the ***books of accounts*** (i.e accounting entry is passed in books)

or

b) The date on which the payment is credited in the bank account

(The above amendment has clarified the date of payment)

Eg 1: Mr. Ram recorded the accounting entry towards receipt of payment in books of accounts on 01.10.2012
While the payment was already credited in the books of account on 29.09.2012.
So in this case date of payment received shall be 29.09.2012.
(**Analysis:** The above explanation is inserted so that the assesse can not defer his service tax liability to the next quarter / month by manipulating date of payment received).

Receipt basis to be continued in case of Individual/Partnership firms (exception to POT Rules) - ***However, In case of individuals/partnership firms whose aggregate value of taxable services provided was 50L rupees or less in the previous financial year, the service provider shall have option to pay the service tax on receipt basis upto the taxable services of Rs. 50 lacs.***

Discuss the POT and service tax liability in the below case:

Example 1: Mr. A provides service as below:

	1st Qtr	**2nd Qtr**
Services provided	Rs. 40L	Rs. 15L

Payment is not received till end of 2nd quarter.

Ans:

	1st Qtr	**2nd Qtr**
Service tax payable @12.36%	Nil	12.36% of 5L = Rs. 61,800

Assumptions: 1. Mr. A has chosen to pay service tax on receipt basis, so service tax on 1st Rs. 50L will be paid on receipt basis only.
2. We have assumed that benefit of SSP (NN 06/2005) is not available.

Example 2: What if service provider is M/s A Ltd instead of Mr. A?
Ans: ?

Example 3: Mr. A gives the below information:

	1st Qtr	**2nd Qtr**
Advance received towards services to be provided	Rs. 30L	Nil
Services provided (Payment not yet received)	Rs. 10L	Rs. 20L

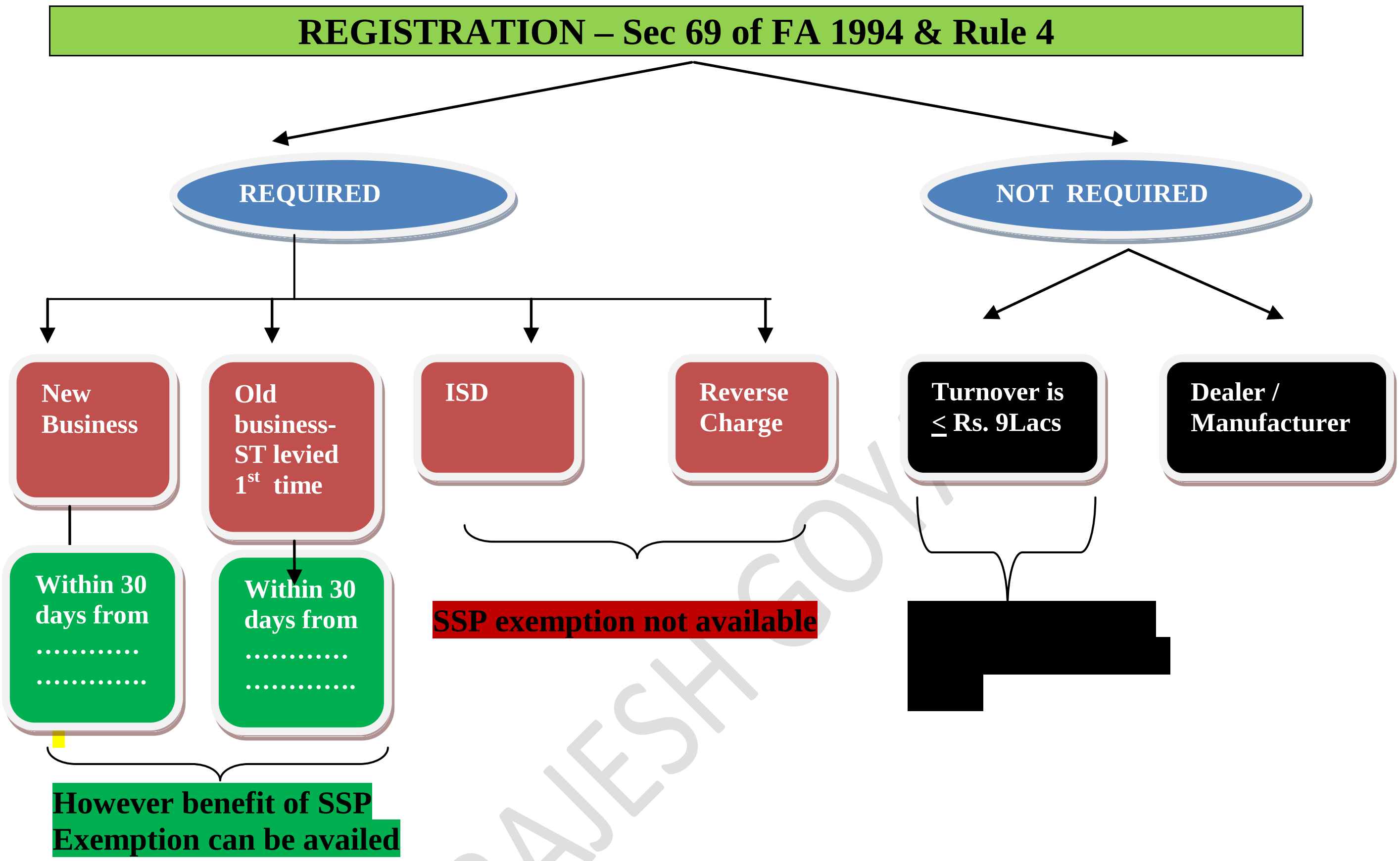
Payment is not received till end of 2nd quarter.
Ans: ?

Example 4: M/s X Ltd gives the below information:

	1st Month	**2nd M**	**3rd M**
Services provided (Payment not yet received)	Rs. 10L	Rs. 20L	Rs.10L

Payment is not received for any service provided.
Ans: ?

UNIT III
REGISTRATION



CENTRALIZED REGISTRATION

(1) Where an assessee
- provides taxable service from more than one premises or offices; AND
- has
  - ***Centralized Billing System (CBS)*** or
  - ***Centralized Accounting System (CAS)***
- in one or more premises

then, he may, at his option, register such premises or offices from where such centralized billing or centralized accounting system is done.

(2) The said centralized registration of CBS/CAS premises shall be granted by the ***CCE*** in whose jurisdiction such premises, from where centralized billing or accounting is done, is located.

(No time stipulated to grant centralized registration, so the provisions of deemed registration is not attracted in this case).

(If the premises of the assesse are falling under the jurisdiction of more than one Chief Commissioner, then, the permission has to be got from the Director General of Service Tax (DGST).

(3) ***Registration Certificate [FORM ST-2]*** The SCE shall

- after due verification,
- grant a certificate of registration in **Form ST-2**
- within 7 days from the date of receipt of the application.

Deemed Registration

If the registration certificate is not granted within the said period of 7 days, the registration applied for shall be ***deemed to have been granted*** **– Rule 4(5)**.

OBJECTIVE QUESTIONS

1. If a new taxable service has to be included in the service tax registratioin certificate, the service provider has to apply for amendment within-
(a) within 30 days of providing new taxable service;
(b) within 30 days of close of the year
(c) within 30 days of payment of service tax on the new taxable service.

2. Who is authorized to cancel the Registration Certificate:
(a) SCE
(b) AC
(c) DC
(d) CCE

3. Even if the assesee has CBS/CAS system, still, he has to apply for registration separately for each place of business. (True/False)
4. Separate registration has to be taken for every taxable service provided. (True/False)
5. Registration certificate should be issued by SCE in Form no – 3 within 7 days of receipt of application. (True/False)
6. Registration certificate should be issued by CCE in Form no – 2 within 7 days of receipt of application. (True/False)
7. Registration certificate should be issued by SCE in Form no – 2 within 7 days of receipt of application. (True/False) **[CS Exam]**

Answers: 1 – (a); 2 – (a); 3 – F; 4 – F; 5 – F; 6 – F; 7 - T

UNIT IV

PAYMENT OF SERVICE TAX

RULE 6(1) - PAYMENT OF SERVICE TAX

	Company/AOP etc.	Individual/Pt Firm
	Monthly Payment	**Quarterly Payment**
Normal Payment	By 5th of the next month	By 5th of the month following the quarter
E-payment	By 6th of the next month	By 6th of the month following the quarter

EXCEPTION: But the Service Tax for the month of March, or the quarter ending in March, shall be paid by the ***31st March***.

Discuss the cases:-

S.N	Case	Month and Situation	Monthly/qtly?	Due date?
1	**X Ltd**	July		
2	**Mr. A**	July		
3	**A HUF**	July		
4	**X Ltd**	Dec (e-Payment)		
5	**Mr. A**	Dec (e-Payment)		
6	**A HUF**	Dec (e-Payment)		
7	**X Ltd**	January		
8	**Mr. A**	January		
9	**A HUF**	January		
10	**HCL Ltd**	March (e-payment)		
11	**Mr Akshay**	March (e-payment)		
12	**M/s RCKC HUF**	March (e-payment)		
13	**HCL Ltd**	Jan 2012 (5th Feb is Sunday)		

14	**Mr Akshay**	Jan 2012 (5th Feb is Sunday)		
15	**M/s RCKC HUF**	Jan 2012 (5th Feb is Sunday)		
16	**Infosys Ltd**	**Feb 2012 (Assume 5th March is govt. holiday)**		
17	**Ms Asha**	**Feb 2012 (Assume 5th March is govt. holiday)**		
18	**A HUF**	**Feb 2012 (Assume 5th March is govt. holiday)**		

E-payment in current financial year is mandatory if the assessee has paid the service tax of Rs. 10Lakhs or more (either in cash or by utilizing the cenvat credit or both) in the preceding financial year.

SPECIAL PROVISION FOR PAYMENT OF SERVICE TAX – OPTIONAL METHOD

1. IN CASE OF AIR TRAVEL AGENT - [Rule 6(7)]

(i) @ **0.618%** of the Basic fare in the case of DOMESTIC BOOKINGS, and
(ii) @ **1.236%** of the Basic fare in the case of INTERNATIONAL BOOKINGS.

2. IN CASE OF LIFE INSURER COMPANY – [Rule 6(7A)]

An **insurer carrying on life insurance business** shall have the option to pay an amount calculated at the below rates

Gross amount of pemium charged	Rate
1st Year	3%
Subsequent years	1.5%

[applicable w.e.f. 01.04.2012]

3. IN CASE OF MONEY CHANGER (i.e. purchase or sale of foreign currency)-[Rule 6(7B]

S.No.	For an amount exchanged	Service tax shall be calculated at the rate of
1.	Upto Rs. 1,00,000	*0.12% of the gross amount of currency exchanged or Rs. 30, whichever is higher*
2.	Exceeding Rs. 1,00,000 and upto Rs. 10,00,000	*Rs. 120 + 0.06% of the gross amount of currency exchanged*
3.	Exceeding Rs. 10,00,000	*Rs 660 + 0.012% of the currency exchanged* *or* *Rs. 6,000 whichever is lower*

4. IN CASE OF LOTTERY AGENTS – [Rule 6(7C)]: The distributor or selling agent, liable to pay service tax for marketing or organizing lottery, shall have the option to pay tax at the following rates:-

SN	Guaranteed Lottery prize payout	Amount of Service tax payable on **every Rs. 10 lakhs (or part thereof)** of aggregate face value of lottery tickets **printed** by the organizing state for a draw.
1	More than 80%	*Rs. 7,000*
2	Less than 80%	*Rs. 11,000*

5. TRANSPORT OF PASSENGERS BY AIR SERVICES: **Effective rate of tax on journey by air would be 4.8%. (i.e. abatement of 60% is available)**

UNIT V

FILING OF SERVICE TAX RETURN

FILING OF RETURN - SEC 70

- **Half yearly return**
- in From **'ST-3'** (3 copies)
- along with a copy of the challan **GAR-7,**
- by the *25th of the month* following the particular half-year.

W.e.f. 01.10.2011 every assesse shall submit the half yearly return electronically.

OBJECTIVE QUESTIONS

1. If a service provider commences the business of providing the service which is already taxable, he should apply for registration –
(a) within 30 days of commencement of business
(b) within 30 days of providing services
(c) within 30 days of close of the year
(d) within 30 days of corssing the limit of 9L

2. Return of service tax has to be filed:
(a) Monthly
(b) Quarterly
(c) Half yearly

3. Revised service tax return has to be filed in:
(a) ST – 1
(b) ST – 2
(c) ST – 3
(d) ST - 4

4. Mr. Rohit filed his service tax return for the 1st half year on 01.11.2011. Such return can be revised upto:
(a) 90 days from 25.09.2011
(b) 90 days from 25.10.2011
(c) 90 days from 01.11.2011

5. For filing of revised return, statutory prescribed last date of filing return is relevant.
(a) True
(b) False
(c) Can't say

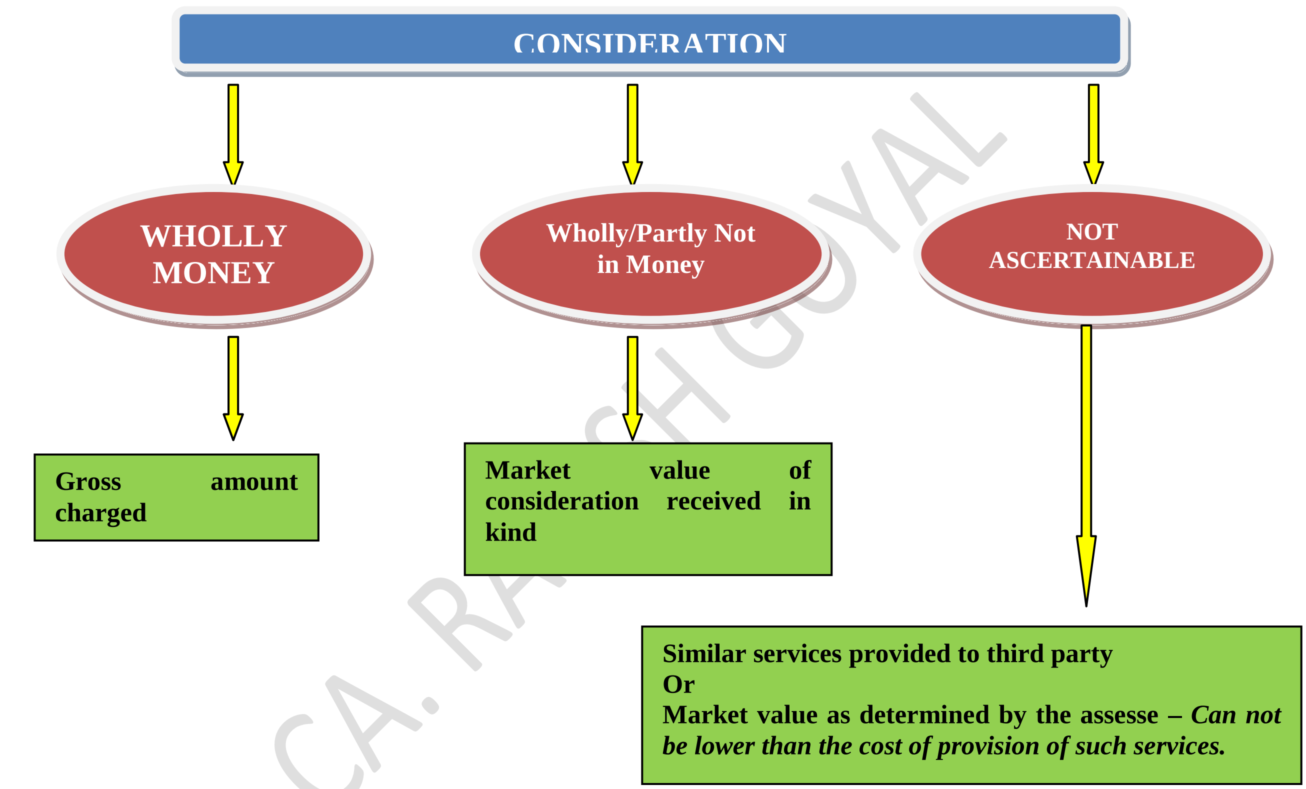
6. For filing of revised return, filing date of original return is relevant.
(a) True
(b) False
(c) Can't say

Answers: **1** – (a); 2 – (c); 3 – (c); 4 – (c); 5 – (b); 6 – (a)

NOTES

UNIT VI
VALUATION OF TAXABLE SERVICES

VALUATION OF TAXABLE SERVICES FOR CHARGING ST – SEC. 67



<u>INPUT SERVICE DISTRIBUTOR</u> [May 2009]
[Rule 2(m) of Cenvat Credit Rules, 2004]

1. Input service distributor refers to a Head office/establishment which receives service tax paid invoices/bills in its name but such Credit is to be distributed among its branches/manufacturing units.

2. Credit of service tax attributable to service used in more than one unit shall be distributed ***prorata on the basis of the turnover***.

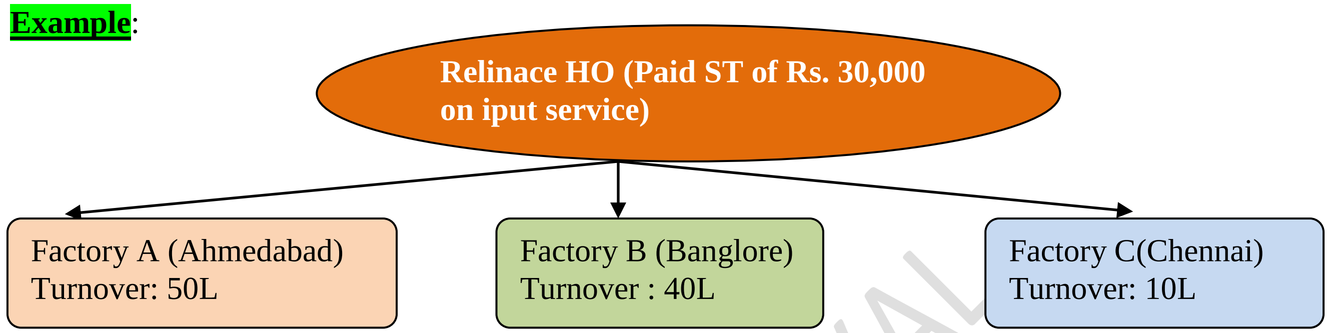
3. Such distribution ***must not exceed the actual service tax*** paid.

4. In case an input service is attributable to service used in a unit which is exclusively engaged in manufacture of exempted goods/exempted services, then, proportionate credit of service tax pertaining to such unit shall ***not*** be distributed.

5. The ***registration is mandatory*** for ISD irrespective of any turnover criterion.

6. Also ***proper invoice*** should be issued for distributing Credit.

Example:



Discuss distribution in below cases:

	Case 1: No additional information	Case 2: Factory B is manufacturing exempt goods
Factory A		
Factory B		
Factory C		

ARE U EASILY DISCOURAGED?

Here is a Man who failed in Business at the age of 31

Defeated for Legislature at the age of 32

Again failed in Business at the age of 34

Sweetheart dies 35

Had nervous breakdown at the age of 36

Defeated in Election at the age of 38

Again defeated in Elections at the age of 43

Defeated for Vice President at the age of 46

Defeated in Senator at the age of 48

Elected President of America at the age of 52

AND THAT MAN WAS .... "ABRAHAM LINCON"

TRUST YOURSELF.

ALL THE BEST

Regards
CA. RAJESH GOYAL

(For full book of CA. Rajesh Goyal Sir on Service Tax & VAT / Income Tax please contact on the mentioned numbers)

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